

United States to move forward with negotiating Chile's possible accession to the NAFTA and to continue the trade liberalization discussions in the FTAA.

President's Report on the Effects of the NAFTA

The President is required to report to the U.S. Congress by July 1, 1997, on the effects of the NAFTA on the United States and its economy. How this report is received is likely to shape attitudes in Congress to a request from the Administration for fast-track authority to negotiate further free trade agreements. Failure to win fast-track authority would almost certainly preclude the start of negotiations on Chile's accession to the NAFTA. An unfavourable reaction also would affect the United States' ability to assert effective leadership of hemispheric and other trade liberalization initiatives.

Constitutional Challenge to NAFTA

Chapter Nineteen

On January 16, 1997, the American Coalition for Competitive Trade, a group of 21 non-profit citizen organizations, filed a challenge on the constitutionality of Chapter Nineteen of the NAFTA and the FTA. Chapter Nineteen provides for the establishment of binational panels to review and determine whether final determinations made in anti-dumping and countervailing duty investigations are consistent with domestic law. In its petition before the U.S. Court of Appeals for the District of Columbia, the Coalition alleges that, among other things, by passing legislation implementing the provisions of NAFTA and the FTA, the U.S. Administration acted unlawfully by ceding, abdicating or delegating its authority under the U.S. Constitution. The petition also alleges that the Administration violated constitutional provisions regarding the separation of powers of the courts and the Executive Branch and also its obligation to provide due process and equal protection under the law to U.S. plaintiffs.

There have been two previous constitutional challenges of the Chapter Nineteen panel system. One in the early 1990s was dismissed for lack of jurisdiction while the other was withdrawn in February 1995, after Canada agreed to enter into a bilateral consultation process on softwood lumber.

As with the earlier cases, this most recent challenge is a matter for the U.S. Administration to defend

before a United States court. It is expected that the Administration, as it has in the past, will defend vigorously the constitutionality of its own laws. Canada is prepared to co-operate with the Administration to defend what Canada considers to be an essential element of the NAFTA. All necessary steps will be taken to safeguard Canadian interests.

Other Issues

Customs and Administrative Procedures

Building on the 1995 "Accord on our Shared Border", Canada and the United States will pursue several initiatives in 1997 to speed road, rail and sea transit, as well as intransit preclearance at Canadian airports. To realize the benefits of free trade, Canada and the United States are creating a "smart" border that facilitates trade and tourism, but keeps illegal goods and services out — through high-technology streamlining of processes, and the provision of adequate infrastructure. The two countries will work to enhance the processing of customs data electronically at border crossings; reduce the number of stops for carriers moving goods intransit through either country; promote the use of joint or shared border facilities; and introduce new technologies to detect drugs and to enable remote inspection of travellers. Canada and the United States will also work to insure the competitiveness of the St. Lawrence seaway by promoting its usage and improving the efficiency of its operations.

Cultural Industries

Canadian policy has over the past decades fostered and nurtured cultural industries. While these industries are in many cases now seeing increasing success and are developing markets abroad, the Canadian cultural markets continue to be subject to high foreign penetration. Canadian feature films, for example, enjoy roughly 3% of screen time in Canadian theatres. In sound recording, fourteen foreign-owned firms in Canada accounted for 84% of total record sales in 1993-94. Generally, 80% of English-language newsstand sales in Canada are of foreign magazines. To ensure that its own cultural products continue to be accessible to Canadians, Canada will continue to pursue measures that will promote its cultural industries and products.