

sion of the GATT CONTRACTING PARTIES had been required to establish a panel, and, thus, to initiate proceedings. Pursuant to the 1989 *Improvements*, panels were also given standard terms of reference, a change from the previous practice of the parties determining the terms of reference through negotiation.

The reforms to the DSU agreed in the Uruguay Round, which *inter alia* provided for binding decisions and established the Appellate Body, accelerated this trend. In fact, Professor Weiler has characterized these modifications as representing a "paradigm shift" toward the "juridification" of the WTO.<sup>31</sup>

A major problem in the GATT system had been that reports or decisions of panels had to be adopted by a consensus decision of the CONTRACTING PARTIES in order to become legally effective. However, a party could (and sometimes, did) "block" the adoption of a panel report. The DSU reforms addressed this problem by providing that the reports or decisions of panels and the Appellate Body were to be automatically "adopted" by the Dispute Settlement Body (DSB), a political body made up of all WTO Members, unless there were "reverse consensus" decisions against adoption. Reports of panels and the Appellate Body become legally effective upon their adoption by the DSB. Decisions of the DSB to authorize retaliation (i.e., suspension of concessions) for failure to implement the rulings of a panel or the Appellate Body were also to be taken "automatically", meaning that once a party to the dispute had formally requested authorization to retaliate, if all the legal requirements had been met, the DSB would have been bound to take that decision, unless there were "reverse consensus" decisions.

The establishment of the Appellate Body, a standing tribunal devoted to hearing appeals on questions of law and legal interpretation from panel reports, was intended by Uruguay Round negotiators as part of the *quid pro quo* for automatic

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<sup>31</sup> J.H.H. Weiler, note 9, at 192; See also Ari Reich, "From Diplomacy to Law: The Juridicization of International Trade Relations", 17 *Northwestern Journal of International Law & Business* 775 (1996-1997).