



Dispute

Settlement

Overview

The vast majority of trade in North America now takes place in accordance with the clear and well-established rules of the NAFTA and the World Trade Organization (WTO). Nonetheless, in such a large trading area, disputes are bound to emerge. In such cases, the NAFTA directs the governments concerned to seek to resolve their differences amicably through the NAFTA's Committees and Working Groups or other consultations. If no mutually acceptable solution is found, the NAFTA provides for expeditious and effective panel procedures.

One of the principal elements of the NAFTA is the establishment of a clear set of rules for dealing with the settlement of disputes. Dispute settlement provisions for countervailing duty and anti-dumping matters are covered under Chapter Nineteen. Chapter Twenty of the NAFTA includes provisions relating to the avoidance or settlement of all disputes regarding the interpretation or application of the NAFTA. There are also special rules for disputes under Chapter Eleven (Investment) and Chapter Fourteen (Financial Services). Administrative support to Chapter Nineteen and Chapter Twenty panels is provided by the Canadian, U.S. and Mexican National Sections of the NAFTA Secretariat.

Chapter Nineteen

Chapter Nineteen of the NAFTA provides for a system of binational panel review in place of final judicial review for domestic decisions regarding anti-dumping and countervailing duty matters. Prior to the entry into force of the Canada-U.S. FTA and then the NAFTA, anti-dumping, countervailing duty, and injury final determinations of a government could only be appealed: in the case of a U.S. final determination, to the Court of International Trade; in the case of a Mexican final determination, to the Tribunal Fiscal de la Federación; or in the case of certain Canadian final determinations, to the Federal Court of Appeal; or for some Revenue Canada decisions, to the Canadian International Trade Tribunal (CITT).

As of March 1999, there are three active Chapter Nineteen cases reviewing Canadian government anti-dumping decisions on imported products from the United States (baby food, cold-reduced flat-rolled carbon steel sheets and copper pipe fittings). There are five cases in which a U.S. decision is being appealed by