



clear and forestalls any unilateral determination of non-compliance or retaliation. Even prior to the launch of DSU negotiations, Canada actively supported revisions to the DSU to address the sequencing problem. A proposal submitted by Canada and other co-sponsoring WTO Members prior to the Doha Ministerial has helped to inform ongoing negotiations on this issue.

Recommendation 11

“That, to improve the effectiveness of the WTO dispute settlement system, the Government of Canada actively encourage other WTO Members to implement an aggressive internal mediation process within the WTO to resolve disputes at an early stage in the process. Failing this, access to outside mediation should be explored.”

The Government agrees that mediation should be encouraged as a means of resolving disputes at an early stage in the dispute settlement process. In the upcoming negotiations, the Government will encourage discussion of ways to achieve greater use of WTO mediation as an alternative to litigation. The benefits of recourse to mediation outside the WTO rules will also be explored, though any alternative mechanisms must not detract from the current rights of other Members.

Recommendation 12

“That the federal government urge WTO Members to review the composition of panels and the Appellate Body, as well as the need for rules of evidence and dissenting opinions. Furthermore, a remand authority for the Appellate Body should be considered to assist in the correction of errors made by panels.”

The Government agrees that Canada should engage WTO Members in a review of the adequacy of the current panel system. Review should include consideration of the merits of moving to a permanent roster of professional panelists in lieu of the current ad hoc case-by-case panel selection under the supervision of the WTO Secretariat. Canada also should encourage consideration of whether the Appellate Body membership should be increased from the current roster of seven members.

The Government concurs with the proposal that Canada seek consideration in the Dispute Settlement Understanding (DSU) negotiations of the grant of a remand authority to the Appellate Body, to assist in addressing panel errors or incomplete panel findings.

With regard to the selection of panelists, the Government agrees that the current ad hoc process can be unnecessarily time-consuming. Cases before panels increasingly are complex and require specialized knowledge and experience in trade policy and law. Changes in the current process may contribute to greater timeline efficiencies,

