these multilateral rules. If a dispute arose on those issues, then either country could have recourse to existing dispute-settlement procedures under the GATT. Canada would not, however, have recourse to the GATT for the settlement of disputes on issues where the bilateral obligations go beyond GATT rules. This situation already prevails with the auto pact. Canada would be unable to lodge a GATT complaint if U.S. policies derogated from the auto pact provisions but did not contravene the GATT.

Although the United States has not introduced measures that directly undermine the auto pact, there is considerable risk that future U.S. legislative or policy actions could erode the benefits obtained from an FTA agreement.[11] For this reason, I recommend a formal bilateral dispute-settlement process and the creation of a binational arbitral tribunal.[12] Such a tribunal could investigate the facts on particular disputes and interpret the terms of the agreement. While its findings — like those of GATT panels — would not be formally binding on the two countries, they likely would be persuasive in most cases. In the event of a severe breakdown in the bilateral agreement, both countries simply would revert to their common obligations under the GATT.

Conclusion

The purpose of negotiating an FTA is to apply common rules to bilateral trade. The degree of further harmonization of bilateral contingent-protection systems that will be required depends on the approach that is taken to bilateral import administration in the FTA agreement. Under the most likely approach — tighter rules governing each country's trade laws and procedures — the degree of additional harmonization will be modest.