

CANADA REQUESTS NAFTA CONSULTATIONS ON CUBA LEGISLATION

On March 12, Canada requested consultations with the United States under the North American Free Trade Agreement (NAFTA) to clarify U.S. plans to implement the Cuban Liberty and Democratic Solidarity (Libertad) Act, which provides for sanctions against third country companies or individuals that profit from property in Cuba claimed by U.S. nationals.

Canada believes the bill creates a dangerous precedent and is an improper extraterritorial extension of U.S. jurisdiction that violates fundamental principles of international law regarding the settlement of claims for expropriated property.

The U.S. has agreed to the consultations and Mexico will participate. Consultations are the first step in determining whether to issue a challenge under NAFTA's dispute settlement process.

The legislation, sponsored by Senator Jesse Helms of North Carolina and Representative Dan Burton of Indiana, was passed by Congress and signed into law by President Clinton after Cuba shot down two civilian U.S. aircraft on February 24. Canadian Foreign Affairs Minister Lloyd Axworthy condemned Cuba's action as "an excessive and inappropriate use of force, (which) violated internationally accepted rules for the interception of civil aircraft." Canada supported the presidential statement issued by the U.N. Security Council and the International Civil Aviation Organization resolution setting in motion an ICAO investigation of the incident and the circumstances surrounding it.

While Canada shares with the United States the goal of a peaceful transition in Cuba to a democratic society and an open economy with full respect for human rights, it believes that a policy of engagement is more effective than one of isolation. Senior Canadian officials have repeatedly expressed Canada's concerns to the Cuban government about its overall human rights record, particularly on civil and political rights such as freedom from arbitrary detention, freedom of association and freedom of speech. In Cuba, Canadian Embassy officials meet regularly with human rights activists and have discussed individual cases with the Cuban authorities. In addition, Canada has co-sponsored a number of U.N. resolutions critical of Cuba's human rights performance.

Canada's development assistance program in Cuba, which first began in the early 1970s, was halted in 1978 because of Cuban military involvement in Africa. In 1994 the Canadian International Development Agency

began providing funds to Canadian non-governmental organizations, academic institutions and the private sector to support development and social programs in Cuba. Canada has also provided Cuba with emergency humanitarian aid.

AXWORTHY MEETS WITH U.S. OFFICIALS

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Despite myriad areas of cooperation and partnership, Canada's perspective differs from that of the U.S. on several issues. "There is at times a disturbing trend in certain elements of U.S. foreign policy to go beyond the rules and to act unilaterally without regard for the legitimate interests of others," Mr. Axworthy told his Johns Hopkins University audience, and he cited Cuba as an example. "The issue is whether it is appropriate for any country unilaterally to take measures intended to force other countries to agree with its foreign policy."

He presented the case to the U.S. Secretary of State for waiving provisions of the Helms-Burton Act that attempt to penalize Canadian and other third country investors in Cuba (see related article on this page). After their meeting, Secretary Christopher told reporters: "I believe we will work our way through this particular problem, trying to take into account the interests and concerns of Canada."

Mr. Axworthy also raised the impasse over implementation of the 1985 Pacific Salmon Treaty, which committed Canada and the U.S. to conserve dwindling salmon stocks and to ensure that each country receives benefits equivalent to the production of fish in its waters. Since the treaty was signed, U.S. fishermen have increased their interceptions of fish spawned in Canada by 50 per cent, while Canadian fishermen have reduced their interceptions of salmon originating in the U.S. by 40 per cent. The two countries have been unable to agree on an equitable formula for sharing the catch, and the U.S. has rejected a mediator's proposals.

Canada is particularly concerned that without an agreement, overfishing of endangered salmon stocks will lead to a collapse of the fishery. Canada has severely reduced allowable catches by its fishermen. Over the next few years

it will cut the West Coast commercial salmon fleet by a third, or 1,500 vessels, at a cost of more than \$65 million to Canadian taxpayers to buy back fishing licenses. The Fraser River sockeye fishery will be shut down completely in 1996.

In his meetings with Secretary Christopher and Interior Secretary Bruce Babbitt, Mr. Axworthy stressed the urgency of the salmon conservation problem and made a forceful case for submitting the issue to international arbitration, which the U.S. has agreed to consider. He also reiterated Canada's position that the "inside passage" between Vancouver Island and the British Columbia mainland, which is used by fishing vessels from the northwest United States to reach salmon grounds off Alaska, is an internal Canadian waterway. The U.S. has claimed that it has the right to pass freely through those waters.

A third area of concern to Canada is financing of the United Nations. The U.S. Congress has withheld payment of more than US\$1 billion in U.N. dues while demanding that significant cuts be made in U.N. spending and bureaucracy. Canada has led the effort for comprehensive fiscal and administrative reform of the U.N. but wants to ensure that the organization's role in preserving international security is not compromised by severe shortages of funds. In meetings with congressional leaders, Mr. Axworthy called on the United States to pay its overdue U.N. assessments, while working with Canada to promote reform.

Notwithstanding their occasional differences in foreign policy, Mr. Axworthy expressed confidence that Canada and the United States can expand their partnership, and he urged that more regular bilateral discussions be held at every level to forestall problems and explore opportunities for joint action in the world.