

governments jointly, although provision might also be made in the agreement for references to be sent to the Commission by a single party in exceptional circumstances. The agreement might indicate the kinds of issues which the Commission would be asked to investigate. These issues could be confined to matters covered by the provisions of the agreement; preferably, they would include a broader range of issues in trade and related areas, so as to enable the Commission to investigate new issues outside the agreement as they emerge. In response to a request by the two governments, the Commission would then organize and carry out a process of collection of data, verification of facts and impartial analysis, and submit its conclusions and recommendations to the two governments.

The Joint Trade Commission might also be given one or more "standing references" by the two governments, which would assign to it responsibility for the continued monitoring and reporting on developments in legislation, policies and practices in the two countries in particular trade and related areas, for the monitoring of private sector activities in particular areas, and for keeping under review changes in the pattern of bilateral trade and related developments in production and investment in the two countries.

Thus, the Commission's primary role would be directed at the avoidance of disputes in bilateral trade and related areas, and at helping the two countries resolve them when they arose, rather than serving as an instrument for the resolution of disputes. Nevertheless, it is proposed below that the agreement might also provide for the Commission to perform a dispute resolution function, in the event the two governments from time to time wished it to perform such a role. In addition, it is proposed below that the agreement might assign to the Commission a quasi-judicial, quasi-regulatory function in connection with the operation of the "trade remedy" system of the two countries as these apply to bilateral trade, i.e., those governing the use of countervailing duties, anti-dumping duties and "safeguard" measures to limit imports which are determined to cause or threaten injury to domestic producers.

Structure of Commission

Following precedents established by the 1909 Boundary Waters Treaty and the International Joint Commission created by this Treaty, the proposed Joint Trade Commission might be composed of six Commissioners, three appointed by each federal government on the basis of their qualifications to deal with trade and related issues, including both the economic and the legal aspects of these issues. However, in the light of experience with the IJC, the Commissioners should preferably be appointed for fixed periods of three to five years, with the appointments staggered so as to avoid prolonged vacancies; as well, they would all probably need to serve on a full-time basis, in the light of the volume of work they might be expected to perform. The Commission would doubtless need to be headed by Canadian and U.S. co-chairmen and to maintain separate offices in the two capitals, although consideration might also be given to establishing at a future date a single office at a centre near the boundary. While this latter arrangement would lend additional encouragement to a collegial approach in the