settlement apparatus directly binds national governments. There is no general legislative power allocated to the NAFTA political institutions including the dispute resolution process. The NAFTA is however, only in theory, capable of direct effect within the national courts of its Parties. In reality this would not be affected or only implemented in extreme circumstance. For instance the United States has by legislation deprived the NAFTA of potential direct effect in U.S. courts.

Most analysts concur that the NAFTA was and has been carried out according to the text that the member countries negotiated in detail. Though a few matters are disputed, in the context of the overall undertaking, and as a percentage of cross border trade, these disputes are modest and most are resolved by the dispute settlement mechanism or in more serious cases such as steel tariffs, or softwood lumber disputes by direct member state inter-governmental bargaining.[442] The softwood lumber tariffs imposed in 2002 have the potential to aggravate tensions between Canada and the USA but if past history is a guide these tariffs will be reduced if not eliminated completely within the near future after inter-governmental bargaining. Such a resolution could be affected if both sides induce change in their lumber practices and governmental intervention in the industry.

NAFTA's Economic Effects

NAFTA is a free trade area, which mandates only the elimination of tariffs and other restrictive regulations of commerce between its member states. Unlike the EU it does not prescribe common tariffs applicable to goods originating outside NAFTA territory. In the case of goods originating outside NAFTA, which are then changed in character within a member state to assume a regional character, these third country goods are subject to the payment of tariffs upon entry into each member state. NAFTA allows for the free movement of services and capital, and has invoked the limited free movement of business people between its members. No common external commercial policy is called for unless the actions by member states

are limited in their relations with third countries by the terms of the NAFTA.

As with most agreements there is substantial debate on the impact of NAFTA. There is no doubt that in macro terms the first eight years of the NAFTA's operation have witnessed substantial growth in trilateral trade between Canada, Mexico and the United States. There has been more modest growth in cross-border investment and services trade.[443] On the legal side, the NAFTA has led to modest gains in attention to the conditions of workers and the environment both of which were major stipulations of leftist groups including labour organisations in both Canada and the USA. These groups were fearful that business would deploy industry in Mexico to avoid the labour, wage and environmental regulations of Canada and the USA. Though some industry has relocated, it has not been any more noticeable post NAFTA then it was pre NAFTA. It is also difficult to understand these exaggerated concerns given the economic reality that Mexico is only 5 % of the economic size of the USA and that quality, productivity, labour skill level, language and communication, and other factors enter into the cost calculations of business and that a wholesale massive realignment of industry to Mexico would never occur.

Most studies of NAFTA prove that the agreement has increased trade flows, FDI and economic integration along a north-south axis. Between 1994 and 2000, the value of U.S. merchandise trade with Canada and Mexico grew at an average annual rate of 11 percent,[444] while growth in U.S. trade with the rest of the world averaged 8 percent per year. U.S. trade with Canada increased (in current U.S. dollars) from $243 billion to $406 billion in 2000, an average annual rate of 8.9 percent. Trade with Mexico grew by 16 percent per year, from about $100 billion in 1994 to $248 billion in 2000 with Mexico becoming the US' third largest trading partner, surpassing Japan in 1999 [with China in 2003 becoming the US's second biggest trading partner]. The growth in trade with Mexico occurred despite the decline in exports to Mexico in 1995 due to the peso crisis and the related economic recession. U.S. exports to Mexico recovered quickly after the Mexican economy began to stabilize and grow.