

TRADE RULES AND DISPUTE SETTLEMENT

One of the most significant features offered by the World Trade Organisation to a small trading nation such as New Zealand is its disputes settlement framework. The system provides for enforceable settlements where disputes arise over trading issues.

How does the system work?

When a country believes that it has been affected by the illegal trading practices of another WTO member, it may hold that member to account by issuing a formal challenge to the alleged illegal behaviour.

Challenges are initially heard, and ruled on, by a panel of independent and impartial trade experts in Geneva. The losing side can appeal this decision to the Appellate Body, a WTO 'court' of specialist international trade law experts set up in 1995 as a result of the Uruguay round.

Certain 'retaliatory' measures are available to a country if it wins, but the non-complying country still fails to adhere to the ruling. For example, the country may choose to increase tariffs on goods from the non-complying country. New Zealand has not needed to make use of these measures, as the disputes process has so far been effective at securing an end to any offending trading measures.

New Zealand's use of the dispute settlement process

There have been a number of occasions where New Zealand has needed to make use of the WTO disputes process, both as a principal challenger and as a supporter for other countries' actions.

Japanese apples dispute

Japan came under fire from the United States in 2002 for restrictions on apple imports intended to protect the island nation from the introduction of fire blight. New Zealand was

a third party to these proceedings, and joined the United States in pointing out the lack of any evidence that fire blight had ever been introduced into any area through mature apple fruit.

The panel ruled that the Japanese measures breached the WTO Agreement on Sanitary and Phytosanitary Measures, and the Appellate Body upheld this finding in 2003. Japan implemented revised import measures, but in 2005 these were also found to be inconsistent with WTO rules.

United States steel safeguards

New Zealand took part in a joint formal challenge to safeguards imposed by the US on a range of steel products in 2002. Most notably, the measures included a 30 percent tariff on products exported by New Zealand manufacturers. New Zealand, in conjunction with Brazil, China, the European Union, Japan, Korea, Norway and Switzerland, argued that the safeguards breached a range of US obligations under the Safeguards Agreement and the General Agreement on Tariffs and Trade – the same agreements that caused trouble in the lamb case only a few years earlier. The WTO again ruled in favour of New Zealand, and the illegal tariff was swiftly removed in 2003, again after an unsuccessful appeal by the US.

United States lamb safeguard

Safeguards placed on lamb imports by the US in 1999 resulted in a challenge by Australia and New Zealand. The safeguards essentially took the form of higher tariffs on imports exceeding particular quota levels. New Zealand and Australia argued that these measures violated the WTO Safeguards Agreement, as well as the General Agreement on Tariffs and Trade. The WTO panel issued a ruling in favour in December 2000, and, after an unsuccessful appeal by the US to the Appellate Body, the safeguard was finally removed in 2001.

Canada dairy trade measures

This dispute arose in the late 1990s, potentially put millions of dollars of trade at stake, and took a full six years to resolve. After mounting concern over Canada's pricing system for dairy exports, New Zealand and the US raised the issue with the WTO in 1997. The scheme in question had the effect of giving Canadian exporters access to milk at considerably lower prices than otherwise available on Canada's domestic market, and New Zealand and the US argued that this was an illegal export subsidy under the Agreement on Agriculture.

New Zealand's arguments were upheld by a WTO panel in May 1999. After appealing, and losing, Canada agreed to abolish the subsidy scheme. This was done, but another similar scheme was put in its place. New Zealand and the US argued that the new scheme simply provided the old subsidy in different ways, and in December 2002 the Appellate Body held that Canada's replacement scheme also breached its WTO commitments. Canada dismantled this scheme in May 2003, and made a commitment not to provide further illegal subsidies to its dairy industry in the future.

What is in it for New Zealand?

New Zealand's use of the WTO dispute settlement system has directly resulted in a number of financial and systemic gains for our country and its traders. The system provides a very necessary element of fairness in the international trading system. The benefits to a small trading nation are clear: a concrete dispute settlement framework ensures that New Zealand trading interests are protected to the same extent as those of any of the major trading nations.

For a glossary of trade associated words please go to:
http://www.wto.org/english/thewto_e/glossary_e/glossary_e.htm