# VII Free Trade Agreement and North American Free Trade Agreement Chapter 19 Dispute Settlement, 1989–2000

In negotiating the Canada–U.S. Free Trade Agreement, one of Canada's major objectives was the establishment of a system for the binational review of "unfair" trade cases. The intention was to establish a less costly, more expeditious means for parties to appeal the results of unfair trade investigations. Originally Canada had sought the elimination of the use of anti-dumping (AD) and countervailing duty (CVD) laws within North America. However, the United States could not agree. Chapter 19 of the FTA was the compromise.

The FTA was superseded by the NAFTA on January 1, 1994.[183] Chapter 19 of the NAFTA is largely derived from the provisions contained in Chapter 19 of the FTA. It provides for a system of binational panel review as an alternative to domestic judicial review for final decisions regarding anti-dumping and countervailing duty matters. The main elements of the chapter are its binding nature, the standard of review to be used, and the procedure for establishing a panel.

NAFTA Chapter 19 extends (on a trilateral basis) the FTA review procedures for CVD and AD determinations, and makes these provisions permanent. Under the FTA, Chapter 19 was understood to be a temporary provision.

Under NAFTA sections 1901(3) and 1902, each country retains its current domestic CVD and AD laws, and the right to apply them to goods of the other parties to the agreement.[184] Any future amendments[185] to these laws must be in conformity with the WTO Anti-Dumping and Subsidies agreements. Binational reviews simply decide whether CVD and AD laws were applied in conformity with the domestic laws of the country concerned.[186]

183 North American Free Trade Agreement, § 2203.

184 Ibid., §§ 1901 (3), 1902.

185 Ibid., § 1902 (d).

186 Ibid., § 1904 (2).