



The Government agrees with the Sub-Committee's recommendation that Canada should encourage revisions to the Dispute Settlement Understanding (DSU) to provide more effective means to encourage Members' compliance with WTO obligations and with the rulings of the Dispute Settlement Body (DSB). The Government concurs with the Sub-Committee's observation that compliance with WTO obligations and the implementation of WTO panel and Appellate Body Reports is central to the integrity of the dispute settlement system. In most cases, Members comply. In those limited instances of non-compliance, the DSU currently encourages compensation or authorizes retaliation as temporary responsive measures pending compliance. Neither option is always viable or effective. Moreover, retaliation involving trade sanctions runs counter to trade liberalization objectives, can frustrate business and consumer interests and escalates bilateral tensions between trading partners.

The Government agrees that revisions to the DSU to provide for mandatory compensation in lieu of retaliation by way of suspension of concessions may provide an effective means to encourage compliance and an alternative to retaliation. The Government also agrees that there is merit in discussing, in the negotiations, issues associated with the refunding of anti-dumping and countervailing duties that do not conform with WTO obligations. Canada should anticipate that negotiations will identify complexities inherent in any alternative to compliance. At the Doha Ministerial Conference, Ministers established a May 2003 deadline for completion of DSU negotiations. Given the complex issues engaged in seeking alternatives to retaliation it may be difficult to forge consensus on any new approach to ensure compliance within the limited time available to Members to negotiate improvements to the DSU.

Recommendation 10

"That the federal government seek WTO consensus on clarifying the guidelines governing implementation of WTO rulings. In particular, the Government of Canada should urge Members to support DSU revisions that would expand the scope of arbitration under Article 21.3, and that would clarify the relationship between Articles 21.5 and 22 to resolve the ongoing sequencing problems."

The Government agrees that Canada should pursue efforts to clarify the Dispute Settlement Understanding (DSU) rules governing implementation of Dispute Settlement Body (DSB) rulings and, in particular, to seek the revisions to the DSU that would clarify the relationship between Articles 21.5 and 22 (sequencing) and the scope of arbitration under Article 21.3.

The DSU rules are not clear on the sequence of steps that Members must take when there is a disagreement whether a DSB ruling has been implemented and whether retaliation can be authorized. The Government seeks to ensure that this sequencing is

