

LEGAL EYE

by Michael Bergman

# Free trade update

President Reagan during his recent visit to Ottawa affirmed his support for the Free Trade talks between Canada and the United States. These talks have been continuing apace trying to meet the fast-track deadline imposed by the United States Congress for its simplified ratification in that country.

Despite media coverage and the intent of at least the leaders of the two countries, it still remains far from clear what the talks encompass and what their effect on the economy will be. In the specific area of cultural industries it remains difficult to reconcile the statements of the American Free Trade ambassador and various members of the United States Congress that cultural industries are a subject matter for negotiation and the Canadian government's continued insistence that they are not.

For the Canadian film industry the issue of cultural sovereignty in the Free Trade talks continues to be of cardinal concern and so it should be since the industry has grown and flourished under a series of protectionist devices from subsidies, fiscal incentives, content quotas, etc. Interestingly enough, even if the subject matter of cultural industries is excluded from the Free Trade talks, the result of a Free Trade deal could still have an extremely adverse effect on the Canadian film industry.

The Free Trade talks are aimed at reducing trade barriers between the two countries. Barriers such as duties, import/export quotas, etc. are obvious, but it is also apparent that one of the results of the talks, and certainly the Americans seem to be pressing this position, is that the economies of the two countries should offer each other's citizens equal opportunity of investment and competition according to rules which make the marketplace more or less standardized. An element of this standardization would be that lower costs or greater return would be based on pure market factors and not artificial conditions created by government subsidies or legislation. Right there is the nub of an important problem for the Canadian film industry if Free Trade is successful, even if cultural industries are not directly addressed in the talks.

The current boom in feature filming in Canada is fueled by both Canadian and American production. Canadian produc-

tion is primarily financed by an effective subsidy from a crown corporation, Telefilm Canada. It is further aided by fiscal incentives in the form of the Feature Film Tax Shelter. Notwithstanding this assistance, the monies generated from these sources do not cover the costs of a Canadian feature film. More often than not the balance comes from American financing, whether in the form of a guaranteed sale or other investments into the project. Canadian producers who do not accept government assistance are more often than not in reality servicing American productions which, by shooting in Canada through the umbrella of a Canadian production house, save money on the exchange rate, union benefits and fringes and still have the advantage of certification for Canadian content regulations. American production in Canada shoots here primarily for the benefit of the exchange rate and lower costs as well as reduced union benefits and fringes.

There is no doubt that for better or for worse the current boom in Canadian feature film production is heavily reliant on American financing. This creates an iceberg effect where the visible portion of the industry seems to be Canadian film which is really resting on a base of invisible American support. Presumably if it were not for financial considerations, the level of American production and American investment in Canadian film would be significantly reduced.

The standardization that could result from Free Trade talks would probably affect the exchange rate between the two currencies making the Canadian currency stronger and therefore reducing the difference between them. Since Canada hopes that the result of Free Trade would be increased exports to the United States, Americans buying Canadian dollars to purchase these exports would push the value of the Canadian dollar up. Furthermore it is difficult to see how the American government would tolerate a Free Trade situation where Canada was more competitive purely because of the significant difference in the exchange rate.

Free Trade would result in pressure to bring Canadian film budget costs in line with American standards. One can easily imagine a scenario where

American film unions begin to insist that in light of the Free Trade Treaty and the demise of at least economic barriers between the two countries, Canadian film crews, actors and directors should be paid a fee

comparable to the American norm and Canadian film unions should be charging similar benefits. This pressure towards standardization would push Canadian costs up for the film industry and not down.

These factors would tend to cause Americans to remain home when it comes to film production and draw Canadian producers into the United States, closer to the financial

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base with which they are currently working in an attempt to ingratiate themselves as makers of American films at a lower cost to the extent possible in Canada.

Economic standardization also means increased and more developed across-the-border growth of distribution networks. All trade needs distribution. Free Trade would presumably encourage the develop-

ment of such systems on the basis of a complete open area where there is no trade boundary between the two countries. This would leave any attempt at Canadianization of the film distribution system in this country by other than purely market forces feeble at best. At any rate, Free Trade would necessitate the elimination of such things as the requirement under the Canada Business Corporations Act that the majority of a board of directors

of the corporation be Canadian. Such a measure would be necessary to facilitate the new open-door Free Trade ethic which would reduce economic discrimination against Americans. By this means Americans could acquire and assert control over Canadian distributors, even if Canadian law required Canadian ownership.

For these reasons it is difficult to see how the Canadian film industry can be heartened by any success the Canadian

government has in excluding the cultural industries from the Free Trade talks. The government may find that the picket fence around its film flower garden is no substitute for a cash-watering.

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## Mini-series takes on Dieppe battle

TORONTO — Atlantis Films Limited will co-produce a \$6 million television mini-series based on the lives of Canadian soldiers in the World War II battle of Dieppe.

Toronto based-Atlantis and Paris-based FIT Production will co-produce three 90-minute dramas in the *Dieppe '42* series.

Shooting is scheduled to begin in March 1988 in Canada, France and England. The series will be ready for release in 1989.

The television mini-series is based on an idea by French author Giles Perrault.

The story will follow the lives of four young Canadian soldiers about to be embroiled in the tragic battle of Dieppe in 1942. *Dieppe '42* will also look at the political climate in Canada at the time and then follow the soldiers to England as they train for the upcoming battle.

Atlantis spokesman Jeremy Katz said part of the story will also deal with the political intrigue involved in the battle and examine behind-the-scenes strategy of the Allied forces.

The script will be co-written by Perrault and Canadian writer Bill Gough. Most recently, Gough was producer of the CBC television movie *Charlie Grant's War* and also the television movie *The Marriage Bed*.

*Dieppe '42* executive producers are Michael MacMillan, president of Atlantis, and Jean-Pierre Ramsay, president of FIT Production. Atlantis partner Seaton McLean is producer.

Katz said the mini-series is not an official co-production under the terms of the treaty signed by the Canadian government and other countries.

The private co-production deal between Atlantis and FIT Production will allow for more artistic freedom, Katz said.

At press time broadcasters and a director were yet to be lined up. With scripts currently being developed, Katz said, the budget is tentatively set at \$6 million (Cdn.)

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## Women crown Loyalties

MONTREAL — *Loyalties* directed by Anne Wheeler has won the Grand Prize at the ninth annual International Women's Film Festival in Creteil, France. The Grand Prize is shared with *Seppan* directed by Agneta Fagerstrom-Olsson (Sweden).