appreciated the binational character of Chapter 19, and hoped that the strict timelines and decision-making procedures would inject fairness, consistency, and predictability into the resolution of dumping and countervail disputes. The Americans supported the Chapter 19 compromise because it left domestic trade remedy laws in place and under Congressional control.

The NAFTA extended Chapter 19 to Mexico in 1993. During the NAFTA talks, a key objective of the Canadian and Mexican teams was to build on the strengths of Chapter 19 of the FTA, and to secure an effective, rule-based dispute settlement mechanism in the trilateral agreement. Canada and Mexico worked together to reflect the importance of rules in North American trade to ensure that their producers were not placed at the mercy of the American trade remedy regime which favoured American interests above all others. Both countries had fallen victim to the rising tide of American protectionism too many times during the 1970s and 1980s. Inspite of some resistance from the Americans, the Canadian and Mexican efforts were successful. Essentially, the binational panel process of the NAFTA was the same as the one in Chapter 19 of the FTA.[2]

Chapter 19 of the FTA went into operation in January of 1989. Binational panels were convened to address 45 Canada-U.S. disputes between 1989 and 1993. Panels issued binding decisions in 32 of the disputes, and the remaining 13 were terminated by the parties. Three ECCs were convened to review panel decisions at the request of the American Government. Binational panels have been convened to address 11 Canada-U.S. disputes pursuant to Chapter 19 of the NAFTA since 1993.[3]

Opponents and proponents of Chapter 19 have solicited arguments to evaluate the merits of the binational panel process of judicial review. Critiques have generally come from the United States. Americans have alleged that:

- Binational panels do not employ the appropriate standards of review

- Panels have created a second body of trade law that is exclusive to FTA/NAFTA parties

- The binational panel process of Chapter 19 violates the U.S. Constitution

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[2] The only notable exceptions are: the safeguard mechanism of Article 1905, the abolition of the FTA's five-to-seven year working group on dumping and countervailing duties, the NAFTA's insistence that the majority of panelists be lawyers or judges, the grounds for establishing an ECC, and the time that an ECC may take to issue a decision.

[3] See Appendix A for a summary of Chapter 19 disputes between January, 1989 and July, 1996