

Chapter Twenty

Institutional Arrangements and Dispute Settlement

In drafting the institutional arrangements, the negotiators aimed at economy, joint decision making and effective dispute resolution. The basic objective is to promote fairness, predictability and security by giving each partner an equal voice in resolving problems through ready access to objective panels to resolve disputes and authoritative interpretations of the Agreement.

The Free Trade Commission is the central institution of the NAFTA. It comprises cabinet-level representatives (in practice the Minister for International Trade in Canada, the United States Trade Representative and the Mexican Secretary of Commerce and Industrial Development) or their designees. Regular Commission meetings are held at least once a year, alternating between member countries. As a practical matter, the day-to-day work of the Commission will be carried out by the officials of the member governments participating in the various committees and working groups mandated by the Commission.

The NAFTA establishes a Secretariat to serve the Commission and its dispute-settlement panels, committees and working groups. (In the FTA, the small Secretariat's duties were largely limited to assisting dispute-settlement panels.) There will be a permanent office in each country with the costs for each being borne by the host nation. The economy of these provisions reflects the judgment of all three partners that only experience will determine the extent to which a secretariat is required. If experience indicates the need for a large and active secretariat, the provisions are sufficiently flexible to establish it; otherwise, a smaller and more service-oriented institution is likely to evolve.

As with the rest of the Agreement, the dispute-settlement provisions build on those of the GATT and the FTA. Their objective is to ensure expeditious and effective means for both the avoidance and resolution of disputes. The NAFTA places priority on reaching an amicable settlement through consultations; indeed, the section on dispute settlement begins (article 2003) with a general exhortation at all times to "agree on the interpretation and application of the Agreement and ... make every attempt through co-operation and consultations to arrive at a mutually satisfactory resolution of any matter."