

apply to the other party: unless the other party was expressly specified, thus avoiding drawing Canada into decisions aimed at other countries; unless the other party had been notified and consultations had taken place; and unless the changes were compatible with GATT and the objectives of the FTA;

- Bilateral review of any changes to domestic antidumping and countervailing duty law (Article 1903). This implies that both parties can ask a panel to review these changes and provide a declaratory opinion about whether they comply with GATT, the objectives of the FTA, or the determinations of a binational panel under Article 1904. If the panel recommends changes, the two parties will begin consultations in order to reach a solution;
- Review by a binational trade panel of final antidumping and countervailing duty determinations, instead of domestic judicial review, which was previously the case (Article 1904).

The trade panels provided for in Articles 1903 and 1904 consist of five members normally selected from a list of 50 candidates (25 of each nationality), who are experts in international trade law. They should not be affiliated with their governments and may not under any circumstances take instruction from them. The parties each appoint two members, in consultation with the other, and agree on the fifth member. If agreement cannot be reached, the fifth member is chosen by the four appointed members or, if they cannot agree, by drawing from the list.

Strict deadlines were established. In regard in particular to reviews of decisions to levy countervailing duties, the entire review must be completed within 315 days following the request for a panel, instead of the two to four years that were needed to exhaust all possible recourse to national tribunals. If the panel opposes part or all of the decision, the competent authorities in one country or the other are allowed as short a period as possible to make a new determination. We should point out here that, although the determinations of these binational panels are binding, the panels are not supposed to come to any conclusions about the legislation per se but rather to ensure that the provisions are properly applied by national authorities. The panels can uphold, quash or remand the determinations of national authorities. The binational panels are able, in particular, to remand determinations to the American authorities if they detect any errors or ambiguities or a lack of detail or justifications. These remands may or may not contain any directives in regard to applying the law.

