

the Most Favoured Nation (MFN) rate; applying safeguard actions for a limited duration and consultation/notification obligations.

The need for ongoing safeguard mechanisms such as contained in the NAFTA will need to be assessed in light of the overall agreement on market access in the FTAA, the relation between possible FTAA safeguard mechanisms and existing regional trade agreements in the hemisphere, and the WTO obligations of Canada and the other FTAA partners.

Dispute Settlement

Recommendation 29

In general, the Government agrees with Recommendation No. 29, which states that in principle Canada should negotiate a dispute settlement system in the FTAA that is based on the WTO model. In fact, this is part of the negotiating guidelines given to all parties in the FTAA. The San Jose Ministerial Declaration of March 1998 says that, inter alia, the FTAA will be WTO-consistent (Article II, para. 9). The San Jose guidelines specific to dispute settlement expressly state that a fair, transparent and effective mechanism should be developed taking into account the WTO Dispute Settlement Understanding (DSU).

That said, it will be important for Canada to consider some of the lessons learned from operation of the DSU, and particularly to follow the progress of the DSU review. For example, Canada may wish to negotiate an FTAA dispute settlement mechanism that reflects our stated position on certain important areas such as the need to clarify the procedure for implementation of WTO rulings and our desire to increase the transparency of the dispute settlement system.

The Government also agrees that it will be important to devise mechanisms which address the relationship of WTO, regional and bilateral dispute settlement mechanisms. Provisions of this nature have been addressed in other agreements, for example Article 2005 of NAFTA, and will have to be considered in the FTAA context.

