

lated, and may submit comments to the panel for consideration in finalizing its report. Although the interim review process has rarely led to a panel changing its conclusions or its legal reasoning, it has led, in certain cases, to some important clarifications being made.

The continuing selection of panelists on an *ad hoc* basis from the pool of Geneva-based government officials contributes to the “internal” legitimacy of the dispute settlement system because it gives WTO Member governments at least the perception of control over panel proceedings. Parties to the dispute can select those whom they want to sit on a particular case (more particularly, they can reject suggestions made by the Secretariat even for reasons as specious as the continent from which the person originates). The parties can determine the panel’s procedures. They can present the facts as they see them, and they are given an opportunity to comment on the panel’s description and assessment of the facts (parties are often very particular about how their arguments and evidence are presented in the descriptive parts of panel reports). And, finally, the parties can comment on a panel’s conclusions and legal reasoning even before the final panel report has been circulated and made public.

The *ad hoc* nature of the panel system, the background and qualifications of persons typically appointed as panelists, the lack of consistency and coherence in panel procedures from case to case, and the inconsistency in the quality of the legal reasoning of panels, all contributes to a perception by the outside world of a closed system run by bureaucrats and government trade policy officials, so-called “insiders”. There is some accuracy to that perception of the panel system. Each panel is appointed to hear a particular case, and works in isolation from other panels, without the requirement to observe specific rules of procedure or rules of evidence. The only unifying institutional influence is that of the WTO Secretariat officials—legal officers and panel secretaries assigned to work on the case (although not all the legal officers who work with panels are in the Legal Affairs Division; they are drawn from different divisions within the Secretariat).