

THE COMMERCE DECISION AS "ARTIFICIAL, CONTRIVED AND WITHOUT FOUNDATION IN LAW". IT WAS THE VIEW OF MANY OBSERVERS THAT WHAT HAD CHANGED BETWEEN 1983 AND 1986 WAS NOT THE LAW OR THE LEGALLY RELEVANT FACTS, BUT RATHER THE POLITICAL ENVIRONMENT IN WHICH THE DECISION WAS MADE.

UNDER THE TERMS OF THE FREE TRADE AGREEMENT, EITHER COUNTRY WILL BE ABLE TO APPEAL ANY FUTURE DISPUTE LIKE THE SOFTWOOD LUMBER DETERMINATION TO A BINATIONAL PANEL COMPRISED OF BOTH CANADIAN AND AMERICAN EXPERTS. IF IT IS A DETERMINATION OF A UNITED STATES AGENCY, THE PANEL WOULD HAVE TO DECIDE WHETHER THAT DETERMINATION WAS IN ACCORDANCE WITH U.S. LAW. IF THE PANEL FOUND THE DETERMINATION WAS NOT IN CONFORMITY WITH U.S. LAW, THE CASE WOULD BE SENT BACK TO THE COMMERCE DEPARTMENT FOR A NEW DETERMINATION CONSISTENT WITH THE PANEL'S DECISION. SINCE THE PANEL HAS TO RENDER ITS DECISION WITHIN 90 DAYS, THE CANADIAN PARTY WOULD NOT BE FACED WITH THE PROSPECT IT NOW FACES OF WAITING FROM TWO TO FIVE YEARS FOR A FINAL DECISION IN THE EVENT IT EXERCISES ITS RIGHT OF APPEAL TO THE U.S. COURTS.

THE DISPUTE SETTLEMENT MECHANISM WILL GIVE CANADIANS THE ASSURANCE THEY HAVE BEEN SEEKING THAT