

The more promising appeal route for the pork dispute would seem to lie in the GATT because of a previous GATT finding on a related matter. Following a complaint brought by Canadian cattlemen in 1986, the Canadian Import Tribunal (CIT) found that cattle producers and manufacturers of boneless beef in Europe constituted a single industry and initiated Canadian countervailing duties against beef products from Europe. The EC successfully brought a complaint against this action to the GATT in October, 1986 which found that producers and processors constituted two distinct industries. Adoption of this panel finding was blocked by Canada.

Even though an appeal to the GATT would seem to contradict the position taken by Canada with respect to the beef industry, Canada has requested a panel review on those grounds. However, there is no obligation for GATT panels to be consistent; and it could just as easily find one meat to be the product of a single industry, the other not¹⁴³.

Chapter 18 provides that once proceedings have been initiated under the GATT or the FTA, recourse can not be made to the other body. However, Chapter 19 has no such prohibition and different aspects of the dispute over pork have been sent to both.

¹⁴³ One of the hopes of some trade lawyers and policy experts is that FTA panel findings will eventually constitute a body of precedent which can then be drawn on to achieve consistency and greater predictability in decision-making.