

A) Consistent Framework

Currently, the procedures for dealing with disputes differ among complaints brought under the General Agreement and those brought under other GATT codes and agreements. Each of the Tokyo Round codes has a separate structure for settling disputes and the improvements to the system to date have applied only to Article XXIII complaints. The lack of consistency in procedures has created trade frictions, as, for example, with respect to the right to have a panel established. Similarly, problems yet unaddressed with respect to Article XXIII panels, such as the adoption and implementation of panel reports, also persist with the codes. In addition, the code signatories have undertaken obligations which exceed those in the General Agreement. This has fragmented the dispute settlement process both in cases where one of the parties to a dispute is not a signatory to the codes and even in cases where both are signatories. This fragmentation at times has led to "forum shopping", for such reasons as to have all aspects of the complaint addressed or to invoke an appropriate defence of a measure.

The Uruguay Round provides an opportunity to introduce new disciplines in areas such as agriculture, intellectual property and services. Along with these disciplines, mechanisms for resolving disputes will need to be established. There is no inherent reason why these mechanisms could not be largely standardized and made consistent with existing procedures for the main GATT dispute settlement system itself.

In order to increase the credibility and effectiveness of the international trading system, the same broad set of dispute settlement procedures should apply to all obligations assumed under the trading system, whether under the General Agreement, the Codes or any new agreements. This would provide for common procedures in such areas as consultations, establishment of panels, their terms of reference and composition, adoption of panel reports, etc.

The framework would have to allow for supplements to the system which would take account of unique provisions applicable to a specific agreement. For example, the Technical Barriers Code provides for experts to study an issue. The system would also have to allow for taking into account the special technical aspects of new disciplines being considered in areas such as subsidies, safeguards, agriculture phytosanitary standards, intellectual property and, possibly, services sectoral agreements.