United States, treaties do not, in themselves, become part of the "law of the land" Parliament or, if appropriate, provincial legislatures, must enact any legislation that may be necessary for the performance of treaty obligations. Because of this requirement to pass subsequent provincial legislation in cases where the subject matter falls under provincial responsibility, it is the practice in Canada to consult the relevant provinces prior to ratification or signature. This procedure is about as close as we come in Canada to the U.S. system.

Granted that Canada's treaty-making procedures are simpler than the U.S.A.'s, we have not yet fully explored those differences in foreign policy approaches which flow from institutional differences. Americans quite properly hold their political institutions — if not necessarily their politicians — in awe and wonder. We in Canada are respectful but more relaxed about our own institutions — as witness the fact that we are only now getting around to fetching our Constitution home. The U.S. attitude colours the U.S. foreign policy approach in subtle ways. Thus there is an instinctive view among many U.S. policy-makers and negotiators that international law should conform with U.S. law, rather than the other way about. Thus too U.S. negotiators often seem to expect the representatives of other countries to give the same automatic deference as they do to the procedural and institutional peculiarities of the U.S. system.

The extra-territorial exercise of U.S. anti-trust jurisdiction is a field rich in examples of this kind of attitude, not a few of them involving Canada. The effects on the U.S.A.'s foreign relations have been serious indeed. Australia and the U.K. have already passed laws to protect themselves from such extra-territorial interference, and Canada will be joining them soon.

The tuna issue

But let me stick to the field of fisheries. Take tuna. The consensus emerging from the Law of the Sea Conference recognizes the exclusive sovereign rights of coastal states over all living resources of the 200-mile zone. U.S. law accordingly asserts such rights over the rich coastal fisheries off the U.S.A., but does not recognize that these same rights can extend to tuna, owing to the fact that U.S. fishermen take huge quantities of tuna off the coasts of other countries. Here again Congress has usurped the executive's role in foreign affairs and has favoured local interests over international agreement. But the story does not end there. U.S. law goes further and requires an embargo on tuna imports from any country arresting a U.S. vessel for unauthorized fishing for tuna within its 200-mile zone. According to Canadian experts, at least such action is contrary to the U.S.A.'s obligations under GATT [the General Agreement on Tariffs and Trade], but again Congress has placed local interests over international agreement.

I would like to conclude my remarks with the tuna story because it has a happy ending — I really should say a happy intermission — at least so far as it affects the U.S.A. and Canada. Late last August our two countries concluded an interim agreement on reciprocal fishing of albacore tuna by Canadian and U.S. fishermen off the Pacific coast, thus averting a resumption of the 1979 conflict when Canada arrested 19 U.S. vessels in the Canadian 200-mile zone. Both countries have also agreed to use their best efforts to transform this interim arrangement into a long-term treaty by June 1981.