

of the Uruguay Round negotiations, *establishing what may be the most developed dispute settlement system in any existing treaty regime.*²⁵ By all accounts, it would be difficult to argue otherwise. After all, the DSU's much stricter timelines, the right to a panel (carried over from the *Improvements*), automatic adoption of reports (absent negative consensus), and review by a permanently-constituted Appellate Body (AB), to name the more salient provisions of the DSU, appear to correct many of the GATT's most obvious design flaws.

First, speedier procedures with strict time limits are thought to boost confidence in the DSU, delivering "justice" more promptly, and beating various unilateral measures to the punch; notably US Section 301, which worked on a notoriously faster clock than the GATT system. Second, the right to a panel removes the threat of blocking (save for one meeting of the Dispute Settlement Body), a tactic long regarded as the *sine qua non* of GATT-era power politics. Third, standard terms of reference, and the automatic adoption of panel reports, lend greater legal coherence to the system as a whole, and obviate the threat of a unilateral "veto" by a recalcitrant defendant.²⁶ Fourth, the potential for review by the AB promises more consistency across rulings and a better-informed body of case law with which to reason through the merits of a dispute *ex ante*.²⁷ Together, these reforms are widely expected to promote greater liberalization on the part of errant defendants in a timely manner.

Unfortunately, the DSU's legal reforms may also *raise* the transaction costs inherent in settling disputes by affording new opportunities for delay, increasing incentives for foot-dragging in litigation, and motivating defendants to delay concessions.²⁸ Granted, each separate stage of the process now operates according to a tighter timeline, but this is overwhelmed by the

²⁵ Palmeter 2000, 468. Emphasis added.

²⁶ Palmeter and Mavroidis 1998.

²⁷ Howse 2000.

²⁸ Shoyer 1998; Reinhardt 2002.