

PRESS BACKGROUNDER ON
THE GATT DISPUTE SETTLEMENT SYSTEM

-The purpose of the GATT dispute settlement system is to bring about the removal of GATT-inconsistent measures in order to assure the security of access to markets provided by the multilateral trading system.

-When a dispute settlement Panel has found a measure to be inconsistent with the GATT and the report of the Panel has been adopted by the GATT Council, the offending party has a reasonable period within which to bring its measures into conformity with the GATT rules.

-Should a party fail to implement such a Panel ruling, the GATT provides a mechanism for an injured party to rebalance trade concessions. Under Article XXIII:2 the injured party or parties may request authority from the GATT Council to suspend "substantially equivalent concessions" (i.e. retaliation). Alternatively, the affected party could also agree to accept compensation from the offending country, usually in the form of reduced tariffs.

-A contracting party can legally retaliate only if the action is formally authorized by the GATT members. Compensation is by mutual agreement of the parties to the dispute and does not have to be authorized by the GATT.

-Compensation or retaliation normally would be limited to an amount equivalent to the damage caused, and would only be maintained until the inconsistent measure was brought into conformity. Neither, however, is intended as a substitute for maintaining a GATT inconsistent measure.

Superfund

-The United States enacted the "Superfund" legislation in October, 1986 to provide \$8.5 billion to clean up environmental problems such as toxic waste dumps.

-Canada has supported the principle of the Superfund, but has objected to the use of a GATT inconsistent tax to finance this programme.

-A GATT Panel, established at the request of Canada, the European Community and Mexico, determined that the discriminatory aspect of the tax was in violation of the GATT rules, and recommended that the USA modify its legislation to bring it into conformity with the GATT. The Panel report was adopted by the GATT Council in June 1987 with USA support.