

patterns of Canada-U.S. cooperation in other areas, as exemplified in the International Joint Commission (IJC) whose functions, structure and procedures could serve as a model.

The proposed bilateral trade agreement, which would establish a new, broad framework for bilateral cooperation in trade and related areas, would provide a solid legal underpinning for the creation of new joint institutional arrangements which would serve to assist the two parties in the implementation of the new agreement, and would have an important symbolic significance as well. Its creation would represent an additional demonstration of the move by the two countries away from an older concept of dealing with bilateral trade and related issues by confrontation and bargaining towards a concept of cooperative efforts to reach common solutions.

For Canada, the work of such an independent Commission would have special advantages because, as demonstrated by the work of the IJC, its operation would help adjust the imbalance in size between the two countries, and lessen the disadvantage often faced by Canada in dealing with bilateral issues through a process of negotiation with its larger partner. Moreover, the creation of such an independent Commission at this time would involve a new recognition of the large and complex pattern of cross-border trade and investment, which will doubtless become even larger and more complex as a result of the agreement; the large and substantial involvement of the interests of provinces and states; and the myriad of linkages between the private sectors in both countries. These conditions call for some special mechanisms for bilateral cooperation, beyond those traditionally provided by exchanges and linkages between the two federal governments.

It could be argued that a joint independent commission of the kind proposed is needed whether or not it is created under a new Canada-U.S. trade agreement, or that such an institution should be created independently of a new bilateral trade agreement. These possibilities could be pursued in the event that negotiations for a bilateral trade agreement become protracted or break down. But it seems preferable to embody provisions for the establishment and operation of a commission in the envisaged bilateral trade agreement, and link its principal functions to other exchanges of rights and obligations in the agreement. The provisions of the agreement covering the proposed commission would in this way become an important integral part of the new trade agreement and would provide an additional attraction for its adoption by the two countries, as well as providing additional assurances that its provisions would be respected on both sides.

Functions of Commission

The proposed Joint Trade Commission would function primarily as an investigative and advisory body, with an additional mandate to help resolve bilateral trade disputes, and with no supra-national or regulatory functions except, as suggested below, those that may be assigned to it under the future agreement in connection with the determination of injury to domestic producers under the "trade remedy" systems of the two countries. Its main tasks would be assigned to it under references which it would be given by the two federal