Canada-Cuba Relations

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I. INTRODUCTION

CANADA and Cuba have a history lasting over three centuries that revolves around mutually beneficial financial interests. The timing of U.S. embargoes on Cuba and the Canadian Prime Ministers' desires to foster their country's relationship with Cuba led to a staggering boost in tourism and trade. But recent improvement in relations between the United States and Cuba, along with the negative treatment of Cuba by Canada's current Prime Minister, have unraveled much of that good will and damaged relations between the two countries.

II. HISTORY OF CANADA-CUBA RELATIONS

Relations between Canada and Cuba can be traced back to the eighteenth century, when Canada began to trade codfish and beer for Cuban rum and sugar.\(^1\) Cuba was the first country in the Caribbean region that Canada chose for a diplomatic mission.\(^2\) Relations remained positive and continued to improve through the next two centuries. Two of Canada's largest banks, Bank of Nova Scotia and Royal Bank of Canada, both opened offices and greatly expanded in Cuba by 1906.\(^3\) Canadian farmers would often migrate to Cuba to chase new crops, such as sugar.\(^4\) An official diplomatic relationship was established in 1945, just eight years before the start of the Cuban Revolution, when Prime Minister King appointed Emile Vaillancourt as the Canadian Minister to Cuba.\(^5\) Cuba appointed its own minister to Canada that same year.\(^6\) By 1950, both countries had upgraded their ministers to ambassadors.\(^7\)

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\(^*\) J.D. Candidate, SMU Dedman School of Law, 2016.

2. Id.
5. *Canada-Cuba Relations, supra* note 1.
7. Id.
After the Cuban Revolution ended in 1959, Canada was one of the only two countries in the western hemisphere to maintain diplomatic relations with Cuba.\(^8\) When Fidel Castro seized power over Cuba, the United States' control over the hemisphere was challenged and the relationship between the two countries ended.\(^9\) But Prime Minister Diefenbaker spurned the United States and instead set Canada's own foreign policy in regard to Cuba.\(^10\) Canada was not a member of the Organization of American States and had no obligation to follow the United States in its embargo.\(^11\) Cuba desired to establish its own economic partners and replace the goods and services originally imported from the United States.\(^12\) Canada was a powerful choice due to its proximity, technological similarity, and prior relations with Cuba.

But Canada's foreign policy after the Cuban Revolution prohibited the shipment of arms, munitions, military equipment, and "materials of a clearly strategic nature" because of its stance on not exporting arms to "areas of tension."\(^13\) Items found to have a strategic significance, such as airplane engines, were closely scrutinized; all other Canadian goods had no trade limitations.\(^14\) Prime Minister Diefenbaker based his decision on three main points: (1) Canada had not established embargoes on Soviet trade; (2) it would not be pressured into using embargoes elsewhere; and (3) it did not want to damage its international trade.\(^15\)

In the 1970s, Canadian Prime Minister Pierre Elliot Trudeau—the first North Atlantic Treaty Organization (NATO) leader from a Western nation to visit Cuba since 1960—began a lifelong friendship with Fidel Castro.\(^16\) The relationships between Trudeau, Castro and their respective countries were so strong that Castro served as a pallbearer at Trudeau's funeral in 2000.\(^17\) In 1998, the two countries even celebrated the opening of a Canadian-Cuban joint-venture airport in Havana, Cuba.\(^18\)

III. CURRENT RELATIONS

Cuba is now represented in Canada by an embassy in Ottawa and con-
sulates in Montréal and Toronto.\textsuperscript{20} Canada has had its own embassy in Havana since 1945.\textsuperscript{21} As of 2007, Canada was Cuba’s second largest importer and fifth largest exporter and remained Cuba’s largest source of tourism, accounting for forty percent of all visitors to the island.\textsuperscript{22} Canada is also one of Cuba’s largest sources of foreign investment and has at least eighty-five companies operating in Cuba.\textsuperscript{23} The strong economic ties between Canada and Cuba grew largely from a dearth of competition in most sectors.\textsuperscript{24} But due to the warming relationship between Cuba and the United States, that is no longer the case.\textsuperscript{25} This is especially true over the last decade.\textsuperscript{26} Take, for instance, Cuban food purchases. In 2000, Cuba imported over $408 million in Canadian food exports.\textsuperscript{27} In 2002, however, the United States began allowing Cuba to purchase food, and Canada’s exports to Cuba fell to $325 million.\textsuperscript{28} By 2009, that number had fallen to $318 million; the United States, in contrast, exported over $700 million that year.\textsuperscript{29} The proximity of the United States to Cuba and cheaper logistical costs have led Cuba to place their economic interest ahead of their long founded relationship with Canada.\textsuperscript{30} Currently, the most successful Canadian-Cuban joint ventures include hotels, travel companies, and mining companies.\textsuperscript{31}

This swing towards the United States was exacerbated by Canadian Prime Minister Stephen Harper, who did not share his predecessor’s positive attitude towards Cuba. Harper made little attempt to improve or maintain Canada’s relationship with Cuba and even rejected a proposal to invite Cuba to the summit of the Organization of American States in Panama.\textsuperscript{32} Harper’s antipathy towards Cuba stemmed from its revolutionary history and his skepticism towards closer relations with a communist regime.\textsuperscript{33} Prime Minister Pierre Trudeau’s son, Justin Trudeau,

\begin{footnotes}
\item[20] Canada-Cuba Relations, supra note 1.
\item[21] Id.
\item[25] Id.
\item[26] Id. at 15.
\item[27] Id.
\item[28] Id.
\item[29] Id.
\item[30] Id.
\item[31] Small & Senior, supra note 4, at 22.
\item[33] Mark Kennedy, As U.S. Moves to Normalize Relations with Cuba, Harper’s Antipathy to the Communist Nation Evident at Summit, Nat’l Post (Apr. 12, 2015, 8:21 PM), http://news.nationalpost.com/news/canada/canadian-politics/as-u-s-moves-to-
replaced Harper as Prime Minister on November 4, 2015. Trudeau has made no statements as to the type of policy he desires towards Canada-Cuba relations at this time.

A. BILATERAL AGREEMENTS

Canada and Cuba are parties to at least nine bilateral agreements that remain in force: (1) an agreement on the sharing of forfeited assets or their equivalent funds; (2) an extradition treaty; (3) an audio-visual agreement to expand the production of film and television; (4) an agreement relating to the hijacking of aircraft and other vessels; (5) an air transport agreement; (6) an agreement relating to the effect of the Cuban Revolution on property right claims and other causes of action; (7) a mutual fisheries agreement; (8) an agreement establishing a line of credit for Cuba; and (9) a technical cooperation agreement. The two countries were also parties to three bilateral agreements that have since been terminated: (1) an establishment of a commercial modus vivendi; (2) an agreement on the bulk purchase of Cuban raw sugar; and (3) an agreement on the sharing of forfeited assets or their equivalent funds.

older air-transport agreement.46

B. MULTILATERAL AGREEMENTS

Canada and Cuba are both founding members of the United Nations, having signed the charter in 1945.47 With the exception of the 1864 Convention and the III protocol, Canada and Cuba are both members to each Geneva Convention and protocol.48 While Cuba has chosen to sign and ratify most of the Hague Conventions, it has not become a member state.49 Canada is a member of the Hague conference and has ratified all Hague conventions.50 Cuba has still not joined the North Atlantic Treaty Organization and has even condemned NATO’s expansion into Europe.51 Both countries are members of the World Trade Organization.52 While Canada ratified the International Criminal Court, Cuba refused because of the Rome Statute’s unclear definition for a crime of aggression.53

In addition to the above organizations and agreements, Canada and Cuba are also members to the following treaties, agreements, and organizations:

1. Human Rights and Related International Laws

- Inter-American Convention on the Nationality of Women54
- International Institute for the Unification of Private Law55


47. U.N. Charter art. 2, para.4.


• World Health Organization

56

• San Francisco Treaty
57

• Tokyo Convention
58

• Treaty of Tlatelolco (OPANAL)
59

• Warsaw Convention
60

• International Labour Organization
61

• World Tourism Organization—Cuba is member but Canada pulled out in 2012 due to Zimbabwe’s endorsement as a safe country to visit.
62

• Vienna Convention on the Law of Treaties
63

• Seabed Arms Control Treaty
64

• 1926 Slavery Convention
65

• Ramsar Convention
66

• 1949 Agreement for the Suppression of the Circulation of Obscene Publications
67

• Convention on Biological Diversity
68

• World Customs Organization
69

• Environmental Modification Convention
70


• International Mobile Satellite Organization
• International Maritime Organization

2. Communications and Technology
• Universal Postal Union
• International Telecommunications Union
• Inter-American Telecommunications Commission
• World Intellectual Property Organization
• World Meteorological Organization
• International Civil Aviation Organization
• International Atomic Energy Agency
• Outer Space Treaty
• North American Radio Broadcasting Agreement
• International Telecommunications Satellite Organization
• International Hydrographic Organization
• International Committee of Military Medicine
• Inter-American Institute for Global Change Research

• Biological Weapons Convention86

3. Trade
• Inter-American Development Bank—Canada is a member but Cuba is not because it failed to ratify the establishing agreement after signing it.87
• International Monetary Fund—Canada is a member and Cuba was a founding member but Castro renounced its membership to both the IMF and World Bank in 1964 after a dispute over a late loan payment.88
• Food Aid Convention—Canada is a member owing commitment and Cuba is an eligible recipient.89
• Northwest Atlantic Fisheries Organization90
• International Seed Treaty91
• Food and Agriculture Organization92
• International Grains Council93