

E) Implementation

Reasonable Period of Time

The objective of the GATT dispute settlement process has consistently been to secure the removal of measures impairing benefits through a breach of the rules or by other means (non-violation case). At present, the procedures regarding implementation of Panel reports, and actions that may be taken in the absence of implementation, are vague. Although the Mid-Term Review improvements call for the party impairing benefits to declare at the time of adoption its intention with respect to implementation, more precision as to the reasonable period of time for implementation is required in order to prevent abuse, i.e. the situation where a contracting party states that it will require what is a patently unreasonably long period of time to comply with the recommendations or rulings.

It is the contracting party that must implement the recommendations or rulings that is best placed to know how much time it requires to implement. However, the reasonable period of time must not be used as a pretext to delay implementation. It is proposed that the contracting party inform the Council of its intentions in respect of implementation and the Council then decide whether the time proposed for implementation is reasonable. In the absence of a contrary decision by the Council the time proposed by the party that must implement would be deemed to be reasonable. The contracting party proposing the period of time would have the right to participate fully in the consideration of this matter by the Council and to this end would submit written reasons in support of the proposed period of time at least 10 days prior to the Council meeting at which this matter will be considered. However, the contracting party proposing the period of time would not participate in the Council decision. In cases where the Council decides what would be a reasonable period of time it would take account, inter alia, of the stated intentions of the contracting party that must implement recommendations or rulings, including any need for legislative action, and any proposals in that respect that may be contained in a panel report.

Withdrawal of Concessions

There is a need to clarify and strengthen the procedures for requesting authority to withdraw concessions in the event the party impairing benefits does not act within the reasonable period of time. The intention would be to increase pressure on that party to remove its measure, by making it easier to withdraw concessions. The objective remains removal of the measure, not compensatory withdrawals.