

The need has long been recognized for better, more effective arrangements for continuing consultations between the two governments on trade and trade policy issues, in the light of the large, important and intricate bilateral economic and trade relationships.⁴ A number of efforts have been made to fill this need, including the arrangements, mentioned above and discussed in greater detail below, which existed from the mid-1950s to the early 1970s for annual meetings of the long dormant Joint Ministerial Committee on Trade and Economic Affairs. The succession of opportunities for consultations between the two sides in multilateral settings are not sufficient, since inevitably these meetings tend to focus on broader, global issues; and the U.S. participants at them tend to be preoccupied with their trade problems with Japan and the European Community, rather than with Canada-U.S. trade issues. In recent years the quarterly meetings between the Canadian Secretary of State for External Affairs and the U.S. Secretary of State have been helpful in this regard, but do not generally focus on bilateral trade policy issues in any detail. The meeting in Québec City in March 1985 between Prime Minister Mulroney and President Reagan was, of course, highly successful in establishing a framework and an agenda for future bilateral efforts to manage trade relationships, as well as to seek solutions to a list of current bilateral trade irritants; and the two leaders have agreed to meet annually to discuss important issues of common concern. But summit meetings of this kind, by their very nature, do not often come to grips with the range of particular trade issues and conflicts. Accordingly, the consultative element in the trade policy relationship has tended to consist of last minute, ad hoc efforts to cope with crisis situations, usually in the glare of media attention which is not always helpful, while neglecting more fundamental, longer term bilateral problems.

As well, a special need for more effective processes for resolving bilateral trade disputes has long been recognized. Quite specific proposals for creating a bilateral joint economic or trade commission to help resolve disputes were made in 1979 by the Honourable Donald Macdonald and in 1983 by Senator Mitchell of Maine.⁵ In 1979, the Joint Committee of the Canadian Bar Association and the American Bar Association adopted a report which recommended new arrangements and procedures for the resolution of bilateral disputes.⁶ The distinguished Canadian jurist, Maxwell Cohen, in a recent article analysed in considerable detail the need for better arrangements to help settle bilateral trade and the economic disputes, and proposed for this purpose the creation of a "Joint Economic/Administrative Commission."⁷

As noted above, both countries have in recent years made limited use of the GATT rules and procedures for dispute resolution to help resolve bilateral trade disputes. But the GATT Contracting Parties cannot reasonably or appropriately be asked to help resolve the continuing flow of Canada-U.S. bilateral trade issues. Moreover, the GATT process is generally restricted to issues which violate and come within the framework of the GATT rules, whereas difficult Canada-U.S. bilateral disputes often do not involve any violation of the strict letter of the GATT rules, or may fall outside these rules entirely. In this situation, bilateral trade frictions which are not resolved by Ottawa and Washington through the diplomatic process, such as the border broadcasting issue, can remain irritants for prolonged periods of time, and often they tend to