

-The Appellate Body would do its work in a short period. The Mid-Term Review improvements now provide that, unless agreed by the parties to a dispute, the period from the initiation of the GATT dispute settlement procedures (the request for consultations under Article XXII:1 or Article XXIII:1) until the Council takes a decision on the panel report shall not exceed fifteen months. We believe that the addition of an appellate mechanism should not prolong the period unduly. We therefore propose that in those cases in which appellate review is undertaken the period for final resolution shall not exceed eighteen months.

After considering arguments, which could include oral as well as written arguments, the Appellate Body could either accept the Panel's decision that a measure was inconsistent with the agreement or otherwise impairing benefits or not. In this event, the party would be found either not to be in contravention of its obligations nor otherwise impairing benefits. In either case, the decision of the Appellate Body on the dispute would be final.

The Appellate Body decision would be sent to the GATT Council or other appropriate body to be noted, but would not be adopted. Objections to the interpretation in the appeal decision could be made by third parties, but the decision, as it affects the parties to the dispute, could only be changed by Council or any other such body if it were to take such a positive decision. The focus would then be on implementation of the decision.

As the addition of an appellate mechanism to the GATT dispute settlement system represents a major change to the present system, consideration could be given to implementing the appellate mechanism on a trial basis. Contracting parties might decide to review the functioning of the appellate mechanism at the 1992 Ministerial meeting.