

11561-V-40

File No. 156624

Volume ONE

From ~~20~~ 10 August, 1943

To 13 June 1962



PAC  
 Reduced A

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FILE NO.

11561-V-40

PLEASE KEEP ATTACHED TO TOP OF FILE

# FILE CLOSED

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REPLACED BY FILE  
22-8-3-CUBA

THE CANADIAN EMBASSY,  
HAVANA, CUBA.

CONFIDENTIAL

B-157

JUNE 13, 1962.

2

Your letter 255 of June 1, 1962.

DIPLOMATIC PRIVILEGES

11561-	V-40
19	19

As requested we attach two copies of the pamphlet entitled "Privileges Granted in Canada to Representatives of Other Governments".

2. You will note that the procedure for obtaining drivers licences by members of the diplomatic corps is described in Part II of the pamphlet. Non-diplomatic members of foreign diplomatic missions must take the Ontario drivers licence examination.

3. In addition to the tax exemptions mentioned in Part II of the pamphlet, the Ontario Government has now agreed to exempt by means of an exemption card system, all diplomatic and consular officers from the 3% Ontario Retail Sales Tax on all purchases.

4. I also attach for your information a copy of Circular Note No. 9 of July 15, 1959, regarding the resale of automobiles. A Canadian car may be sold tax free after one year; a foreign manufactured car after two years.

5. The Department of Finance, Taxation Division has informed us that there is no transportation tax levied in Canada by either the federal or provincial governments.

E. G. LEE

*for* Under-Secretary of State  
for External Affairs.

000003

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: THE CANADIAN EMBASSY

HAVANA, CUBA

Reference: *File*

Subject: Diplomatic Privileges *Reply sent June 13/62*

Security: CONFIDENTIAL

No: 255

Date: June 1, 1962

Enclosures:

Air or Surface Mail: Courier

Post File No: 3-1-4

Ottawa File No.

11561-V-40

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24

References

TO:

JUN 12 1962

REGISTRY

We have twice recently been refused privileges by the Protocol Division of the Foreign Ministry which they had previously granted us; one was the case of granting a Cuban driving licence to a non-diplomatic member of the Canadian staff on presentation of his Canadian licence, and the second) was a refusal to grant exemption of taxes on aeroplane tickets to a diplomatic officer. We were informed that the Cubans had conducted a survey through their missions on privileges granted abroad and that in the light of the privileges granted to their personnel in each country, they intend in future to grant privileges here on a strict reciprocity basis.

2. I would like to review this question with the Head of Protocol in an effort to ensure that reciprocity is applied on the general balance of privileges accorded rather than on an item for item basis, since I have the impression that our practise is more generous than that of the Cubans. However, before doing so I would like to be certain of my ground. Accordingly, I would be grateful if you would send us the leaflet setting forth privileges extended to diplomats and mission staffs in Canada, as well as specific information on whether there is   
→ any federal or provincial transportation tax in force in Canada, and the procedure regarding driving licences for members of diplomatic missions.

3. There are certain privileges extended in Canada which do not find their counterpart here, and I think it only right that the Cubans should bear this in mind. One example is the right to buy a Canadian car or cars and sell it or them after a year without payment of taxes. The Cubans have been not unreasonable in allowing the Embassy to bring in goods for personal use duty free. The administrative complexity of clearing such goods results, however, in considerable loss of time to the Embassy and compares unfavourably with the simplicity with which embassies in Canada can secure clearance of goods through Canadian Customs, and as a result, we could well claim that we do not enjoy full reciprocity in this field. The Cubans insist that the non-diplomatic members of the Canadian Embassy secure exit permits when they leave Cuba, an annoyance which their people are spared in Canada.

4. You may consider it worthwhile to discuss the question with the Cuban Embassy, since it is the report that they sent to

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- 2 -

Havana which has caused our present difficulties. If they are generally satisfied with the treatment they are receiving in Ottawa, they might inform the Cuban Foreign Ministry accordingly.

5. The Cuban Protocol officials have not been unpleasant in their dealings with the Embassy and we have no wish to enter into a dispute with them on the question of privileges. I do think, however, it is regrettable that they should now try to apply reciprocity on an eye for an eye and tooth for a tooth basis to matters in which they consider they are at a disadvantage without regard to those in which they are in a preferential position, and I believe that, for the record at least, we should enter our objections.

*George F. Kidd*

Ambassador

- Priv. pamphlet
- Note re - autos
- Info re - Ont. Sales Tax.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: ..... The Canadian Embassy, HAVANA, Cuba. ....

Reference: ..... Our telegrams Nos. 270 of August 25 .....  
and 271 of August 26, 1961.

Subject: .....  
Diplomatic Demarche on Currency Exchange.

Security: ..... CONFIDENTIAL .....

No: ..... L-474 .....

Date: ..... September 1, 1961. ....

Enclosures: ..... 1 .....

Air or Surface Mail: ..... Air .....

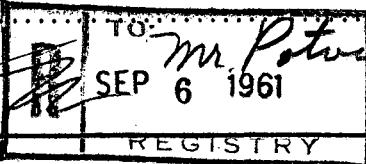
Post File No: ..... 12-4-4 .....

Ottawa File No.

11561-V-40 "B"

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XL 

cc 289-40 J23

References

*Rebut!*  
*As indicated*  
*Financial in*  
*Legal*  
*Protocol*  
*Economic*  
*in India*  
*Ref. 611*  
*9*

As reported in our telegram No. 271 of August 26, 1961, the Cuban authorities agreed at the end of last week to exempt the funds of diplomatic missions and their national personnel from the limitations imposed by the recent currency exchange legislation. This has resolved the question of the principle of the immunity of diplomatic funds and missions have proceeded with the exchange of their old currency for the new notes. A few special cases remain outstanding, such as the funds of religious institutions held by the Nunciature and funds held on behalf of the United States by the Swiss Embassy. These problems are, however, being negotiated directly by the missions concerned with the Cuban authorities.

2. The diplomatic demarche on this question, which was supported by all non-Communist missions in Havana, was made by the Mexican Ambassador to the Cuban Foreign Minister on August 22. We delayed associating this mission with the joint note until the last possible moment. However, in the absence of further advice it was felt that the balance of advantage lay in supporting the principle of the immunity of diplomatic funds, despite certain reservations about this type of action. While as explained in our communications we had no direct financial interest at stake, as was also the case with several other missions including those of the United Kingdom and France, we did have a potential interest in preserving the inviolability of diplomatic funds so long as we continued to do business through banks in this country. Moreover, the question of maintaining a united front with other non-Communist missions, all of whom had agreed to support joint action, particularly after the force of the note had been watered down from a protest to an expression of concern, had to be taken into consideration. In agreeing finally to associating the Embassy with the joint demarche, we did insist that while supporting the principle involved we maintained the right to take action in securing the release of our own funds, and emphasized this by eventually withdrawing the funds from the special account. It is regretted if in the circumstances this decision should have deviated from your wishes as a result of the telegraphic hiatus. For the record a copy of the text of the joint note employed in the demarche is attached.

3. In conclusion you may wish to know that the demarche received no publicity in this country, nor was it in fact even reported in the press.

Internal Circulation

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NO ENCLOSURES

*George P. Kidd*  
Ambassador.

*[Signature]*  
000007

1961 SEP 6 AM 9 : 18

**NO ENCLOSURES**

000008

TEXT OF JOINT NOTE  
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Los Jefes de Misión Diplomática que suscriben esta Nota tienen el honor de dirigirse a Vuestra Excelencia para manifestarle:

Que al ser promulgada la Ley No. 963 de 4 de agosto en curso sobre Circulación de Nuevos Billetes Cubanos, se dispuso en su Artículo 7 que el "Ministerio de Relaciones Exteriores otorgaría facilidades especiales para el Canje al Cuerpo Diplomático acreditado en Cuba a cuyo efecto habilitaría, en coordinación con el Departamento Internacional del Banco Nacional de Cuba, un Centro Especial de Canje en el propio Ministerio;

Que ante esa única disposición alusiva al Cuerpo Diplomático se reunieron para encargar a la Comisión Permanente del Cuerpo Diplomático la misión de pedir a Vuestra Excelencia las aclaraciones sobre el alcance real de las facilidades a que se refiere el Artículo 7, considerando que las razones expresadas en el Por Cuanto Sexto sobre la limitación de la cuantía del canje podría no tener aplicación en el Centro Especial habilitado en el Ministerio de Relaciones Exteriores y por ello sería posible efectuar el canje de la totalidad de los fondos de cada misión diplomática. Por otra parte, la Comisión Permanente consideró necesario pedir las excepciones y medidas que corresponden al estatuto de inmunidades establecido por el derecho internacional fundado sobre costumbres internacionales universalmente reconocidas y consignado en tratados y convenciones-, y plantear la situación especial existente en las misiones de los países signatarios de las Conveniones sobre asilo diplomático y que consiste en la existencia de fondos destinados al pago de pasajes de los asilados;

Que Vuestra Excelencia ofreció a la Comisión elevar inmediatamente a la consideración y acuerdo del Sr. Presidente de la República, Dr. Osvaldo Dorticós Torrado, las peticiones de la Comisión. En la tarde del lunes siete de este mes, se nos dijo que las medidas especiales estaban siendo estudiadas por el Sr. Presidente de la República, Vuestra Excelencia y el Ministro-Presidente del Banco Nacional de Cuba; pero que como no habría tiempo antes del plazo final de canje para tramitar esas medidas especiales (que serían seguramente adoptadas) se pedía a los Jefes de Misión que en acto de colaboración con el Gobierno hicieran los depósitos de los fondos de Estado, de los personales de los miembros de cada misión y, en su caso, de los fondos destinados al pago de pasajes de los asilados;

Que el depósito de la totalidad de los fondos pertenecientes a las misiones fue hecho con una relación en la que su composición quedó declarada, accediendo a las indicaciones contenidas en un Memorandum del Jefe de Ceremonial del Ministerio de Relaciones Exteriores.

El lunes catorce de este mes de agosto el Ministro-Presidente del Banco Nacional, Dr. Raúl Cepero Bonilla, comunicó a la Comisión Permanente que las medidas acordadas, para el Cuerpo Diplomático consistían:

- a) en el canje de los fondos oficiales o de Estado de cada Embajada hasta el límite de diez mil pesos, quedando sin valor canjeable las cantidades excedentes a ese límite,

- b) en el canje de los fondos privados de cada miembro de las misiones hasta el límite de cinco mil pesos, quedando el resto en cuenta especial para ser entregada la cantidad de cien pesos mensuales a cada uno, y
- c) en la entrega de los fondos destinados al pago de los pasajes de asilados, de acuerdo con el número de éstos y el precio de pasaje al país de destino.

Ante esa resolución, La Comisión Permanente del Cuerpo Diplomático hizo algunas consideraciones que el Sr. Presidente del Banco Nacional de Cuba ofreció comunicar al Sr. Presidente de la República.

Los Jefes de Misión que suscriben esta Nota se reunieron para escuchar el informe de la Comisión y resolvieron no retirar los fondos depositados y esperar la decisión final del H. Gobierno cubano. Como hasta la fecha no se tiene respuesta alguna, los suscritos Jefes de Misión reunidos en junta acordaron dirigir a Vuestra Excelencia esta Nota y manifestarle que no pueden aceptar la forma de canje que se dió a conocer a la Comisión Permanente del Cuerpo Diplomático por las siguientes razones:

- 1.- Los Por Cuantos que fundan y explican las dos leyes expedidas sobre canje de moneda dan a éstas carácter interno de seguridad y de protección de la moneda y de la economía nacional frente a actividades de índole puramente político y penal que no pueden, en ningún caso, atribuirse a las misiones diplomáticas. En efecto, los Por Cuantos de la Ley de 8 de agosto que limita el canje, se refieren a actividades de exfuncionarios del Estado cubano, a introducción fraudulenta de sumas de dinero nacional para pagar actividades terroristas y contrarrevolucionarias, a la finalidad de la Ley en el sentido de frustrar los esfuerzos de los tenedores de fondos ilícitos, a las personas que con fines conspirativos o contrarrevolucionarios mantenían en su poder gruesas sumas de dinero, etc. Este carácter político y penal de las dos leyes sobre el canje de moneda, excluye en su más directa y correcta interpretación a las misiones diplomáticas como entidades ajenas absolutamente al género de actividades que se señalan expresamente.
- 2.- La confiscación de bienes oficiales o de Estado y la retención o embargo temporal de los bienes del personal de las misiones que resultan de esa forma de canje, se oponen al principio de inmunidad diplomática en virtud de la cual los bienes públicos de la misión y los privados del representante diplomático no pueden ser objeto de ninguna medida de coerción, como investigación, embargo, retención, recuperación de créditos y otras.
- 3.- Las medidas de canje limitando los fondos públicos de una misión, destinados a cubrir obligaciones de este mes y muchos de ellos por el resto del año, se oponen igualmente al principio consignado en derecho internacional y en costumbres, normas, tratados y convenciones, en virtud del cual el Estado territorial o receptor se obliga a dar las facilidades y los medios para que las misiones diplomáticas desempeñen sus funciones. Esas medidas limitan sin género de duda en la parte más efectiva, que es la económica, las funciones de la misión y las paralizan en algunos casos.

- 3 -

4.- Esas normas capitales que aparecen en los tratados de derecho internacional público; están consignadas en convenciones como la Convención sobre Funcionarios Diplomáticos aprobada en la Sexta Conferencia Internacional Americana reunida en La Habana en el año 1928, instrumento en el que se reconocen "los principios generalmente admitidos por todas las naciones" y que en su Artículo 14, dice: "Los funcionarios diplomáticos serán inviolables en su persona, residencia particular o oficial y bienes. Esta inviolabilidad se extiende: a) a todas las clases de funcionarios diplomáticos; b) a todo el personal oficial de la misión; c) a los miembros de la respectiva familia que viven bajo el mismo techo..."

5.- La Convención de Viena de 18 de abril del año en curso sobre Relaciones e Inmunidades Diplomáticas, aunque no ha sido ratificada todavía por los Gobiernos participantes, tiene indudablemente un valor de confirmación en sus Artículos 30 y 31 del principio de inviolabilidad de los bienes del representante diplomático.

Por todo lo expuesto, los Jefes de Misiones diplomáticas que suscriben esta Nota expresan a Vuestra Excelencia su extrañeza y preocupación por no haber sido exceptuados los fondos de propiedad de las misiones diplomáticas y de sus miembros de las disposiciones que no le son aplicables y que figuran en las leyes sobre canje de moneda promulgadas en los días 4 y 8 de agosto en curso, y no dudan que, como en otras ocasiones en que ha quedado manifiesta la voluntad del gobierno cubano de cumplir sus obligaciones internacionales, se dicten las medidas de excepción que corresponden.

Con mas los alta y distinguida consideración.

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ACTION COPY

*Circulate*  
*Deber Lega*

*we will wait with*  
*out let*

*g 12*

11561-V-440	
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*B*

<i>XL</i>	To: <i>Mr. Poter</i>
	AUG 1961

FM HAVANA AUG25/61 CONFD

TO EXTERNAL OTT 270 PRIORITY

REF YOURTEL XL230 AUG23

DEMARCHE ON CURRENCY EXCHANGE

IN ABSENCE OF FURTHER ADVICE COURSE CONTEMPLATED IN OURTEL  
262 AUG17 WAS FOLLOWED FOUR DAYS LATER. NOTE HOWEVER AVOIDED  
MAKING ANY PROTEST.

2. ACTION WAS TAKEN TO SUPPORT PRINCIPLE OF IMMUNITY OF DIPLO  
FUNDS WHICH IS OF POTENTIAL CONCERN TO US AS LONG AS MISSION  
FUNDS ARE HELD IN CUBAN BANKS EVEN THOUGH WE WERE NOT RPT NOT  
HURT BY RECENT CONFISCATORY LEGISLATION. WE MUST HAVE OF COURSE  
DISSOCIATED OURSELVES FROM SUBSEQUENT NEGOTIATIONS WHICH WOULD  
INVOLVE US IN PRACTICALITIES OF PRESENT ISSUE IN WHICH WE HAVE  
NO RPT NO DIRECT INTEREST. LET FOLLOWS BY BAG.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

OUTGOING MESSAGE

FM: EXTERNAL OTTAWA	DATE	FILE		SECURITY							
	AUG. 23, 1961	11561-V-40 QU QU		CONFIDENTIAL							
TO: HAVANA	NUMBER		PRECEDENCE		COMCENTRE USE ONLY						
	KL-230		URGENT								
INFO:											

Ref.:

Subject: PROTEST ON CURRENCY EXCHANGE

IF YOU HAVE NOT YET SIGNED NOTE REFERRED  
TO IN LAST SENTENCE OF YOUR TEL. NO. 262 OF AUGUST 17, 1961,  
PLEASE ABSTAIN. WE DO NOT FAVOUR ASSOCIATING CANADIAN ELBASSY  
IN JOINT ACTION WHERE NO NATIONAL INTEREST AT STAKE.

LOCAL NO STANDARD  
DISTRIBUTION

ORIGINATOR

DIVISION

PHONE

APPROVED BY

SIG..... André Potvin .....  
NAME.....

Latin American

6-7175

SIG..... J.B.C. WATKINS .....  
NAME.....

000013



11521-U-40 "B"	
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Bay  
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CONFIDENTIAL

FROM HAVANA TO FOREIGN OFFICE

Cypher/OTP

FOREIGN OFFICE AND  
WHITEHALL DISTRIBUTION

Mr Marchant

No. 692  
August 17, 1961

D. 10.23 p.m. August 17, 1961  
R. 6.32 a.m. August 18, 1961

IMMEDIATE

CONFIDENTIAL

Currency Exchange.

No special provision for diplomatic missions was made in the law reported in my telegram No. 669, and the Vice Doyen of the Corps has been informed by the Foreign Minister that of the old notes desposited as official funds by each mission not more than 10,000 pesos may be exchanged for the new issue. Private funds of each diplomatic member of staffs are exchangeable up to limit of 5,000 pesos.

2. Many embassies had handed in for exchange notes in excess of the 10,000 pesos limit, and at the meeting today of almost all heads of mission except the Communist bloc, it was proposed that [gp undec. ? Joint Note] should be presented to Foreign Minister forthwith protesting against annulment of the remainder as confiscation of foreign governmental funds and contrary to the inviolability of diplomatic property. Text of the Note is firm but leaves the door open to revising [sic]. All my West European colleagues and I believe all the Latin Americans are prepared to sign this document, and in view of the general principle involved and of the desirability of preserving solidarity with the Corps, I propose to do likewise unless instructed to the contrary by 1700 hours G.M.T. tomorrow, August 18.

ADVANCE COPIES

Private Secretary

Sir. R. Stevens

Mr Brain

Head of American Department

Head of Protocol Department

CONFIDENTIAL

TO: *Ans Kuser*  
B  
AUG 21 1961  
REGISTRY

B  
ACTION COPY

11561-V-40	
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*716-22*  
*2*  
*file*  
*A.P.*

FM HAVANA AUG 17/61 CONFD CDN EYES ONLY

TO EXTERNAL 262 OPIMMED

PROTEST ON CURRENCY EXCHANGE

FOR PAST WEEK PERMANENT CTTEE NON-COMMUNIST SECTION DIPLO CORPS (MAINLY LATIN AMERICANS AND EUROPEANS) HAS BEEN ATTEMPTING TO OBTAIN EXEMPTION FOR FUNDS OF DIPLO MISSIONS AND PERSONNEL FROM (CUBAN GOVTS?) PROVISIONS OF RECENT CUBAN EXCHANGE LAW WHICH CONFISCATES ALL MONEY TURNED IN ABOVE TEN THOUSAND PESOS. CTTEES REPRESENTATIONS TO FOREIGN MINISTER AND MINISTER PRESIDENT BANCO NATIONAL HAVE SO FAR RESULTED IN ORAL AGREEMENT TO PERMIT EXCHANGE ONLY UP TO TEN THOUSAND LIMIT WITH IMMEDIATE WITHDRAWAL IN CASE OF OFFICIAL FUND DRAFT, IT IS HOWEVER HARD TO BELIEVE THAT CUBA REALLY INTENDS IN FINAL ANALYSIS TO MAINTAIN THIS POSITION ALTHOUGH THEY COULD WITH SOME JUSTIFICATION QUESTION ORIGIN OF MANY LARGE PERSONAL CASH FUNDS OF SOME DIPLOMATS HERE.

2. AT MEETING THIS EVENING ABOVE GROUP OF CORPS DECIDED IN ABSENCE OF FURTHER INDICATION OF A MODIFICATION IN CUBAS ATTITUDE TO SEND A JOINT NOTE TO FOREIGN MINISTER. DRAFT NOTE RECAPITULATES COURSE OF DEVELOPMENT AND REITERATES PRINCIPLE OF DIPLO IMMUNITY FOR FUNDS REFERRING TO HAVANA CONVENTION OF 1928 AND DRAFT OF VIENNA CONVENTION OF 1961. IN CONCLUSION NOTE EXPRESSES CONCERN OVER FAILURE OF CUBAN GOVT TO PROVIDE EXEMPTION FOR CORPS AND HOPES GOVT WILL LIVE UP TO ITS INTERNATIONAL OBLIGATIONS. LATIN AMERICANS AND EUROPEANS PLUS ISRAEL, JAPAN AND UAR ARE SOLIDLY BEHIND MOVE WITH ONLY RESERVATION EXPRESSED BY SWISS AND OURSELVES.

3. FROM CDAS STANDPOINT WE HAVE NO RPT NO PRATICAL INTEREST IN PROBLEM SINCE OUR MISSION AND PERSONAL FUNDS ARE WELL BELOW PRESCRIBED LIMIT FOR FULL EXCHANGE. ON BASIS OF MAINTAINING SOLIDARITY IN DEFENCE OF PRINCIPLE OF IMMUNITY OF DIPLO FUNDS WE AGREED NOT RPT NOT TO WITHDRAW OUR FUNDS FROM SPECIAL ACCOUNT FOR LIMITED

PAGE TWO 262

PERIOD WHILE CTTEE WAS DISCUSSING QUESTION WITH CUBAN AUTHORITIES.  
DESPITE CERTAIN MISGIVINGS ABOUT DESIRABILITY OF JOINT APPROACH  
TO THIS QUESTION AND RECOGNIZING THAT NO RPT NO DIRECT NATIONAL  
INTEREST IS AT STAKE I AM NEVERTHELESS DISPOSED TO ASSOCIATE  
THIS MISSION WITH ALL OTHER NON(COMMUNIST?) MISSIONS HERE IN  
SUPPORT OF THIS DEMARCHE. AT THE SAME TIME I PROPOSE TO RESERVE  
OUR POSITION WITH CORPS ON FURTHER DELAY IN WITHDRAWING OUR OWN  
FUNDS WHICH SHOULD NOT RPT NOT AFFECT PRINCIPLE INVOLVED. IF YOU  
SEE ANY OBJECTIONS TO THIS COURSE OF ACTION PLEASE CABLE IMMEDIATLY  
SINCE NOTE IS TO BE SIGNED AT END OF WEEK

KIDD

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: Canadian Embassy, Havana, Cuba.

Reference: Your letter XL-66 of February 6.

Subject: Cuban Telephone Co. Bill.

Payment of local taxes.

Security: Unclassified.

No: L-194

Date: February 28, 1961.

Enclosures:

Air or Surface Mail: Courier.

Post File No: 3-1-4

Ottawa File No.

11561-V-40" B"

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To:  
Mr. Beaulieu  
MAR 6 1961

References

Your letter under reference arrived unsigned, presumably due to a minor oversight. Unless we should hear from you to the contrary within two weeks, the expected date of receipt of our next telephone bill, we shall pay the accumulated telephone tax as directed.

*Rev. Clark*  
The Embassy.

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to Posts

1961 MAR 6 AM 10:31

NO ENCLOSURES

000018

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba.

Reference: Our letter L-55 of January 18

Subject: Cuban Telephone Tax.

Security: RESTRICTED

No: L-155

Date: February 15, 1961.

Enclosures: 1

Air or Surface Mail: Courier

Post File No: 3-1-4

Ottawa File No.

11561-V-40-B

42

42-

TO: Mr. Vincent  
FEB 20 Recd

REGISTRY

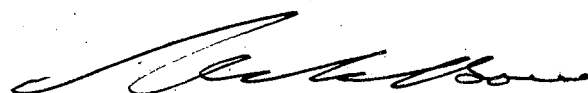
References

We attach a notice which was included in our most recent account presented by the nationalized Cuban Telephone Company. You will note that the company, in addition to charging us the 2% telephone workers' social security tax, has added an additional 2.5% as a tax on gross income. This tax was imposed in August of 1960 but this is the first attempt made by the Telephone Company to pass the tax on directly to telephone subscribers.

2. We had suggested earlier the possibility that, if the Embassy did agree to pay the social security tax, we might find other similar taxes imposed in the future. Apparently our forecast was only too accurate.

3. In our letter under reference we reported on a letter which we had received from the Telephone Company informing us that the Ministry of External Affairs had ruled that foreign Embassies were compelled to pay the social security tax. We believe that the new tax, a direct income tax imposed by a government-owned company, could be the basis for a renewed protest to the Ministry of External Affairs.

4. We would appreciate your authority, therefore, to present a Note to the Ministry pointing out that foreign Embassies are usually exempt from taxes of this nature and that we are not authorized to pay such taxes without authority from our Department, which is usually conceded on the basis of reciprocity.



Chargé d'Affaires, a.i.

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to Posts

Document disclosed under the *Access to Information Act* -  
Document divulgué en vertu de la *Loi sur l'accès à l'information*

1961 FEB 17 PM 12 : 21

000020

COMPANIA CUBANA DE TELEFONOS NACIONALIZADA  
MINISTERIO DE COMUNICACIONES

La columna del 2% Seguro Social Telefónico incluye además,  
cargo del 2.5% por concepto del Impuesto sobre Ingresos  
Brutos, creado por la Ley No. 863, de Agosto 17, 1960.

000021



DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(FILE COPY)

NUMBERED LETTER

TO: CANADIAN EMBASSY, HAVANA, CUBA

Security: RESTRICTED

No: XL-

66

Date: February 6, 1961

Enclosures: ----

Air or Surface Mail:

Post File No:

Ottawa File No.

11561-V-40 B

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References

In your letter under reference, you asked for our comments on the question of the payment of the Cuban Telephone Tax. We note that no other embassy except the United States Embassy had protested against payment of the tax and that the amount of money involved is small. We agree with you that payment of a tax of this nature is contrary to usual international usage. International usage, however, cannot be equated with international law. Until there is a legal codification of international practice, exemption from a tax of this nature is a privilege which is granted by a Government as a matter of courtesy.

2. We suggest that you do not communicate any further on this question with either the foreign ministry or the telephone company. We see no advantage in paying the tax with a separate cheque. You may wish to include back payments with your next cheque.

YVON BEAULNE

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Under-Secretary of State  
for External Affairs

Distribution  
to Posts

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba.

Reference: Our letter L-410 of June 23, 1960.

Subject: Cuban Telephone Tax.

Security: RESTRICTED

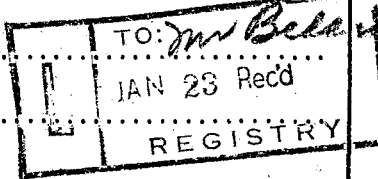
No: L-55

Date: January 18, 1961.

Enclosures: 1

Air or Surface Mail: Courier

Post File No: 3-1-4



Ottawa File No. 11561-V-40 "B"	
57	57

References

Since writing our letter under reference, we have received no further news from the Cuban Ministry of External Affairs regarding our contention that payment of the Cuban telephone tax by foreign Embassies was contrary to usual international usage. We have now received, however, a letter from the Administrator of the Cuban Telephone Company, a translation of which is attached. You will note that the Telephone Company claims to have received a ruling from the Ministry of External Affairs to the effect that foreign Embassies are compelled to pay this social security tax. We have replied to the Telephone Company telling them that this ruling which was apparently made by the Ministry of External Affairs, has been referred to our Department in Ottawa for instructions and that we will contact the Company once again when we have received your comments.

2. We assume that the fact that the Ministry has ruled against the Embassies in this instance is a result of the complete change of personnel in the Ministry. This ruling conflicts with previous rulings we have received, such as that regarding the tax towards the retirement fund of the agronomical engineers referred to in our letter under reference. In previous Notes from the Ministry we had been given to understand that legislation was being prepared which would clear up this confusion and we gained the impression that the ruling would be in favour of foreign Embassies. Given the attitude of the present government towards foreigners in general and diplomats in particular, we can probably accomplish little more towards establishing our right to exemption from such taxes. To the best of our knowledge the only other Embassy which refused to pay this tax was the U.S. Embassy and we assume that the question of whether the U.S. will pay the tax or not is, at the present time, merely academic.

3. However, we might send another Note to the Ministry pointing out that we disagree with their ruling and then begin the practice of paying our telephone bills with two separate cheques, one for the actual bill and one for the social security tax, with an explanation that the social security tax is being paid under protest. We would appreciate any comments you might care to offer and any suggestions you might wish to make regarding the form our proposed Note to the Ministry of External Affairs might take.

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Distribution  
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*[Signature]*

The Embassy.

Document disclosed under the *Access to Information Act* -  
Document divulgué en vertu de la *Loi sur l'accès à l'information*

1961 JAN 23 AM 10 : 42

000024



TRANSLATION

CUBAN TELEPHONE COMPANY  
Havana, Cuba.

January 10, 1961.

Your Excellency:

In accordance with the enclosed report, your mission owes this company a total of \$ 83.74.0. towards its Social Security programme. The settlement of this payment was dependent on the decision of our Ministry of Foreign Affairs which had been consulted on the matter.

We have now received the above mentioned advice in the form of a ruling submitted by the Legal Department of said Ministry, dated December 22 last, as follows:

" In compliance with these instructions I beg to set forth our opinion concerning the obligations of Foreign Embassies accredited in Cuba to pay the Telephone Company Social Security fee.

We understand that the payment thereof should be requested since it is not a direct or indirect tax, but a percentage which accrues to the pension system at present in force in Cuba and foreign to the tax system."

We should very much appreciate it if your Excellency would give the necessary instructions for the settlement of said arrears, for which we thank you in advance and are at your service to clarify any doubts or offer any additional information which you may require.

Sincerely,  
Ramón Darias Rodés,  
Manager.

Protocol/J.H. Côté/H.F. Fenner

Supplies and Properties Division

CONFIDENTIAL

December 2, 1960

Protocol Division

11561-V-6	
28	

Food Importations for Embassy Use--Havana

We attach the correspondence on the question of food importations by our Embassy in Havana, including their most recent letter and a draft reply thereto proposed by Latin American Division.

2. The primary interest of this Division in matters of this kind is to insure that our Missions act at all times in a manner that cannot possibly be construed as abusing the diplomatic privileges which they enjoy. In cases such as this one, where the line of legality may not be too clearly drawn, it would certainly seem in order to obtain the views of the local Foreign Ministry. Whether this can best be done by a direct unilateral approach by our Embassy to the local Chief of Protocol or by the Dean of the Diplomatic Corps on behalf of a number of missions facing the same problem is another question.

3. In the present climate of Cuban-U.S. relations, we would fear that any unilateral approach by the Canadian Embassy could have other than the desired effects. Our inclination, therefore, would be that if we have doubts about the legality of joining in the now proposed arrangement with Mil Cinco, we should stay out of it, rather than seek the guidance of the Cuban Foreign Ministry, if by doing so, we risk either to expose the U.S. Embassy to further troubles with the Cubans or to jeopardize the arrangement which that Embassy has made with Mil Cinco.

Admin. Services  
Division  
Inspection  
Services  
Latin American  
Division

- 2 -

4. If, on the other hand, the problem of food supply in Havana is sufficiently wide spread that it affects other diplomatic missions (it is not clear from the correspondence whether this seems to be the case) and that these missions are prepared to make a co-ordinated approach to the Cubans through the Dean of the the Corps, then the Embassy could join in such an approach. The advantage here would be that the responsibility for any unpleasant sequel which the Cubans may wish to give to such an initiative would be shared rather than solely ours.

5. May I emphasize that in view of the very unusual situation prevailing in Cuba today, this matter should not be regarded as a Protocol problem, but primarily and fundamentally as a political problem, which has explosive potentialities.

H. F. FEAVER

Protocol Division

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

64

TO: ..... Protocol Division, .....

..... Attention: Mr. Côte ✓ .....

FROM: ..... Inspection Service .....

REFERENCE: .....  
.....

SUBJECT: ..... Food Importations for Embassy Use - Havana. ....

Security Confidential .....

Date ..... November 28/60 .....

File No.

11561-V-40

JB

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-

Unfortunately the Inspection Service has no information regarding this matter other than the particulars given in the Mission's letter. Our initial reaction is that the draft letter might be a bit confusing to the Embassy, since the last sentences of Paragraphs 1 and 2 tend to be contradictory. Could the suggestion be made that the Dean of the Diplomatic Corps be asked to take some initiative with the Chief of Protocol in accordance with the wishes of the various Embassies?

2. As far as the merits of the case are concerned, it seems to me that if the Cubans want to embarrass us at some future date, they would probably find something more significant than the Mil Cinco arrangement envisaged by the Embassy. If it appears that even the present arrangement has to be terminated, it would seem desirable to give the Mission time to make import arrangements through European or other supply houses.

3. Since the eventual outcome of this correspondence may have some effect on the allowance indexes in Havana, we would suggest that Admin. Services be made aware of its contents.

CIRCULATION

  
Inspection Service

11561-V-40-B-  
CONFIDENTIAL ✓

July 14, 1960.

Dugon: 288-40 E

x Ref: 7590-F-1-40-21-

MEMORANDUM FOR THE MINISTERTransmission of Private Assets through  
the Diplomatic Bag: Safe-Keeping of  
such Assets by Diplomatic Missions

As you know, a few days ago our Ambassador in Cuba raised the points under reference because of a request received from the International Paper Company. The Prime Minister, who was consulted in your absence, directed that the Ambassador should not transmit either currency or private assets through the bag; he also decided that the Ambassador should not accept such assets for safe-keeping unless he was quite satisfied that in so doing he would not be violating any local laws or regulations. As the requests are made by the I.P.C. precisely it seems to avoid the effects of local legislation now in force or in immediate prospect, it seems to me that the course to be followed by Mr. Anderson is very clear.

2. I understand that the Vice-President of the International Paper Company wants to discuss the matter further with the Department and that you wish to have a legal opinion on the points involved.

3. In my opinion, Canada would unquestionably violate international law, which provides other remedies for this kind of situation, if we were to accede to the request of the I.P.C.

The measures complained of are either legal or illegal.

If the measures are legal, clearly, we will be abusing our privileges and immunities if we attempt to shield foreign assets from the application of such measures.

... 2



If the measures are illegal domestically, a remedy must be provided or Canada has a claim in international law against Cuba. We also have a claim if the measures directly violate international law. (If, for instance, they were to involve discriminatory confiscation of foreign assets.) There is therefore no reason for us to take the law into our own hands, as suggested by the I.P.C.

4. The question arises whether we violate international law if we allow private assets to be sent through our diplomatic bag or if we provide for them safe-keeping at the Embassy. The answer, in both cases, is unquestionably affirmative.

5. The I.P.C. may argue that our approach is too theoretical and that in practice their assets will be lost. In other words, the I.P.C. may complain that they will be expected to foot the bill for our idealistic behaviour. It may well be that local remedies, if there are any, may not be effective and that if an international claim arises we will not be able to press it successfully against Cuba. The suggestion, therefore, is that because Cuba may not behave in a responsible fashion and may evade her international obligations, we should violate ourselves clear rules of international law. I submit that this is not in harmony with our established policy of respect for international law and of conducting our relations with other countries on a basis of good faith and justice.

6. The I.P.C. may then suggest that we are most likely to escape detection and that we should therefore provide in these unusual circumstances such assistance as we can. This is a dangerous line of argument. If assistance is provided to the I.P.C., other corporations and even individuals will be entitled to similar services and the risks of disclosure would increase very seriously. Even if protection were to be restricted to I.P.C. assets, Cuban investigation of related firms may lead to detection or at least to suspicion and, if challenged, we would be in a most uncomfortable position. It must be realized

- 3 -

that to extend the protection requested would involve a basic change in our policy vis-à-vis Cuba. Such a step means no less than that we would be taking sides against the Cuban Government and that we would be lining up with United States corporations. Even as a calculated risk, the I.P.C. request does not seem to be acceptable.

7. Our consular regulations provide that in certain cases our Missions may give asylum to persons who are in imminent physical danger e.g. if they are pursued by a mob. Our Missions are authorized to do this on the assumption that they will be assisting the host country in ensuring that justice is carried out normally and that the host country, while unable temporarily to control the situation, does not condone mob violence. In the circumstances, it can be held that our Missions cooperate with the host governments which are responsible before the international community for the maintenance of law and order within their respective territories. The analogy, it seems to me, is that if order were to break down in Cuba, if the Government were on the verge of disintegration and if there was an imminent danger that mobs were to loot banks and trust buildings, Embassies might provide temporary shelter to private assets. Even then, however, Embassies should only undertake to do this if there was a prospect that they would enjoy greater protection than the normal institutions and if, in taking such steps, they were not like to stimulate mob violence against themselves. The obligation would be quite clear to release the assets in question in accordance with local regulations as soon as the danger of physical destruction of these assets had receded. In other words, our Missions could assist if it were clear that they were not obstructing the will of the local authorities. In this case, our intervention is sought precisely for the purpose of defeating measures already taken or about to be taken by the Cuban Government.

8. In the circumstances, I assume if we are to discuss the matter with the Vice-President of the I.P.C., you will wish us to be sympathetic in listening to his

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- 4 -

representations and to express a willingness to assist through all legal means available to us but not to hold out any hope that, in violation of established rules of international law, we would agree to transmit through the diplomatic bag assets out of Cuba or that we would shield such assets against the operation of Cuban legislation by agreeing to retain these assets in Embassy premises.

M. CADIEUX

Legal Advisor.

CC: Legal Division  
American Division  
Economic I Division

cc: Economic I Division  
American Div. - Latin American Section

11561-V.40  
88 - /B

~~CONFIDENTIAL~~

July 14, 1960. *rec'd*

x Ref: 7590-F-1-40 "H"

MEMORANDUM FOR THE MINISTER

Cuba - Interests of the Canadian  
International Paper Company

As you know Mr. R. Wilson Becket, Vice-President of the company, called on Mr. Cadieux this morning in connection with the impending "intervention" of the Reciprocity Company - a Cuban company - which acts as agent for the International Paper Company (C.I.P.)

Mr. Becket reviewed the situation at some length and in doing so gave some new information. In the first place the money (roughly equivalent to \$400,000, at the official rate of exchange) is completely distinguishable from that both of the Reciprocity Company and of the United States parent company of the C.I.P. (An additional One Million Dollars debt to the company is "frozen" in Cuba under the Foreign Exchange Regulations). A Canadian official of the company (Mr. McCullough) returned to Havana yesterday from Miami and is expected back at Montreal this evening. In a telephone conversation which he had yesterday with the company from Miami, he said that the City was "full of Russians" and expected that a serious crisis "would blow up within the next few days". On being questioned by Mr. Cadieux, Mr. Becket agreed that the reference was not to an impending revolution but to the strained relations between the United States on the one hand and Cuba and the U.S.S.R. on the other.

Mrs. McCullough received a telephone call from her husband last night and the company believes that a cryptic message which was included for the company might indicate that some satisfactory solution has been found for safeguarding the funds.

*officer*  
An officer of the Reciprocity Company phoned C.I.P. from the Canadian Chancery yesterday afternoon to inform them that the Ambassador, acting on instructions from Ottawa, was unable

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-2-

to take custody of the money. Mr. Anderson also spoke briefly to say that his instructions could only be varied from Ottawa. It was partly for this reason that Mr. Becket had come here in the hope that after explaining the situation, new instructions might be sent to our Embassy. He was careful to explain, however, that the company did not want the Embassy to do anything illegal or anything which might be prejudicial to Canada's broader interests in Cuba.

Mr. Cadieux pointed out that under International Law, diplomats in their official capacities are unable to accept custody of private property, that to do so would be a breach of diplomatic privileges and that Canada was punctilious about observing this principle.

While the Embassy could not take custody of the money, he wondered whether the company might want to consider asking the Canadian Government to instruct Mr. Anderson to approach the Cuban authorities at a very high level, seeking their opinion on what might be done to protect these Canadian assets. Mr. Cadieux said that he could give no assurance that this would be done but if the company thought it would be helpful, the proposal would be urgently examined by the interested departments and the problem submitted to you for consideration.

Mr. Cadieux suggested that if such an approach were decided upon there would be no need to name the company nor the amount of money involved. It might be pointed out to the Cuban Government that the assets in question are strictly Canadian and that they cannot be deposited in a bank nor placed in a safety deposit box. If the Cuban company (the custodian of these assets) were to be "intervened" the seizure of the funds in question would affect only the Canadian company and this presumably would not be the intention of the Cuban Government. With these points in mind the Cuban Government might be asked to suggest a method of safeguarding the assets. An approach along these lines would have two advantages. Such a cooperative attitude might elicit a favourable response. A disclosure that the Canadian Government knows of these funds and knows that they belong to a Canadian company might, in itself, help to protect them.

Mr. Becket seemed pleased with the suggestion and said that after receiving a report from Mr. McCullough and considering the possibility further in Montreal, they might avail themselves of the suggestion.

N. A. ROBERTSON

H.A.B.

DEPARTMENT OF EXTERNAL AFFAIRS  
CROSS REFERENCE SHEET

Security **CONFIDENTIAL** .....

11561-V-40 "B"		
<del>7590-F-1-40 "H"</del>		
88		

Type of Document **MEMORANDUM** ..... No. **Unn** ..... Date **July 14, 1960**  
From **M. Cadieux** .....  
To **THE MINISTER** .....

Subject:           **Transmission of Private Assets through the Diplomatic  
Bag: Safe-keeping of such Assets by Diplomatic Missions**

This has to do with a request from the INTERNATIONAL PAPER COMPANY  
in Cuba for the safe-keeping of their assets during the present  
crisis.

Original on File No. **288-40 "E"** .....

Copies on File No. ....

Other Cross Reference Sheets on ~~11561-V-40 "B"~~; **7590-F-1-40 "H"** .....

Prepared by **A. Drew-Brook, Legal S/R.** .....



Economic I/O.G.Stoner/lm

cc. O/SSEA  
O/USSEA ←  
Mr. H.B. Robinson,  
American  
Legal  
Consular

CONFIDENTIAL

Ottawa, July 13, 1960.

MEMORANDUM FOR THE MINISTER

11561-U, 40 B-  
88

Cuba - Interests of the International Paper Company

on 2444-A-40 X  
X 11561-U-7590-F-1-X  
47

Late yesterday evening we received the attached telegram from our Ambassador in Havana informing us that the International Paper Company have asked the Embassy to accept for safekeeping a strong box containing promissory notes and 400,000 pesos cash (roughly \$400,000 at the official rate of exchange). It was the view of the Legal Advisor in this Department that on the basis of the information available it was far from clear whether by this action we might not be contravening Cuban laws or at least being a party to a contravention of these laws by the International Paper Company or its agents. Moreover, we were aware of your desire not to engage in any activities at this stage which might compromise our position vis-a-vis the Castro Government and thereby limit our effectiveness if a crisis of more substantial proportions should arise.

In your absence we consulted the Prime Minister who instructed us to reply along the lines of the attached telegram ET-939.

We have since received a telephone call from Mr. Beckett, the Vice-President of International Paper Company, who has informed us that he wishes to speak to you immediately on your return this evening. I understand that he is very anxious that the Ambassador should be instructed to accept safekeeping of these assets of International Paper. The company's worry is that if they continue to be held by their Cuban agents who are to be "intervened" shortly, those funds which belong to a Canadian company may be sequestered along with other assets and be lost to the company. The company has, in fact, requested authority to take these funds out of the country, but are still awaiting permission from the Cuban Government. Mr. Beckett also told us that the banks can only open a foreign account for a customer after consultation with the Cuban National Bank, and this involves roughly 30 days delay. They are worried that in this time the funds might be lost to them.

This is a very difficult situation on which to make a judgment. The International Paper Company have lost their once substantial market in Cuba for newsprint to the Soviet Union. They now are in some danger (in their opinion) of losing funds which are legitimately owing to them. On the other hand, if the acceptance of these funds by the Embassy, or their transfer to the Embassy by the Cuban agents if interpreted as a breach of Cuban law, the position of the Embassy could be compromised. For the moment there is no civil violence or disorder in Cuba which would justify the Embassy taking the extraordinary steps which are required in such circumstances to protect Canadians or their assets.

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MINISTERS OFFICE
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JUL 13 1960
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There is, of course, another minor consideration and that is if the Canadian Government accepts safekeeping and violence should break out and the funds later fall into Cuba's hands, the Government might be held responsible for repayment by the International Paper Company.

In his conversation Mr. Beckett pointed out, in all fairness, that while in their opinion their agents would not be contravening Cuban law as they know it at the moment, new decrees are appearing daily and all of these are subject to rather flexible interpretation by the Cuban authorities. He would not, therefore, rule out the possibility that the Embassy might be a party to a contravention of Cuban law.

Finally, Mr. Beckett indicated that it still might prove possible to make some arrangements for safekeeping with the banks, notwithstanding the difficulties mentioned above. In the circumstances, if this is at all possible, this perhaps should be encouraged.

While it may become necessary for us to be involved at a later stage, there is still substantial risk *now* if we accept custody of assets which the Cuban Government are planning to seize.

N.A.R.

FM HAVANA JUL12:60 CONFD

TO: EXTERNAL 56 EMERGENCY

CDN INTERNATIONAL PAPER CO REQUEST EMBASSY ACCEPT FOR SAFEKEEPING  
STRONGBOX CONTAINING PROMISSORY NOTES AND FOUR HUNDRED THOUSAND  
PESOS CASH BELONGING TO THEM REPRESENTING PAYMENT RECEIVED  
FOR NEWSPRINT AWAITING OFFICIAL PERMISSION TO REMIT DOLLARS  
TO CDA. BANK CANNOT RPT NOT HOLD FUNDS BELONGING TO FOREIGN  
COMPANIES AND THEIR <sup>Companies</sup> CUBAN AGENTS IN IMMEDIATE DANGER OF INTERVENTION.  
PLEASE ADVISE SOONEST.

Refused Shen

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

OUTGOING MESSAGE

FM: EXTERNAL OTTAWA	DATE	FILE		SECURITY	
	JUL 12/60			CONF	
TO: HAVANA	NUMBER	PRECEDENCE		COMCENTRE USE ONLY	
	ET-939	EMERGENCY			
INFO:					

Ref.: YOURTEL 56, JUL12.

Subject:

IN THE ABSENCE OF THE MINISTER WE HAVE CONSULTED THE PRIME MINISTER WHO CONSIDERS THAT UNDER NO CIRCUMSTANCES SHOULD WE ARRANGE TO TRANSMIT NOTES OR FUNDS OUT OF THE COUNTRY. AS FAR AS CUSTODY IS CONCERNED WE COULD ONLY AGREE TO THIS IF THERE IS ABSOLUTE ASSURANCE THAT IN DOING SO EMBASSY WOULD NOT IN ANY WAY BE THWARTING CUBAN REGULATIONS OR BE PARTNER TO ANY CONTRAVENTION OF CUBAN LAW BY THE COMPANY OR ITS CUBAN AGENT. IF THERE IS ANY DOUBT IN YOUR MIND YOU SHOULD NOT AGREE TO ACCEPT CUSTODY OF NOTES AND MONEY.

LOCAL AMERICAN: CONSULAR: LEGAL: MR. H.B. ROBINSON: MR. ROSS CAMPBELL  
DISTRIBUTION

REFS DONE

NO STANDARD

ORIGINATOR

DIVISION

PHONE

APPROVED BY

SIG.....  
NAME... O.G. Stoner/lm.....

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SIG.....  
NAME... O.G. Stoner

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DEPARTMENT OF EXTERNAL AFFAIRS CANADA.

NUMBERED LETTER

THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba.

Reference: Our letter L-596 of December 3, 1959

Subject: Cuban Telephone Tax.

Security: RESTRICTED

No: L-410

Date: June 23, 1960.

Enclosures: 1

Air or Surface Mail: Courier

Post File No:

TO: Mr. Graham  
L-410 Rec'd  
REGISTRY

Ottawa File No. 11561-V-40 B  
88 88

References

In our letter under reference we informed you that the Cuban Ministry of External Affairs had stated that a new law, yet to be approved, would exempt diplomatic posts from taxes of the type exemplified by the Cuban Telephone tax. Although we have reminded the Ministry of this matter on one subsequent occasion, we have, as yet, heard nothing further regarding this new law.

2. We have however been successful in obtaining Embassy exemption from one new tax of this type which the Cuban authorities recently attempted to impose on the Embassy. This was a tax of .50¢ or more per item cleared through Cuban customs and was designed to support the retirement fund of the members of the Agronomical Engineers who served as agricultural inspectors at the customs stations. On June 6 we pointed out to the Ministry of External Affairs that we believed Embassies should be exempt from this tax. We have now had a reply from the Ministry (an unofficial office translation is attached) informing us that the Ministry of Agriculture had now ruled that Embassies would not be charged this tax.

3. We are hopeful that this may be an indication that the question of taxes of this nature will soon be cleared up.

R. Clark

The Embassy.

Refer to  
Done  
Supplies  
and  
property,  
consular,  
protocol,  
American  
July 12/60  
file

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1960 JUN 3 AM 11:40

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Republic of Cuba

MINISTRY OF FOREIGN RELATIONS

Protocol

121

The Ministry of Foreign Relations presents its compliments to the Canadian Embassy, and having the honour of acknowledging receipt of the polite verbal note No. 111, of June 3 last, is pleased to inform it that the representatives of the Agricultural Engineers' Social Security at Customs wanted to charge \$0.50 for the sanitary inspection of incoming shipments, but since the Ministry of Agriculture regulates this inspection, it was informed that the Embassies are exempt from all type of taxes and the Ministry of Agriculture informed this Ministry that everything was solved and that the Embassies would not be charged.

The Ministry of Foreign Relations takes this opportunity to reiterate to the Canadian Embassy the testimony of its highest consideration.

Havana, June 20, 1960.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

L	Dec. 16	cd
REGISTRY		

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy, HAVANA, Cuba.

Reference: Our L-560, November 9, 1959.

Subject: CUBAN TELEPHONE TAX

Security: RESTRICTED

No: L-596

Date: Dec. 3, 1959.

Enclosures: 1

Air or Surface Mail: Air Bag

Post File No: 5.2.

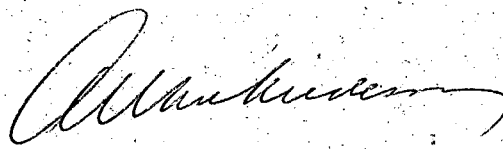
Ottawa File No.	
11561-V-40-18	
88	26 17

References

9.19 File 14 24/12/59

We hesitate to claim that the note which we presented to the Ministry of State on November 9, copy of which was attached to our letter under reference, was in any way responsible, but we have now received a note from the Ministry of State informing us that a new law, yet to be approved, would exempt diplomatic posts from taxes of the type exemplified by the Cuban telephone tax. An unofficial office translation of the Ministry's note is attached. We assume that if this law is approved, most of the difficulties which this Embassy and other embassies in Havana have experienced regarding surcharges and taxes levied for social security measures, will disappear. To date, the 2% tax on telegrams has not appeared on our bill, and we are hopeful that this problem will not arise before the new law is promulgated.

2. As soon as the law is made public, we shall forward a copy to you for your files.



Ambassador

Internal  
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to Posts

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1959 DEC 16 AM 10 : 15

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REPUBLIC OF CUBA  
MINISTRY OF STATE.

Protocol

The Ministry of State presents its compliments to the Canadian Embassy and, having the honour to acknowledge receipt of the polite verbal note number 153, dated November 9, is pleased to inform them that the tax laws mentioned in said note are being studied in the new law. As soon as it is approved all the difficulties which the former laws presented because of the confusion regarding the social type surcharges on diplomatic posts will be eliminated. We are happy to inform the Embassy of this fact.

The Ministry of State takes the opportunity to reiterate to the Canadian Embassy the testimony of its highest consideration.

HAVANA, November 24, 1959.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

NUMBERED LETTER

L	Mr. [Signature]
	REGISTRY

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy, HAVANA, Cuba.

Reference: Yourtel L-221, October 27, 1959.

Subject: CUBAN TELEPHONE TAX

Security: RESTRICTED

No: L-560

Date: Nov. 9, 1959.

Enclosures: 1

Air or Surface Mail: Courier

Post File No: 5.2

Ottawa File No.	
11561-V-40 "B"	
88	82

References

*Supplies & Properties Division  
see and file, please  
20/11/59. AD*

After reviewing the correspondence on our files regarding the Cuban telephone tax, we decided that the logical next step would be to follow the US and UK's lead in requesting the Cuban government to review its position regarding such taxes. We attach a copy of a Note which we today forwarded to the Cuban Ministry of State. A copy of this Note has also been forwarded to the Cuban Telephone Company informing them that the question of our liability under this tax was now a matter of international negotiation and that, pending the completion of this negotiation, the Embassy intended to continue its present practice of non-payment of the 2% tax.

2. We have not yet received the first of our telegraph bills which will include this 2% tax. However, we believe it would be worthwhile to submit a similar note to the Ministry of State regarding the new telegraph tax and follow the same procedure of refusing payment pending completion of negotiations.

3. We shall keep you informed of developments.

*[Signature]*  
Ambassador.

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1959 NOV 19 PM 1 : 51

000048

NO. 153

The Canadian Embassy presents its compliments to the Ministry of State and has the honour to refer to the 2% surcharge at present levied on all telephone bills for the benefit of a retirement fund for telephone employees. The Embassy wishes to make clear to the Ministry of State that in referring only to this one surcharge of several now being imposed, that the Embassy does not intend to compromise its position with regard to the principle involved in attempting to levy such surcharges on representatives of foreign governments. The Embassy, under instructions from the Government of Canada, wishes to suggest to the Ministry of State that this 2% surcharge, which does not appear to be a charge levied for specific services rendered, nor to be an indirect tax incorporated in the price of goods or services, is one of a type from which diplomatic missions and their members should be exempt in accordance with normal international diplomatic practice.

The Embassy wishes to draw to the attention of the Ministry of State article 32 of the International Law Commission Draft Articles on Diplomatic Intercourse and Immunities, to be discussed at the current session of the United Nations General Assembly. While this article has not yet been accepted by all nations, the fact that it has been included in the draft articles implies its general acceptance in international diplomatic procedure. This article states: "A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal ....." The article lists several exceptions, none of which would appear to apply to the telephone surcharge.

A. Anderson

HAVANA, November 9, 1959.

....2

The Embassy suggests that the Cuban government might wish to review the surcharge under discussion in the light of the stand to be adopted by the Cuban delegation to the United Nations General Assembly. If the Ministry concurs in the stand taken by the Embassy, the Embassy would be grateful to learn of the procedures it should adopt in order to ensure exemption from such surcharges.

The Canadian Embassy avails itself of this opportunity to renew to the Ministry of State the assurances of its highest consideration.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy, HAVANA, Cuba.

Reference: Your Letter B-209 of August 27, 1959

Subject: CUSTOMS PRIVILEGES FOR ADMINISTRATIVE  
STAFF.

Security: RESTRICTED

No: L-557

Date: November 6, 1959

Enclosures: 1. 918

Air or Surface Mail: Courier  
5.2.

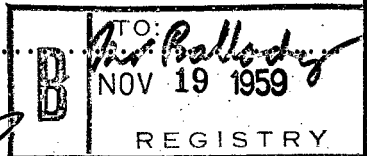
Post File No: 3.5.5.5

Ottawa File No.

11561-V-40

2.2

14



We have apparently gained one step from the Cuban Ministry of State in this last week only to lose the benefits through other Cuban regulations. We have now received a note (a copy of which is attached) from the Protocol Section informing us that administrative staff can be granted free entry on arrival for a new or used automobile. The claim is nullified, however, by the fact that administrative personnel are not provided with free license plates or driver's licenses, (with the exception of the United States Embassy where the privilege was gained through the 1926 consular convention). As a result, any administrative employee may bring a car to Cuba without paying customs on arrival, but is faced with the necessity of purchasing a license plate. A new Cuban law fixes the registration charges for cars, the original value of which was more than \$2,000, at anywhere from \$150.00 to \$5,000.\* For example, the first license plate purchased in Cuba for a Chevrolet, the list price of which was between \$2,300 and \$2,650, would cost \$150.00; second year \$100.00; third year \$75.00, and all following years \$50.00.

2. In the present situation in Cuba, we could probably gain very little by taking this matter up once more. We propose, therefore, to leave the question of customs privileges in abeyance for an indefinite period. Supplies and Properties Division should, however, be prepared to warn any administrative personnel coming to Cuba of the expense that would face them if they wished to drive a car here.

Ambassador.

\*Correct, \$5,000. This is not a typographical error.  
AA.

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**Document divulgué en vertu de la *Loi sur l'accès à l'information***

1959 NOV 19 PM 1 : 51

**000052**

Republic of Cuba

MINISTRY OF STATE

Protocol  
3341

Havana, November 3, 1959

Mr. Anderson:

In answer to your polite note number 92 of that Embassy,  
I have the honour to inform you that we find no obstacle for granting  
the franquicias requested by that Mission.

It has always been the custom to grant customhouse exemptions from taxes for just once, upon arrival, to the non-diplomatic employees when they come to occupy their respective posts.

With respect to the exemption for the new or used car of non-diplomatic employees, it can be granted, as is made clear in the corresponding article in "Privileges Granted in Canada to Representatives of other Governments", for just once, apart from the other exemptions that have always been granted to those employees.

I avail myself of this opportunity to reiterate to  
Your Excellency the testimony of my highest consideration.

H. E. Allan C. Anderson

Ambassador Extraordinary and Plenipotentiary of Canada

Havana



C  
O  
P  
Y

FM HAVANA OCT23/59 RESTD  
TO EXTERNAL 151 PRIORITY

REF YOURLET L251 OCT7

CUBAN PHONE TAX

11561-V-40

22 ✓

1. THE CUBAN PHONE COMPANY CUT SERVICE TO THE RESIDENCE WITHOUT WARNING OCT21 FOR QUOTE NONPAYMENT UNQUOTE OF ACCOUNT WHICH HAD BEEN PRESENTED PREVIOUS AFTERNOON. ON BEING ASSURED CHEQUE WAS IN THE MAIL RESTORED SERVICE OCT23 BUT THERE IS POSSIBILITY OF CUT WHEN CHEQUE IS RECEIVED AND TAX ARREARS REMAIN UNPAID. APPRECIATE INSTRUCTION ON OUR COURSE OF ACTION.

2. USA EMBASSY HAVE PRESENTED COPY OF THEIR NOTE (ATTACHED OUR L268 JUN3) TO PHONE COMPANY AND COMPANY HAS NOW STOPPED BILLING THEM FOR TAX ARREARS. PENDING OUTCOME OF NEGOTIATIONS. SUGGEST WE PRESENT NOTE TO MINISTRY OF STATE ON PHONE TAX ONLY AND ADVISE COMPANY THAT NEGOTIATIONS ARE BEING CARRIED ON.

3. EMOTIONS OFTEN OVERRULE POINT OF LAW IN LATINAMERICA AND EMOTIONS AT PRESENT ARE VERY HIGH. THIS IS PROBABLY NOT RPT NOT A GOOD TIME TO MAKE A MAJOR ISSUE OF FULL QUESTION OF TAXATION FOREIGN EMBASSIES.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

OUTGOING MESSAGE

FM: <b>EXTERNAL OTTAWA</b>	DATE	FILE		SECURITY					
	<b>OCT27/59</b>	<b>11561-V-40</b>		<b>RESTD</b>					
TO: <b>HAVANA</b>	NUMBER		PRECEDENCE		COMCENTRE USE ONLY				
	<b>L-221</b>		<b>PRIORITY</b>						
INFO:									

Ref.: YOUR TEL 151 OF OCT 23

Subject: CUBAN PHONE TAX

IN VIEW OF THE NEW AND FLUID SITUATION  
YOU MAY USE YOUR OWN DISCRETION AS TO WHETHER YOU TAKE  
THE ACTION SUGGESTED IN PART 2 OF YOUR TEL OR DO NOTHING  
FURTHER FOR THE TIME BEING.

LOCAL **Protocol Division**  
DISTRIBUTION

**American Division**

ORIGINATOR	DIVISION	PHONE	APPROVED BY
SIG. <b>A. Napier</b> NAME <b>A. Napier/cm</b>	<b>Legal</b>	<b>6-6520</b>	<b>GILLES SICOTTE</b> NAME.....000055

## DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

## OUTGOING MESSAGE

061

FM: EXTERNAL OTTAWA	2 OCT27/59	FILE 11561-V-40 "Z"		SECURITY RESTD					
		88							
TO: HAVANA	NUMBER L-221		PRECEDENCE PRIORITY		COMCENTRE USE ONLY				
INFO:									

Ref.: YOUR TEL 151 OF OCT 23

Subject: CUBAN PHONE TAX

IN VIEW OF THE NEW AND FLUID SITUATION  
YOU MAY USE YOUR OWN DISCRETION AS TO WHETHER YOU TAKE  
THE ACTION SUGGESTED IN PARA 2 OF YOUR TEL OR DO NOTHING  
FURTHER FOR THE TIME BEING.

*Presume "No Standard" distribution needed of  
this tel, so none given it. Please so indicate  
in future*

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American Division

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SIG. <i>A. Napier</i> NAME. <i>A. Napier/cm</i>	Legal	6-6520	SIG. NAME. 000056

DUPLICATE

L

11561-V-40	
88	—

"Z"

FM HAVANA OCT23/59 RESTD  
TO EXTERNAL 151 PRIORITY

REF YOURLET L251 OCT7

CUBAN PHONE TAX

1. THE CUBAN PHONE COMPANY CUT SERVICE TO THE RESIDENCE WITHOUT WARNING OCT21 FOR QUOTE NONPAYMENT UNQUOTE OF ACCOUNT WHICH HAD BEEN PRESENTED PREVIOUS AFTERNOON. ON BEING ASSURED CHEQUE WAS IN THE MAIL RESTORED SERVICE OCT23 BUT THERE IS POSSIBILITY OF CUT WHEN CHEQUE IS RECEIVED AND TAX ARREARS REMAIN UNPAID. APPRECIATE INSTRUCTION ON OUR COURSE OF ACTION.

2. USA EMBASSY HAVE PRESENTED COPY OF THEIR NOTE (ATTACHED OUR L268 JUN3) TO PHONE COMPANY, AND COMPANY HAS NOW STOPPED BILLING THEM FOR TAX ARREARS PENDING OUTCOME OF NEGOTIATIONS. SUGGEST WE PRESENT NOTE TO MINISTRY OF STATE ON PHONE TAX ONLY AND ADVISE COMPANY THAT NEGOTIATIONS ARE BEING CARRIED ON.

3. EMOTIONS OFTEN OVERRULE POINT OF LAW IN LATINAMERICA AND EMOTIONS AT PRESENT ARE VERY HIGH. THIS IS PROBABLY NOT RPT NOT A GOOD TIME TO MAKE A MAJOR ISSUE OF FULL QUESTION OF TAXATION FOREIGN EMBASSIES.

*L*  
ACTION COPY

L	TO: <i>Mr. Lantzille</i>
	Recd
REGISTRY	

11561-V-40-B	
88	88

*Refer copies to American  
Division and File, please  
27/10/59.*

*AA  
Done L.M.  
27/10/59.*

*J-17*

FM HAVANA OCT23/59 RESTD  
TO EXTERNAL 151 PRIORITY

REF YOURLET L251 OCT7

CUBAN PHONE TAX

1. THE CUBAN PHONE COMPANY CUT SERVICE TO THE RESIDENCE WITHOUT WARNING OCT21 FOR QUOTE NONPAYMENT UNQUOTE OF ACCOUNT WHICH HAD BEEN PRESENTED PREVIOUS AFTERNOON. ON BEING ASSURED CHEQUE WAS IN THE MAIL RESTORED SERVICE OCT23 BUT THERE IS POSSIBILITY OF CUT WHEN CHEQUE IS RECEIVED AND TAX ARREARS REMAIN UNPAID. APPRECIATE INSTRUCTION ON OUR COURSE OF ACTION.

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DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE CANADIAN EMBASSY  
HAVANA, CUBA

FROM: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Reference: Your letter No. L-268 of June 3, 1959

Subject: Cuban Social Security Taxes

Security: RESTRICTED

No: L- 251

Date: October 7, 1959

Enclosures: None

Air or Surface Mail: Air

Post File No: 3.3.4

Ottawa File No.

11561-V-40 "B"

88

11

References

Unfortunately, owing to an oversight we do not appear to have given you an answer to your letter under reference.

2. We have considered the information you gave us in your letter L-373 of July 28, 1959, and we have come to the conclusion that there is, at the moment, no justification for modifying the instructions we gave you in paragraph 2 of our letter L-80 of April 2, 1959, and previous instructions. You should, therefore, continue as you are doing at present, but report any difficulties or threats (e.g., to disconnect the telephone) and let us know of the results, if any, of the United Kingdom and United States Notes.

G. C. LANGILLE

Under-Secretary of State  
for External Affairs

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American Div.

Done  
9/10/59  
MVS

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to Posts

11561-V-40	
22	✓

October 6, 1959

NOTE FOR MR. ~~NAPIER~~

*File no.  
7/10/59.*

I have reviewed this file superficially and it seems to me that

- (a) we are now still in the position of owing the Embassy in Havana an answer to the question raised in their Letter 268 of June 3, 1959, as to whether we should take up the question of taxes with the Ministry of State of Cuba;
- (b) that the information received since their letter under reference (i.e. on July 28 last) does not justify a change in the instructions contained in our Letter L-80 of April 2 (paragraph 2) and previous instructions.

*Yes - let  
"sleeping dogs lie"  
7/10/59. AN*

Would you review and see whether this is the situation and prepare necessary letter to Havana.

*[Signature]*  
G. Sicotte

THE CANADIAN EMBASSY

HAVANA, CUBA

RESTRICTED

B-209

August 27, 1959

Your Letter No. L-364 of July 25/59

Surface

Customs privileges for administrative staff

11561-V-40	
22	77

The suggestions made in paragraph 4 of your letter under reference are of direct concern to the Supplies and Properties Division of this Department. A copy of your letter has been referred to that Division for consideration and you may be hearing from the Department on these matters on another occasion.

2. We would suggest that the question of a further approach to the Ministry of State, as proposed in paragraph 5 of your letter, be held in abeyance. The proposal in our letter No. B-254 of November 13, 1958, to raise with the Ministry of State the question of first-entry importation privileges by non-diplomatic staff, was based on the fact that the Cuban authorities appeared to be in a somewhat more liberal mood on the subject of diplomatic privileges, with particular reference to the resale of automobiles. In the light of the rather stormy events which have taken place in Cuba since that time and of the concern of the new administration with more pressing and immediate problems, the time may not be ripe actively to pursue the question under reference. Our conclusion in this respect is reinforced by our understanding that no further transfers of non-diplomatic personnel to Havana are expected during the current year. Finally, the Ambassador designate is, as you know, to proceed to Havana within the next few weeks, and it is considered that this question might be reviewed by him sometime after he has arrived and settled.

Inspection Services;  
 Supplies and Properties Division.

3. In general, we consider that an approach which would obtain the sympathy and goodwill of the Cuban officials concerned (rather than a mere formal or legalistic statement of the problem) is likely, in the long run, to be most rewarding and productive of good results.

4. As further ammunition in any future discussion with Cuban officials, you might refer to Article 36 of the Draft Convention on Diplomatic Intercourse and Immunities, which was considered last year at the United Nations General Assembly, and which is due to be re-examined this year with the object of concluding a formal multilateral agreement. Article 36 provides that the administrative and technical staff of a mission, together with the members of their families forming part of their respective households, shall,

Done 28/8/59



- 2 -

is they are not nationals of the receiving State, enjoy the same privileges and immunities as those enjoyed by diplomatic agents. While this provision may well go farther than the Government of Canada would be willing to go at the present time, it clearly shows the trend of international thinking on the subject of privileges and immunities, and suggests that a limitation of first entry privileges enjoyed by non-diplomatic personnel would be out of keeping with the times.

Ph. THIBAUT

Under-Secretary of State  
for External Affairs

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy, Havana, Cuba.

Reference: Your letter of July 13, L-162.

Subject: SOCIAL SECURITY TAX

Security: Restricted

No: L-373

Date: July 28, 1959.

Enclosures:

Air or Surface Mail: Air Bag

Post File No: 3.3.4

Ottawa File No.	
11561-V-484	
SS	SS

L	TO: <i>[Signature]</i>
	AUG 10 Recd
	REGISTRY

References

7/10/59.

There have been no new developments on the question of social security taxes since our letter to you of June 3. The following information should answer the questions raised in your letter under reference:

(1) In effect, all of the surcharges and supplementary payments listed in the notes of the United Kingdom and United States embassies have been levied at one time or another on the embassy or on individual staff members. As you know, we have refused to pay the telephone tax (d) on the accounts for the office and residence telephones. In addition, the additional stamps (g & h) are not placed on ordinary surface mail sent from the Embassy. On private mail or on airmail these stamps are usually required.

(2) Neither the United Kingdom nor the United States Embassy has received any reply from the Cuban authorities other than the routine acknowledgment which the United Kingdom received from the Ministry of State in response to its first note.

(3) The United Kingdom Embassy has continued to pay those items on this list which it had previously paid. The following item-by-item survey may be useful:

(a & b) The United Kingdom Embassy pays these surcharges through the United Kingdom medical health scheme. The United States Embassy, when reimbursing staff members, refuses to cover these surcharges although the staff members themselves have paid the two surcharges,

(c) The United Kingdom Embassy pays this item. The United States Embassy again deducts this surcharge from reimbursements to its staff members;

(d) The United Kingdom Embassy continues to pay the telephone tax. The United States Embassy has refused to pay this tax;

(e) Individual embassy employees of both the United Kingdom and the United States Embassies pay the one percent surcharge on insurance policies;

(f) This surcharge is usually paid by both the United Kingdom and the United States Embassies

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1959 AUG 11 AM 11 : 34

**NO ENCLOSURES**

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RESTRICTED

- 2 -

at the airport, but is refused on large shipments at the docks.

(g & h) The United Kingdom pays both of these special stamp taxes. The United States Embassy, which benefits from the postal agreement of Spain and the Americas (as does Canada), does not use these special stamps on ordinary official mail, but often does so for airmail letters.

*RW. Clark.*  
Embassy

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

9377-12

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy, Havana, Cuba

Reference: B-254 of Nov. 13, 1958 and L-118 of March 11, 1958

Subject: CUSTOMS PRIVILEGES FOR ADMINISTRATIVE STAFF

Security: RESTRICTED

No: L- 364

Date: July 23, 1959

Enclosures: One

Air or Surface Mail: Air B.

Post File No: 5.2 3.5.5.5

Ottawa File No.

11561-V-40

22

77

B

TO: Mr. Weld  
JUL 29 1959

REGISTRY

References

We are concerned over the customs privileges (or lack of privileges) accorded administrative personnel attached to this Embassy. The new Castro administration is making a ritual of abiding strictly by all laws and regulations concerning customs matters. Previously the administration of customs had been relatively lax. In fact, administrative personnel arriving in Cuba formerly received many of the privileges accorded their opposite numbers in Canada. The outstanding exception to this procedure was the question of free first entry of automobiles dealt with in the letters under reference. To date we have received no reply, other than a routine acknowledgment, to our aide memoire of March 11 which was attached to our letter L-118 of that date. As a result, on June 30 we forwarded a reminder to the Ministry of State on this matter. A copy of our reminder, Note # 92, is attached.

2. We have, during recent months, had several experiences of Cuba's new rigid interpretation of customs privileges. On one occasion, when a franquicia (franchise) for the entrance of a courier had not arrived in the airport, the customs officials attempted to force the courier to open his luggage and diplomatic bags for customs inspection. (See our telegram 96 of May 29). We have also experienced considerable difficulty in clearing through customs routine shipments of National Film Board films and have been forced, in addition to applying for a franquicia, to provide the Ministry of State with a formal note certifying that the shipment is for the use of the Embassy only.

3. The latest incident occurred on the arrival of the newest member of the Embassy staff - Miss Mary Wortman. The departmental shipping depot had forwarded two additional pieces of luggage for Miss Wortman by air freight and these items had arrived in Havana before Miss Wortman. We had been informed verbally that there would be no difficulty in clearing them under the regular franquicia issued for her entry with her luggage. In fact, the customs officials refused to release the two pieces of luggage and we were informed by the Ministry of State that under Cuban regulations administrative personnel, not included in the diplomatic or consular list, were entitled to free, uninspected entry of effects only if the effects accompanied them or were included in an ocean shipment of household furniture. In

Internal Circulation

Distribution to Posts

1959 JUL 29

AM 11:11

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RESTRICTED

- 2 -

essence, we were informed that Embassy personnel not on the diplomatic or consular list were being granted only the right of bringing in "settlers effects", and, as a courtesy, were being allowed to bring in these items without customs inspection. The Ministry of State has now provided us with an "extension franquicia" which, they say, customs may or may not honour in releasing the two items of luggage concerned. A check of Law Decree No. 347 of 1934, the basic legislation regarding diplomatic franquias, confirms that no mention is made of administrative personnel at any Embassy under any of the clauses providing diplomatic privileges. We are now attempting to collect copies of the legislation governing such entry.

4. More than one lesson emerges from this most recent incident. In the first place, the shipping depot should be advised of this interpretation by Cuban customs authorities, and warned that if luggage does not actually accompany the individual transferred to Cuba, it should be sent with the person's furniture, if furniture is being shipped. Furniture and/or air freight shipments should be addressed to the Ambassador only.

5. The fact that the new government apparently does not intend to make the diplomatic customs regulations more lenient but is instead planning to tighten them, would appear to offer us an opportunity to "take up the cudgel". With our aide memoire to the Ministry of State of March 11, we forwarded a copy of "Privileges Granted in Canada to Representatives of Other Governments" and directed to the attention of the Ministry of State the sections dealing with first entry of administrative personnel. As more than four months have passed without a reply, we would appreciate your authority to send a more strongly worded note to the Ministry of State on this question. We should like to point out once more the regulations in effect in Canada and suggest to the Ministry of State that similar regulations might be put into effect in Cuba. We might point out to them that the Canadian regulations are based on the provision of reciprocal treatment abroad and that if the Cuban Government cannot see its way clear to providing similar privileges in Cuba, the Department of External Affairs will recommend that privileges accorded Cuban Embassy personnel in Ottawa be restricted.



Chargé d'Affaires

C O P Y

No. 92

The Canadian Embassy presents its compliments to the Ministry of State and has the honour to recall to the Ministry's attention the Embassy's Aide Memoire of March 11, 1959, regarding customs privileges for Canadian employees of the Embassy who are not listed on either the diplomatic or the consular lists. For the convenience of the Ministry, a copy of the Embassy's Aide Memoire is attached.

As this question was raised with the Ministry on instructions from the Canadian Government and some three months have elapsed since the Embassy's Aide Memoire was presented, the Embassy would be grateful if the Ministry would review the questions of these customs privileges and provide the Embassy with some indication of the Ministry's attitude regarding the subject mentioned in the Aide Memoire.

The Canadian Embassy takes this opportunity to reiterate to the Ministry of State the assurances of its highest consideration.

HAVANA, June 30, 1959



Legal/J.O. Parry/ci

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO:.....The Canadian Embassy.....  
.....HAVANA, CUBA.....

Security:.....Restricted.....

No:.....L-162.....

FROM: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Date:.....July 13, 1959.....

Enclosures:.....

Reference: Your Letter No. 268 of June 3.....

Air or Surface Mail:.....

Subject: Social Security Tax.....

Post File No:.....3-3-4.....

Ottawa File No.

11561-V-40

References

We were interested to learn that the United States Embassy has presented a note to the Cuban Ministry of State along the lines of the note originally presented by the United Kingdom Embassy last December. Before deciding whether it would be appropriate for you to present a note on similar lines we would much appreciate receiving your advice on the following points:

(1) Have all the surcharges and supplementary payments listed as (a) to (h) in the notes presented by the United Kingdom and United States Embassies been levied, at one time or another, on the Embassy or on individual staff members? If not, which charges among those listed have actually been levied on the Embassy or individual members?

(2) Have the United Kingdom or the United States Embassies received any reply from the Cuban authorities in response to their notes on this subject?

(3) Have the United Kingdom and United States Embassies refused to pay the telephone tax and other surcharges since presentation of their notes to the Cuban Ministry of State, or are they continuing to pay them under protest, as it were?

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American  
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J.L. DELISLE

for Under-Secretary of State  
for External Affairs

Distribution  
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NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba

Reference: Your letter L121 of May 28

Subject: Typists Retirement Fund

Security: RESTRICTED

No: L-322

Date: June 30, 1959

Enclosures: 1

Air or Surface Mail: Courier

Post File No: 3.3.4.

L	TO: Mr. [unclear] Recd
REGISTRY	

Ottawa File No.	
11561-V-40-B	
55	84

References

We have had no further correspondence from either the Typists Retirement Fund heads or the Ministry of State regarding the liability of the Embassy to make payments towards the Typists Retirement Fund. We will, however, keep in mind the views expressed in your letter under reference regarding the Embassy's liability in this matter.

2. We have discussed the question further with the United Kingdom Embassy and may find that the action contemplated by that Embassy will bring the question to a head. The U.K. Embassy had forwarded its original letter from the Retirement Fund to the Cuban Ministry of State and informed the Ministry that they were requesting instructions from London. The Foreign Office has now advised the Embassy that, because foreign Embassies in London are asked to make payments towards the U.K. National Health Insurance on a voluntary basis on behalf of U.K. citizens employed by foreign Missions, the U.K. Embassy in Havana might feel constrained to make payments towards Retirement Funds of this type. The Embassy officials in Havana intend to request clarification from the Ministry of State regarding a clause in the Typists Retirement Law which exempts the Cuban Government, Provincial Governments or Municipal Governments, from paying into the Fund on behalf of typists in their employ. If the Ministry of State offers a plausible reason for the apparent distinction being made between Cuban Government offices and offices of Foreign Governments and, if the Ministry upholds the contention of the Retirement Fund officials that Foreign Embassies must make payments to this Fund, the U.K. Embassy will probably, in the long run, begin paying into the Fund on behalf of the two or three Cuban employees concerned.

3. We shall keep you informed of developments on this question, particularly regarding the stand of the U.K. Embassy towards these payments.

R.W. Clark  
Embassy

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DEPARTMENT OF EXTERNAL AFFAIRS, CANADA  
NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba.

Reference: Your letter L80 of April 2 and our letter  
L207 of April 27

Subject: Social Security Tax

TO: Mr. Parry  
JUN 1959 Recd  
REGISTRY

Refer to Protocol as of July 13  
File 1108

Security: RESTRICTED

No: L-207

Date: June 3, 1959

Enclosures: 1

Air or Surface Mail: Air

Post File No: 3.3.4

Ottawa File No.	
11561-V-40	
55	84

References

In line with the instructions contained in paragraph two of your letter under reference, we have continued to refuse payment of telephone tax on the Chancery and residence telephone bills. As yet the telephone company has taken no further steps to force payment of this tax, although they continue to request payment in full.

2. We have now been informed by the United States Embassy that on April 16 they presented to the Ministry of State a note along the lines presented by the United Kingdom Embassy on December 4, 1958, a copy of which was attached to our L487 of December 11. We attach a copy of the United States Embassy note for your information. In the light of the fact that both the U.K. and the U.S. Embassies have now officially protested these surcharges and taxes to the Ministry of State, we wonder whether you might wish to reconsider your instructions that we should not take this matter up with the Ministry of State. If you agree that we might present a note along the lines of those presented by the U.K. and U.S. Embassies, we would appreciate your instructions regarding any alterations or additions you might wish us to incorporate in our note.

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Embassy

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000074

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(DUPLICATE)

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba

Reference: Your letter L80 of April 2 and our letter  
L207 of April 27

Subject: Social Security Tax

Security: RESTRICTED

No: L- 268

Date: June 3, 1959

Enclosures: 1

Air or Surface Mail: Air

Post File No: 3.3.4

Ottawa File No.

References

In line with the instructions contained in paragraph two of your letter under reference, we have continued to refuse payment of telephone tax on the Chancery and residence telephone bills. As yet the telephone company has taken no further steps to force payment of this tax, although they continue to request payment in full.

2. We have now been informed by the United States Embassy that on April 16 they presented to the Ministry of State a note along the lines presented by the United Kingdom Embassy on December 4, 1958, a copy of which was attached to our L487 of December 11. We attach a copy of the United States Embassy note for your information. In the light of the fact that both the U.K. and the U.S. Embassies have now officially protested these surcharges and taxes to the Ministry of State, we wonder whether you might wish to reconsider your instructions that we should not take this matter up with the Ministry of State. If you agree that we might present a note along the lines of those presented by the U.K. and U.S. Embassies, we would appreciate your instructions regarding any alterations or additions you might wish us to incorporate in our note.

R. W. CLARK

Embassy

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000075

C O P Y

No. A-362

The Embassy of the United States of America presents its compliments to the Ministry of State of the Republic of Cuba and has the honor to invite the attention of the Ministry to certain surcharges and supplementary payments which are at present being levied on the Embassy and on individual members of the staff thereof.

- (a) a 5 percent surcharge on all bills rendered in respect to hospital, clinical and medical services, for the benefit of the retirement fund for physicians.
- b) a 5 percent surcharge on all bills rendered in respect of services administered to persons confined in hospital, for the benefit of the nurses' insurance and social security scheme.
- c) a surcharge of one peso per month per child on private school bills, for the benefit of the teachers' retirement fund.
- d) a 2 percent surcharge on all telephone bills, for the benefit of the retirement fund for telephone employees.
- e) a 1 percent surcharge on insurance policy premia, devoted to the O.N.R.I.
- f) a 2 percent surcharge, levied as wharfage tax on the declared value of shipments whether by air or sea, for the benefit of the customs brokers' retirement fund.
- g) a supplementary one cent special stamp on every postal item, for the benefit of a special fund for the creation of a postal building.
- h) during the winter, a further supplementary one cent special stamp on every postal item for the benefit of an anti-tuberculosis fund.

In inviting the attention of the Ministry to this matter, the Embassy suggests that all these surcharges, being separately identifiable and devoted to national purposes not directly connected with the value of the service supplied or rendered, are of a type from which diplomatic missions and their members should be exempt in accordance with normal diplomatic practice.

The attention of the Ministry is also invited to the prominent 000076

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part played by the Cuban delegate, Sr. F.V. García Amador, in the work of the International Law Commission established to draft the basis for a Convention on Diplomatic Intercourse. Article 31 is understood to provide that members of a diplomatic mission shall be exempt from social security legislation. Additionally, Article 32 is understood to provide (with minor exceptions which do not apply here) that a diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, save for indirect taxes incorporated in the price of goods or services, or charges for specific services rendered.

If the Ministry concurs with the views expressed above, the Embassy would be grateful to learn what procedures it should adopt in order to insure such exemption.

The Embassy avails itself of this opportunity to renew to the Ministry the assurances of its highest consideration.

Embassy of the United States of America,

Habana, April 16, 1959.



Legal/J.O.Parry/cl

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

*file 506*

TO: Mr. Delisle

Security Restricted

Date May 28, 1959

FROM: Mr. Parry

File No.

11561-V-40

REFERENCE:

55	-	-
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SUBJECT: Typists Retirement Fund - Cuba

cc 2020-Z-40

Mr. Carrière of Personnel Division informs me that in some cases payments to local social security schemes are made from our mission funds on behalf of locally-engaged staff. In other cases we have increased the salaries of local staff to enable them to make such contributions. Your impression that cases of this kind have occurred is therefore quite correct. However, it goes without saying that in each instance of this kind special authority has had to be obtained from Treasury Board. For this reason Personnel Division recommend that no mention be made of this possible solution in replying to Havana's enquiry at this stage.

2. If an official request is later received by the Embassy through the Cuban Ministry of State and it should appear that other embassies in Havana are prepared to pay these contributions, we could then consider whether it would be advisable to seek authority from Treasury Board to make these contributions from our mission funds on behalf of local staff stenographers at the Embassy in Havana. As I see it, any contribution of this kind would not be made in recognition of a legal liability to pay, but only to secure the benefits of the scheme for our local staff employees and to maintain good relations with the local authorities.

*JOP*  
J. O. Parry

CIRCULATION

NUMBERED LETTER

please return

TO: THE CANADIAN EMBASSY  
HAVANA, CUBA

Security: RESTRICTED

No: L- 121

Date: May 28, 1959

Enclosures:

Air or Surface Mail:

Post File No: 1.3.4

FROM: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Reference: Your Letters No. 152 of March 31 and  
No. 207 of April 27

Subject: Typists Retirement Fund

Ottawa File No.

11561-V-40

References

Under the Draft Articles on Diplomatic Intercourse and Immunities prepared by the International Law Commission, which will be considered at this year's General Assembly with a view to concluding an international convention on the subject, members of a diplomatic mission are exempt from the social security legislation of the receiving State as far as they themselves are concerned, but may be required to contribute in respect of servants and employees who are subject to the social security system of that state. In other words, while a foreign diplomat is not subject, for example, to a general health insurance scheme so far as he and his family are concerned, he may have to pay a contribution on behalf of a locally-engaged cook or maid as her employer if the rule proposed in the Diplomatic Immunities Draft is adopted. The rule is set out in Article 31, the text of which was given in our Numbered Letter L-80 of April 2, 1959.

2. It seems to us that this Article 31 was drafted to deal with the case of locally-engaged servants employed by individual members of the staff of a foreign mission. The Article does not appear to be applicable to local staff employees of the mission itself, who are in the service of the Government of the sending State. However, if one falls back on general principles of law, the sending State would not be liable to pay contributions in respect of its locally-engaged stenographers because the contribution is neither an indirect tax incorporated in the price of goods or services, nor is it a charge for specific services rendered.

3. Our preliminary view, therefore, is that the Canadian Government is not obliged under general principles of customary international law to pay a retirement tax or contribution to the Cuban authorities in respect of locally-engaged stenographers on the staff of your Embassy. We think that the position which you have taken in your letter to the Office of Stenographer's Insurance is

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Circulation  
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American  
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entirely correct and you should write to us for instructions if and when an official request is received through the Cuban Ministry of State. We would of course be interested to know, in the latter event, what position is taken by the US and UK Embassies.

4. As you may know Treasury Board has approved two separate plans which provide pension coverage to locally-engaged employees of the Canadian Government in the United States and the United Kingdom. The need for a retirement scheme to cover all local employees has been the subject of much discussion and correspondence in the past. Recently, at the request of the Treasury Board, a circular document was sent to all our Missions other than in the United States and United Kingdom requesting information on the availability of pension coverage either through national legislation or through private firms. Copies of replies to this document together with the relevant reports have been sent to the Treasury Board. You will appreciate, however, that it will take some time for the Treasury Board staff to make a complete analysis of this material. Nevertheless we are hopeful that Treasury Board will eventually approve a plan to provide pension coverage to all locally-engaged employees of the Canadian Government abroad.

J.L. Delaney

Under-Secretary of State  
for External Affairs

Personnel Division

RESTRICTED

Legal Division

May 5, 1959

11561-V-40 ✓  
cc. 12808-40  
55 | ✓

Orig 10667-3-40 f.

Typists Retirement Fund - Cuba

--- In Numbered Letter L-152 of March 31, 1959 from Havana (attached) the Embassy has informed us of a typists retirement fund set up by a Cuban law of 1954. The Cuban authorities have now decided that foreign missions are liable to pay contributions to this fund in respect of their local staff stenographers.

2. Over the past few months we have been in correspondence with the Embassy regarding a number of social security taxes which the Cuban authorities have sought to collect from foreign missions in Havana and members of their staffs. These took the form of identifiable taxes or surcharges added to telephone and telegraph bills, hospital bills, etc. The legal position as regards taxes of this kind is explained in letter No. 80 of April 2 to Havana on the attached file 11561-V-40. As a general rule diplomatic missions and staff members holding diplomatic status are exempt from such taxes because they are not charges levied for specific services or taxes incorporated in the price of goods or services. Moreover, under the draft articles on Diplomatic Intercourse and Immunities prepared by the International Law Commission, which will be considered at the 1959 General Assembly Session with a view to concluding an international convention on the subject, members of a diplomatic mission are exempt from the social security legislation of the receiving State as far as they themselves are concerned, but may be required

Protocol  
Division

... /2

- 2 -

to contribute in respect of servants and employees who are subject to the social security system of that State. In other words, while a foreign diplomat is not subject, for example, to a general health insurance scheme so far as he and his family are concerned, he may have to pay a contribution on behalf of a locally-engaged cook or maid, as her employer. This proposed rule is set out in Article 31 of the I.L.C. draft, a copy of which is attached.

3. Article 31 of the I.L.C. draft, it seems to us, was drafted to deal with the case of locally-engaged servants employed by individual members of the staff of a foreign mission. The article does not appear to be applicable to local staff employees of the mission, who are in the service of the Government of the sending State. However, if one falls back on general principles of law the sending State would not be liable to pay contributions in respect of its locally-engaged stenographers because the contribution is neither an indirect tax incorporated in the price of goods or services, nor is it a charge for specific services rendered.

4. In our opinion, therefore, the Canadian Government is not obliged to pay a retirement tax or contribution to the Cuban authorities in respect of locally-engaged stenographers on the staff of the Embassy in Havana. Apart from the question of legal liability, the Ambassador has suggested in paragraph 2 of the attached letter that the attitude adopted by the Cuban authorities might be used to support the need for a Canadian Government retirement scheme for all local employees. We should be grateful for your advice on this aspect of the question, together with any comments which you may wish us to pass on to Havana. Incidentally, you will note that information regarding the contributions for the Typists Retirement Fund was forwarded to our Embassy in Havana by the Office of Stenographer's Insurance and, in reply, the

... /3

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Embassy stated that official notice would have to be transmitted through the Cuban Ministry of State before instructions were sought from the Canadian Government.

J.B. DELISLE

Legal Division

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

*file 500*

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana

Reference: Your letter L80 of April 2, 1959

Subject: Social Security Tax

Security: RESTRICTED

No: L-207

Date: April 27, 1959

Enclosures:

Air or Surface Mail: Courier

Post File No: 3.3.4

Ottawa File No.	
11561-V-40 B	
55	21

L	TO: Mr. P. A. A. A. A.
REGISTRY	

*Copy referred to Personnel Div. May 7/59*

References

We shall follow the instructions contained in your letter under reference and continue to refuse payment of the telephone tax, although we expect that a day of reckoning is at hand, because the last letter from the Telephone Company dated March 23 requested that we settle the outstanding tax account as soon as possible. The American Embassy is also continuing to refuse payment of the tax, but the United Kingdom Embassy has not as yet refused to pay the tax. The United Kingdom Embassy recently sent a reminder to the Ministry of State drawing to the Ministry's attention their Note of December 4 on the various surcharges levied for retirement or social security schemes.

2. In our letter L152 of March 31 we requested your guidance regarding the typist retirement fund. It would appear that Article 31 of the Draft Articles on Diplomatic Intercourse and Immunities left us in a rather weak position on this question and we may, therefore, be forced to begin deductions of retirement fund payments from the salaries of locally employed typists.

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*R. W. Clark*  
Embassy

NO ENCLOSURES  
1959 MAY 6  
AM 10:21

000085



NUMBERED LETTER

TO: The Canadian Embassy

HAVANA

FROM: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Reference: Your Letter L-125 of March 16, 1959

Subject: Social Security Tax

Security: RESTRICTED

No: L-80

Date: April 2, 1959

Enclosures:

Air or Surface Mail:

Post File No: 3.3.4

Ottawa File No.

11561-V-40

"B"

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31

References

While we appreciate the reasoning behind paras. 2 and 3 of your Letter L-125 we are still not inclined to take the initiative on this question in view of the fact that the Cuban Embassy on the Aylmer Road is paying a telephone tax to the Province of Quebec. We prefer, rather, that our attitude towards the telephone tax should be made clear by a continued refusal to pay this tax. As we understand it this is the position being taken by the U.S. Embassy. As regards the U.K. Embassy, we would be interested to know whether they have received a reply to their Note of December 4, 1958 addressed to the Ministry of State on the various surcharges (including the telephone tax) levied for retirement and social security schemes. We would also appreciate knowing whether the U.K. Embassy has refused to pay the telephone tax, and other special taxes of this type since presentation of their Note of December 4 last, or whether they are continuing to pay them under protest as it were.

2. Our recommendation, then, is that you should continue to refuse payment of the telephone tax, in line with the position taken by the U.S. Embassy. If the authorities threaten to terminate telephone services, presumably the same action will be taken towards the U.S. Embassy and other foreign Embassies who are refusing to pay the tax. In this event it may be necessary to pay the tax under protest as the British appear to be doing.

3. Similar comments apply to the telegraph tax if it should appear on your telegraph bills.

4. The position under customary international law is correctly set out, we believe, in the U.K. Embassy's Note of December 4. All these surcharges and taxes are separately identifiable and are devoted to purposes not directly connected with the value of the service supplied. They do not appear to be "indirect taxes incorporated in the price of goods or services" or "charges levied for specific services rendered" within the meaning of Article 32 of the International Law Commission's Draft Articles on Diplomatic Intercourse and Immunities. The Article in question reads as follows:

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Sent 6/4/59  
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- 2 -

### Exemption from taxation

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, save:

(a) indirect taxes incorporated in the price of goods or services;

(b) dues and taxes on private immovable property, situated in the territory of the receiving State, unless he holds it on behalf of his Government for the purposes of the mission;

(c) estate, succession or inheritance duties levied by the receiving State, subject, however, to the provisions of article 38 concerning estates left by members of the family of the diplomatic agent;

(d) dues and taxes on income having its source in the receiving State;

(e) charges levied for specific services rendered;

(f) subject to the provisions of article 21, registration, court or record fees, mortgage dues and stamp duty.

5. As you may know, these Draft Articles are due to be discussed at the 1959 session of the General Assembly with a view to the conclusion of an international convention on the subject. They have been accepted, therefore, as the basis for codification of international law and practice on diplomatic privileges and immunities. Apart from Article 32, there is a special article on exemption from social security legislation. This provision (Article 31) is as follows:

### Exemption from social security legislation

The members of the mission and the members of their families who form part of their households, shall, if they are not nationals of the receiving State, be exempt from the social security legislation in force in that State except in respect of servants and employees if themselves subject to the social security legislation of the receiving State. This shall not exclude voluntary participation in social security schemes in so far as this is permitted by the legislation of the receiving State.

Under the rule proposed in this article members of a diplomatic mission who are not nationals of the receiving State are exempt from the social security legislation of the receiving State so far as they themselves are concerned but not as regards the payment of any contributions due in respect of servants or employees. While this is in no sense established customary law it does suggest a reasonable rule to regulate social security contributions. Nothing in the International Law Commission's draft supports the Cuban practice of taxing foreign diplomats who happen to be users of a public utility or service in order to build up a social security fund for the employees of that service.

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- 3 -

6. In the ordinary case where a company is obliged by law to contribute to a social security scheme for its employees, the cost of these contributions is undoubtedly reflected in the price of the goods or services of the company. No objection can be taken to this. Here, however, the tax or surcharge is readily identifiable, is imposed directly on the user and the company acts merely as a collecting agent for the social insurance organization.

J.L. DELISLE

Under-Secretary of State  
for External Affairs

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: THE CANADIAN AMBASSADOR, HAVANA, CUBA.

Reference: Our letter No. L-125 of March 16.

Subject: Typists Retirement Fund.

Security: RESTRICTED

No: L-152

Date: March 31, 1959.

Enclosures: 3

Air or Surface Mail: Courier

Post File No: 3.3.4

Ottawa File No.

11561-V-40

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L	TO: Mr. Parry
	APR 8 Rec'd
	REGISTRY

References

We now have news of another retirement fund to add to those listed in the attachment to our letter No. L-487 of December 11, 1958. We attach a copy and an office translation of a letter from the Typists Retirement Fund which we received on March 23. We attach also an English translation of the letter which we sent to the Retirement Fund in reply. We took this action after consulting with our colleagues in the U.S. and U.K. Embassies. The U.K. Embassy has sent a similar letter to the Typists Retirement Fund and has written to London for further instructions. At the date of writing, the U.S. Embassy had not yet received a letter from the Retirement Fund but would refuse to pay such a retirement contribution if they receive a letter. The U.S. Embassy is, however, in a better position to argue this new tax on the grounds that it already provides U.S. retirement fund benefits for all its local employees.

2. The fact that the Ministry of State has apparently informed the Retirement Fund that foreign Embassies are liable to pay this tax may mean that the Retirement Fund will now be able to persuade the Ministry to present us with a formal notification of their ruling. Their decision that we must pay retirement fund deductions to our local employees might be used to support the need for a Canadian Government retirement scheme for all local employees. Unless the Typists Retirement Fund is radically different from other retirement funds in Cuba, we can be sure that the funds collected will probably line some individual's pocket and that the Retirement Fund will be in financial difficulties before long.

3. We shall not fail to forward to you any further correspondence we may get on this subject and would appreciate specific instructions regarding our course of action.

*Acem Deland*  
Ambassador

*On behalf of*

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1959 APR 8 AM 11:15

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Republic of Cuba

STENOGRAPHER'S INSURANCE  
"Stenographer's House"  
Aguilar No. 72  
Havana

February 5, 1959

Dear sir:

Upon our request, due to the great number of cases in existence, the Under-Secretary of State has passed on to us the question concerning the contribution to this office of stenographers working in foreign Embassies and Legations, with the result that such diplomatic representations have the obligation of paying the patronal contributions established in clause h) of Article No. 5 of Law-Decree 1557, of August 4, 1954, Organic of the Stenographer's Insurance, a sample of which I have the honor of including.

For this reason, I ask you to give the due orders, so that, by means of the corresponding person, the inscriptions and contributions contained in the above-mentioned legal disposition may be put into practice, using the samples here included.

Waiting for news from you, I remain

Sincerely yours,

Samuel Guzmán Curbelo  
Personal Delegate of the Minister of  
Labour in the Stenographer's Insurance.

TO: His Excellency Hector Allard  
Canadian Ambassador  
Ambar Motors Bldg., 6th floor  
Ave. Menocal No. 16  
Havana

República de Cuba

SEGURO DEL TAQUIGRAFO  
"Casa del Taquígrafo"  
Aguilar No. 72  
La Habana

5 de febrero, 1959

Excmo. señor:

A solicitud nuestra, debido al crecido número de casos que existen, el señor Subsecretario de Estado nos ha evacuado consulta en relación con la contribución a este organismo de los taquígrafos que prestan servicios en Embajadas y Legaciones extranjeras, de la que resulta que dichas representaciones diplomáticas se encuentran obligadas al pago de las contribuciones patronales que establece el inciso h) del Artículo 5 de la Ley-Decreto 1557, de 4 de Agosto de 1954, Orgánica del Seguro del Taquígrafo, un ejemplar del cual tengo el honor de acompañarle.

Por tal motivo, le ruego que de las órdenes oportunas, a fin de que por la persona a quien corresponda se proceda a realizar las inscripciones y contribuciones contenidas en la citada disposición legal, mediante los modelos que se adjuntan.

Al tanto de sus noticias, quedo de usted con la mayor consideración,

Samuel Guzmán Curbelo  
Delegado Personal del Sr. Ministro del  
Trabajo en el Seguro del Taquígrafo.

AL: Excmo. Sr. Héctor Allard  
Embajador Extraordinario y Plenipotenciario  
Cancillería del Canadá  
Edificio Ambar Motors, 6to. piso  
Ave. Menocal No. 16  
Habana

adjtos.

RB/lp

March 26, 1959

Dear Mr. Guzmán,

With reference to your letter of February 5 informing us that the representatives in Cuba of foreign governments are obliged to pay contributions under Law Decree No. 1557 of August 4, 1954, I wish to inform you that I cannot advise my government of this request unless it is officially received through the Cuban Ministry of State. On receipt of such information from the Ministry of State, I shall forward the Ministry's letter to my government for their consideration.

Yours sincerely,

Hector Allard  
Ambassador

Sr. Samuel Guzmán Curbelo  
Dologado Personal del Sr. Ministro del  
Trabajo on el Seguro del Tequígrafo  
"Casa del Tequígrafo"  
Aguilar No. 72  
La Habana



DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba

Reference: Your letter L3 of January 6 and our  
L15 of January 15

Subject: Social Security Tax

Security: RESTRICTED

No: L-125

Date: March 16, 1959

Enclosures:

Air or Surface Mail: Courier

Post File No: 3.3.4

Ottawa File No.	
11561-V-40	
55	36

L	TO: Mr. Kingstone
	MAR 21 Recd
	REGISTRY

References

In your letter under reference, you suggest that we continue to refuse paying the Social Security Tax on our telephone bills pending a clarification of the U.S. Position or a definite ultimatum from the Cuban Telephone Co. The U.S. attitude was further explained in our letter under reference and apparently remains unchanged. However, our monthly letters from the Telephone Co. continue to press for payment of this tax. We attach a copy of the Cuban Telephone Company's most recent letter of February 17 and our reply of March 16.

2. We do not know how much longer we can stall the Cuban Telephone Co. and cannot see that the U.S. Embassy is doing much more than we have been doing. We should like to suggest that, since the new government has now had several weeks to become acquainted with the facts of life, some consideration might be given to our presenting a formal note to the Ministry of State suggesting that this tax should be one of the ones removed in the promised revision of taxation. Copy of our note could then be sent to other friendly missions so that they may take similar or parallel steps. We realize that the Ministry of State has already informed the Administrative Council of the Telephone Social Insurance that Embassies are not exempt from this 2% charge (see the Cuban Telephone Company's letter of October 8 attached to our letter L405 of October 21, 1958). This, however, was under the previous regime.

3. It can be argued, however, that unless some Embassy now takes a further initiative, the ruling originally given will remain in force and it will be too late to influence the new government by the time the Telephone Co. forces action through a threat to cut off our service.

4. We would appreciate your early instructions regarding our future stand in this matter.

*Ames Adams*  
Ambassador

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000095

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(DUPLICATE)

NUMBERED LETTER

RESTRICTED

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.  
The Canadian Embassy,

FROM: .....  
Havana, Cuba

..... Your letter L3 of January 6 and our  
Reference: ..... L15 of January 15

Subject: ..... Social Security Tax  
.....  
.....

Security:.....

No:..... L-125  
March 16, 1959

Date:.....

Enclosures:..... Courier

Air or Surface Mail:.....  
3.3.4

Post File No:.....

Ottawa File No.

References

In your letter under reference, you suggest that we continue to refuse paying the Social Security Tax on our telephone bills pending a clarification of the U.S. Position or a definite ultimatum from the Cuban Telephone Co. The U.S. attitude was further explained in our letter under reference and apparently remains unchanged. However, our monthly letters from the Telephone Co. continue to press for payment of this tax. We attach a copy of the Cuban Telephone Company's most recent letter of February 17 and our reply of March 16.

2. We do not know how much longer we can stall the Cuban Telephone Co. and cannot see that the U.S. Embassy is doing much more than we have been doing. We should like to suggest that, since the new government has now had several weeks to become acquainted with the facts of life, some consideration might be given to our presenting a formal note to the Ministry of State suggesting that this tax should be one of the ones removed in the promised revision of taxation. Copy of our note could then be sent to other friendly missions so that they may take similar or parallel steps. We realize that the Ministry of State has already informed the Administrative Council of the Telephone Social Insurance that embassies are not exempt from this 2% charge (see the Cuban Telephone Company's letter of October 8 attached to our letter L405 of October 21, 1958). This, however, was under the previous regime.

3. It can be argued, however, that unless some Embassy now takes a further initiative, the ruling originally given will remain in force and it will be too late to influence the new government by the time the Telephone Co. forces action through a threat to cut off our service.

4. We would appreciate your early instructions regarding our future stand in this matter.

HECTOR ALLAN

Ambassador

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000096

Apartado 1945,  
Havana, Cuba.

March 16, 1959

Dear Mr. Pareja,

In your letter of February 17, 1959,  
you request information regarding the amounts  
pending for Social Security contributions on the  
telephone accounts of the Canadian Embassy chancery  
and residence.

As we informed you in our letter of  
January 29, 1959, we have referred this matter to  
the Canadian Department of External Affairs and  
we are awaiting their instructions concerning a  
final solution for this problem.

Yours sincerely,

Hector Allard  
Ambassador

Mr. Ricardo Pareja,  
Commercial Department,  
Havana, Division,  
Cuban Telephone Company,  
Apartado 945,  
HAVANA.

C O P Y

CUBAN TELEPHONE COMPANY  
Aguila y Dragones  
HABANA, CUBA

February 17, 1959

Mr. Hector Allard  
Canadian Ambassador  
Edificio Ambar Motors  
Ave. Minocal 16  
Esq. a 23, Vedado

Dear Mr. Ambassador:

This will acknowledge receipt of your kind letter of February 13, 1959, enclosing payments for your telephone services 70-9457 and 21-0620 as detailed herein:

Embassy check /0004 for \$102.89 and 17 cents in cash; a total of \$103.06 applied to account 70-9457 issued on Jan. 16/59, covering to Feb. 15/59. As per the latter, the amount of \$2.07 corresponding to the 2% Social Security contribution for the same period was not paid for, bringing total now pending under this item to the amount of \$20.26 to Feb. 15/59.

Two checks for \$13.50 and \$15.03 respectively, a total of \$28.53 applied to residence account 21-0620 issued on Jan. 21/59, covering to Feb. 20/59. As per the latter, the amount of \$0.57 corresponding to the 2% Social Security contribution for the same period was not paid for, bring total now pending under this item to the amount of \$2.05 to Feb. 20/59.

As per penultimate paragraph of our letter of January 29, 1959, we shall appreciate your kind information with respect to the amounts pending for the Social Security contribution as demanded from us by the Social Security Council.

Attached please find your receipts for the payments enclosed with your letter of February 13, 1959.

Very truly yours,

Ricardo Pareja  
Commercial Department  
Havana Division

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba

Reference: Your letter B254 of November 13

Subject: Diplomatic Customs Privileges -  
Automobiles

Security: RESTRICTED

No: L-118

Date: March 11, 1959

Enclosures: 2

Air or Surface Mail: Courier

Post File No: 3.5.5.5

Ottawa File No.

11561-V-40

20

11

TO: Mr. Weld

MAR 24 1959

REGISTRY

References

cc 2020-M-40 with file

As you probably realize, conditions in Cuban Government Departments since January 1 have not been sufficiently calm to permit an approach regarding duty free entry of automobiles for Canadian staff members not on the diplomatic list. As the situation has improved we have taken steps to follow the instructions included in your letter under reference.

2. We discussed the question with the appropriate officials in the U.S. Embassy and learned that the liberal customs regulations in effect for all members of that Embassy are based on a Consular Convention between the two countries signed on April 22, 1926. We have now procured a photostatic copy of this Convention but, unless it is required in Ottawa, we intend to retain it on file here. Article XVI of the Convention states:

"The High Contracting Parties agree to permit the entry free of all customs duty and without examination of any kind of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post, or imported at any time during his incumbency thereof; provided nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

The above mentioned privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to supplies."

3. Armed with exact knowledge of this liberal regulation in force for the American Embassy, we made an informal approach to Dr. Moas, the officer in Protocol Section responsible for matters of this sort. He professed surprise that not all Canadians in the Embassy were allowed free first entry on all belongings, including automobiles, and undertook to investigate the matter and make a suggestion regarding the form our more formal approach might take. A few days later he informed us

Internal  
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to Posts

Document disclosed under the Access to Information Act  
Document divulgué en vertu de la Loi sur l'accès à l'information

1959 MAR 24

AM-11 000100

- 2 -

— that we should send him an Aide Memoire, which he would use as the basis for further study. We attach a copy of our Aide Memoire and covering letter to Dr. Moas. As soon as a ruling is received from the Ministry we shall send it to you.

*R.W. Clark.*

Embassy



Apartado 1945,  
Havana, Cuba.

March 11, 1959

Dear Dr. Moas,

As you suggested in a recent telephone conversation with a member of the Embassy staff, an Aide Memoire has been prepared on the question of free first entry to Cuba of automobiles belonging to Canadian personnel in the Embassy who are not listed on the diplomatic or consular lists. We have attached to this Aide Memoire a copy of a Canadian Department of External Affairs' publication entitled "Privileges Granted in Canada to Representatives of other Governments".

We should appreciate it if you would discuss this question with the officials concerned with a view to securing for Canadian Embassy personnel in Cuba privileges parallel to those granted to Cuban Embassy or Consulate personnel in Canada.

Yours sincerely,

HECTOR ALLARD

Hector Allard  
Ambassador

Dr. Luis Moas y Gendreau,  
Ministry of State,  
HAVANA.

A I D E    M E M O I R E

The Canadian Embassy, on instructions from the Government of Canada, is anxious to ascertain whether the Cuban regulations, with regard to privileges granted to representatives of other governments in Cuba, can be interpreted in such a way that they will be more in line with those now in effect in Canada. A copy of the Canadian Department of External Affairs' publication, "Privileges Granted in Canada to Representatives of other Governments", which outlines the present regulations in Canada, is attached for easy reference. The Embassy is primarily concerned with securing recognition of the right on first arrival only of entry, free of customs and taxes, for automobiles belonging to Canadian employees of the Embassy who are not listed on either the diplomatic or consular lists.

Item 3, page 3, in the attached "Privileges Granted in Canada to Representatives of other Governments" regulates the free entry privileges for employees in Canada of foreign governments;

"The privilege is granted, on their first arrival only, of entry free of customs duty and taxes of their personal and household effects, including new or used motor vehicles but not including spiritous liquors, to employees of foreign and commonwealth governments and their families, who are sent by their governments to posts in Canada and who are nationals or citizens of the country employing them and are not engaged in any other business or profession."

At the present time Canadian based employees of the Canadian Embassy in Havana, who are not on the diplomatic or

HAVANA, March 11, 1959

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000103

- 2 -

consular lists, unlike their United States counterparts, are not allowed to import an automobile free of duty and taxes as a part of their personal effects on first arrival. The Embassy would appreciate the advice of the Ministry of State regarding the steps which might be taken to secure recognition of this privilege provided in Canada under existing regulations for Cuban employees of the Cuban Embassy or Consulates.

ECTOR ALLARD

COPY

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: .....The Canadian Embassy,.....  
.....Havana, Cuba.....

Reference:.....Your telegram B362 of November 26,  
our letter L487 of December 11 and  
Subject:.....your letter (L3) of January 6.....  
.....*attached*.....

Security: RESTRICTED

No:.....L-15.....

Date:.....January 15, 1959.....

Enclosures:.....

Air or Surface Mail: Courier

Post File No:.....3.3.4.....

Ottawa File No.

11561-V-40

20

46

.....Social Security Tax.....  
*file out to*  
*Mr. Lef*

References

In line with the instructions you had previously given us, we have continued to refuse payment of the social security tax portion of the monthly telephone bill for the Embassy chancery and residence. The telephone company has made no move to halt our services, but has periodically expressed the hope that we will receive instructions from Canada which would allow us to pay the back taxes and pay the tax in future. To date, although we had received notification that the 2% tax would be extended to telegraph bills, we have not had the tax applied to any account which we have received. We shall, however, refuse to pay the tax if it should appear on our next telegraph bill.

2. Your last letter may have been written without access to the information in our letter L487 of December 11, which lists in its attachment some of the other retirement fund taxes and similar charges now in effect in Cuba. If and when others are put into effect, we shall keep you informed. The change in government may result in a change in policy on the question of retirement funds and social security taxes, although we have had no formal indication yet of this possibility. Some alteration will be necessary because several of the retirement funds are in serious difficulties as a result of the fact that their administrators fled the country with Batista's carrying money belonging to the retirement funds.

3. We have once more discussed the question of social security tax with our colleagues, the U.S. Embassy, and have been informed that it is their intention to continue refusing to pay the taxes until the matter is brought to a conclusion. Their request for a ruling from Washington on the legislation establishing the telephone worker's retirement fund was unsuccessful, since the State Department merely informed them that the matter could best be interpreted in Havana and the Embassy should follow whatever procedure it deemed best in order to refuse the payments. The U.S. Embassy officials are attempting to contact the Cuban lawyer referred to in the U.K. Embassy's note to the State Department as the Cuban representative on the International Law Commission which drafted the basis for a Convention on Diplomatic Intercourse. The Americans are of the opinion that this offers them a further lever in their argument with the Ministry of State. They were also somewhat heartened by a reference which they came upon in one of Castro's numerous speeches since Batista's fall to the social security legislation. Apparently

Internal  
Circulation

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1959 JAN 28 PM 12:34

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NO ENCLOSURES

- 2 -

Castro condemned the previous government's legislation as "designed to line the pockets of the politicians" and promised alterations in the legislation.

4. We shall, therefore, follow the lead of the U.S. Embassy and will keep you informed of developments.



Embassy

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(DUPLICATE)

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba

Reference: Your telegram B362 of November 26,  
our letter L487 of December 11 and  
Subject: your letter L3 of January 6

Social Security Tax

RESTRICTED

Security:.....

No:..... L- / 5

Date:..... January 15, 1959

Enclosures:.....

Air or Surface Mail:..... Courier

Post File No:..... 3.3.4

Ottawa File No.

References

In line with the instructions you had previously given us, we have continued to refuse payment of the social security tax portion of the monthly telephone bill for the Embassy chancery and residence. The telephone company has made no move to halt our services, but has periodically expressed the hope that we will receive instructions from Canada which would allow us to pay the back taxes and pay the tax in future. To date, although we had received notification that the 2% tax would be extended to telegraph bills, we have not had the tax applied to any account which we have received. We shall, however, refuse to pay the tax if it should appear on our next telegraph bill.

2. Your last letter may have been written without access to the information in our letter L487 of December 11, which lists in its attachment some of the other retirement fund taxes and similar charges now in effect in Cuba. If and when others are put into effect, we shall keep you informed. The change in government may result in a change in policy on the question of retirement funds and social security taxes, although we have had no formal indication yet of this possibility. Some alteration will be necessary because several of the retirement funds are in serious difficulties as a result of the fact that their administrators fled the country with Batista carrying money belonging to the retirement funds.

3. We have once more discussed the question of social security tax with our colleagues, the U.S. Embassy, and have been informed that it is their intention to continue refusing to pay the taxes until the matter is brought to a conclusion. Their request for a ruling from Washington on the legislation establishing the telephone worker's retirement fund was unsuccessful, since the State Department merely informed them that the matter could best be interpreted in Havana and the Embassy should follow whatever procedure it deemed best in order to refuse the payments. The U.S. Embassy officials are attempting to contact the Cuban lawyer referred to in the U.K. Embassy's note to the State Department as the Cuban representative on the International Law Commission which drafted the basis for a Convention on Diplomatic Intercourse. The Americans are of the opinion that this offers them a further lever in their argument with the Ministry of State. They were also somewhat heartened by a reference which they came upon in one of Castro's numerous speeches since Batista's fall to the social security legislation. Apparently

Internal  
Circulation

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to Posts

- 2 -

Castro condemned the previous government's legislation as "designed to line the pockets of the politicians" and promised alterations in the legislation.

4. We shall, therefore, follow the lead of the U.S. Embassy and will keep you informed of developments.

HECTOR ALLARD

Embassy



## NUMBERED LETTER

TO: THE CANADIAN EMBASSY

HAVANA, CUBA

FROM: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.Reference: Our Telegram B-362 dated November 25,  
1958

Subject: Social Security Tax

Security: RESTRICTED

No: L-3

Date: January 6, 1959

Enclosures:

Air or Surface Mail: an

Post File No:

Ottawa File No.

11561-V-40

"B"

29

sf

## References

We have ascertained that the Cuban Embassy, whose chancellery and residence are located on Aylmer Road in the Province of Quebec, is paying a telephone tax of 22 cents a month. With regard to the principle of reciprocity, therefore, we would probably not be justified in refusing to pay the Cuban telephone tax. As far as we know there are no taxes on telegraph usage and so there would seem to be more justification for refusing to pay the Cuban telegraph tax.

2. Until such time, however, as we have a clear view of the United States position on this question you should pay neither tax unless the Cuban authorities threaten to discontinue telegraph and telephone services to you in which case you might pay the tax under protest. We are concerned about the bad precedents the payment of these taxes might set because although the Cuban Government claims the objective of these taxes to be for the purposes of social insurance, they seem to be taxes which have none of the characteristics of the usual form of deductible contributions to a fund. It is not even clear whether the telephone tax is used solely for the social insurance purposes of telephone employees, and the telegraph tax is used solely for the social insurance purposes of telegraph employees.

3. We do not think you should take the lead among the Embassies in any protest nor should you get involved in a serious dispute over this matter because from a monetary viewpoint there is probably not too much involved. You should, however, continue to refuse paying the tax until the authorities either threaten to terminate telephone and telegraph services to you or until the American position is clarified.

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to Posts

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- 2 -

There may also be the possibility that the new government might eventually take a different view of this matter. We should also be interested in anything you might learn about other retirement fund taxes contemplated by the Cuban Government as was mentioned in paragraph 5 of your letter of July 16, 1958.

4. In reply to the question raised in your letter L-430 of October 31, foreign missions in Canada are not required to pay unemployment insurance for members of their staff although they may do so if they wish.

J.L. DELISLE

6 Under-Secretary of State  
for External Affairs.

Protocol, Cuba, World, Havana, Mexico, etc.

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

*filed*  
*406*

TO: Legal Division - *letter not released, suggested redraft forwarded to Protocol Div on Dec 30/58. Effect legal*

FROM: Protocol *Mr Fever is agreeable to redraft but because of expected future legal argumentation on the subject we would like to lead it legal Div would like to handle over -*

REFERENCE:

SUBJECT: Payment of Social Security Tax - Havana *future Jan 2*

Security RESTRICTED

Date December 22, 1958

File No.

11561-V-40

32

Attached is a file dealing with the payment of a Social Security Tax on telephone and telegraph bills in Havana. The relevant correspondence is flagged.

2. It has been ascertained that the Cuban Embassy (which is located on the Aylmer Road) pays a Quebec tax of twenty-two cents a month on its telephone bills. It would, thus, be difficult for us to refuse to pay the tax in Havana without regularizing the situation here.

3. There appear to be several possibilities:

- (a) refuse to pay the tax until such time as the Embassy is threatened with withdrawal of service, then pay under protest; as the tax is a small one (2%) this could create serious embarrassment for little or no financial advantage.
- (b) join in any joint action by responsible countries through the Dean of the Diplomatic Corps; this procedure involves risk of embarrassment over the Quebec tax.
- (c) retaliate by subjecting the Cubans to some comparable tax; this would probably get us into an uncomfortable, if not undefensible, position.
- (d) attempt to negotiate bilaterally by seeking elimination of the tax in the Province of Quebec in return for elimination of the Cuban tax; the province, however, has nothing

CIRCULATION

Finance Division


Ext. 326 (6/56)

- 2 -

to gain but would lose the tax which is presumably levied against all the embassies on the Aylmer Road - the chances of successful negotiation are, therefore, slim.

- (e) pay the tax because the Cuban Embassy is obliged to pay a similar tax in Quebec; this is probably the best and most practical solution in the circumstances.

4. A letter to the Embassy in Havana is attached for your release if you agree.

  
Protocol

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA

FROM: The Canadian Embassy,  
Havana, Cuba

Reference: Our letter L430 of October 31 and your  
telegram B362 of November 26

Subject: Payment of Social Security Tax  
on Telephone Bill

Security: RESTRICTED

No: L-487

Date: December 11, 1958

Enclosures: 1

Air or Surface Mail: Courier

Post File No: 3.3.4

Ottawa File No.

11561-V-40

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References

L-3 of  
Jan 6/59

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JAN 5

Mr. [unclear]  
Mr. [unclear]  
to [unclear]

Internal  
Circulation

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Distribution  
to Posts

To date we do not appear to have received the letter mentioned in your telegram under reference. In case you have not yet despatched more detailed instructions, you might find a recent decision by the United Kingdom Foreign Office of some interest.

2. As we informed you previously, the United Kingdom Embassy in Havana has been paying the 2% social security tax but had reported to London the fact that the Cuban Government was imposing a number of taxes and charges of this type. The Foreign Office, after some research, directed the local Embassy to present a note to the Ministry of State protesting these payments and drawing attention to the fact that a Cuban delegate had been active in the work of the International Law Commission established to draft the basis for a Convention on Diplomatic Intercourse. The local Embassy prepared an imposing list of the charges recently inaugurated by the Ministry of State (although they have neglected to mention the fact that a recent announcement called for extension of the 2% social security tax to telegraph bills). We attach a copy of the U.K. Embassy's note to the Ministry of State and a covering letter addressed to the official in the Protocol Section of the Ministry who will probably handle this protest.

3. Although we informed you in our letter under reference that the local telegraph companies had given notice of the extension of the 2% tax to all telegraph charges, the November accounts from the local telegraph company which handles our outgoing telegrams did not include any such tax item. We are hesitant to enquire about the reason for this and would prefer to let the matter rest pending further developments.

4. The United Kingdom Embassy's note appears to offer an opportunity for other Embassies to present similar notes on instructions from their Governments. We would, therefore, appreciate being supplied with a draft note or instructions for a protest which we could present to the Ministry of State. We might then approach other Embassies in order to have them take similar action. Because a recent letter from the telephone company draws to our attention once again "our" unpaid

- 2 -

telephone tax, now amounting to some \$16.00, we would appreciate receiving instructions as soon as possible in order to forestall any action on the part of the telephone company to force payment by a threat either to curtail or even to stop our telephone service.

Ambassador

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(DUPLICATE)

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba

Reference: Our letter L430 of October 31 and your  
telegram B362 of November 25

Subject: Payment of Social Security Tax  
on Telephone Bill

RESTRICTED

Security:.....

No:..... L-447

Date:..... December 11, 1958

Enclosures:..... 1

Air or Surface Mail:..... Courier

Post File No:..... 3.3.4

Ottawa File No.

References

To date we do not appear to have received the letter mentioned in your telegram under reference. In case you have not yet despatched more detailed instructions, you might find a recent decision by the United Kingdom Foreign Office of some interest.

2. As we informed you previously, the United Kingdom Embassy in Havana has been paying the 2% social security tax but had reported to London the fact that the Cuban Government was imposing a number of taxes and charges of this type. The Foreign Office, after some research, directed the local Embassy to present a note to the Ministry of State protesting these payments and drawing attention to the fact that a Cuban delegate had been active in the work of the International Law Commission established to draft the basis for a Convention on Diplomatic Intercourse. The local Embassy prepared an imposing list of the charges recently inaugurated by the Ministry of State (although they have neglected to mention the fact that a recent announcement called for extension of the 2% social security tax to telegraph bills). We attach a copy of the U.K. Embassy's note to the Ministry of State and a covering letter addressed to the official in the Protocol Section of the Ministry who will probably handle this protest.

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Internal  
Circulation

Distribution  
to Posts

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- 2 -

telephone tax, now amounting to some \$16.00, we would appreciate receiving instructions as soon as possible in order to forestall any action on the part of the telephone company to force payment by a threat either to curtail or even to stop our telephone service.

HECTOR ALLARD

Ambassador

COPY



C O P Y

(1897/58)

December 4, 1958

May I invite your attention to our Note No.202 of the 4th of December on the subject of certain surcharges and the desirability of securing exemption therefrom.

The Foreign Office have suggested that in considering this matter you may wish to bear in mind the prominent part played by the Cuban delegate, Sr. F.V. García Amador, in the work of the International Law Commission established to draft the basis for a Convention on Diplomatic Intercourse. You will doubtless recall that in this draft, Article 31 requires that members of a diplomatic mission shall be exempted from social security legislation, and Article 32 provides (with minor exceptions which do not apply here), that a diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, save for indirect taxes incorporated in the price of goods or services, or charges for specific services rendered.

(P.R. Oliver)

His Excellency  
Señor Doctor Luis Moas y Gendreau,  
Ministry of State of the Republic of Cuba,  
Havana.

C O P Y

(1897/58)

No. 202

Her Britannic Majesty's Embassy present their compliments to the Ministry of State of the Republic of Cuba and have the honour to invite the attention of the Ministry to the question of certain surcharges and supplementary payments which are at present being levied on the Embassy and on individual members of the staff thereof.

Such surcharges and supplementary payments include the following:-

- a) a 5 per cent surcharge on all bills rendered in respect of hospital, clinical and medical services, for the benefit of the retirement fund for physicians.
- b) a 5 per cent surcharge on all bills rendered in respect of services administered to persons confined in hospital, for the benefit of the nurses' insurance and social security scheme.
- c) a surcharge of one peso per month per child on private school bills, for the benefit of the teachers' retirement fund.
- d) a 2 per cent surcharge on all telephone bills, for the benefit of the retirement fund for telephone employees.
- e) a 1 per cent surcharge on insurance policy premia, devoted to the O.N.R.I.
- f) a 2 per cent surcharge, levied as wharfage tax on the declared value of shipments whether by air or sea, for the benefit of the customs brokers' retirement fund.

g)

- 2 -

- g) a supplementary one cent special stamp on every postal item for the benefit of a special fund for the erection of a postal building.
- h) during the winter, a further supplementary one cent special stamp on every postal item for the benefit of an anti-tuberculosis fund.

In bringing this matter to the attention of the Ministry, Her Majesty's Embassy are instructed to suggest that all these surcharges, being separately identifiable and devoted to national purposes not directly connected with the value of the service supplied or rendered, are of a type from which diplomatic missions and members thereof holding diplomatic status should be exempt in accordance with normal diplomatic practice. If the Ministry, on consideration, concur with this view of Her Majesty's Government, Her Majesty's Embassy would be grateful to learn what procedures they should adopt in order to ensure such exemption.

Her Majesty's Embassy avail themselves of this opportunity to renew to the Ministry of State the assurances of their highest and most distinguished consideration.

British Embassy,

Havana.

December 4, 1958.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

OUTGOING MESSAGE

16

FM: EXTERNAL OTTAWA

TO: HAVANA *[Signature]*

DATE	FILE	SECURITY
<i>26</i> NOV 25/58	11561-V-40 <i>20</i> <i>46</i>	REST
NUMBER	PRECEDENCE	COMCENTRE USE ONLY
B-362	ROUTINE	

Ref.: YOUR TELEGRAM 149 OF NOVEMBER 24

Subject: SOCIAL SECURITY TAX - TELEGRAPH BILL

SUGGEST YOU FOLLOW SAME PROCEDURE AS FOR TELEPHONE  
BILLS AND AWAIT OUTCOME OF AMERICAN INVESTIGATIONS.  
LETTER FOLLOWS.

*[Signature]*

LOCAL  
DISTRIBUTION NONE

ORIGINATOR	DIVISION	PHONE	APPROVED BY
SIG..... NAME..... <i>H.R. Royce</i>	Protocol	6-8277	SIG..... NAME..... <i>H.F. Feaver</i>

16/26

T2W DE H1J  
261534Z

BT

EFNAV	UKPDD	NKQKE	ZQDSC	GHSPH	EANNF	PZHPR	PLHKZ	KQMCE	IPKZY
JLDYJ	EPXZG	DVGMK	OWDPI	OYSAU	UVOWL	EQXZW	GSQDC	BXXGR	NGYUG
ARWYQ	AHRRU	GSJAN	EAEAI	IPHAV	IWXHG	JXLGM	JPIEM	EGGXT	WWGRM
IHEXX	RQDHV	SVGLY	LEDFG	BZRNZ	PLVFX	ZTRFX	PGHHS	ARVAX	VDAPF
GYFSO	KKLSW	DJXYZ	KOLFT	BGVFK	MJEIA	SBTIN	JPHGQ	WAVMV	GUAUR

EFNAW	KKCKA	JSHJB	LTBDC	FDWIM	LBPDS	RXWHB	LBPQS	EISNW	VNCCR
WCKHY	LJAEU	WXXXC	FNYXQ	CJBFO	QVJQR				

BT

GR66

262124Z

NNNN

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

16

# OUTGOING MESSAGE

FM: <b>EXTERNAL OTTAWA</b>	DATE <i>26</i> NOV 25/58	FILE <b>11561-V-40</b>		SECURITY <b>REST</b>		
		<i>20</i>	<i>46</i>	COMCENTRE USE ONLY		
		NUMBER <b>B-362</b>	PRECEDENCE <b>ROUTINE</b>			
TO: <b>HAVANA</b>						
INFO:						

Ref.: YOUR TELEGRAM 149 OF NOVEMBER 24  
Subject: SOCIAL SECURITY TAX - TELEGRAPH BILL

SUGGEST YOU FOLLOW SAME PROCEDURE AS FOR TELEPHONE  
BILLS AND AWAIT OUTCOME OF AMERICAN INVESTIGATIONS.  
LETTER FOLLOWS.

*File*

LOCAL  
DISTRIBUTION **NONE**

ORIGINATOR <i>R</i> SIG..... NAME... <b>H.R.Royce</b> .....	DIVISION <b>Protocol</b>	PHONE <b>6-8277</b>	APPROVED BY <b>H. F. FEAVER</b> SIG..... NAME... <b>H.F.Feaver</b> .....
--	-----------------------------	------------------------	---

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ACTION COPY

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WAAZ RAKCOS 18/17 PD INTL

CD HABANA VIA ALLAMERICA 340

LT EXTERNAL

OTTAWA

149 PLEASE WIRE INSTRUCTIONS RE FIRST PART PARAGRAPH THREE

CHURLET 1430 OCTOBER 31

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*7/11/58*

NOV 25 1958

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DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(FILE COPY)

NUMBERED LETTER

TO: **The Canadian Embassy**  
**Havana, Cuba**

FROM: THE UNDER-SECRETARY OF STATE FOR  
 EXTERNAL AFFAIRS, OTTAWA, CANADA.

Reference: **Your Letters L-289 of October 15/56**  
**and L-318 of August 25/58**

Subject: **Diplomatic Customs Privileges -**  
**Automobiles**

Security: **Restricted**

No: **B-254**

Date: **November 13, 1958**

Enclosures: .....

Air or Surface Mail: .....

Post File No: .....

Ottawa File No.	
11561-V-40	
20	16

References

We were pleased to hear that the Cuban authorities have now seen fit to pass a law permitting the duty-free sale after two years of automobiles owned by diplomats.

2. If you consider, as would appear from this distance, that the Cuban authorities are in a rather more lenient mood than usual, this might be an appropriate moment to broach the subject of the extension of first-entry privileges on automobiles to F.S.E.'s posted to Havana. Your letter L-289 of October 15, 1956, points out that the regulations regarding F.S.E.'s are far behind those in Ottawa and the importance of a car in the context of establishing satisfactory living conditions at your post is fully appreciated here. Further, the geographical position of Cuba would make it practical in many cases for the F.S.E. posted there to drive his car to the post, if free entry were permitted, thereby avoiding the necessity of a possibly disadvantageous sale at short notice in Ottawa. We are aware of the high price of automobiles in Cuba and the difficulty of obtaining good used cars which have been properly cared for.

Internal Circulation

3. Taking into consideration the above factors and your remarks on the possibility of an agreement with the Cubans, you might wish to make some enquiries from your American colleagues regarding the arrangement they have reached with the Cuban authorities. If, in the light of these conversations, you consider that a similar advantageous arrangement might be worked out for our personnel, you are encouraged to approach the Cuban authorities. We leave it to your judgment whether this should be done through an official call or casually at a social occasion. Again we leave to your judgment the desirability of pressing for a formal exchange of Notes on the subject or of aiming at a more informal arrangement. You will find enclosed two copies of the pamphlet "Privileges Granted in Canada to Representatives of Other Governments", which points out the discrepancy now existing in this area and may be useful to you in your conversations.

Supplies & Properties

4. We shall look forward to receiving a report on your progress.

Distribution to Posts

U. M. W. P. A.

Under-Secretary of State  
 for External Affairs

000125



DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

file 576

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: ...The Canadian Embassy,  
.....Havana, Cuba.....

Reference: ...Our letter L405 of October 21, 1958.

Subject: ...Payment of Social Security Tax.....

Security: ...RESTRICTED.....

No: .....L-430.....

Date: .....October 31, 1958.....

Enclosures: ...1.....

Air or Surface Mail: Courier.....

Post File No: 3.3.4.....

Ottawa File No.	
11561-V-40	
20	20

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References

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NOV 10 1958

Internal  
Circulation

11561-V-40

Distribution  
to Posts

\* I suggest you follow the same line as with the phone bills clearing through Finance Division

We today received a notice (copy attached) from one of the telegraph companies informing us that the Cuban Ministry of Labour, by resolutions dated August 12 and September 5, had ruled that telegraph workers would be included in the benefits from the telephone social security tax. Therefore, from November 1 on, the 2% already being levied on all telephone bills, will be extended to all telegraph bills.

2 The local U.S. Embassy is still awaiting a ruling from Washington on whether these various social security taxes can be regarded as "a source of revenue to support the funds of a social insurance, not State, city or provincial tax", as the Cuban Government maintains. The U.K. Embassy has requested instructions from London, but is paying the tax in the belief that the British Government's regulations regarding payment of national health insurance by all residents of the U.K. might compromise their refusal to pay a Cuban social security tax. The Spanish Embassy has accepted the Cuban interpretation and are paying the tax. The Dutch Embassy had not given the matter any consideration until they received the notification of the extension of the tax to telegraph bills, but are now seeking instructions. The French Ambassador took up the telephone tax with the Ministry of State and received no satisfaction. The French are now preparing to draw the matter to the attention of the Dean of the Corp, the Papal Nuncio. However, the Nuncio has in the past become involved in such matters to a minimum extent and the French are not overly hopeful that he will take effective action.

3. We would appreciate your instructions on whether we should pay the tax on our November telegraph bill when it arrives, or follow the procedure we have been following with the telephone account. Might we also bring the matter to the attention of the Dean of the Corp? If this does not result in any action, we would like to prepare a draft note to the Ministry of State for your approval and seek to have as many other Embassies as possible present a similar protest. For the purposes of our argument, it would be useful to know whether Embassies in Ottawa are obliged to make unemployment insurance payments for any Canadians in their employ and whether we have any municipal or provincial taxes similar to the Cuban social security tax which are charged to foreign Embassies or other missions.

Alec G. Bell  
Ambassador

000126

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(DUPLICATE)

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: ....The Canadian Embassy,.....  
.....Havana, Cuba.....

Reference:... Our letter L405 of October 21, 1958

Subject:..... Payment of Social Security Tax.....  
.....  
.....

Security:...RESTRICTED.....

No:.....L- 430.....

Date:.....October 31, 1958.....

Enclosures:.....1.....

Air or Surface Mail: Courier.....

Post File No: 3.3.4,.....

Ottawa File No.

References

We today received a notice (copy attached) from one of the telegraph companies informing us that the Cuban Ministry of Labour, by resolutions dated August 12 and September 5, had ruled that telegraph workers would be included in the benefits from the telephone social security tax. Therefore, from November 1 on, the 2% already being levied on all telephone bills, will be extended to all telegraph bills.

2 The local U.S. Embassy is still awaiting a ruling from Washington on whether these various social security taxes can be regarded as "a source of revenue to support the funds of a social insurance, not State, city or provincial tax", as the Cuban Government maintains. The U.K. Embassy has requested instructions from London, but is paying the tax in the belief that the British Government's regulations regarding payment of national health insurance by all residents of the U.K. might compromise their refusal to pay a Cuban social security tax. The Spanish Embassy has accepted the Cuban interpretation and are paying the tax. The Dutch Embassy had not given the matter any consideration until they received the notification of the extension of the tax to telegraph bills, but are now seeking instructions. The French Ambassador took up the telephone tax with the Ministry of State and received no satisfaction. The French are now preparing to draw the matter to the attention of the Dean of the Corp, the Papal Nuncio. However, the Nuncio has in the past become involved in such matters to a minimum extent and the French are not overly hopeful that he will take effective action.

3. We would appreciate your instructions on whether we should pay the tax on our November telegraph bill when it arrives, or follow the procedure we have been following with the telephone account. Might we also bring the matter to the attention of the Dean of the Corp? If this does not result in any action, we would like to prepare a draft note to the Ministry of State for your approval and seek to have as many other Embassies as possible present a similar protest. For the purposes of our argument, it would be useful to know whether Embassies in Ottawa are obliged to make unemployment insurance payments for any Canadians in their employ and whether we have any municipal or provincial taxes similar to the Cuban social security tax which are charged to foreign Embassies or other missions.

HECTOR ALLARD

Ambassador

000127

Internal  
Circulation

Distribution  
to Posts

C O P Y

AVISO AL PUBLICO

El señor Ministro del Trabajo, por Resoluciones 162 y 200, de fecha 12 de agosto y 5 de septiembre del año actual, respectivamente, decidió incluir a las EMPRESAS CABLEGRAFICAS Y RADIOTELEGRAFICAS radicadas en Cuba, así como a todos sus trabajadores, en el SEGURO SOCIAL TELEFONICO; por consiguiente, de acuerdo con el inciso (h) del artículo 46, del Capítulo XII de la Ley de 2 de octubre de 1957, que regula este seguro, y con destino a engrosar los fondos del mismo, las referidas empresas procederan a gravar con el 2%, el valor de todo servicio cablegráfico y radiotelegráfico que se preste al publico, a partir del día primero de noviembre de 1958.

La Habana, octubre de 1958

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

*file 500*

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Security:..RESTRICTED.....

No:.....L-40.5.....

Date:.....October..21,,1958.....

Enclosures:.....5.....

Air or Surface Mail: *Courier*.....

Post File No:..3.3.4.....

FROM: .....The..Canadian..Embassy,.....

.....Havana, Cuba.....

*attached - 2-5*

Reference:..Your..letter..B187..of..August..21,1958..

Subject:.....Payment..of..Local..Telephone..Tax.....

Ottawa File No.

11561-V-40

*20*

*46*

References

As we informed you in our letter L254 of July 16, 1958, we informed the Cuban Telephone Company that under international law and custom we did not consider ourselves bound to pay the 2% Social Security Tax. Since that time we have refused to pay the same tax on the accounts received in August, September and October. Copies of our three letters to the Cuban Telephone Co. are attached. ✓

2. We today received a reply from the Cuban Telephone Co. to our original letter in which we refused to pay this tax and a copy of the Telephone Co.'s letter, with an unofficial office translation, is attached. You will note that the Decree law which established the 2% Social Security Tax also established an Administrative Council of the Telephone Social Insurance which administers the law which set it up - a convenient arrangement. This Council has apparently approached the Ministry of State, who have backed the Government's stand that the various Social Security taxes are not included in the taxes from which foreign government representatives are exempt under the diplomatic exemption law of 1934. The Government has contended all along that these taxes are not a source of revenue, but are merely used to create funds for social insurance for various groups. The fact that these funds are administered by organizations established by the Government, can be transferred from one fund to another and have been known to go bankrupt through inefficient administration is, of course, not mentioned. We have informed the Cuban Telephone Co. that "we have taken note of the contents of their letter and referred it to you for further instructions".

3. In your letter under reference you state that the situation might be re-examined if the same technique were used for imposing other taxes. The same technique has already been used on more than one occasion. For example, the hospital workers' Retirement Fund is supported by a tax imposed on all hospital bills and diplomatic personnel have not been allowed any exemption on these taxes. The American Embassy has grouped all of these social security tax bills and sent them to Washington for a legal opinion as to whether they should be considered straight taxes imposed by the Government or whether the Cuban contention could be accepted. To date they have had no reply from Washington and are continuing to refuse to pay the telephone tax. To the best of our knowledge, other Embassies in Havana have been paying these taxes without protest.

*Miss Royce*

OCT 29 1958

Internal  
Circulation

*B*

Distribution  
to Posts

Document disclosed under the Access to Information Act -  
Document divulgué en vertu de la Loi sur l'accès à l'information

1958

OCT

29

PM

12:17

000130

- 2 -

4. We would appreciate your guidance on the procedure we might follow. Perhaps after the American Embassy receives a ruling from Washington, it might be possible to make joint representations to the Ministry of State regarding these retirement fund taxes and we might interest other Embassies here in following our lead.



Embassy

C O P Y

Apartado 1945,  
Havana,  
August 19, 1958.

Dear Sir,

We attached to our letter of July 16 payment for the telephone accounts of the Canadian Embassy and the Canadian Embassy residence for the May/June account, less the 2% tax which, as we explained, we were unable to pay. We have not as yet received receipts for this payment and at least some of the charges were shown as arrears on our current statements. However, since our cheques have been cashed, we assume the charges are shown on our current statements in error. When may we expect these receipts?

We attach the statements which we received for telephone service to the Embassy and the Ambassador's residence for the month ending in July and the cheques to cover both accounts, less the 2% tax. In this case, our payment for the Embassy services totals \$58.34, which we computed on the basis of charges of \$62.50 (A) and \$4.22 (C), less credits of \$8.38 (E). Our payment for the residence services totals \$27.57, which we computed on the basis of charges of \$13.50 (A) and \$14.74 (C), less credits of 67 cents (E).

We would be grateful if you would issue us two receipts in the amounts of \$58.34 and \$27.57.

Yours sincerely,

Hector Allard  
Ambassador

The Manager,  
Cuban Telephone Company,  
HAVANA.

C O P Y

Apartado 1945,  
Havana,  
September 16, 1958.

Dear Sir,

We attached to our letter of August 19, 1958, payments for the telephone accounts of the Canadian Embassy and the Canadian Embassy residence for the June, July account, less the 2% social security tax charge which we explained earlier we are unable to pay. We have not as yet received receipts for this payment and, once again, some of the charges have been shown as arrears on our current statement. We would be grateful if you would arrange to issue receipts for our May, June and July accounts.

We are now attaching the statements which we received from telephone services for the Embassy and Embassy residence for the month ending in August and cheques to cover both accounts less the 2% tax. In this case our payment for the Embassy service totals \$150.07 which we computed on the basis of charges of (a) \$62.50; (b) \$38.84; plus (c) long distance charges of \$48.73.

As we explained in a recent telephone conversation the charge of July 16 from Lazo in Varadero to Havana has apparently been added to our account in error. Our payment for the residence service totals (a) \$13.50.

We should be grateful if you would issue us two receipts in the amounts of \$138.04 and \$13.50.

Yours sincerely,

Hector Allard  
Ambassador

The Manager,  
Cuban Telephone Company,  
HAVANA.



C O P Y

Apartado 1945,  
Havana

October 20, 1958.

Dear Sir,

We attach statements which we received for telephone services for the Embassy and Embassy Residence for the month ending in September and cheques to cover both accounts less the 2% Social Security tax. Our payment for the Embassy service totals \$91.42, which we computed on the basis of charges of (A) \$62.50, (B) \$25.35 plus (C) long distance charges of 57 cents. The payment for the Residence account totals \$22.37, which is computed on the basis of (A) \$13.50 plus (C) long distance charges of \$8.87. The items on both accounts for payment in arrears have already been sent to you in our letter of September 16.

We have not as yet received receipts for our June, July and August accounts and would appreciate receiving these as soon as possible.

Yours sincerely,

Ambassador

The Manager,  
Cuban Telephone Company  
HAVANA.

OFFICE TRANSLATION

CUBAN TELEPHONE COMPANY  
Aguila y Dragones,  
P.O. Box 945,  
HAVANA, Cuba.

October 8th, 1958.

The Canadian Ambassador,  
Ave. Menocal /16,  
Edificio Ambar Motor, 6to piso  
esquina a 23, Vedado,  
Havana.

Dear Mr. Ambassador,

We wish to refer to your kind letter of September 16th last, in which you bring to our attention the charges for the 2% Telephone Social Insurance established by Law No. 9 of the 8th October, 1957, which are being made in the accounts of that Embassy and of yourself.

When your first letter on this subject, dated 25th June of this year, was received, the matter was referred to the Administrative Council of the Telephone Social Insurance, which is the organization called upon by law to rule on matters relative to application of the Law and Regulations. The Council informed us recently that on discussing the case of the foreign embassies and consulates with the Ministry of State, the latter under date of September 8th last, reported literally as follows: "Users of the telephone service, even if they are diplomatic officers or consular agents, are not included in the tax exemptions to which the Cuban legislation in force makes reference and are, therefore, obliged to pay the charge covered in subsection (h) of the Section 46 of the Telephone Social Insurance Act." In its report, the Ministry of State adds that "the 2% charged the users is a source of revenue to support the funds of a Social Insurance, not a State, City or Provincial tax, and that accordingly Diplomatic Officers accredited in Cuba are not exempt from payment, in accordance with the provisions of Section 3 of Decree Law No. 347 of 1934".

Any other points that the Embassy should wish cleared up in connection with this matter should be taken up directly with the Telephone Social Insurance above mentioned, whose offices are located at Reina No. 1 (Palacio Aldama) in this city, since in accordance with the provisions of the last paragraph of subsection (h) of Section 46 of Law No. 9, the companies must include in their invoices or receipts issued to telephone users the amount of the charge established therein, which amount must be remitted to the Telephone Social Insurance within the month following that during which it is invoiced; the intervention of the company, therefore, being limited, in the case now being examined, to complying with the provisions of the law.

We trust this question has now been perfectly cleared up, and remain,

Yours,

Cuban Telephone Company

(sgd) Ricardo Preja,  
Commercial Superintendent  
Havana Division

CUBAN TELEPHONE COMPANY  
Aguila y Dragones,  
P.O. Box 945,  
HAVANA, Cuba

Octubre 8, 1958

Sr. Embajador del Canadá  
Ave. Menocal 16,  
Edificio Ambar Motor, 6to. piso  
esquina a 23, Vedado  
Habana.

Apreciable señor Embajador:

Nos referimos a su atenta carta de fecha 16 de septiembre ppdo., en la que nos trata de los cargos que se vienen haciendo en las cuentas de esa Embajada y del señor Embajador, por el 2% del Seguro Social Telefónico, establecido por la Ley No. 9 de octubre 8 de 1957.

Al recibirse su primera carta sobre este asunto, de fecha 25 de junio último, elevamos el caso al Consejo de Administración del Seguro Social Telefónico, por ser dicho organismo el llamado a resolver las cuestiones relativas a la aplicación de la Ley y su Reglamento, informándonos recientemente, que tratado el caso de las Embajadas y Consulados extranjeros con el Ministerio de Estado, éste, con fecha 8 de septiembre ppdo., evacua el trámite y literalmente informa que "los usuarios del servicio telefónico, aunque sean Funcionarios Diplomáticos o Agentes Consulares, no se encuentran comprendidos dentro de las exenciones de impuesto a que se refiere la legislación vigente en Cuba y por lo tanto, están obligados al pago de la contribución a que se refiere el inciso (h) del Artículo 46 de la Ley del Seguro Social Telefónico". En su informe el Ministerio de Estado añade que "la contribución del 2% sobre los usuarios es una fuente de ingreso para nutrir los fondos de un Seguro Social, no un impuesto Estatal, Municipal o Provincial, y por consiguiente no se encuentran exentos de su pago los Funcionarios Diplomáticos acreditados en Cuba, de conformidad con lo que establece el Artículo 3 ro. del Decreto Ley No. 347 de 1934".

Cualquier otra aclaración que esa Embajada desee en relación con este asunto, deben solicitarla directamente del referido Seguro Social Telefónico, cuyas oficinas radican en Reina 1 (Palacio Aldama) en esta ciudad, ya que de acuerdo con lo establecido en el último párrafo del inciso "h" del Artículo 46 de la Ley No. 9, las empresas deberán incluir en sus facturas o recibos, a los usuarios telefónicos, el importe del gravamen aquí fijado, el que deberá ser remitido al Seguro Social Telefónico dentro del mes siguiente a aquel en que se realice la facturación, estando por tanto limitada la intervención de la Empresa en el caso que contemplamos, al cumplimiento de lo dispuesto por la Ley.

Confianto haber dejado perfectamente aclarado este asunto, quedamos de usted con la mayor consideración, sus atentos y ss. ss.,

CUBAN TELEPHONE COMPANY

Richardo Pareja  
Superintendente Comercial  
Div. Habana

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(DUPLICATE)

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Security:... RESTRICTED

No:..... L- 405

Date:..... October 21, 1958

5

Enclosures:.....

Air or Surface Mail:.. Courier

Post File No:.... 3.3.4.

FROM: .....The Canadian Embassy,.....  
.....Havana, Cuba.....

Reference:.... Your letter B187 of August 21, 1958

Subject:..... Payment of Local Telephone Tax.....  
.....  
.....

Ottawa File No.

References

As we informed you in our letter L254 of July 16, 1958, we informed the Cuban Telephone Company that under international law and custom we did not consider ourselves bound to pay the 2% Social Security Tax. Since that time we have refused to pay the same tax on the accounts received in August, September and October. Copies of our three letters to the Cuban Telephone Co. are attached.

2. We today received a reply from the Cuban Telephone Co. to our original letter in which we refused to pay this tax and a copy of the Telephone Co.'s letter, with an unofficial office translation, is attached. You will note that the Decree law which established the 2% Social Security Tax also established an Administrative Council of the Telephone Social Insurance which administers the law which set it up - a convenient arrangement. This Council has apparently approached the Ministry of State, who have backed the Government's stand that the various Social Security taxes are not included in the taxes from which foreign government representatives are exempt under the diplomatic exemption law of 1934. The Government has contended all along that these taxes are not a source of revenue, but are merely used to create funds for social insurance for various groups. The fact that these funds are administered by organizations established by the Government, can be transferred from one fund to another and have been known to go bankrupt through inefficient administration is, of course, not mentioned. We have informed the Cuban Telephone Co. that "we have taken note of the contents of their letter and referred it to you for further instructions".


3. In your letter under reference you state that the situation might be re-examined if the same technique were used for imposing other taxes. The same technique has already been used on more than one occasion. For example, the hospital workers' Retirement Fund is supported by a tax imposed on all hospital bills and diplomatic personnel have not been allowed any exemption on these taxes. The American Embassy has grouped all of these social security tax bills and sent them to Washington for a legal opinion as to whether they should be considered straight taxes imposed by the Government or whether the Cuban contention could be accepted. To date they have had no reply from Washington and are continuing to refuse to pay the telephone tax. To the best of our knowledge, other Embassies in Havana have been paying these taxes without protest.

Internal  
Circulation

Distribution  
to Posts

- 2 -

4. We would appreciate your guidance on the procedure we might follow. Perhaps after the American Embassy receives a ruling from Washington, it might be possible to make joint representations to the Ministry of State regarding these retirement fund taxes and we might interest other Embassies here in following our lead.

  
Embassy

COPY

DEPARTMENT OF EXTERNAL AFFAIRS

MEMORANDUM

TO: Mr. H.F. Feaver,

FROM: Protocol Division.

REFERENCE:

SUBJECT: Entry privileges for F.S.E.'s in Havana.

Security

Date October 2, 1958.

File No.

11561-V-40

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✓

cc 2020 - L-1-40

As you will see from the attached file, the Cuban authorities have, after many years of refusing to do so, enacted a law permitting diplomatic officers to sell their automobiles after two years free of duty and taxes, "subject to the principle of reciprocity". Previously officers were obliged to hold their automobiles for four years in order to obtain exemption.

2. This is a battle which has been going on for many years with no success. It, therefore, appears that the Cuban authorities must be in a rather more lenient mood than usual at the moment.

3. In letter L-289 of October 15, 1956 from the Embassy, replying to a Circular Document sent to posts abroad requesting information on the regulations governing purchase and sale of automobiles, paragraphs 4 and 5 deal with importation by F.S.E.'s. From my own experience of conditions at the post I know that the inability of F.S.E.'s to import an automobile on first arrival has been a very real problem. The basic reason for this, I think is the fact that facilities both for ordinary living and recreation take for granted the ownership of an automobile. The used car market is high and again from experience I would never recommend a car which had been driven by a Cuban driver.

CIRCULATION

- 2 -

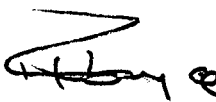
4. Apart from the transportation problem around the city which is formidable the F.S.E. posted to Havana, finds that the only weekend recreation available is a trip to one of the few beaches or the golf club, all of which are outside the city.

*in the above-mentioned letter*  
5. Mr. Read/has made a good point in his observation that an F.S.E. is often forced to sell his car at an unadvantageous moment in Ottawa on posting. On the other hand he could easily ship it or drive it to the post if free entry were possible which it should be under the principle of reciprocity. It is worth noting that the United States has been able to obtain complete free entry for its non-diplomatic staff, not only on first arrival but subsequently.

6. It therefore would appear that, all things considered, an approach to the Ministry of State on the subject of reciprocal treatment on entry and sale of cars by F.S.E.'s at this moment might conceivably produce some results. As you know Cuban non-diplomatic personnel are permitted first entry privileges to Canada on one new or used automobile and may sell it after two years' ownership.

7. If you agree, we might suggest that our Embassy obtain information from the U.S. Embassy regarding its agreement with the Cuban authorities re entry privileges for non-diplomatic staff. They might then approach the Ministry of State, perhaps informally in the first instance, to determine what steps could be taken to remedy the problem of entry of automobiles for F.S.E.'s. A note, the acceptance of which could constitute an agreement, might then be presented.

8. May I have your views, please?

  
H.R. Royce.

000140

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: .....The Canadian Embassy,.....  
.....Havana, Cuba.....

Reference:....Circular Document Admin. 53/58.....  
.....of September 8, 1958.....

Subject:.....  
.....Driving Licence Fees.....  
.....

Security:..UNCLASSIFIED.....

No:.....L-372.....

Date:....September 25, 1958.....

Enclosures:.....

Air or Surface Mail:..Air.....

Post File No:..5.2.....

Ottawa File No.	
11561-V-40	
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References

The following are the answers to the  
questions raised in your Circular Document under  
reference.

1. Diplomats are issued driving licences  
without having to pass a test or driving  
examination.
2. This privilege is extended to the wives  
of diplomatic representatives.
3. The privilege is extended to consular  
officers and their wives, but not to  
administrative and technical staffs of  
diplomatic missions.
4. There is a waiver of all fees for the  
licences issued to diplomatic and  
consular personnel and their wives.

R. W. CLARK

Embassy

Internal  
Circulation

Distribution  
to Posts



DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: ..... The Canadian Embassy .....  
..... Havana Cuba .....

Reference: ..... Our letter L341 of September 5 ...

Subject: ..... Taxation Changes .....

Security: *file* ~~RESTRICTED~~ .....

No: ..... L-341 .....

Date: ..... September 10, 1958 .....

Enclosures: .....

Air or Surface Mail: Courier .....

Post File No: 11.3.4 .....

Ottawa File No.

11561-V-40

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References

*Tand C*  
*Finance*  
*Box C*  
*Arch On*  
*24/58*

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It may be necessary to revise slightly the conclusion we reached in the final paragraph of our letter under reference. Apparently the Congress is not always a rubber stamp for the Cabinet's Law Agreements. Yesterday the Senate rejected Law Agreement No. 69, the last of the series of enactments which we reported on recently. This bill, which would have imposed new taxes on transportation, met stiff opposition from the vested interests of the tourist industry. Pressure from airlines, shipping companies, hotels and others obviously convinced the government that a new tax on the tourist industry immediately before the election and immediately before the tourist season opens would be impolitic.

2. According to the Constitution the Cabinet should resign because of the defeat of one of its bills, but there is no sign that this will occur.

SEP 17 1958

Internal  
Circulation

*R.W. Clark*

Embassy

B

Distribution  
to Posts

40 51-1-107187

1958 SEP 17 AM 11:17

**NO ENCLOSURES**

1958 SEP 16 PM 3:02

000143

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba

Reference: .....

Subject: Taxation Changes

Security: RESTRICTED

No: L-341

Date: September 5, 1958

Enclosures: .....

Air or Surface Mail: Courier

Post File No: 11.3.4  
3-5-5-5

Ottawa File No.

11561-V-40

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References

Our letter No. L318 of August 25 informed you that under Resolution Law 45, cars imported by diplomats would no longer be subject to duty after two years importation. This was only one clause in a fairly extensive revision of the Cuban tax structure. Some of the other clauses may be of interest and we therefore attach tear sheets from the Official Gazette which published the Law Agreement. This law, which was passed at the last meeting of the Cabinet while this body retained legislative powers (the Senate and House of Representatives have now reconvened), was gazetted at the same time as 26 other Law Agreements (Nos. 43-69), all intended to revise various aspects of Cuban economic regulations.

2. The other 26 Law Agreements accomplish such diverse purposes as: revising the legal procedure for appeals on Customs Duty rulings, applying a light tax on locally manufactured and imported cigarettes, authorizing the government lease of a drydock in Havana harbour, revising the monthly "contributions" by gambling establishment, granting exemption from taxes to the Cuban Nickel Company, establishing new pay scales for Cuban army officers, regulating the operations of so-called "free markets", including workers of the airline industry in the Maritime Retirement Fund, regulating working conditions in national industries and modifying penalties for parking law infractions. Law Agreement 45 is, however, the most important of these pieces of legislation and warrants a more detailed report. The following are some of its major provisions:

- (a) Income Tax - Personal income taxes are raised one percent. A comparison of the rates of taxation assessed on an individual taxpayer demonstrates that Cuban citizens have a long way to go before they pay anything like our Canadian tax.

Individual Taxpayers

		Old Rate	New Rate
Up to .....	\$2,400	1.00%	---
From .....	\$1,200 to 2,400	1.00%	2.00%
The excess of ...	2,400 to 3,600	2.00%	3.00%
The excess of ...	3,600 to 4,800	3.00%	4.00%
The excess of ...	4,800 to 6,000	4.00%	5.00%
The excess of ...	6,000 to 7,200	5.25%	6.25%
The excess of ...	7,200 to 8,400	6.50%	7.50%

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The excess of ...	8,400 to 9,600	7.75%	8.75%
The excess of ...	9,600 to 10,800	9.00%	10.00%
The excess of ...	10,800 to 12,000	10.25%	11.25%
The excess of ...	12,000 to 13,200	11.50%	12.50%
The excess of ...	13,200 to 14,400	12.75%	13.75%
The excess of ...	14,400 to 15,600	14.00%	15.00%
The excess of ...	15,600 to 16,800	15.25%	16.25%
The excess of ...	16,800 to 18,000	16.50%	17.50%
The excess of ...	18,000 to 20,000	17.75%	18.75%

For every \$5,000 or fraction thereof in excess of \$20,000 the rate shall be increased by 0.75% up to \$100,000 at which point the rate remains fixed at 31.5% (old rate 30.5%) whatever the taxable excess over this amount may be.

- (b) Lapse of Overdue payments - The right of the state to collect back taxes lapses after five years unless the authorities inform the tax payer of his obligation during this period thus allowing the state five more years to collect the debts. This regulation comes in handy for those Cubans who have never filed a return on their sudden acquisition of wealth when Batista returned to power in 1952.
- (c) Excise Tax on Alcoholic Beverages - The 7.5% tax on alcoholic beverages is retained and the proceeds are still assigned to the Restaurant and Caterer Workers' Retirement Fund, but the exemptions are revised and carefully tested.
- (d) Tax on Mineral Waters and Soft Drinks - Tax will be levied according to the size of the bottle rather than by the bottle. This is intended to catch some of the "family size" containers now appearing on the market.
- (e) Exemptions - Several exemptions from tax are listed, including diplomat's automobiles after two years, material destined for the military airline (Aerovias "Q"), newsprint for magazines and newspapers and high quality paper which is not destined for commercial advertising.

3. A more complete report on the provisions of this Law Agreement has been prepared by our commercial section and forwarded to the Department of Trade and Commerce. We should like, however, to comment briefly on the public reaction to these new regulations. The Cuban Chamber of Commerce sent a telegram to the president of the House of Representatives and the Senate as soon as the laws were announced asking those legislative bodies to withhold approval of the 27 Law Agreements pending a more detailed study. The Chamber is apparently alarmed about the possible harmful effects that some of the Law Agreements, particularly those increasing or creating taxes, may have on the national economy.

4. It is obvious that several of these pieces of legislation were hurried through without much study, probably under pressure from influential citizens or groups of citizens. An economic columnist in a local paper has pointed out some of the oddities of the income tax revisions embodied in Law Agreement 45. Since the tax for all taxpayers has been increased 1%, those who previously paid 1% tax would have their taxes raised 100%, while those who previously paid

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20% tax would have their tax increased only 5%. Furthermore, the law states that taxpayers who have their tax deducted at source will start paying the new rates as of September 1, but those who make a yearly payment of tax (due September 30) will pay the new rates retroactively for the entire 1957-58 fiscal year.

5. Although various items in the new regulations will no doubt cause hardship and arouse opposition, there is little chance that the House or the Senate will argue with the Law Agreements issued by the Cabinet. The two Houses of Congress remain largely rubber-stamp bodies and the legislation will probably be enforced.

*R.W. Clark.*

Embassy



# GACETA OFICIAL

DE LA REPUBLICA DE CUBA

Director General: ANTONIO D. TORRA

EDICION EXTRAORDINARIA

LA HABANA,

MIERCOLES 6 DE AGOSTO DE 1958

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AÑO LVI—Tomo Quincenal Número XV

Número Anual 38

Página 1

## PODER LEGISLATIVO — PODER EJECUTIVO

### MINISTERIOS

#### HACIENDA

(Copia Corregida)

FULGENCIO BATISTA Y ZALDIVAR, Presidente de la República de Cuba,

Hago saber: Que el Consejo de Ministros ha acordado y yo he sancionado lo siguiente:

Por Cuanto: La Ley número 3, de 19 de junio de 1958, autoriza al Consejo de Ministros a establecer nuevos impuestos, a modificar los existentes, a dictar disposiciones en relación con la legislación fiscal y el mejor desenvolvimiento de las actividades nacionales.

Por Tanto: En uso de las facultades que le están conferidas, el Consejo de Ministros resuelve dictar el siguiente

#### ACUERDO-LEY No. 45

#### CAPITULO I

#### Prescripción Fiscal

El Acuerdo-Ley número 19 de 9 de mayo de 1958, quedará redactado en los términos siguientes:

Artículo 1.— El Derecho del Estado a reclamar el pago de cualquier impuesto, tasa o contribución devengado a su favor, incluyendo los recargos o penalidades, prescribe a los cinco años, contados desde la fecha en que se hubiere efectuado el pago o en su defecto, desde la fecha en que se hubiere formulado por el contribuyente la respectiva declaración; salvo los plazos menores establecidos por las leyes.

En otros casos, se partirá de la fecha en que debiera haberse pagado el impuesto.

Artículo 2.— La prescripción a que se contrae el artículo que antecede no beneficiará al contri-

buyente que hubiere omitido formular la declaración del impuesto a que viniera obligado por disposiciones legales o reglamentarias o satisfacerlo en otro caso.

No obstante lo dispuesto en estos casos prescribirá el derecho del Estado para exigir los impuestos, así como las sanciones por su incumplimiento, por el mero transcurso del tiempo, a los diez años de la fecha en que deba comenzarse a contar la prescripción.

Artículo 3.— La prescripción sólo se interrumpirá mediante la notificación al contribuyente, de la reclamación del impuesto, tasa o contribución, formulada por funcionario competente.

La reclamación formulada en la forma que antecede interrumpirá solamente la prescripción en cuanto a las cantidades y partidas incluidas en la misma.

Lo dispuesto en este artículo no perjudica lo establecido en la segunda de las Disposiciones Varias de la Ley-Decreto 1928, de 18 de enero de 1955.

Artículo 4.— La acción del Estado para el cobro de cualquier impuesto, tasa o contribución liquidado a su favor por resolución firme, prescribirá transcurridos quince años, cualquiera que sea el estado de la reclamación. Este término de prescripción comenzará a contarse desde el día siguiente a la fecha en que la resolución administrativa, o, en su caso, la sentencia judicial que fije o confirme el importe del adeudo reclamado, haya quedado firme, y no se interrumpirá por ningún acto o gestión de la Administración, posterior a dicha fecha, tendiendo al cobro del adeudo.

Artículo 5.— La prescripción del principal del impuesto, tasa o contribución, implica la de los recargos y sanciones. En el caso de imposición de sanciones sin reclamación de impuesto, tasa o contribución, el término de prescripción será también de cinco años y comenzará a contarse al día siguiente de la fecha en que se hubiere producido el hecho sujeto a sanción.

Artículo 6.— Lo dispuesto en este Capítulo no será aplicable al régimen del impuesto sobre Derechos Reales y Transmisión de Bienes establecido por la Ley-Decreto número 1943, de 22 de enero de 1955.

Artículo 7.— La prescripción se aplicará de oficio o a instancia de parte, siempre que proceda, sin perjuicio de las responsabilidades gubernativas en que incurriere el funcionario o empleado causante de haberla producido.

Artículo 8.— La aplicación de las leyes de prescripción de los impuestos se hará por la unidad que tenga la jurisdicción para liquidar el caso; y si esta jurisdicción no fuere determinable, dado el expediente, la hará el Ministro de Hacienda.

Artículo 9.— En todo caso en que aplicar la prescripción implique dejar sin efecto un descubierta liquidado de la Hacienda Pública contra determinada persona, será competente solamente el Ministro de Hacienda.

Artículo 10.— La prescripción comenzada antes de entrar en vigor este Acuerdo-Ley, en todos los casos a que el mismo se refiere, aprovechará al contribuyente tan pronto como complete los términos establecidos en la misma, y si estos términos hubiesen transcurrido ya, quedará extinguida la acción fiscal desde que empiece a regir esta Ley.

Artículo 11.— Se considerará caducada y quedará sin efecto toda reclamación de impuesto, tasa o contribución no liquidado definitivamente en favor del Estado e impugnada por el contribuyente cuyo curso se detenga durante cinco años.

Los trámites interiores de la Administración no interrumpirán la caducidad del expediente, la que será declarada de oficio o a instancia de parte.

El contribuyente que impugne el cobro del impuesto, tasa o contribución, no vendrá obligado a instar en el expediente ni a efectuar gestión alguna para evitar su paralización.

Artículo 12.— Se derogan expresamente: El artículo XXV del Capítulo Sexto de la Ley de 29 de enero de 1931; el Apartado 74 de la Ley de 17 de diciembre de 1937; el Artículo 39 de la Ley número 2, de 22 de mayo de 1951; y los artículos 56, 57 y 58 del Decreto Presidencial 2500, de 20 de junio de 1951; y, en general, se derogan todas las leyes, decretos y demás disposiciones administrativas, en cuanto se opongan a lo dispuesto en el presente Capítulo.

## CAPÍTULO II

### Impuesto Sobre la Renta

Artículo 1.— Se modifica el Artículo III del Acuerdo-Ley número 1, de diciembre 31 de 1941, a su vez modificado por la Ley número 7, de abril 5 de 1943, el cual se entenderá redactado en la siguiente forma:

“Artículo III.— Se establece un impuesto sobre la renta anual procedente de toda clase de sueldos, salarios, retribuciones, y pensiones, honorarios, derechos o emolumentos, o de bienes muebles o inmuebles, valores, acciones, bonos, obligaciones, títulos de todas clases, divi-

dendos, intereses, productos y cualquiera otra clase de ingresos personales que procedan de fuentes semejantes o análogas, con arreglo a la siguiente

#### ESCALA

	De \$ 1,200.00 a	2,400.00	2 %
El exceso de	2,400.00 a	3,600.00	3 %
El exceso de	3,600.00 a	4,800.00	4 %
El exceso de	4,800.00 a	6,000.00	5 %
El exceso de	6,000.00 a	7,200.00	6.25 %
El exceso de	7,200.00 a	8,400.00	7.5 %
El exceso de	8,400.00 a	9,600.00	8.75 %
El exceso de	9,600.00 a	10,800.00	10 %
El exceso de	10,800.00 a	12,000.00	11.25 %
El exceso de	12,000.00 a	13,200.00	12.5 %
El exceso de	13,200.00 a	14,400.00	13.75 %
El exceso de	14,400.00 a	15,600.00	15 %
El exceso de	15,600.00 a	16,800.00	16.25 %
El exceso de	16,800.00 a	18,000.00	17.5 %
El exceso de	18,000.00 a	20,000.00	18.75 %

Por cada \$5,000.00 o fracción en exceso de \$20,000.00 se aumentará el tipo en un tres cuarto de uno por ciento (0.75%), hasta llegar a \$100,000.00 en que el tipo de imposición quedará fijado en un treinta y uno y medio por ciento (31.5%) cualquiera que sea el exceso sujeto a tributación.

La escala anterior se aplicará a los ingresos de los contribuyentes individuales, entendiéndose por éstos, las personas que no se hallen casadas bajo el régimen de la sociedad de gananciales. A los efectos de este impuesto, se considerará que corresponden al matrimonio todos los ingresos rentales percibidos por personas casadas bajo el régimen de la sociedad legal de gananciales, a la que se otorga el carácter de contribuyente social del impuesto y sobre tales ingresos se tributará de acuerdo con la siguiente

#### ESCALA

	De \$ 1,800.00 a	3,600.00	1.875 %
El exceso de	\$ 3,600.00 a	4,800.00	2.25 %
El exceso de	4,800.00 a	6,000.00	3.00 %
El exceso de	6,000.00 a	7,200.00	4.00 %
El exceso de	7,200.00 a	8,400.00	5.00 %
El exceso de	8,400.00 a	9,600.00	6.00 %
El exceso de	9,600.00 a	10,800.00	7.00 %
El exceso de	10,800.00 a	12,000.00	8.00 %
El exceso de	12,000.00 a	13,200.00	9.00 %
El exceso de	13,200.00 a	14,400.00	10.00 %
El exceso de	14,400.00 a	15,600.00	11.00 %
El exceso de	15,600.00 a	16,800.00	12.00 %
El exceso de	16,800.00 a	18,000.00	13.00 %
El exceso de	18,000.00 a	20,000.00	14.00 %
El exceso de	20,000.00 a	25,000.00	15.00 %
El exceso de	25,000.00 a	30,000.00	16.00 %
El exceso de	30,000.00 a	35,000.00	17.00 %
El exceso de	35,000.00 a	40,000.00	18.00 %
El exceso de	40,000.00 a	45,000.00	19.00 %
El exceso de	45,000.00 a	50,000.00	20.00 %

Por cada \$5,000.00 o fracción en exceso de \$50,000.00 se aumentará el tipo en un tres cuarto de uno por ciento (0.75%) hasta llegar a \$100,000.00 en que el tipo de imposición que dará fijado en un veinte y ocho y cuarto por ciento (28.25%), cualquiera que sea el exceso sujeto a tributación."

Artículo 2. — Las previsiones del Artículo 1 de este Capítulo, en cuanto modifican las Escalas para contribuyentes individuales y sociales, comenzarán a aplicarse a éstos para el período tributario que terminará en 30 de septiembre de 1958, abarcando, por ende, la totalidad de dicho período. En lo concerniente al impuesto pagado por retención, las disposiciones del propio Artículo 1 tendrán aplicación a partir del primer día del mes siguiente a aquél en que se publicó este Acuerdo-Ley en la GACETA OFICIAL de la República.

### CAPITULO III

#### Impuesto Sobre Utilidades

Artículo 1.— En cuanto al Impuesto General sobre Utilidades, se autoriza al Poder Ejecutivo para fijar las utilidades o beneficios netos imponibles mediante el establecimiento de índices que se aplicarán a grupos o categorías de contribuyentes determinados por la ocupación o negocio a que se dediquen, y para dictar todas aquellas medidas reglamentarias que, en tal sentido y a tal objeto, resultaren convenientes.

### CAPITULO IV

#### Impuesto Sobre Compraventa y Entradas Brutas

Artículo Primero: Modificar en la forma que el articulado de este Capítulo señalará, los siguientes preceptos del Decreto con fuerza de Ley número 5122, de Diciembre 2 de 1949, tal como actualmente rigen:

Artículo Segundo: Los tres primeros párrafos del Artículo V pasarán a ser cuatro párrafos, con la siguiente redacción:

"V.—Estarán sujetos a este impuesto, en la cuantía de un diez por ciento (10%): la venta, el canje, el traspaso, o la cesión de mercancías que se produzcan en Cuba; entendiéndose en el concepto de cesión de mercancías, los obsequios o regalos de las mismas; y la entrega de las mercancías como liquidación total o parcial del importe de los sueldos o jornales, o como retribución de cualquier concepto, o de mera liberalidad con objeto de propaganda o publicidad, siempre que, en este caso, no se trate de muestra sin valor comercial alguno, sino del producto en la forma que usualmente se elabora para el mercado.

"El Impuesto se liquidará sobre el valor de las mercancías al realizarse por el productor cualquiera de esas operaciones, con deducción de un veinte por ciento (20%), en que se calculan los impuestos y gastos que pesan sobre las mercancías nacio-

nales, con la finalidad de que tanto éstas como las extranjeras resulten igualmente gravadas por el impuesto.

"El impuesto se pagará por el productor en la Administración Fiscal correspondiente, dentro de los veinticinco (25) primeros días del mes siguiente a aquel en que se realicen la venta, el canje, el traspaso, la cesión, el regalo o la donación.

"A los efectos de la liquidación de este impuesto, se entenderá por valor de la mercancía el precio a que el industrial la venda, canjee, traslade o ceda, y en el caso de obsequios o regalos de las mismas, al precio de costo".

Artículo Tercero: Los dos primeros párrafos del Artículo VI:

"VI. A los efectos del impuesto sobre la base establecida en el Artículo V, se entenderá por Actividad industrial todo trabajo, labor u operación que se efectúe en los centros de producción que se señalan, y que consista en la fabricación, manufactura, modificación, mejora, restauración y reconstrucción, elaboración o conservación de materias primas, productos del suelo o no, aunque la actividad industrial comprenda cosas manufacturadas o semimanufacturadas, elaboradas o semielaboradas, o en su condición primitiva. Se entenderá igualmente como actividad industrial la división de productos manufacturados o semimanufacturados, elaborados o semielaborados, cuando esa división se realice para una aplicación especial o determinada, o para una finalidad distinta a la mera división con vista a facilitar el tráfico mercantil o la distribución.

"Se considerarán centros de producción, de acuerdo con la forma en que operen, los siguientes: a) los que operen por su cuenta equipo fabril completo; b) los que sin operar por su cuenta equipo fabril completo utilicen los servicios de fábricas o talleres ajenos, a los cuales entregan las materias primas para recibir el producto terminado, o restaurado, reparado o reconstruido, pagando el precio de la elaboración, reparación, restauración o reconstrucción; c) los que operen equipo fabril, pero trabajen por cuenta ajena, recibiendo la materia prima y entregando el producto terminado, cobrando un precio por la labor realizada; con excepción, en este último caso, de los comprendidos en el Apartado I, del número 2, del inciso h) del Artículo XV; d) los que operando equipo fabril propio, reparen, restauren o reconstruyan por cuenta propia, proporcionándose, como materias primas, las mercancías usadas o deterioradas, para dicha labor de reparación, restauración o reconstrucción, corriendo con el riesgo de la distribución o ventas de dichas mercancías una vez reparadas, restauradas o reconstruidas. El centro de producción contemplado en la letra c) no vendrá obligado a pagar el impuesto, pero sí a inscribirse en la Administración Fiscal de su domicilio y a presentar una declaración jurada, mensual, de acuerdo con el modelo oficial, en la que relacionará los artículos que haya manufacturado, reparado, restaurado o reconstruido, por cuenta ajena,



con señalamiento del centro de producción de los incluidos en la letra b), para el cual hubiere verificado el trabajo; pero en ningún caso podrá realizar esa labor si el centro de producción que se la encomienda no le justifica su inscripción como centro de producción contribuyente incluido en el caso de la citada letra b). En el caso de que un centro de producción operara en más de una de las formas señaladas en este precepto, estará obligado a asentar claramente por separado, en sus libros de contabilidad, sus distintas operaciones, así como a presentar las declaraciones juradas que correspondieran a las mismas".

Artículo Cuarto: Al Artículo VI, Apartado B, del Decreto con fuerza de Ley número 5122, de 2 de diciembre de 1949, tal como quedó modificado por la Ley-Decreto 527, de 13 de noviembre de 1952 y la Ley-Decreto 1928, de 18 de enero de 1955, se le adiciona un nuevo inciso, bajo el número 7, redactado en la siguiente forma:

"7) El aprovisionamiento directo de buques y aeronaves, por parte de los productores de mercancías".

Artículo Quinto: Los incisos a), g) y h) del apartado IV del Artículo VIII:

"a) Los artículos elaborados, gravados en su totalidad por los impuestos especiales del Empréstito de los 35 Millones, relacionados en el Artículo 2 del Decreto-Reglamento 2620, de Septiembre 16 de 1940, en los incisos comprendidos del a) al k), ambos inclusive, de dicho precepto. En estos casos, el importador o el productor —que sólo tienen el carácter de retentores encargados de ingresar el importe del gravamen en la oficina recaudadora correspondiente—, cargarán por separado del precio de venta al consumidor o al detallista, el valor del impuesto, verificando la liquidación del tributo; si bien el productor no podrá liquidar suma inferior a la que por el concepto de que se trata se haya cargado al consumidor o al detallista, con excepción de las deducciones que se autorizan en el Artículo X".

"g) El calzado de cualquier clase, tamaño, forma y estilo, construido de cualquier material, así como los cueros crudos o frescos de todas clases, ya sean verdes, salados, adobados o piquelados; los materiales curtientes de origen vegetal o mineral, o sintéticos, y las materias primas empleadas en la fabricación o elaboración de los mismos; las pieles curtidas (cualquiera que fuere su denominación o clasificación); y las otras materias primas que intervienen directamente en la elaboración del calzado; así como las hormas para el mismo. En el concepto de calzado se comprende lo siguiente: zapatos, botas, borceguíes, pantuflas, sandalias, alpargatas, zapatos de goma (tennis), chinelas de todas clases y cualquier otro tipo de calzado.

"h) Las manufacturas o artículos manufacturados, terminados y listos para ser usados, hechos de cemento o barro, con o sin mezcla de otras materias, sean o no huecos, así como el ladrillo, y la

teja denominada "criolla" o de canal, para techo, siempre que estén destinados a la construcción en general, tanto para obras privadas como para las públicas".

Artículo Sexto: Agregar el siguiente párrafo al Artículo XI:

"El régimen de deducciones constituye un beneficio a que tienen derecho los industriales de Cuba, y, por lo tanto, se entenderá que los que no pidan expresamente acogerse a él —o, estando acogidos, no lo utilicen voluntariamente—, renuncien, a su perjuicio, a ese derecho; y, en su consecuencia, ningún fabricante nacional podrá optar (en cuanto a sus adquisiciones de materias primas), por el procedimiento de abonar los impuestos sobre compraventas, por tales compras, y no pagar el gravamen sobre la venta bruta de los artículos o productos elaborados con dichas materias primas; debiendo entenderse, por consiguiente, que en esos casos, el industrial abonará el tributo correspondiente a sus adquisiciones de materias primas, y pagará también el impuesto devengado con motivo de las ventas del producto manufacturado".

Artículo Séptimo: El párrafo cuarto o final del Artículo XII:

"El Industrial solicitante podrá comenzar a deducir el impuesto provisionalmente (y a las resultas del acuerdo definitivo que adopte el Ministro de Hacienda), desde la fecha de presentación de su solicitud, si acompaña a la misma un informe de la Asociación Nacional de Industriales de Cuba, o de la Cámara de Comercio de la República de Cuba, o de cualquier Organismo legal u oficialmente constituido a tenor de las Leyes de Cuba, que agrupe industriales contribuyentes por determinados conceptos o giros. El informe de que se trata, suscrito por el Presidente o el Secretario (o sus respectivos sustitutos reglamentarios), consignará la condición de industrial del petionario, así como que las materias primas incluidas en la solicitud son las que usualmente se emplean en el proceso industrial de que se trate. El Ministro de Hacienda resolverá libremente dichas solicitudes; y, en su caso, dispondrá que se reclame al industrial el impuesto que dedujere, correspondiente a los artículos o productos incluidos en la solicitud, pero que en la resolución definitiva no fueren considerados materias primas".

Artículo Octavo: El inciso b) del artículo XV:

"b) Las que se dediquen a negocios o gestiones de propaganda de cualquier tipo o clase".

Artículo Noveno: Se suprime el segundo párrafo del inciso d) del artículo XV:

Artículo Décimo: Agregar el número 3 al inciso h) del Artículo XV, redactado así:

"3.— Se considerarán como talleres de reparaciones, los dedicados por cuenta ajena a cualquier

clase o tipo de reparación o arreglo, devolviendo la cosa reparada a quien le encargara la operación, siempre que éste no se dedique habitualmente a la reventa del artículo reparado; en cuyo caso, deberá estarse a lo dispuesto en las letras b) y c) y la parte final del segundo párrafo del Artículo VI, tal como ha quedado redactado por el presente Acuerdo-Ley".

Artículo Undécimo: Agregar al Artículo XV, el siguiente inciso:

"y) Los dedicados a revelar películas fotográficas o cinematográficas, o a trabajos de impresión o ampliación de fotografías, y reparación, limpieza o ajuste de equipos fotográficos".

Artículo Duodécimo: El inciso c) del Artículo XVI:

"c) Los que personalmente, o con ayuda de un familiar o socio, sin empleados u obreros a sus órdenes, se dediquen a trabajos de construcción, reparación o confección; o a negocios o labores de tintorerías, lavado de ropa, imprenta, fotografía, revelar películas fotográficas o cinematográficas, imprimir o ampliar fotografías, encuadernación, grabado o rotograbado, repujado de cueros, decoración y ornamentación en general, desinfección, fumigación, exterminación de insectos y de roedores, informes, engrase, limpieza o pintura de vehículos, maquinaria y cualesquiera otros objetos, y limpieza en general".

Artículo Décimo Tercero: Se ratifica íntegramente el texto de la "Tercera" de las Disposiciones Finales de la Ley-Decreto 1928, de Enero 18 de 1955.

## CAPITULO V

### Impuesto Sobre Consumo de Bebidas

Artículo 1.— Se establece un Impuesto, en la cuantía que determina el subsiguiente artículo 3, sobre el consumo de bebidas alcohólicas, entendiéndose por éstas los aguardientes y licores fuertes, las sidras, los vinos espumosos, y los vinos, vinos de frutas y vermouths.

El Impuesto a que se refiere el párrafo que antecede sustituye el que estableciere el Inciso "8" del Artículo 21 de la Ley número 18 de diciembre 20 de 1950, y, en su consecuencia, su producto engrasará los fondos de la Caja de Retiro y Asistencia Social de los Trabajadores Gastronómicos.

Artículo 2.— El Impuesto que establece el Artículo 1. que antecede, gravará tanto los productos nacionales como los que se importen, con exclusión de los siguientes:

- Las cervezas y las llamadas "malts", "mal-tinas" y "extractos de malta".
- Los vinos secos dedicados al uso culinario.
- Los vinos y los vermouths importados en envases mayores y destinados al trasiego o a la fabricación de otros vinos.

d) Los vinos medicinales elaborados en Cuba o importados.

e) Los vinos, elaborados en Cuba o importados, cuando se destinen a preparaciones farmacéuticas o de laboratorios.

f) Los vinos, cuando sean importados por fabricantes de licores, y siempre y cuando se observen las condicionales que reglamentariamente se determinarán.

g) Las muestras de cualquier bebida alcohólica que los industriales nacionales distribuyan a título de obsequio o de propaganda.

h) Las bebidas alcohólicas de producción nacional, cuando se destinen a la exportación.

i) Las bebidas alcohólicas que hubieren sido exportadas exentas, cuando se reimportaren, con las condicionales que reglamentariamente se establecerán.

Artículo 3.— El Impuesto a que se contrae el presente Capítulo será del siete y medio por ciento.

La imposición se efectuará, por retención, en las industrias productivas en los casos de bebidas nacionales, y en las Aduanas en los casos de productos importados.

Tratándose de productos de importación, la base impositiva lo será el valor de la mercancía a su salida de la jurisdicción aduanal, empero en dicho valor no se incluirá el impuesto que regula el Decreto 5122 de 1949.

Tratándose de productos nacionales, al efectuarse el cobro del impuesto, sobre el valor de facturación, se rebajará un tercio del total a cobrar, para compensar así la diferencia que se produce en los valores de las bebidas en las diversas oportunidades de retención. Los fabricantes nacionales rebajarán, asimismo, otro tercio del total a cobrar para sufragar los gastos que ocasiona la retención.

Artículo 4.— En los casos de bebidas importadas, se entenderá que éstas no podrán extraerse de las Aduanas si los importadores no acreditan el previo ingreso del Impuesto en la Caja de Retiro y Asistencia Social de los Trabajadores Gastronómicos.

En los casos de bebidas nacionales, los industriales deberán ingresar el Impuesto en la Caja interesada presentando juntamente declaración jurada mensual de sus ventas o cesiones imponibles. El impuesto deberá ingresarse dentro de los ciento veinte días (120) naturales siguientes al último día del mes al cual corresponda la declaración jurada.

Reglamentariamente se determinarán las modalidades a que habrán de ajustarse las declaraciones juradas.

Artículo 5.— Se admite el principio de la deducibilidad del Impuesto en cuanto a mercancías devueltas y a cuentas perdidas o incobrables, a cuyo efecto se dictarán reglamentariamente las correspondientes previsiones.

Artículo 6.— Por su característica de impuesto de consumo, el tributo que establece este Capítulo, tendrá carácter traslativo; los importadores po-

drán cargarlo en sus facturas de ventas; los fabricantes nacionales deberán cargarlo en las mismas; y, a su vez, los adquirentes o detallistas podrán cargarlo al efectuarse el consumo de las bebidas de que se trate.

En el caso de bebidas nacionales, el impuesto, al ser cargado en las facturas, tendrá que serlo en la cuantía que resulte después de deducirse los dos tercios a que se refiere el segundo párrafo del Artículo 3 de este Capítulo.

Artículo 7.— Se confirma que será de aplicación a las personas naturales o jurídicas que infrinjan este Capítulo, la previsión penal contenida en el Artículo 80 de la Ley número 18 de 1950.

Artículo 8.— Para la mejor fiscalización del Impuesto creado por este Capítulo, el Ministerio de Hacienda brindará a la Caja de Retiro y Asistencia Social de los Trabajadores Gastronómicos todos aquellos datos y elementos de comprobación que permitan llegar al exacto conocimiento de las ventas imponibles efectuadas por fabricantes nacionales.

Artículo 9.— La Caja de Retiro y Asistencia Social de los Trabajadores Gastronómicos podrá girar alicance en todos aquellos casos en que no se mostrare conforme con las declaraciones juradas presentadas por fabricantes nacionales; contra dichos alicances se admitirá recurso de alzada ante el Ministerio de Hacienda. Este recurso deberá interponerse dentro del término de quince días, contados desde el siguiente al de la notificación del alicance recurrido.

Las resoluciones que se dicten por el Ministerio de Hacienda, causarán estado y contra ellas sólo podrá interponerse recurso contencioso-administrativo. Las cantidades que en dichas resoluciones puedan reclamarse deberán ingresarse dentro del término de quince días, contados desde el siguiente al de la notificación de la resolución de que se trate; y si no lo fueren, serán reclamables por el procedimiento de apremio fiscal; éste será dirigido y fiscalizado por el departamento competente del Ministerio de Hacienda.

Al iniciarse procedimiento de apremio, el Ministerio de Hacienda dispondrá, asimismo, que no se le despachen, al fabricante moroso, las guías de alcoholes y aguardientes a que se refiere el Artículo 128 del Decreto 2620 de 16 de septiembre de 1940. La suspensión del despacho de guías se mantendrá vigente mientras no se obtenga el ingreso de lo reclamado.

El procedimiento de apremio fiscal y la suspensión del despacho de guías serán igualmente de aplicación a aquellos casos de fabricantes que no presentaren sus declaraciones juradas e ingresaren su importe en el término de ciento veinte días a que se contrae el Artículo 4 del presente Capítulo.

Artículo 10.— Se establece un recargo adicional del medio de uno por ciento ( $1/2$  de 1%) mensual sobre las ventas de los fabricantes nacionales de bebidas imponibles, considerándose que dicho recargo se ingresará en la Caja de Retiro y Asistencia Social de los Trabajadores Gastronómicos a título de liquidación paulatina de las cantidades adeudadas a la Caja por los fabricantes naciona-

les desde que se creó el Impuesto referido en el Inciso "8" del Artículo 21 de la Ley número 18 de 1950.

El recargo establecido en el párrafo que antecede, se pagará juntamente con el Impuesto referido en los Artículos 1 y 3 de este Capítulo y se cobrará durante diez años, contados a partir de la fecha de entrada en vigor de este Acuerdo-Ley; considerándose extinguido y liquidado cualquier adeudo al concluirse el decenio.

No obstante lo dispuesto en los dos párrafos que anteceden, la Caja de Retiro y Asistencia Social de los Trabajadores Gastronómicos podrá acordar, con cualquier fabricante interesado, el pago en un solo plazo o en varios plazos de las cantidades adeudadas por dicho industrial, en cuyo caso, y una vez cumplido lo acordado, el fabricante quedará definitivamente exento del recargo adicional a que se contrae el presente artículo.

Cualquier incumplimiento en el pago del recargo adicional dará lugar al procedimiento y sanción a que se refiere el Artículo 9 de este Capítulo.

Artículo 11.— El Ministro de Hacienda queda autorizado para dictar todas aquellas medidas complementarias que resulten necesarias para el mejor cumplimiento de este Capítulo.

Artículo 12.— Se derogan cuantas disposiciones legales y reglamentarias se opongan al cumplimiento de este Capítulo, y más expresamente el inciso "8" del Artículo 21 de la Ley número 18 de diciembre 20 de 1950, el Decreto 5662 de noviembre 30 de 1952, el Decreto 3619 de noviembre 14 de 1955 y el Decreto 624 de febrero 28 de 1958.

## CAPITULO VI

### Aguas Artificiales y Refrescos

Artículo 1.— Se modifica la Clase Segunda del Artículo 1 de la Ley de enero 29 de 1931, la cual se entenderá redactada en la siguiente forma:

#### "CLASE SEGUNDA

##### Aguas Artificiales y Refrescos Nacionales y Extranjeros.

- A) Cada caja de veinte y cuatro (24) medias botellas, u otro envase menor, y cuya capacidad individual no sea mayor de 375 mililitros, de fabricación nacional, pagará cinco centavos de peso (\$0.05).
  - B) Cada caja de doce (12) envases, cuya capacidad individual exceda de 375 mililitros pero no pase de un litro, de fabricación nacional, pagará cinco centavos de peso (\$0.05).
  - C) Cada caja de doce (12) envases, cuya capacidad individual exceda de un litro, pero no pase de dos litros, fabricados en Cuba, pagará diez centavos de peso (\$0.10).
- La Tributación de las letras "A", "B" y "C" es de aplicación tanto a las aguas artificiales como a los refrescos.

Agosto 6 de 1958

GACETA OFICIAL

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- D) Cada sifón, de un litro de capacidad, de agua artificial fabricada en Cuba, pagará medio centavo de peso (\$0.005).
- E) Cada cilindro, de agua artificial o refresco fabricados en Cuba, cuya capacidad no exceda de diez (10) galones, pagará cinco centavos de peso (\$0.05).
- F) Las aguas artificiales y los refrescos que se importen, pagarán, además de los derechos arancelarios, cinco centavos de peso (\$0.05) por cada litro.

Artículo 2.—Las aguas artificiales, los refrescos, el andullo y los naipes, de fabricación nacional, quedarán exceptuados del pago del Impuesto del Empréstito de 35 millones cuando se exporten y siempre que se cumplan los requisitos que reglamentariamente se establezcan.

#### CAPITULO VII

##### Exención Compañías de Aviación

Artículo Primero: Las Compañías "Cuba Aeropostal, S. A." y "Aerovías Q" gozarán de los mismos beneficios fiscales que a la Compañía Cubana de Aviación, S. A. otorga la Ley-Decreto número 1626 de 12 de agosto de 1954, publicada en la GACETA OFICIAL de la República correspondiente al día 14 del propio mes y año, la que les será aplicable en todo su alcance.

#### CAPITULO VIII

##### Exención al papel

Artículo I.—Quedan exentas del pago de derechos arancelarios las importaciones de papel con marca de agua destinadas a la confección de libros y folletos contentivos de producciones científicas, literarias o artísticas, siempre que no sean utilizados para propaganda de intereses comerciales o industriales privados. Igualmente quedan exentas de pago de derechos arancelarios las cuotas de importación de papel concedidas para periódicos y revistas. Para disfrutar de la exención en el primer caso, será necesario que el papel lleve la marca de agua "Libros de Cuba", y en ambos, que la importación esté amparada por cuota otorgada por el Poder Ejecutivo previo acuerdo del Consejo de Ministros, según informes del Consejo Nacional de Economía y de los Ministros de Hacienda y Comercio.

Artículo II.—Las cuotas de papel se regularán de acuerdo con la producción disponible en los mercados de origen, las necesidades locales y la elaboración nacional de papel. El Reglamento determinará las condiciones y oportunidades para el cumplimiento de estas disposiciones. El papel importado al amparo del artículo anterior no podrá ser destinado a fines distintos de los expresados en el mismo. La infracción será motivo para revisar la cuota concedida en la forma que disponga el Reglamento.

Artículo III.—Las cuotas de papel concedidas, o las existencias como resultado de las mismas, no

podrán ser cedidas, donadas o traspasadas sin la previa autorización del Ministro de Hacienda, en resolución fundada, previo informe igualmente del Ministro de Comercio y del Consejo Nacional de Economía.

Artículo IV.—Contra la resolución a que se refieren los dos artículos anteriores, no se dará recurso alguno.

#### CAPITULO IX

##### Autos de Diplomáticos

Artículo 1.—Se modifica el párrafo segundo del artículo 14, Capítulo V, del Decreto-Ley número 347, de fecha 17 de julio de 1934, publicado en la GACETA OFICIAL del día 20 del propio mes y año, que en lo sucesivo quedará redactado en la forma siguiente:

"Transcurridos los dos años a que se refiere el párrafo anterior y sujeto al principio de reciprocidad, podrá el Funcionario Diplomático con derecho a la libre importación de su automóvil, vender, ceder o traspasar éste, sin que sea exigible al adquirente el ingreso de los derechos fiscales."

#### CAPITULO X

##### Redistribución de Crédito Presupuestal

Artículo Único: El crédito anual de \$10,000.00 consignado en el proyecto de los Presupuestos Generales del Estado en vigor para el trimestre que decursa, bajo el rubro de Partida 704 "Subvenciones a Congresos y Eventos", en el Capítulo 2 del Presupuesto Extraordinario del Ministerio de Hacienda, será distribuido a propuesta del Ministro de Estado cuando se trate de Congresos y por el de Educación, a propuesta del Director de Deportes cuando se trate de Eventos.

#### DISPOSICIONES GENERALES

##### AL CAPITULO IV

Primera: Para evitar dudas en relación con las partidas que deben ser deducidas por los que, de modo total o parcial disfruten del beneficio de deducción, los abastecedores de materias primas estarán en la obligación ineludible de señalar en las facturas de ventas la cantidad del impuesto que corresponde a la venta realizada, y el tipo de imposición aplicado. Esta partida es la única que puede servir de base para la deducción total o parcial del impuesto pagado al adquirir las materias primas.

Segunda: En las facturas comerciales se consignarán siempre el número de la Patente Unica del vendedor, y su número del Registro Parcial como contribuyente del impuesto sobre compraventa y entradas brutas, si se encontrara afecto al pago de dicho impuesto.

Tercera: Para poder disfrutar del beneficio de las deducciones que autoriza el Decreto 2286, de 15 de agosto de 1957, deberá solicitarse previa-

mente del Ministerio de Hacienda la resolución oportuna; señalando específicamente cuáles son los materiales que se transfieren y el precio promedio por unidad de los mismos en las situaciones normales del mercado.

Cuarta: En todos los casos de exenciones condicionadas al cumplimiento de determinados requisitos o circunstancias, las Administraciones Fiscales de la República no podrán dejar de efectuar la inscripción parcial correspondiente al impuesto sobre compraventa y entradas brutas; y el interesado deberá solicitar la resolución correspondiente para disfrutar de la exención.

Quinta: Las disposiciones contenidas en el inciso g) del apartado IV del Artículo VIII del Decreto 5122 de 1949, tal como ha quedado redactado por el presente Acuerdo-Ley, se considerarán aplicables, exclusivamente, a los industriales del calzado, de la curtición de pieles o tenerías y a los dedicados a la elaboración de materiales curtientes; y, asimismo, a los almacenistas importadores de materias primas para el calzado, de materiales curtientes y de materias primas para tenerías.

## DISPOSICIONES TRANSITORIAS

### AL CAPITULO IV

Las personas naturales o jurídicas que de acuerdo con las prescripciones de este Acuerdo-Ley pasen a ser sujetos del impuesto sobre Compraventa y Entradas Brutas, deberán solicitar su inscripción como contribuyentes dentro de un término de diez (10) días hábiles a partir de la vigencia del presente Acuerdo-Ley, con observancia, además, de todas las regulaciones que establece el Capítulo IX del Decreto 3212, de 22 de septiembre de 1947, en lo que se refiere a Patente Única, Carnet complementario de la misma, y libros y documentos oficiales.

### AL CAPITULO V

Primera: El producto del Impuesto establecido por el Artículo 1 del Capítulo V, en la parte de ingresos que provengan de la imposición a las bebidas nacionales; así como al producto del recargo adicional a que se contrae el Artículo 10 del propio Capítulo, se aplicarán por la Caja de Retiro y Asistencia Social de los Trabajadores Gastronómicos a la liquidación de todos aquellos adeudos contraídos con motivo de la construcción del Hotel Habana Hilton, que no hayan podido abonarse con el producto del préstamo hipotecario que la citada Caja obtuvo del Banco de Desarrollo Económico y Social por escritura pública número 622 de agosto 26 de 1957 ante el Notario de La Habana, doctor Fernando Barrueco Usabiaga, y siempre y cuando el Tribunal de Cuentas apruebe el crédito correspondiente.

Segunda: Una vez liquidados los adeudos a que se refiere la Disposición Primera que antecede, el producto del Impuesto se aplicará al cumplimiento de las obligaciones hipotecarias de la Caja de Retiro y Asistencia Social de los Trabajadores Gastronómicos con el Banco de Desarrollo Económico y Social.

Tercera: La Caja de Retiro y Asistencia Social de los Trabajadores Gastronómicos queda autorizada para obtener del Banco de Desarrollo Económico y Social, o de cualquier otro organismo crediticio paraestatal, un préstamo de hasta cinco millones de pesos, dando como garantía específica los ingresos a que se contrae la Disposición Primera, para así liquidar totalmente los adeudos referidos en la propia Disposición, los gastos resultantes del financiamiento que se concierte, y cualquier otro gasto legal en que incurra con motivo de la construcción del Hotel Habana Hilton.

## DISPOSICIONES FINALES

Primera: Se derogan cuantas disposiciones se opongan al cumplimiento de lo dispuesto en este Acuerdo-Ley, quedando autorizado el Poder Ejecutivo para dictar todas aquellas medidas reglamentarias que resulten necesarias para su mejor aplicación.

Segunda: Lo dispuesto en este Acuerdo-Ley comenzará a regir desde la fecha de su publicación en la GACETA OFICIAL, salvo cuando otra cosa se dispone en el texto del mismo.

Por tanto: Mando que se cumpla y ejecute el presente Acuerdo-Ley en todas sus partes.

Dado en el Palacio de la Presidencia, en la Habana, a 5 de agosto de 1958.

FULGENCIO BATISTA.

Gonzalo Güell,  
Primer Ministro.

Alejandro Herrera,  
Ministro de Hacienda.

S:—7199—7222

## PODER JUDICIAL

### JUZGADOS CORRECCIONALES

#### SECCION QUINTA

Doctor Francisco M. Hernández Llópiz, Juez Correccional de la Quinta Sección de la Habana.

Por la presente requisitoria, que se libra en el juicio número 8081 de 1957, instruido por infracción del Código del Tránsito, cito, llamo y emplazo al acusado de raza blanca, nombrado Lorenzo Darias, de 54 años de edad y vecino de Blanquizar número 56, Luyanó.

Por encontrarse comprendido en el Caso Primero del Artículo 835 de la Ley de Enjuiciamiento Criminal, para que dentro del término de diez días, a contar desde la publicación de la presente en la GACETA OFICIAL de la República, comparezca ante este Juzgado, sito en Ave. 10 de Octubre número 1076 (moderno), Vibora, a responder de los cargos que en dicho procedimiento le resulten.

Seguro de que si así lo hiciere se le administrará justicia y en caso contrario será declarado rebelde parándole el perjuicio consiguiente.

Al propio tiempo exhorto y requiero a todas las autoridades y sus agentes, procedan a la busca y

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: The Canadian Embassy,  
Havana, Cuba

Reference: Your letter B142 of June 26, 1958

Subject: Diplomatic Customs Privileges -  
Automobiles

Security: CONFIDENTIAL

No: L-318

Date: August 25, 1958

Enclosures:

Air or Surface Mail: Courier

Post File No: 3.5.5.5.

Ottawa File No.

11561-V-40

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References

As we reported in our letter L192 of May 21, through a technicality in Cuban law, diplomats in Cuba were, in effect, subject to taxes and duties if they wished to sell their automobiles prior to four years from the original date of entry. Decree Law No. 347 of July 17, 1934, stipulated that full duties and taxes had to be paid on any car imported duty free which was resold prior to two years from the date of entry. In effect, these duties were to be paid by the purchaser but, of course, the seller had to adjust his prices accordingly in order to hope to dispose of his car. The 1934 Decree went on to say that "when a transfer takes place after two years and prior to four years since importation, the taxes that the purchaser is obligated to pay will be reduced to half the amount, except when the buyer is a person or firm known to be in the automobile business". If the car was sold to a dealer full taxes were to be paid.

2. We are happy to report that this situation has now been changed. Following the instructions received in your letter under reference, we did not raise this issue formally with the Ministry of State. However, the Ambassador, in an informal discussion with the Minister of State in June, 1957, at a dinner given for the newly appointed Cuban Ambassador to Canada, Dr. Carlos Carillo, (our letter L232 of June 14, 1957) had lamented the Cuban practice and this matter was raised informally on various occasions since then. Whether these references, added to the complaints which various missions had submitted to the Ministry of State over the years, were the reason for the change we do not know but on August 5 the Cuban Emergency Committee issued Resolution Law No. 45 which became effective the next day. Among other tax changes listed in this Resolution Law one paragraph amended the regulations concerning duty free import of cars by diplomats. An unofficial office translation of the paragraph states: "After the two years referred to in the foregoing paragraph have elapsed and subject to the principle of reciprocity, the diplomatic officer entitled to free importation of his (or her) automobile may sell, cede or transfer it without the purchaser being liable for payment of the taxes".

3. We are naturally very pleased that the unfavourable regulation has been altered and that the Cuban

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Government has decided to extend reciprocity in the matter of taxes on automobiles. We therefore sent a brief note of thanks to the Ministry of State and attach a copy for your information.

*R.W. Clark.*

Embassy



DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

(DUPLICATE)

NUMBERED LETTER

To: The Canadian Embassy,

Havana, Cuba.

From: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Reference: Your letter No. 254 of July 16, 1958.

Subject: Payment of Local Telephone Tax.

Security: Restricted

No.: B- 187

Date: August 21, 1958.

Enclosures: .....

Air or Surface Mail: .....

Post File No.: .....

Ottawa File No.

11561-V-40

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References

*cc on 7590-40 'A'*

We are in full agreement with the position you have taken vis-à-vis the Cuban Telephone Company as set out in your letter under reference. Under international law and custom you should not be liable to the 2% tax. If, as you indicate, the Cuban Government decides to follow the same technique of imposing such taxes on other services the situation might be re-examined later. *file*

2. For the time being, however, we would suggest that you maintain your present attitude of refusing to pay this tax, but without making an approach to the Ministry of State. In the event that the Telephone Company should threaten discontinuing its services to you, it might be preferable to pay the tax, as you suggest, under protest and to report this fact to us.

J. A. McCORDICK  
FOR THE

Under-Secretary of State  
for External Affairs.

Internal  
Circulation

Legal Division  
Finance Div.

Distribution  
to Posts



DEPT

Department of External Affairs

Ottawa, Jan. 31, 1966

Mr. Stewart

If the Havana plane was a C-47, at \$50.00 a month, the tax would be \$1.00. The Embassy is undoubtedly correct that, according to international law and practice, it should not pay the tax, but I would not be inclined to get into a stop-and-go, sit tight over such a small item. Legal division may have further comment.

Ph. Thibault

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: THE CANADIAN EMBASSY, HAVANA, CUBA

Reference:.....

Subject: Payment of Local Tax

Security: Unclassified

No: L-

Date: July 16, 1958.

Enclosures: 2

Air or Surface Mail: Air

Post File No: 3.3.4

Ottawa File No. 11561-V-40 7590-40 al	30
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References

Law No. 8 of October 2, 1957, established a Social Security Fund for retirement of telephone employees and ruled that the fund would be created through a 2% Social Security Tax on all telephone bills, beginning with the January 1958 accounts.

2. This Embassy paid the 2% tax on our accounts for January, February, March and April. In May, however, during discussions with the Administrative Officer of the American Embassy, we learned that they had refused to pay this tax on the grounds that representatives of a foreign government were not liable to taxation by the government of the country to which they were accredited. The Cuban Telephone Company apparently argued that this was not a tax but merely an additional charge for service. The United States Embassy has asked the State Department in Washington for an opinion on the Cuban law and, in the meantime, the charge no longer appears on bills presented to the United States Embassy.

3. As a result of our discussions, when paying our May account, we refused to pay the 2% tax and sent a letter to the Cuban Telephone Company (copy attached), informing them of our decision and the reasons for it. An official of the company, speaking to the Embassy employee who delivered the letter, stated that they would accept the May payment less 2% but would contact their lawyer regarding our action. He claimed that the United States Embassy had now agreed to pay the tax as long as it was hidden in the monthly account and not shown as a separate item. The United States Embassy Administrative Officer, however, denied this story and stated that he did not believe the tax could have been hidden in their account without their knowledge.

4. When we sent our messenger to the telephone office to pay our June accounts, the receptionist refused to accept the money since it did not cover the full bill and reiterated the claim that the United States Embassy was now paying the tax (U.S. officials have again denied this). We therefore sent the account and the cheques to the Cuban Telephone Company under cover of a further letter of July 16 (copy attached) by registered mail. We do not know what the reaction will be but would like to be prepared for whatever move the Telephone Company

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may make. If the Telephone Company presents further requests for payment of this tax, may we approach the Ministry of State requesting that our immunity from taxation be clarified for the benefit of the Cuban Telephone Company? If the Company threatens to cut off our service, should we pay the tax under protest and approach the Ministry of State for assistance?

No. 18. The Cuban government is apparently using this same technique to set up a number of retirement funds and we feel we that if we do not make our position clear at the present time, we may find ourselves having to pay retirement fund taxes for a number of services or employees. We should appreciate your guidance on the course we might follow.

Ambassador

BEST COPY AVAILABLE

Apertado 1948,  
HAVANA,  
July 16, 1958.

Dear Sir,

As we informed you in our letter of June 25, this Embassy is unable to pay the 2% Social Security Tax now included in our telephone bills. Representatives of foreign governments are, as you know, given no voice in the disposition of taxes imposed by the government of the country to which they are accredited, and therefore are not expected to pay such taxes.

We attach the accounts which we received for the Canadian Ambassador and the Embassy for the month of June and three cheques to cover the amounts still outstanding less the 2% tax.

Yours sincerely,

HECTOR ALLARD

Hector Allard  
Ambassador.

The Manager,  
Cuban Telephone Company,  
HAVANA.

CANADIAN EMBASSY

Apartado 1945,  
Havana, Cuba,  
June 25, 1958.

BEST COPY AVAILABLE

Dear Sir,

It has recently come to our attention that for several months this Embassy has paid for an item in its monthly bill identified as a 2% Social Security Tax. We wish to point out that under international practice, representatives of foreign governments are not liable to taxation in the country to which they are accredited. It is therefore our intention to discontinue paying the 2% tax on future bills which we may receive.

We attach the accounts which we received for the Canadian Ambassador and the Embassy for the month of May and three cheques and cash to cover the amounts still outstanding less the 2% tax. We would suggest that if you wish to question our decision in this regard, you might take up the matter with the Ministry of State.

Yours sincerely,

HECTOR ALLARD

Hector Allard  
Ambassador.

The Manager,  
Cuban Telephone Company,  
Aguila y Dragones,  
HAVANA.

NUMBERED LETTER

TO:.....THE CANADIAN EMBASSY.....  
.....HAVANA, CUBA.....

FROM: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Reference:..Your L-192 of May 21, 1958.....

Subject:....Diplomatic Customs Privileges.....  
.....Automobiles.....

Security:....CONFIDENTIAL.....

No:.....B-142.....

Date:.....June 26, 1958.....

Enclosures:.....

Air or Surface Mail:.....

Post File No:....3.5.5.5.....

Ottawa File No.

11561-V-40

References

Nat. Rev.  
(Customs)

We consider it necessary, for the time being at least, to discourage your initiative for putting pressure on the Cuban authorities to amend their regulations under which automobiles of diplomats which are sold in that country less than four years after their importation therein are subject to an indirect form of taxation. This letter is intended to let you know our thinking in this matter.

2. In the first place, from the point of view of international usage there does not appear to be any clear cut position with regard to the resale of articles such as cars imported by a diplomat into the country to which he is accredited. Canada, the United States and the Federal Republic of Germany, (all of which it should be noted are important car producing countries), represent a vanguard in their generous treatment of diplomats with respect to the resale of automobiles. The Cuban position on the other hand appears less forthcoming than that of the majority of nations.

3. The principal reason for exercising great care in this matter, however, arises from the difficulty of carrying out any notice of intention to apply strict reciprocity. Your proposed Note merely states that you will recommend to the Department the withdrawal of the privileges of free resale in Canada. Unless the Department of National Revenue, upon representations from this Department, is able to carry out such a recommendation however, your position would be worse than before. You will at once be aware of the administrative difficulty of Customs officers all over this country applying over fifty different sets of rules for the fifty odd countries which have diplomatic or consular representatives in Canada. This would be the position if attempts were made to enforce strict reciprocity in every instance. The Department is considering ways and means of encouraging countries, whose treatment of our representatives is far below the international norm, in the direction of more generous treatment. In spite of the apparently gauche approach of Mr. Pupo referred to in paragraph 3 of your letter we have found that an approach to diplomatic missions in Ottawa whose privileges would be restricted if we tightened our regulations is, in general, more effective than approaches through our embassies abroad where non-totational personnel are often indifferent to the possible privations of colleagues here.

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4. Thirdly, we can see no particular reason for undertaking an initiative at this time. The National Revenue memorandum you refer to represents a consolidation of existing practice rather than the breaking of any new ground which might

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provide a basis for representations.

4. We do not wish you to consider from the above that the Department is not anxious to see removed this annoying form of indirect taxation, particularly having regard to our own liberal position in the matter. Further, as stated above, we are giving consideration to means of improving the position of our personnel, particularly FSEs in countries where the foreign government regulations are particularly strict. Our experience has shown, however, that this is a slow process. While we encourage proposals which might lead to the improvement of the position of our personnel, we would prefer you to request the Department's positive approval of any action you propose to take rather than acting in the absence of contrary instructions. The reason for this is that during the course of state visits to Canada almost all of the personnel in the Protocol Division here are engaged on immediate tasks and a letter such as your communication under reference may be overlooked for as long as ten days. In certain circumstances this could lead to action which would be regretted in the Department.

A. McCORDICK  
FOR THE

Under-Secretary of State  
for External Affairs

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

OUTGOING MESSAGE

NDR

DUPLICATING SECTION

as per  
Mr. Weld

FM: EXTERNAL OTTAWA

DATE	FILE	SECURITY
JUN 23	11561-V-40	CONF
	12 46	
NUMBER	PRECEDENCE	COMCENTRE USE ONLY
B- 194	OPIMMEDIATE	

TO: HAVANA CUBA

INFO:

Ref.: YOUR LET L-192 MAY 21

Subject: DIPLOMATIC CUSTOMS PRIVILEGES - AUTOMOBILES

PLEASE DO NOT REPEAT NOT PRESENT NOTE. LETTER FOLLOWS.

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ORIGINATOR	DIVISION	PHONE	APPROVED BY
SIG..... NAME..... J.M. WELD / b1	PROTOCOL	6-6882	SIG..... NAME..... J.A. McCORDICK



DEPARTMENT OF EXTERNAL AFFAIRS, CANADA

*Temp file*

OUTGOING MESSAGE

	DATE	FILE		SECURITY	
	JUN 23	11561-V-40		CONF	
FM: <b>INTERNAL OTTAWA</b>		12	46		
		NUMBER	PRECEDENCE	COMCENTRE USE ONLY	
TO: <b>HAVANA CUBA</b>		B- 194	OPIMMEDIATE		
INFO:					

Ref.: **YOUR LET L-192 MAY 21**

Subject: **DIPLOMATIC CUSTOMS PRIVILEGES - AUTOMOBILES**

**PLEASE DO NOT REPEAT NOT PRESENT NOTE. LETTER FOLLOWS.**

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DISTRIBUTION

ORIGINATOR	DIVISION	PHONE	APPROVED BY
SIG..... J.M. WELD / .....dl	PROTOCOL	6-6882	SIG..... J. A. McCORDICK NAME..... J.A. McCORDICK

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

Security:...CONFIDENTIAL.....

No:.....L-192.....

FROM: The Canadian Embassy,  
Havana, Cuba

Date:.....May 21, 1958.....

Enclosures:.....1.....

Reference:.....

Air or Surface Mail:.....

Subject: Diplomatic Customs Privileges -

Post File No: 3.5.5.5.

Automobiles

Ottawa File No.

11561-V-40

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References

cc on 2020-L-1-40

This mission recently received a memorandum, D52-1 of February 12, 1958, from the Department of National Revenue regarding the customs privileges accorded to foreign diplomats in Ottawa. This memorandum, which outlines the regulations established by Order In Council P.C. 1954-1700 of November 9, 1954, as amended by Order In Council P.C. 1955-536 of April 20, 1955, states that motor vehicles imported under these regulations, which are sold in Canada two years or more after their original entry, are exempt from duties and taxes. A further regulation states that all privileges granted to diplomats are conditional on full reciprocity to Canadian officers in the countries concerned.

2. As you are aware, through a technicality in Cuban law, we are, in effect, not granted full reciprocity in Cuba. While the Cuban regulations with regard to diplomatic privileges state that diplomats are allowed to import and to dispose of their automobiles without paying duty or taxes, Decree Law 347 of July 17, 1934, which is now an article in the Constitution, states that anyone purchasing an automobile which has entered Cuba duty free, and which has not been in Cuba for a period of four years, must pay part or all of the customs duties. The Cuban Ministry of State, whenever it is approached about this lack of reciprocity, points to the fact that Cuban law does not penalize the diplomat and argues that the Ministry of State cannot be held responsible for other laws affecting only Cuban citizens. This is, of course, a fine piece of casuistry and has resulted in the fact that any diplomat selling his car in Cuba prior to the four year deadline is faced with an automatic loss of from 10% to 20% of the car's value.

3. The last exchange of correspondence we have been able to locate on this question occurred in 1955 when the Cuban Ambassador to Canada, Mr. Pupo, made his ill-considered approach to the President's office requesting the waiving of these regulations with regard to the sale of this Embassy's Buick. This approach succeeded only in

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arousing antagonism in the Ministry of State and resulted in no revision of the regulations concerned.

4. The receipt of this latest memorandum from the Department of National Revenue would appear to offer us an opportunity to raise this issue once more with the Ministry of State. We had considered asking the United Kingdom and United States Embassies to join with us in a three-pronged attack, but the United States Embassy has informed us that they have carried on a long-term exchange of correspondence regarding these regulations (the term "exchange" is not quite correct since the United States Embassy has presented the Ministry of State with 26 notes on this subject without a reply". The United States Embassy is, therefore, not disposed to forward another useless note and would prefer to wait until the State Department in Washington offers them a method of applying some pressure on the Cuban Ministry of State.

5. The clause in the memorandum from the Department of National Revenue appears to offer us a method of applying a little pressure, however. If you agree, we intend to present a note to the Minister of State drawing this regulation to his attention and informing him that unless some action is taken by Cuba we will, with regret, be forced to recommend that the privileges granted to Cuban diplomats in Ottawa be restricted. We attach for your approval a copy of the note which we intend to present at the regular diplomatic reception on June 25 unless we have received, in the meantime, instructions to the contrary from you.

  
Embassy

D R A F T Note to Minister of State

Excellency,

I have the honour to bring to your attention the matter of customs privileges granted to foreign diplomats resident in Cuba, and in particular the regulations of the Government of Cuba with regard to the resale of automobiles imported by diplomats.

A memorandum recently received from the Canadian Department of National Revenue outlines the regulations now in force in Canada regarding customs privileges for foreign diplomats. For your information I attach a copy of this memorandum, and wish to draw to your attention Articles 8 and 11. Article 8 permits the resale of a motor vehicle, without payment of duty and taxes, if the vehicle in question has been in Canada for a period of at least two years. Article 11 states that these customs privileges are granted conditional on full reciprocity being accorded to Canadian diplomats in the countries concerned.

It has come to my attention that, under the present customs regulations as outlined in Decree Law 347 of July 17, 1934, duty and taxes are payable on vehicles originally imported duty and tax free which are sold to non-diplomats within four years of the vehicle's arrival in Cuba. It would appear, therefore, that Canadian diplomats, the majority of whom remain in Cuba for less than the specified minimum of four years, on selling their automobiles must take into account the payment of duty and taxes to the Government of Cuba, even if it is the buyer who is to make this payment. This, in the opinion of the Government of Canada, does not constitute the reciprocity required under Canadian customs regulations in order to provide the privileges to Cuban diplomats in Canada.

I draw this matter to your attention in the hope that the Ministry of State may be able to effect the revision of

- 2 -

Cuban customs regulations to conform with the regulations now in effect in Canada. Otherwise I shall, with regret, be forced to recommend to the Secretary of State for External Affairs in Ottawa that steps be taken to withdraw the privilege of free resale of automobiles after two years from Cuban diplomats in Canada.

Accept, Excellency, the renewed assurances of my highest consideration.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: Canadian Embassy, Havana, Cuba.....

Reference:.....

Subject: Diplomatic Immunity...Sale of Cars....

Security: RESTRICTED.....

No:.....L-232.....

Date:.....June 14, 1957.....

Enclosures:.....

Air or Surface Mail:.....

Post File No:.....

Ottawa File No.	
11561-V-40	
20	68

References


Last night the Cuban Foreign Minister, Dr. Güell, whom I met at a dinner given by Dr. Carillo before our departure, was in a friendly and talkative state of mind and I seized upon this opportunity to talk with him about the difficulties we had had in selling office cars. As Dr. Carillo and Dr. Cortina took part in our discussions, I told him jokingly that while we were making it possible for any diplomatic car to be sold in Canada after two years—Cuban colleagues in Ottawa enjoy that privilege—we were not given the same treatment here. As he seemed to be quite interested, I went one step further and mentioned the fact that I should be taking the matter up with the Department to ask them to apply the reciprocity a little more rigidly. It was a nice bit of casuistry to tell us that we did not have to pay duty when we sold the office car, but that it was the purchaser's obligation to pay duty on the car. This made the sale of office cars a very unattractive proposition.

2. Dr. Cortina then launched into a rather bitter attack on the Cuban attitude by saying that he had on many occasions suggested that a decree be enacted, granting the same privileges that their diplomats received in any given foreign land. At this point, Dr. Güell said that he always had been in agreement with this, but that there would have to be a limitation of two cars for a mission and this would apply to Cuban missions abroad as well as the local missions. He also added that he saw no reason why a decree should not be enacted to cover these points and to provide for the sale of office diplomatic cars after two years without duty to be paid provided of course the country of the mission concerned granted similar privileges to the Cuban mission.

3. In view of this conversation this would appear to be an opportune moment to mention the subject to Dr. Carillo when he calls on Protocol Division in Ottawa. It is not impossible that Dr. Carillo may raise this point himself but steps in that sense should be taken on the first possible occasion following Dr. Carillo's first call on Protocol.

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Hector Allard,  
Ambassador.

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(DUPLICATE)

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: Canadian Embassy, Havana, Cuba.....

Reference:.....

Subject: Diplomatic Immunity - Sale of Cars....

Security: RESTRICTED.....

No:..... L-232.....

Date: June 14, 1957.

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Ottawa File No.

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HECTOR ALLARD

Hector Allard,  
Ambassador.

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DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(DUPLICATE)

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: Charles D. Surtees.....  
.....The Canadian Embassy, Havana, Cuba

Reference:...Circular Admin. 48/56 of September  
17, 1956 and our letter No. L-289

Subject:.....of October 15th.....

.....Importation of automobiles by.....

.....F.S.E.'s at Posts Abroad.....

Security:...UNCIA SSIFIED.....

No:.....L-292.....

Date:.....October 15, 1956.....

Enclosures:.....

Air or Surface Mail:..Air.....

Post File No:.....

Ottawa File No.	
11561-U-40	
20	✓

References

orig. on 11561-40

I should like to bring to the Department's attention how the situation described in Havana's letter No. L-289 of October 15th, 1956, has affected me personally.

2. In the middle of March of this year in Washington I ordered a Sun Top Volkswagon for May 1st delivery - cost tax-free to be \$1270. Just before May 1st I was advised by the Department that I was to return to Ottawa June 1st and I cancelled delivery. My June 1st return to Ottawa was closely followed by a posting to Havana. The same model car here including tax is \$2250 - a rather disconcerting figure especially as a car is a necessity in Havana and as gasoline is liberally "spiked" with alcohol which has a disruptive effect on motors too and makes second hand purchasing even more of a chance than is usually the case.

3. Presumably there are other missions where like situations hold. Would it not be possible to give F.S.E.'s in such circumstances temporary status to allow them single entry of an automobile?

Charles D. Surtees

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to Posts



DEPARTMENT OF EXTERNAL AFFAIRS, CANADA.

(DUPLICATE)

NUMBERED LETTER

TO: THE UNDER-SECRETARY OF STATE FOR  
EXTERNAL AFFAIRS, OTTAWA, CANADA.

FROM: Canadian Embassy, Havana, Cuba.

Reference: Circular Document Admin. No. 48/56.

Subject: Importation of automobiles by F.S.O.'s  
and F.S.E.'s at Posts Abroad.

Security:.....Unclassified.....

No:.....L-289.....

Date:.....October 15, 1956.....

Enclosures:.....

Air or Surface Mail: Air Mail

Post File No:.....

Ottawa File No.	
11561-V-40	
20	✓

References

orig. on 11561-40  
With reference to your paragraph 3, the following information is available:

- (a) Officers of this mission whose names appear on the diplomatic list are allowed to import automobiles without paying customs duties or other taxes. However, if the sale of the imported vehicle occurs within two years of the date of importation, full customs duties must be paid on the current value of the vehicle. Similarly, if the sale is made within two to four years of the date of importation one-half of the customs duties must be paid and only after four years may the vehicle be sold without customs duty being paid.

It is to be noted that the important factor is the date of entry of the vehicle. A car bought by a diplomat from another diplomat is, in fact, treated as if it had been in the possession of the second owner since its arrival in the country.

Of purely nuisance value, but worthy of comment, is the fact that diplomats on posting from Cuba or leaving the country for any other purpose, must push through a most complicated mass of red tape; it is not possible just to take the car and leave on the ferry.

Regarding the use of automobiles, diplomatic licence plates and driving licences are supplied without charge to personnel whose names appear on the diplomatic list through the good offices of the Ministry of State.

- (b) No privileges are allowed members of this Embassy whose names do not appear on the diplomatic list, either on first arrival or later.
- (c) There are no separate Consular or Trade Commissioner Posts in Cuba.

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2. Although we have no knowledge of the Cuban attitude towards Consuls General, Consuls, or Trade Commissioners, there appears to be no great disparity between the privileges offered by Cuba and Canada except for the question of automobiles. The arrival of the personal effects of Canadian diplomats is achieved here by a more cumbersome procedure than obtained in Ottawa, and officers of this mission do not obtain freedom from excise taxes on locally produced alcoholic spirits. However, neither of these is a serious matter in itself.

3. The discrimination in the matter of automobiles, on the other hand, is very real and the more irritating because it is not obviously necessary. There is no great difference between the U.S. and Cuban markets for second-hand cars, except that caused by transportation costs and the higher profit margin taken by car dealers here. Further, the fact that the Canadian tour of duty in Havana is two-and one-half years, together with the Cuban inability to accept a posting away from Cuba at any time as an excuse for breaking the regulations, means that only in the case of a double posting can a Canadian diplomat be free from paying duty on the sale of an automobile. Assuming that the Cuban tour of duty in Canada is longer than two years, the Cuban is in an altogether better position. In addition, it is our understanding that the Canadian Department of National Revenue gives kindly consideration to those diplomats who are posted away from Canada before the termination of their normal term of duty.

4. With regard to F.S.E.'s, Cuban regulations are far behind those in Ottawa which permit importation on first entry. Reciprocity, which would benefit our staff here, is completely lacking. The prospect of the payment of duty, together with licence fees and the unavailability of tax-free gasoline inhibits the importation or acquisition of an automobile with a consequent inhibition of travel throughout the island. From another angle, this lack of reciprocity may force the sale at a bad time of year in Ottawa of an automobile in the possession of an F.S.E. posted to Havana. The financial loss involved may possibly seriously decrease the desirability of this post.

5. These disadvantages, it is believed, do not apply to U.S. personnel in Havana since there is in existence an agreement between Cuba and the United States which provides, for example, "Exempta" licences for F.S.E.'s and non-State Department personnel attached to the U.S. Embassy. Presumably, there are consequent privileges regarding the sale of cars and the purchase of gasoline. Should it be decided that Canada should try to adjust the situation regarding the importation of diplomatic automobiles, it would unquestionably be necessary to execute a formal agreement with the Cuban government along the lines of the one with the United States and it might be found that at that time the minimum privileges required for F.S.E.'s could be easily obtained.

T. H. W. READ

Chargé d'affaires a.i.

FROM: THE CANADIAN MINISTER, HAVANA, CUBA

TO: THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS, OTTAWA

*File*

CODE

NO. 83

HAVANA, December 2, 1948.

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<i>2020-A-40</i>	
<i>43</i>	<i>40</i>

No. 83. Following for measures from Hebert,  
Begins:

Reference our conversation in September regarding status of Miss McGregor. Cuban Ministry of State, in spite of frequent and urgent requests, have not yet replied to our note based on your telegram No. 80 of June 25th, 1948. As I am leaving for Mexico and will probably be away more than two months, I would suggest that to get around what appears to be studied dilatoriness, this Legation be authorized to inform Ministry of State that Miss McGregor has been made an Attache.

CANADIAN MINISTER

B-40

Protocol/P. Reading/MOU

EXTERNAL AFFAIRS RECORDS	
File No.	2020-A-40
Sub. 40 Chron.	Filed

No. 80

Ottawa, June 25, 1948.

Sir,

I have the honour to refer to your despatch No. 48 of April 22, regarding the admission, free of duty and taxes, of articles for the personal and family use of consular officers in Canada and Cuba.

2. The formal Exchange of Notes which you suggest would be open to the objection that we would be entering into an international agreement, (on a subject of minor importance), which would require to be printed and tabled in the House of Commons and registered with the United Nations, at some cost.

3. It would be appreciated if, as an alternative, you would present to the Minister of State the enclosed note which, if it meets with the written approval of the Cuban Government, will constitute the Cuban Government's undertaking to grant reciprocity without having to conclude an international agreement.

4. I assume that the suspension of privilege referred to in paragraph 3 of your despatch affects only consular officers.

5. Cuban consular officers of career in Canada do indeed, and have for many years enjoyed privileges equivalent to those noted in paragraph 4 of the Department's "Memorandum on Revenue Exemptions and Miscellaneous Privileges granted in Canada to Foreign and British Commonwealth Representatives" of January 1947.

6. These privileges have never been interrupted, but it has been understood that they were accorded on a basis of reciprocity, as provided by the Canadian customs regulations.

I have the honour to be,

Sir,

Your obedient servant,

*W. H. Measures*  
For Secretary of State  
for External Affairs.

The Canadian Minister,  
Havana,  
Cuba.

THE CANADIAN EMBASSY  
HAVANA, CUBA.

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EXTERNAL AFFAIRS RECORDS
File No. 2020-A-40
Sub. 140 Chron. 40 Filed

The Minister of Canada presents his compliments to His Excellency the Minister of State and has the honour to refer to the admission, free of customs duty and taxes, of articles for the personal and family use of career consular officers in Canada and Cuba.

The Canadian Minister has been instructed by his Government to bring it to the attention of the Minister of State that the Revenue Exemptions and Miscellaneous Privileges in respect of foreign and Commonwealth Missions in Canada are governed by various Orders in Council, the details of which have been embodied in a Canadian Government memorandum on this subject issued on January 1, 1947, a copy of which is attached. In accordance with Order in Council P.C. 103/11160 of December 9, 1942, paragraph 4 of this memorandum reads as follows:

"Admission of Articles for personal and family use free of duty and taxes. The privilege is granted at all times, entry free of customs duty and taxes, of articles for the personal and family use of: heads of diplomatic missions, high commissioners; officers of diplomatic missions and officers of high commissioners' offices who are eligible for inclusion in the Diplomatic List: consuls general of career, consuls of career and vice-consuls of career; trade commissioners of career and assistant trade commissioners of career."

Paragraph 11 of the memorandum under reference states that:

"All privileges mentioned above are extended on the basis of reciprocity;

The Canadian Government will be pleased to continue to accord these privileges to the accredited consular representatives of career of Cuba as described in paragraph 4 of the memorandum under reference if the Government of Cuba will agree to grant reciprocal treatment to the consular representatives of career of Canada in Cuba.

The Canadian Minister would be grateful if His Excellency the Minister of State would confirm that the Government of Cuba will grant such reciprocal treatment to the representatives of Canada in Cuba.

Havana,  
June 25, 1948.

(Copies sent to:  
American Division  
Mr. W.D. Matthews  
Mr. R. Chaput  
*Calley*

June 22, 1948

*file*

**B**

EXTERNAL AFFAIRS RECORDS
File No. 2020-A-40
SEP 10 1948

MEMORANDUM FOR PROTOCOL DIVISION:

Re: Customs Privileges to Canadian  
Consular Representatives in Cuba

You asked me on June 21 whether I had any objection to your draft Note of June 21 in which you had authorized Canadian Minister in Havana to undertake an exchange of notes in order to ensure the reciprocal granting of privileges and immunities to Canadian consular officers in Cuba.

2- I feel that this procedure is open to objection inasmuch as we are entering into an international agreement which will require to be printed and tabled in the House of Commons on a subject of very minor importance. The cost will probably be in the neighbourhood of \$50.00.

3- As an alternative, I suggest that the Acting Under-Secretary of State authorize the Canadian Minister in Havana to send a note along

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the lines of the attached which, if it meets with the written approval of the Cuban government, will constitute the Cuban government's undertaking to grant reciprocity without having to conclude an international agreement.

4- I also suggest that if no satisfactory reply is received in about a month's time, ~~that~~ the Canadian Minister be asked to report back. We should then advise the Cuban government and the Cuban Minister in Ottawa that, with effect from a fixed date, consular officers of Cuba in Canada shall cease to enjoy those privileges comparable to those formerly enjoyed by Canadian consular officers in Cuba. To my mind this is the only way we will be able to assist Canadian representatives abroad.

5- I suggest that you might ask Havana also to clarify the meaning of paragraph (3) of despatch No. 48 of April 22nd (unless previous correspondence has made this clear). I take it, however, that he refers only to consular officers.

  
Legal Division.



Havana, June 16, 1948.

No. 82

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2020-A-10  
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Sir:

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N.I. I have the honour to refer to my despatch No. 48 of 22nd April, 1948, concerning the admission, free of duty and taxes, of articles for the personal and family use of Consular officers in Canada and Cuba.

2. It would be greatly appreciated if I could be advised as soon as possible whether I may undertake an exchange of notes with the Cuban Minister of State in accordance with the suggestion outlined in paragraph 4 of my despatch under reference.

I have the honour to be,  
Sir,  
Your obedient servant.

C. P. Hébert

C. P. Hébert,  
Canadian Minister to Cuba.

The Right Honourable  
The Secretary of State  
for External Affairs,  
Ottawa, Canada.



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No.48

Havana, April 22, 1948,

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Sir:

I have the honour to refer to the admission, free of duty and taxes, of articles for the personal and family use of Consular officers in Canada and Cuba.

2. It had been the Cuban practice to admit free of duty and taxes at any time articles destined for the personal and family use of Canadian Consular Officers of Career. This situation had been reported in our despatches No.185 of 3rd December, 1946, and No.51 of 29th March, 1947.

3. This privilege no longer exists. The Ministry of State, after having extended it for sixteen months in the case of Canada, has decided that the Cuban regulations can not be interpreted to permit such free entry after first arrival at a post in Cuba.

4. I approached the Minister of State on this matter and, while he did not give a fully satisfactory promise, he did indicate that the situation might be solved on the basis of an exchange of notes in which the Legation would quote the relevant sections of paragraphs 4 and 11 of the "Memorandum on Revenue Exemptions and Miscellaneous Privileges granted in Canada to Foreign and British Commonwealth Representatives (January, 1947)".

5. It would be appreciated if instructions could be given for me to undertake such an exchange of notes, provided Cuban Consular Officers of Career in Canada do indeed receive the equivalent privileges to those noted in paragraph 4 of the memorandum noted above.

I have the honour to be,  
Sir,  
Your obedient servant.

C. P. Hébert

C. P. Hébert,  
Canadian Minister to Cuba.

The Right Honourable  
The Secretary of State  
for External Affairs,  
Ottawa, Canada.

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No. 51

Sir,

*Refer to Dept 7 No. 1000  
can law  
Done June 12  
6R*

Havana, 29th March 1947.

I have the honour to refer to your Special Circular despatch No. 4 of 13th March concerning diplomatic and consular exemption and privileges.

2. The pertinent information on the Cuban interpretation of such privileges can be found on file in the Department having been contained in our Post Report forwarded under covering despatch No. 32 of 12th February 1947 and despatch No. 185 of 3rd December 1946 paragraph 5.

3. However, for ease of reference and comparison with the Canadian view point I am enumerating the privileges granted by the Cuban Government for your information.

4. The underlined headings below refer to those appearing in your "Memorandum on Revenue Exemptions and Miscellaneous Privileges granted in Canada....January 1st, 1947."

Remission of Customs Duty and Taxes on Articles imported from abroad.

Baggage Exemption

Cuban practice extends to the same persons as the Canadian but all Consular officers of career are granted exemption.

Admission of Articles for personal and family use free of duty and taxes

Cuban practice extends to the same persons as the Canadian.

Free entry privileges (on first arrival only) for employees of foreign and British Commonwealth Governments

Cuban practice extends to the same persons as the Canadian.

Remission of Excise Duty.

Domestic spirits and domestic tobacco products

Cuba does not grant any exemption from these domestic taxes.

Remission of Sales and/or Excise Taxes on certain Goods purchased and services supplied in Canada.

Cable, telegraph and telephone messages.

There is no Cuban internal tax. Exemption is granted from tax on messages going out of Cuba when costs are charged to Legation accounts.

The Right Honourable  
The Secretary of State for External Affairs,  
OTTAWA, C A N A D A

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Transportation

Full exemption from taxes are granted to diplomatic and consular officers and partial exemption to clerical personnel.

Excise Stamp tax on cheques

No such tax in Cuba.

Exemption from excise and sales taxes on automobiles, cigars, cigarettes, tobacco, wines, ale, beer, spirits and electricity for dwellings.

Automobiles: no exemption granted unless imported by diplomatic or consular officers.

Cigars, cigarettes, tobacco: domestic-no exemption; imported-exemption to diplomatic and consular officers.

Electricity for dwellings: no direct tax.

Wines, ale, beer, spirits; domestic-no exemption; imported-exemption to diplomatic and consular officers.

Exemption from retail purchase tax on luxury goods (e.g. jewellery, flat silver, perfumes)

Exemption granted to diplomatic and consular officers.

Exemption from Income Tax

Cuban practice same as the Canadian.

Exemption from Radio License Fee

No radio licenses in Cuba.

Mailing Privileges

Cuban practice same as the Canadian practice in case of Latin American Missions.

Foreign Exchange

Exemption from tax on foreign exchange transactions granted to foreign government personnel.

Driving Licenses and Automobile Plates

These are granted free of charge to diplomatic and consular officers. They would also be granted free to other personnel should Canada ask for it on a reciprocal basis.

Gasoline Duties and Taxes

Diplomatic and consular officers are exempt from these tariffs. Other personnel are not.

Additional

1. A small tax is collected on food and various products (e.g. essotane bottled gas used for cooking). This type of tax is not separable from the price of the goods.

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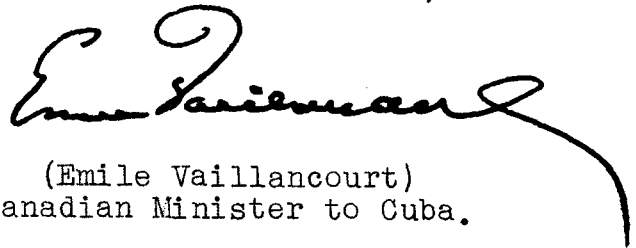
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2. Identity cards are granted to all classes of officers and personnel with appropriate designations. This is the result of alien registration laws.
3. Special cards permitting the bearer to board ships in harbour are also granted to diplomatic and consular officers.

I have the honour to be

Sir,

Your obedient Servant,



(Emile Vaillancourt)  
Canadian Minister to Cuba.

TWW/LA

CROSS REFERENCE SHEET


Type of Document Circular No. 5 Date March 13, 1947

From:- S.S.E.A.

To:- All Missions

Subject:-  
Privileges and Immunities of Diplomats

Original has been placed on File No. ~~33444~~ 11566-40

Copies on File .....

.....

Additional Information:-

Date May 15, 1952 .....

B. Crane  
.....  
Signature



CROSS REFERENCE SHEET


Type of Document ...Circular..... No...3<sup>4</sup>..... Date ...March 13, 1947.....

From:- S.S.E.A.

To:- All Missions

Subject:-  
PRIVILEGES AND IMMUNITIES ABROAD

Original has been placed on file .....~~11561-40~~ 11561-40.....

Copies on File .....

.....

Additional Information:-

Date May 15, 1952 ..... B. Crane  
Signature .....

CROSS REFERENCE SHEET


Type of Document Circular..... No..... Date February 1, 1947.

From:- S.S.E.A.

To:- All Missions

Subject:- PRIVILEGES AND IMMUNITIES -- Spirits and Wines

Original has been placed on file .....~~11561-46~~ 11561-46.....

Copies on File .....

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Additional Information:-

Date May 15, 1952 .....

..... B. Crane  
Signature .....

CROSS REFERENCE SHEET


Type of Document ..... Circular ..... No. .... Date. June 27, 1945

From:- S.E.H.A.

To:- All Missions

Subject:-  
PRIVILEGES AND IMMUNITIES OF DIPLOMATS

Original has been placed on file No. ~~21561-40~~ 21561-40 .....

Copies on File .....

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Additional Information:-

Date ..... May 15, 1952 .....

..... B.A.Crane .....  
Signature

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HOM  
British Legation,  
HAVANA

10th September 1943.

Sir,

In reply to your despatch of August 20th, I have the honour to enclose copy of the exchange of correspondence, the subject of Mr. Grant Watson's despatch No. 73 to the Foreign Office of May 7th, 1937.

2. In the light of the information furnished by you I agree that on the principle of reciprocity the Canadian Government Trade Commissioner would not be eligible for exemption from the 2.75% tax on telegrams.

I have the honour to be,

Sir,

Your obedient servant,

*Emp. M. M. M.*

*Mr Cullen: File Room  
pls note enclosures  
HOM  
17/19*

The Right Honourable

W.L. MacKenzie King, P.C., C.M.G.,

etc., etc., etc.

Secretary of State for External Affairs,

OTTAWA.

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DEPT. OF EXTERNAL AFFAIRS.

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• Enclosure to Mr. Grant COPY

Watson's despatch No. 73 of  
the 7th May, 1937.

T R A N S L A T I O N

Republic of Cuba,  
DEPARTMENT OF STATE

La Havana, 27 April, 1937.

No. 980.

Mr. Minister:

I have the honour to refer to Your Excellency's Note No. 31 of the 19th March last by which in communicating to me the appointment of Mr. C. S. Bissett as Canadian Government Trade Commissioner at Havana, as successor to Mr. E. L. McColl, you submitted to this Department for consideration, at the instance of His Majesty's Government in Canada, a statement of the views held by them in regard to the privileges which should be enjoyed by the Canadian Trade Commissioner and assistant Trade Commissioner in this Republic; and to inform Your Excellency of the views of this Department, requested in your Note under reference, and which are as follows:

1st. As regards exemption from customs duties on baggage belonging to Canadian Government Trade Commissioners and assistant Canadian Government Trade Commissioners on arrival in Cuba, the Government of the Republic grant such exemption to the above-mentioned officials, giving them equality with career consuls (Articles 19 to 21, Chapter VII, of Decree-Law No. 347 of 1934) the concession of this privilege being always subject to the strict observance of the law of international...

His Excellency

Herbert Adolphus Grant Watson, Esq., C.M.G.,  
Envoy Extraordinary and Minister Plenipotentiary  
of His Britannic Majesty,  
etc., etc., etc.

international

/reciprocity; and as regards the admission at any time, free of duty, of articles imported for the personal use of the Canadian Government Trade Commissioner, this Department sees no objection to granting that tributary exemption as an exceptional case, without its constituting a precedent as a courtesy in return for the reciprocal treatment extended by the Canadian Government to the Cuban Consul-General in Canada.

2nd. With respect to exemption from income tax this Government, in view of the principle of reciprocity invoked by Your Excellency in paragraph 3 of your Note under reference, will make applicable to the Canadian Government Trade Commissioner and to the Assistant Trade Commissioners, the rulings contained in Chapter VIII (Articles 22 to 24) of Decree-Law No.347, of 1934, which refers to the fiscal exemptions enjoyed in Cuba by the foreign career Consular officials.

I avail etc.,

(sgd) J.REMOS.

C O P Y

BRITISH LEGATION

HAVANA

No.31

19th March 1937

Your Excellency,

In notifying to Your Excellency the appointment of Mr.C.S.Bissett as the Canadian Government Trade Commissioner to reside in Havana as successor of Mr.E.L.McColl, I have the honour to submit, at the instance of His Majesty's Government in Canada, the following statement of the views held by them in regard to the privileges which in their opinion should be enjoyed by Canadian Government Trade Commissioners, and Assistant Trade Commissioners in Cuba. As regards exemption from Customs duties, His Majesty's Government hold that Canadian Trade Commissioners should be granted privileges equivalent to the measure of exemption granted to the Consuls General of foreign countries resident in Canada by Section Ia (3) and Section II (3) of the regulations prescribed under the Tariff item 706. As a question of reciprocity, His Majesty's Government would expect accordingly a full measure of exemption at all times for Trade Commissioners and exemption only on their first arrival for Assistant Trade Commissioners.

2. As regards exemption from income tax the Canadian Income War Tax Act, Revised Statutes of Canada, 1927, Chapter 27, provides as follows:

Section 4. The following incomes shall not.....

His Excellency  
Señor Dr Juan J.Remos.  
Secretary of State for the Republic of Cuba,  
Havana.



not be liable to taxation hereunder:-

- (b) The income of Consuls and Consuls-General and of officials or officers of a foreign country whose duties require them to reside in Canada, if and only if they are citizens of the country they represent and are not engaged in any business or calling other than the duties appertaining to their official position and provided that the country they represent grants a similar exemption to officials of the Government of Canada.

3. His Majesty's Government in Canada consider therefore that, as a matter of reciprocity, both their Trade and Assistant Trade Commissioners should receive in Cuba exemption from income tax.

4. It is hoped that the views of the Cuban Government will coincide with those held by the Canadian Government.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(sgd) H. A. GRANT WATSON

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EXTERNAL AFFAIRS	
File No.	2020A-4
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Refer to Trade & Commerce  
Excise

*Done  
J. E. Read  
20/8/43*

Ottawa, August 20th, 1943.

Sir,

I have the honour to acknowledge the receipt of your despatch of August 10th regarding a sales tax of 2.75% on all telegrams levied by the Cuban Government as from July 1st, and to convey to you the appreciation of the Canadian Government of the action in including in your request for exemption the Office of the Canadian Government Trade Commissioner. The position in Canada is that under the provisions of the Special War Revenue Act, Part 4, an excise tax is imposed of 15% on long distance telephone calls and of 7% on each telegraph message. The exemption granted by the Canadian Government is accorded to Ministers Plenipotentiary and High Commissioners, but is not extended to Consuls General or other Consular representatives, so that the Consul General of Cuba is not eligible for the exemption.

It would appear, therefore, that if the Cuban Government apply the principle of reciprocity to the extension of exemptions from the above mentioned tax on telegrams, the Canadian Government Trade Commissioner would not be eligible for exemption.

I should be grateful if you could forward to me a copy of the exchange of correspondence enclosed in Mr. Grant Watson's note to the Foreign Office, No. 73, of May 7th, 1937, as there seems to be no record of this correspondence here.

His Britannic Majesty's Minister,  
Havana, Cuba.

I have the honour to be,  
Sir,  
Your obedient servant,

J.E. READ

for the Secretary of State for  
External Affairs.

2020 A.40  
British Legation,

HAVANA.

10th August, 1943.

Sir,

The Cuban Government have recently imposed a sales tax of 2.75% on all telegrams as from July 1st. I duly requested exemption for the offices of His Majesty's Government in the Republic of Cuba, including in the list the Office of the Canadian Government Trade Commissioner. The United States Embassy have made similar application for the offices and official agencies of the United States Government.

16/8/43  
2. The Ministry of State have in reply questioned whether the Canadian Trade Commissioner's Office is attached to or part of the British Legation, explaining that they are having some difficulty in convincing the Ministry of Finance that this office is eligible for exemption. The position of the Canadian Trade Commissioner is set forth in the exchange of correspondence enclosed in Mr. Grant Watson's Note to the Foreign Office No. 73 of May 7th, 1937, a copy of which was, no doubt, sent to the Department of External Affairs. It only affects the personal privileges of the Canadian Trade Commissioner and the Assistant Trade Commissioner, on the general understanding that reciprocity is granted to the Cuban Consul-General in Canada.

3. The Office of the Canadian Trade Commissioner is, of course, not part of this Legation, nor does the Trade Commissioner appear in the Diplomatic List or enjoy full diplomatic privileges. But before replying to the question put by the Cuban Government, I should be glad if in the event of the decision being favourable to this Legation and the subordinate Consular Offices, whether and in what form I should apply for exemption for the Canadian Trade Commissioner's Office, if this is considered worth while.

I have the honour to be,  
Sir,  
Your obedient servant,

*How 3216*  
The Right Honourable

W.L. Mackenzie King, P.C., C.M.G.,

etc., etc., etc.,

Secretary of State for External Affairs,

OTTAWA.

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File No. 11561-V-40 Vol. 1

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