

complaints made by domestic producers concerning imported goods, and hand down decisions as to a) whether a foreign firm is benefitting from subsidies, or selling its products at below fair market value; and b) whether such subsidized or dumped imports are causing or threatening to cause material injury to the domestic industry.

These decisions, known as "final determinations", may result in the assessment of a duty on the imported goods. Prior to the FTA, these decisions were reviewable only by domestic courts, a very expensive process which generally took up to two or three years.

Chapter 19 allows for the establishment of binational panels to replace domestic judicial review of final determinations. Interested parties in such cases can invoke the panel procedures, unlike the Chapter 18 procedure which is exclusively a government-to-government process.

The panels are required to arrive at a decision within 315 days. The decisions are binding, as each country's implementing legislation requires the domestic administrative authority or tribunal to enforce the panel decision.

Twelve panels have been requested to date and are in various stages of resolution. All but one of these were initiated by Canadian exporters. Canadian challenges are underway, or have been undertaken for steel rails, red raspberries, paving parts, salted codfish, and pork.

The first decision of a Chapter 19 binational panel was issued December 14, 1989 pertaining to the red raspberries case. The unanimous panel decision found that the U.S. Department of Commerce's margin of dumping findings were defective against two of three B.C. exporters named in the administrative review and remanded the case to DOC for further substantiation.

There are four separate steel rails cases. Sydney Steel Corp. (SYSCO) is challenging the final countervailing duty determination made by the U.S. Department of Commerce against imports of steel rails from Canada (Steel Rail I). Algoma Steel, which was found not to be benefitting from subsidies in the same investigation, is challenging the dumping finding (Steel Rail II). The two companies have also requested a review of the injury decisions made by the U.S. International Trade Commission.

On August 22, the Government of Canada joined the Canadian Pork Council, the Canadian Meat Council and the Alberta, Ontario and Quebec Governments in requesting the establishment of a Chapter 19 panel to review the final determination of subsidy made by the U.S. DOC on July 18. A decision by this panel is due by July 3, 1990.