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Ralph J. Galliano, Editor

CLINTON ADMINISTRATION ANNOUNCES MEASURES TO EASE EMBARGO

WASHINGTON -- President Clinton released a statement on Tuesday, January 5th, announcing the easing of restrictions on travel procedures, direct flights, financial remittances, the sale of food and agricultural inputs, and the restoration of direct mail service to Cuba with the intent of expanding people-to-people contact "without strengthening the Cuban government." These unilateral measures, in anticipation of a peaceful post-Castro transition to democracy, are considered a "furtherance" of steps announced by the administration on March 20, 1998 (see USCP, Vol.5, No.3) in the "wake of Pope John Paul's historic visit to Cuba". Following the tragic February 24, 1996 Brothers-to-the-Rescue shootdown, those measures restored direct passenger flights, resumed family remittances, and increased the licensed sale of medicines to non-governmental organizations in Cuba, primarily, Caritas, the Catholic relief agency on the island. Secretary of State Albright characterized the newly announced steps to ease the embargo further as "neither designed nor expected to alter our relations with the Cuban Government." Beyond reinstating the Christmas holiday, Albright acknowledged as "unfortunate" the Cuban government's failure to restore basic freedoms to the Cuban people as a response to either the January 1998 papal visit or the Clinton administration's subsequent easing of restrictions last March. James Dobbins, special assistant to the president at the National Security Council, described the administration's policy saying, "the President has said several times he's ready to improve relations with Cuba when Castro is prepared to make significant steps toward democracy and respect for human rights. But, we're not waiting for that to occur to take steps."

BASIC GOAL OF CUBA SANCTIONS -- The U.S. embargo against Cuba is embodied in the Treasury Department's "Cuban Assets Control Regulations" (31 CFR, Part 515) initially promulgated on July 8, 1963 under the *Trading With the Enemy Act*. In its information sheet entitled "What You Need to Know About the U.S. Embargo," it is stated that "[t]he basic goal of the sanctions is to isolate Cuba economically and deprive it of U.S. dollars." These new measures do neither. Instead, they substantially expand the flow of taxable dollars which will benefit the regime. While it is widely accepted that the enactment of Helms-Burton "codified" the embargo whereby only Congress could legislate changes, Dobbins stated at a briefing that it also "codified the President's licensing power...to which exceptions could be granted on a case-by-case basis"--deemed-consistent-with-U.S.-policy. -The exception-establishes the rule.

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- A BIPARTISAN COMMISSION - NOT AT THIS TIME -- Far from the unequivocal and outright rejection of the proposal put forward by Senator John Warner (R-VA) to establish a bipartisan commission to review Cuba policy (see USCP, Vol.5, No.10), Secretary of State Albright in her January 5th statement announcing the new measures to ease the embargo, left the door open to the creation of a bipartisan commission (USCP, Vol.5, No.12) in the future. "I want to note with appreciation the constructive proposal put forward by Senators Warner and Dodd (D-CT) and others concerning the possible creation of a bipartisan commission on U.S. policy towards Cuba. Although we do *not* support establishing such a commission *at this time*, we will continue to work with them and others on constructive ideas for encouraging a democratic transition in Cuba." Warner's October 13th letter to President Clinton set off a vigorous debate on the necessity of such a commission. Highly critical of the administration's policy shift, Rep. Ros-Lehtinen (R-FL) attributed Albright's statement to the strong political opposition which primarily came from herself and Reps. Diaz-Balart (R-FL), Menendez (D-NJ), Senators Mack (R-FL), and Graham (D-FL).

CONGRESSIONAL REACTION TO POLICY SHIFT -- Of the shift in policy, Ros-Lehtinen said the administration "has engaged in yet another maneuver to manipulate the letter and spirit of the Helms-Burton law and weaken U.S. policy toward the Castro regime." On the other hand, both Mack and Graham were more supportive. Offering a differing opinion, Mack said that "Most of today's initiatives reach out to the struggling Cuban people and reflect policies already codified in U.S. law." Similarly, Graham expressed his support of the changes describing them as "consistent with current law." Perhaps the most critical view came from House International Relations Committee Chairman Ben Gilman (R-NY) who said the announced policy changes "range far beyond" the goal of "seeking ways to support democratic elements inside Cuba." Critical of the unilateral aspects of the administration's policy shift, Gilman said it "has once again chosen to loosen restrictions on Cuba without any promise of change in the regime's treatment of the Cuban people. Moreover, the President's successive relaxations breach Congress's intent in codifying the embargo on Cuba under the LIBERTAD Act." Gilman recognized the reality of the island police state that Castro maintains in Cuba when he addressed the remittance issue saying it would "expand the flow of cash into Castro's state run dollar economy." Senator Dodd of Connecticut, a vociferous advocate of lifting the embargo on Cuba said, "The time has come to set aside an outdated policy and begin a new conversation on U.S.-Cuban relations."

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U.S. POLICY FACT SHEETS AND IMPLEMENTING REGULATIONS --

Accompanying the Clinton administration's announcement were six U.S. policy fact sheets issued by the State Department's Bureau of Inter-American Affairs on: (1) Food Sales; (2) Remittances; (3) Direct Flights; (4) Increased People-To-People Contacts; (5) Direct Mail; and, Increased Public Diplomacy. Among the People-to-People Contacts "to encourage the expansion of educational, cultural, humanitarian, religious, journalistic and athletic exchange" is the provision for the licensing of the Baltimore Orioles baseball team to negotiate with the Cuban government for the scheduling of two exhibition games to be played in Havana on March 28th and in Baltimore on April 3rd. If agreement can be reached between Orioles owner Peter Angelos and the Cuban government as to how the game profits are to be distributed, then the Orioles would become the first major league team to play in Cuba since the Brooklyn Dodgers in 1947. On the whole, the measures call for implementing regulations from the Departments of State, Justice, Treasury, and Commerce. According to Dobbins, they "will be published in the coming weeks. As last March, we will consult with the different interested constituencies and then try to write implementing regulations which are workable, which achieve the objectives."

LICENSING FOOD SALES AND AGRICULTURAL INPUTS --

While Congressional reaction to the overall policy shift was somewhat mixed, there was more of a consensus opposing the administration's proposal to sell food and to provide agricultural inputs to so-called "independent entities in Cuba." Graham was silent on this issue but Mack said it raised "serious questions." Gilman was more adamant saying, "Donations continue to be a more prudent alternative to the legally objectionable steps of licensing food sales." Menendez called very real "the possibility of Cuban government-created NGOs acting on behalf of the Cuban regime to complete sales, particularly of agricultural products." Reps. Ros-Lehtinen, Lincoln Diaz-Balart, and Dan Burton in a meeting with administration officials on January 6th demanded a "legal interpretation justifying the sale of food and agricultural products." In a letter (reprinted below) to the director of OFAC, the Members asked for all licensing requests for sales of food to Cuba. On January 8th, the first official reaction from Cuba was negative, calling for a full lifting of the embargo. Congressional opposition to the policy shift is expected to proceed particularly concerning "the illegal sale of agricultural products to Cuba."

CONGRESS OF THE UNITED STATES

Washington, D.C. 20515

January 7, 1999

Mr. Richard Newcomb

Director

Office of Foreign Assets Control

U.S. Department of the Treasury

Washington, D.C. 20220

Dear Mr. Newcomb:

It has come to our attention that simultaneously with the Clinton Administration's announcement that it will seek to allow the illegal sale of agricultural products to Cuba, the Archer Daniels Midland (ADM) company announced that it would immediately apply for a license to conduct such commerce with Cuba.

ADM Chairman Dwayne Andreas has long been seeking to profit from commerce with the Cuban tyranny. His representatives are said to maintain close contact with the Castro dictatorship and his interest in Cuba parallels a long history of ADM profiting from commerce with dictatorships.

We hereby request copies of the ADM license application and other related documents. We are particularly interested in the names of all Cuban "entities" that Mr. Andreas has stated ADM has contacted regarding the purchase of agricultural products.

We believe the recent Clinton Administration Cuba agricultural trade proposal is illegal and we will be proceeding accordingly. Furthermore, we intend to vigorously monitor all license requests filed with your office and other Administration entities for sales to Cuba.

We look forward to your cooperation and continued attention to this important matter.

Thank you very much.

Sincerely,

Lincoln Diaz-Balart (R-FL) Dan Burton (R-IN) Ileana Ros-Lehtinen (R-FL)

**COUNCIL ON FOREIGN RELATIONS ISSUES
TASK FORCE REPORT**

The Council on Foreign Relations (CFR) released its Cuba Task Force Report (see USCPRI, Vol.5, No.12) at an open meeting held in Washington, D.C. on Tuesday, January 12th also aired by CSPAN. Co-chairs, Bernard W. Aronson and William D. Rogers presented the report. Both are Democrats who have served at the State Department for Republican administrations. The report was finessed as an ideologically neutral accomplishment. According to Rogers, "This is the first time that liberals and conservatives have developed a consensus Cuba policy." Aronson attributed the consensus to the recognition "that U.S. policy toward Cuba should enter a new era. The Cold War is over; Cuban communism has been contained, and a still-fragile civil society is struggling toward the surface in Cuba. Liberals and conservatives on our panel agreed that the United States needs to support this civil society as a way of promoting a peaceful, democratic and rapid change on the island." If there is any argument to be made with these lofty pronouncements, it is two-fold. First, while the report purposely side steps the contentious issue of the "embargo," Aronson's remarks on Tuesday evening that the Clinton administration's decision to alter U.S. policy only went "halfway" in lifting the embargo bolsters a CFR news release dated January 6th which states that the "report's recommendations go well beyond those announced by the Clinton Administration on Tuesday [January 5th]." Second, if reports of Castro's redeployment of Cuban troops to southern Africa in support of the Angolan government of Dos Santos' Marxist MPLA against Savimbi's UNITA forces (see report in International Briefs on page 8) can be confirmed, then the CFR's contention that "Cuban communism has been contained" becomes arguable. Signatories endorsed the "general thrust of the document" and had the opportunity to offer dissenting and additional views which are included in the 33 page report issued on the 12th of January. Stating that "it should remain a clear objective of U.S. policy neither to support nor to appear to support the current regime," the report offered a framework of recommendations in "five baskets." Briefly, the five baskets are: (A) The Cuban American Community; (B) The Open Door; (C) Humanitarian Aid; (D) The Private Sector; and, (E) The National Interest. Basket "A" calls for increased contact with Cubans on the island by the Cuban-American community: "ending restrictions on humanitarian visits," raising the ceiling on remittances, and allowing retirement to Cuba for Cuban-Americans. Overall, this basket has a tendency to co-opt the interests of the Cuban-American community as does the tax provision in Basket "C", while at the end of the day, substantially increasing the flow of dollars to the island and, sans changes, ultimately benefiting the regime. Basket "B", in addition to recommending the reciprocal expansion of diplomatic and consular services, calls for increases in non-tourist, cultural, and academic travel. In the process, it calls for amending the \$100 per day current spending limit. Basket "C" recommends the elimination of all licensing for the "sales" of "food, medicines, and medical products to nongovernmental" institutions. Significantly, this basket also recommends "an amendment to U.S. tax laws so that American taxpayers with dependents who are residents of Cuba can also claim this deduction." Basket "D" advocates the adoption of the so-called "Arcos Principles" or best business practices and recommends limited private business activity in four specific areas by U.S. individuals and corporations. As a "gradual introduction of U.S. economic activities in Cuba," this basket is intended to support the first three baskets and requires changes in Cuban law. Finally, Basket "E" makes national interest recommendations including highly controversial military-to-military contact and counternarcotics cooperation.

**GILMAN SUBMITS QUESTIONS TO
CLARIFY EU-U.S. AGREEMENT**

In a followup to their meeting of September 24th (see USCPR, Vol.5, No.10), when the EU's Trade Commissioner, Sir Leon Brittan, paid a Capitol Hill visit to House International Relations Committee Chairman Benjamin Gilman (R-NY) to discuss the EU-U.S. Agreement (Understanding) of May 18th, Gilman has submitted questions to clarify Congressional concerns raised by the Albright letter of August 3rd (see USCPR, Vol.5, No.8). Albright's letter offered assurances to Members of Congress that the agreement provided clear protections for American property rights in Cuba. At the time of their visit, however, Brittan characterized the differences over the Albright letter as an internal U.S. matter but offered to respond if Gilman had any questions. Gilman acknowledges this in his cover letter (reprinted below) and proceeds to present Brittan with a set of 22 technical questions broken down into six categories. They include: (1) the force and effect of the Understanding; (2) application of paragraph I.B.3 where there has been a record of repeated expropriations in contravention of international law; (3) certified U.S. claims; (4) the definition of "Expropriation in Contravention of International Law"; (5) information exchange with respect to existing investments; and, (6) modalities of implementation. The key questions are those numbered 7-11 dealing with the definition of "proper consideration." A copy of the EU-U.S. Agreement is contained in the paper entitled The EU-U.S. Agreement and Protection of American Property Rights by Daniel W. Fisk published by the Institute for U.S. Cuba Relations in its Occasional Paper Series July 23, 1998.

GILMAN LETTER ON EU-U.S. AGREEMENT

**CONGRESS OF THE UNITED STATES
COMMITTEE ON INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515**

January 8, 1999
Sir Leon Brittan
Vice President
The European Commission
Rue de la Loi 200
B-1049 Brussels, Belgium

Dear Sir Leon:

It was a great pleasure to see you again on September 24th. I particularly appreciated your offer to answer on behalf of the European Union some of the technical questions that I and my colleagues on the Committee on International Relations have about the U.S.- EU "Understanding With Respect to Disciplines for the Strengthening of Investment Protection" of May 18, 1998.

As you know, our Committee has jurisdiction over any legislation that would provide the waiver authority called for in paragraph II.4 of the Understanding. We have consulted closely with the Clinton Administration about this matter, and a number of us have raised concerns about the likely effectiveness of the Understanding in deterring investment in unlawfully expropriated property. In order to ascertain whether these concerns are well-founded, we have sought clarification from the Administration regarding a number of ambiguous provisions in the Understanding. We welcome your offer to provide such clarification on behalf of the European Union, inasmuch as a reassuring response could go a long way toward relieving the apprehensions of some of our Members.

In this spirit, I would appreciate your response to the questions set forth in the attachment to this letter. I apologize in advance for the detailed nature of the questions. Please understand that we are asking detailed questions because we take the Understanding seriously, and are committed to carefully reviewing all issues related to the proposed waiver authority with respect Title IV of the LIBERTAD Act.

Again, I appreciate your willingness to be helpful to the Congress in this matter, and look forward to seeing you again during your next visit it Washington.

With warmest regards,

Sincerely,
Benjamin A. Gilman
Chairman

**Questions Regarding the "Understanding With Respect to Disciplines
for the Strengthening of Investment Protection
of May 18, 1998**

Force and Effect of the Understanding

1. When and by what authority were the obligations of the Understanding formally accepted by the European Union?
2. If the obligations of the Understanding have not yet been formally accepted by the European Union, what steps internal to the European Union are required to be taken in order for the obligations of the Understanding to become binding on the European Union? Under what authority will this acceptance take place?
3. To what degree will the obligations of the Understanding be binding on the individual member states of the European Union following exercise by the United States of the waiver authority contemplated by paragraph II.4 of the Understanding?
4. Should the Understanding come into effect in accordance with paragraph II.4, which will prevail in any instance in which the law or policy of a member state of the European Union conflicts with an obligation arising under the Understanding: the law or policy of the member state, or the obligation arising under the Understanding?
5. Who determines whether there is a conflict between the law or policy of a member state and the law or policy of the European Union: the member state or an instrumentality of the European Union?
6. Has any member state of the European Union suggested that it cannot or will not be bound by all obligations arising under the Understanding, even after those obligations are formally accepted by the European Union?

Application of Paragraph I.B.3

7. In the case of any proposed investment in a country subject to paragraph I.B.3, will the United States be afforded a meaningful opportunity in accordance with paragraph I.B.3(e) to provide additional information about whether individual properties covered by applications for government commercial assistance or other government support were illegally expropriated? How and when will the United States be made aware that such applications are pending and that additional information about individual properties covered by such applications may be provided?
8. In view of the commitment in paragraph I.B.3(c) to "give proper consideration to the question whether there has been an expropriation in contravention of international law before taking a decision" on requests for government commercial assistance to proposed investments in countries subject to paragraph I.B.3, will the Commission and all member states of the European Union assure themselves that the property in question was not expropriated in contravention of international law before granting assistance? What sort of information or evidence will be required in order [to] provide such assistance? Will requests for assistance be denied in absence of such information or evidence?

9. In view of the commitment in paragraph I.B.3(d) to apply the disciplines described in paragraph I.B.2 "in cases where the other participant comes to the view that an individual property has been expropriated in...contravention of international law," will the Commission and member states of the European Union consider that governmental commercial assistance and other government support may be provided to proposed investments in countries subject to paragraph I.B.3 in the absence of information or evidence establishing that the property in question was expropriated in contravention of international law?

10. What practical differences will there be between the

handling by European Union member states of applications for government commercial assistance or other government support for proposed investments in countries subject to paragraph I.B.3 and the handling of such applications for proposed investments in countries not subject to paragraph I.B.3? In particular, what specific additional procedures will apply to applications for government assistance subject to the "proper consideration" requirement of paragraph I.B.3(c) that will not apply to applications not subject to that requirement?

11. In view of footnote I and Annex D to the Understanding, does the European Union agree with the United States that, should the Understanding come into effect, all applications with respect to proposed investments in Cuba will be subject to the enhanced scrutiny requirements set forth in paragraphs I.B.3(c) and (d)?

Certified U.S. Claims

12. In the case of any proposed investment in a property in Cuba that is the subject of a claim that has been certified by the U.S. Foreign Claims Settlement Commission (FCSC), will the Commission and all members of the European Union accept final and binding the determination of the FCSC that the property was illegally expropriated?

13. If the response to the foregoing question is negative, will the Commission and all members of the European Commission assure themselves that any property in Cuba that is the subject of a claim that has been certified by the FCSC was not expropriated in contravention of international law? What sort of information or evidence will be required in order [to] provide such assurance? Will requests for assistance be denied in the absence of such information or evidence?

14. If the response to the foregoing question is negative, what consideration will the Commission and European Union members give to FCSC determinations in handling applications for government commercial assistance or other government support for proposed investments in properties in Cuba that are the subject of a claim that has been certified by the FCSC?

Definition of "Expropriation in Contravention of International Law"

15. In view of the desire expressed in paragraph I.A.1 to strengthen the international protection of property rights, is the European Union concerned about situations in which foreign governments carry out widespread and discriminatory confiscation of the property of their own nationals, without due process of law, without compensation, and in violation of domestic law?

16. Does the European Union acknowledge that there may be instances in which a government's widespread and discriminatory confiscation of the property of its own nationals, without due process of law, may amount to expropriation in contravention of international law by contravening, inter alia, Article 17 of the Universal Declaration of Human Rights?

17. If the response to the foregoing question is negative, what protection is afforded by the Understanding, or other policy of the European Union, to victims of situations in which foreign governments carry out widespread and discriminatory confiscation of the property of their own nationals, without due process of law, without compensation, and in violation of domestic law?

Information Exchange With Respect to Existing Investments

18. Can the European Union clarify the scope of the exemption for existing investments provided by paragraph I.C of the Understanding by identifying each investment in Cuba by nationals of the European Union (irrespective of whether the property may have been expropriated in contravention of international law) that potentially would benefit from that exemption?

19. If the response to the forgoing question is negative, can the European Union at least identify the number of investments in Cuba by nationals of the European Union that potentially would benefit from that exemption, and the approximate value of such investments?

20. Can the European Union clarify the degree to which existing investments in Cuba by nationals of the European Union benefitted from government commercial assistance or government support (as defined in Annex C) by indicating which (or at least

how many) of the investments identified in response to questions 18 and 19 above received government commercial assistance, and in addition, which (or at least how many) of the investments identified in response to questions 18 and 19 above received government support?

Modalities of Implementation

21. When does the European Union anticipate beginning negotiations pursuant to paragraph I.B.1(b) to elaborate modalities for implementing the Understanding?

22. Would the European Union be prepared in the context of negotiations pursuant to paragraph I.B.1(b) to agree on procedures, interpretations, and definitions to address some of the concerns regarding the Understanding suggested by the questions set forth above?

TITLE III WAIVER BECOMES ROUTINE

President Clinton's initial July 16, 1996 waiver of the Title III right of action under the Helms-Burton Act of 1996 has long since become a routine White House ritual exercised every six months. The recent move continues to placate the European Union (EU) which has been instrumental in shaping the Clinton administration's Cuba policy provisions which deal with trafficking in American owned confiscated property. This most recent suspension of provisions of Title III makes the sixth consecutive time the president has exercised his waiver authority. In late 1996, it became evident the EU intended to file a complaint at the World Trade Organization against the U.S. for all of its Cuba policy not merely Helms-Burton. The president declared the Title III waiver "indefinite" at the time of his second suspension on January 3, 1997, less than one year from signing Helms-Burton into law "so long as America's friends and allies continue their stepped-up efforts to promote a transition to democracy in Cuba." As required by law, the president is to determine and to report to Congress whether the right of an owner to bring an action in federal court should be suspended for a further six months. The president must explain "that such suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba." The president stated, "I believe that this decision best implements the Act's objective to enhance human rights." The provision within the Act to which the waiver is applied, however, involves the right of an owner to sue a trafficker in federal court extending U.S. jurisdiction over such trafficker's U.S. assets. Under Secretary of State Stuart Eizenstat in his statement cited numerous examples of foreign leaders expressing concern over the denial of human rights in Cuba. Senate Foreign Relations Committee Chairman Jesse Helms deplored President Clinton's decision suggesting that foreign investment in confiscated American property was benefiting the Castro regime. Helms charged that the president had "provided no credible evidence that suspending this provision of the law will in any way promote democratic change in Cuba" and called his actions a "flagrant abuse of the waiver authority provided him by Congress." The president's letter is reprinted below.

THE WHITE HOUSE
Washington

January 14, 1999

Dear Mr. Chairman:

Pursuant to subsection 306(c)(2) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114), (the "Act"), I hereby determine and report to the Congress that suspension for 6 months beyond February 1, 1999, of the right to bring an action under title III of the Act is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

Sincerely, William J. Clinton

INTERNATIONAL BRIEFS

DRUG TRAFFICKING AND EU-CUBA RELATIONS -- As the EU's Cuba policy continues steadily down the road of constructive engagement, a few bumps may be in store following the December cocaine bust in Colombia (see USCPR Vol.5, No.12) implicating Cuba and the suit filed by a French lawyer against Fidel Castro for drug trafficking. The Colombian National Police were criticized by Castro for not informing him earlier about the use of Cuba as a springboard to ship drugs to Europe. One of the traffickers arrested in Cartagena had arrived from Cuba and Castro subsequently accused two Spanish businessmen of money laundering and drug trafficking. U.S. Congressman Dan Burton (R-IN) called Castro's offer to help investigate, "a concerted public relations campaign" waged by Cuba "in an attempt to cover up their complicity in drug-trafficking." Burton accused Castro of turning to drug trafficking "to finance his communist regime" following the fall of the Soviet Union and the end of massive annual Soviet subsidies. (HL, "Castro: 2 shipped drugs through Cuba," 1/8/99). **FRENCH COURTS TO FACE ISSUE OF CASTRO DRUG TRAFFICKING CHARGES** -- French lawyer, Serge Lewisch, filed suit in Paris against Fidel Castro on behalf of two Cuban exiles and a French photographer for crimes against humanity, torture, illegal detention and drug-trafficking. Lewisch has taken his cue from the October arrest in London of former Chilean General Augusto Pinochet for extradition to Spain for crimes against humanity allegedly committed against Spanish citizens. One of the Cuban exiles in France is Ileana de la Guardia, the daughter of a former Cuban army colonel convicted on drug-trafficking charges and executed in 1989 by the Castro regime. De la Guardia says that "it was a matter of state, organized by the highest echelons of power in the country...it was impossible that Fidel Castro was unaware of this." A Miami grand jury in 1993 indicted Fidel's brother Raul, Cuba's First Vice President of the Council of State, on drug trafficking charges. (WP, "Frenchman Launches Case Against Castro," 1/7/99, p.A18; TWT, "Castro accused of drug trafficking," 1/7/99; AFP, "US tried to silence Cuba drug shipment bust" 1/8/99).

TRANSAFRICA'S RANDALL ROBINSON VISITS CASTRO: TRIP COINCIDES WITH REPORTS OF CUBAN TROOPS IN ANGOLA -- Randall Robinson, president of TransAfrica the Washington-based group that led the U.S. sanctions campaign against South Africa in the 1980s and began the picketing of its embassy building in Washington on a daily basis, led an 18-member delegation of black Americans to meet with Fidel Castro including actor Danny Glover and prominent attorneys and scholars. Robinson lauded the Cuban revolution that brought Castro to power 40 years ago January 1st and continued to criticize the U.S. embargo. As the start of the second full scale civil war flared in Angola in over 20 years, Cubans are once again reported fighting on the side of Jose Eduardo Dos Santos' ruling Marxist MPLA (Popular Movement for the Liberation of Angola) against Jonas Savimbi's UNITA (National Union for the Total Independence of Angola). Portuguese newspapers report 200 Cuban advisors in Angola working for the presidential security detail, defense, foreign affairs, and health ministries while 3,000 Cuban soldiers were aboard ships bound for Angola. (AP, "Castro Meets Black-Americans," 1/7/99; RL, "Angolan army denies Cubans are helping fight UNITA," 1/19/99). **SPAIN UNCOVERS CUBAN ESPIONAGE TRIANGLE** -- Spanish newspaper *La Razon* has exposed an espionage scandal of major proportions involving the infiltration by Cuban intelligence (DGI) of Spain's military intelligence agency (CDIS) which included meetings with a Spanish hotel and travel executive in Miami. Spies for Cuba's DGI whose European base is now in Madrid have gained access to Spain's military integration with NATO. (HL, "Spy ring for Cuba uncovered," 1/19/99).

SHORT TAKES

KOZAK REPORTED LEAVING AS HEAD OF U.S. INTERESTS SECTION IN HAVANA

-- *The Miami Herald* reported on January 5th that Principal Officer Michael G. Kozak will be leaving his post as part of the "normal rotation" experienced by career diplomats. Kozak replaced Joseph G. Sullivan in September 1996. While diplomatic tours for the heads of mission in Havana have lasted a solid three years, Kozak's replacement would be eight months short of that time if his replacement were to be imminent. The *Herald* reports Kozak's likely successor to be Vicky J. Huddleston the former U.S. ambassador to Madagascar who also served as Charge d'Affaires in Haiti after serving at the State Department's Cuba Desk in 1995. Huddleston is presently at the State Department. An official announcement has not been made. (HL, "U.S. envoy slated to leave Havana post," 1/5/99). **RANGEL BUMPED AS RANKING MEMBER ON HOUSE WAYS AND MEANS TRADE SUBCOMMITTEE** -- In finalized committee and subcommittee assignments announced on January 6th for the new 106th Congress, Rep. Charles Rangel (D-NY), whose perennial efforts to lift the trade embargo on Cuba are legendary along with his trips to Cuba and meetings with Cuban dictator Fidel Castro, has been bumped for the ranking position on the Ways and Means Trade Subcommittee. Rep. Sander Levin (D-MI) has moved over from the Human Resources Subcommittee to become ranking member on trade. *The Almanac of American Politics 1998* lists Levin as having voted against lifting the embargo. Rep. Phil Crane (R-IL) remains trade subcommittee chairman. Rangel, however, continues to be the ranking member on the full House Committee on Ways and Means, the most powerful committee in Congress. Should Republicans lose their majority in the 2000 elections, Rangel would become chairman of the Ways and Means committee. (PR, "Archer Announces Committee Organizational Meeting Action," 1/7/99). **BURTON CHARGES STATE DEPARTMENT WITH COVERUP OVER COLOMBIAN DRUG BUST** -- Dan Burton, chairman of the House Committee on Government Reform and Oversight, in a January 6th letter to Secretary of State Albright, has requested a full-accounting of reports that the U.S. Embassy in Colombia urged the Colombian government not to publicize the seizure of over seven tons of cocaine (see USCPR Vol.5, No.12) to avoid disrupting U.S. initiatives to improve relations with Cuba. Burton stated that "sources close to the American Embassy in Bogota have informed me that officials at the U.S. Embassy solicited silence from the Colombian National Police" concerning the drug seizure bound for Europe via Cuba "because it would hurt our budding relationship" with the Castro government. Burton urged that the allegations be investigated and warned that he would initiate a congressional inquiry if the State Department did not comply.

STATE DEPARTMENT ENCOURAGED OVER CASTRO ROLE IN COLOMBIAN PEACE PROCESS -- Colombian President Andres Pastrana opened peace negotiations with its largest narco-guerilla group FARC on January 7th and traveled to Havana for a three-way summit with Castro and Venezuelan president-elect Hugo Chavez (see USCPR, Vol.5, No.11) on January 17th. Pastrana had invited Castro to act as a "facilitator" in the peace talks (see USCPR, Vol.5, No.12) that would ostensibly end Colombia's 34-year civil war. The State Department acknowledged that Cuban dictator Fidel Castro had accepted the role of go-between. Briefing reporters on January 19th, State Department spokesman James Rubin said of Castro's participation in the Colombian peace process, "If the communist leader of Cuba thinks he can persuade communist insurgents to lay down their arms, we're not going to complain about it." (U.S. State Department Briefing January 19, 1999).

NOTABLE QUOTES

"I don't think it's appropriate foreign policy to reward Fidel Castro without having anything in return. If we're going to open up economic relations with Cuba it should be because Castro has opened up Cuba." Newly elected Florida Governor Jeb Bush comments on the economic study conducted by Arthur Andersen for the Florida legislature. (RL, 1/1/99).

"Cuban military tolerance of democratic change is dependent on the Cuban leadership, not the United States. The United States also has enunciated its willingness to assist the Cuban military in a democratic transition. At most, we should be encouraging the governments and militaries of the former Communist regimes in Eastern Europe to engage their military counterparts in Cuba. To have the U.S. military engage in such measures with a country that remains on the U.S. State Department list of countries supporting terrorism, beyond the monthly meeting related to Guantanamo, would legitimize an instrument of Castro's repression." Daniel W. Fisk offering dissenting views to the Council on Foreign Relations sponsored Cuba Task Force report presented in Washington, D.C. on January 12, 1999. Fisk is the former staff member and associate counsel of the Senate Foreign Relations Committee.

"Two score decades ago our government brought forth its answer to Fidel Castro's Communist regime in Cuba -- a comprehensive trade embargo. This month the United States took the first halting steps toward lifting that Cold War relic...Will a new American policy toward Cuba move the Castro regime toward democracy or will this unilateral relaxation of American sanctions mark the end of the dream 'Cuba Libre'?" John McLaughlin, host of NBC's *One on One* program "Cuba Libre," 1/17/99.

"The United States government and people within Cuba know there is an opposition movement within Cuba for the future. It's important that...we engage that we support those groups." Comments by Jorge Mas Santos, son of the late Jorge Mas Canosa founder of the Cuban American National Foundation (CANF). NBC's *One on One*, 1/17/99.

"It might surprise you, but I don't have a lot of heartburn about some of the recent steps the [Clinton] Administration announced. I'll go along with letting the Baltimore Orioles play exhibition games against the Cuban national team -- but on one condition: I want the Cuban national team to come to Baltimore to play the Orioles first, and then the Orioles can go to Havana to play the few players of the Cuban National Team who haven't defected!" Senate Foreign Relations Committee Chairman Jesse Helms addresses CPAC on January 22, 1999.

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Ralph J. Galliano, Editor

JUDGE RULES TELECOMMUNICATIONS PAYMENTS TO CUBA MAY BE GARNISHED FOR MURDEROUS ACT OF TERROR AGAINST U.S. CITIZENS

WASHINGTON — Although Senior U.S. District Court Judge James Lawrence King of Miami ruled in his March 18th decision that telecommunications payments due to Cuba from U.S. companies could be garnished for a "murderous act of terrorism" against U.S. citizens, he denied a U.S. government request to join in an appeal filed by AT&T and other defendants on March 22nd. Previously, the Court had allowed the Clinton administration to intervene on three occasions when permitting the Justice Department to file Statements of Interest on December 9, 1998, January 27, 1999, and February 8, 1999, including its 17-page Supplemental Statement of Interest Regarding Writs of Garnishment (see USCPR, Vol.6, No.2). Judge King's \$6.2 million award to three of the four Cuban-American families of the slain Brothers to the Rescue pilots who perished on February 24, 1996 is an attempt to satisfy the \$187.6 million judgment against the government of Cuba rendered by the Court on December 12, 1997. In denying the Clinton administration's motion to join the appeal, Judge King indicated that while he had entered judgments against the U.S. telecommunications carriers, no judgment had been entered against the U.S. government. Judge King stayed his March 18th decision while AT&T was required to post a \$4.5 million bond as it appeals the Court's garnishment order.

Ruling in favor of the families of the Brothers to the Rescue pilots, Judge King recounted the background of the event where "the Government of Cuba murdered four civilians flying on a routine humanitarian mission to rescue rafters in the Florida straits. As the four Brothers to the Rescue workers flew their two, unarmed airplanes in broad daylight over international waters, the Cuban Air Force -- without provocation or warning -- attacked them twice with sophisticated air-to-air MiG missiles. These missiles destroyed the Brothers to the Rescue planes, and killed the occupants instantly." Citing amendments to the *Foreign Sovereign Immunities Act of 1976* embodied in the enactment of the *Antiterrorism and Effective Death Penalty Act of 1996*, Judge King permitted the families to pursue their right of action against a foreign state's commercial assets held in the U.S. involving acts of terrorism whereby the victim "may seek monetary damages from the foreign state itself, and/or from an agency or instrumentality thereof." An "agency or instrumentality of a foreign state" is defined under section 1603(b) of Title 28, U.S. Code, as "an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof."

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AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE -- ETECSA's (Empresa de Telecomunicaciones de Cuba S.A.) joint venture with Telecom Italia apparently makes it an "agency or instrumentality of a foreign state" in which the Cuban government owns a majority interest or 58.68 percent; so concluded Judge King. ETECSA, has five shareholders, three of which are controlled by the Cuban government: (1) Telefonica Antillana, S.A. ("TELAN") a Cuban owned corporation with 51% of shares; (2) Banco Financiero Internacional, S.A. ("BFI") a Cuban corporation owning 6.68% of shares; and, (3) Banco Internacional de Comercio, S.A. ("BICSA") a Cuban corporation owning 1.00% of shares. In their court briefs, the Justice Department and the telecom carriers took the position that ETECSA is a separate legal entity independent from the Cuban government.

TELECOMMUNICATIONS COMPANIES REROUTE CALLS -- Following Cuba's cutoff of telephone service at 12:01 AM on February 25th in retaliation for the withholding of funds which were placed in escrow pursuant to Judge King's order, American carriers immediately rerouted U.S. calls to Cuba through third countries in Europe and Latin America. Only calls from Cuba to the U.S. were impacted. "Our main issue here has been serving our customers and providing communications despite the entanglements of this political and legal issue," noted Miami based Gustavo Alfonso, spokesman for AT&T. Cuba's Communist Party newspaper, Granma, accused the U.S. carriers of violating their agreements with ETECSA. The president's semiannual reporting requirement under Helms-Burton (see USCPR, Vol.5, No.10), "detailing payments to Cuba," will likely be disrupted because of Cuba's actions. Additionally, Cuba is likely to receive less in payments since the accounting rate in other countries is less than the agreed to \$1.20 per minute split with U.S. carriers.

POLICY IMPACT -- The basis of current telecommunications policy toward Cuba lies in Section 1705(e) of the *Cuban Democracy Act of 1992* and Section 102(g) of the *LIBERTAD Act of 1996* also known as Helms-Burton. However, the issue in this court case (No.96-10126-CIV-KING) has been the president's waiver authority under Section 117 - Exception to Immunity From Attachment Or Execution - of the *Omnibus Supplemental Appropriations Act of 1999* - initiated by Sen. Mack (R-FL) and Rep. Ros-Lehtinen (R-FL) (see USCPR, Vol.5, No.11). Examining the president's waiver authority under Section 117, the Court determined that "Congress's grant of the authority to waive 'the requirements of this section' did not include the power to waive the new subsection (f)(1)." It is likely the appeal process could take years ultimately reaching the Supreme Court.

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CUBA'S HUMAN RIGHTS PRACTICES

LAW FOR THE PROTECTION OF NATIONAL INDEPENDENCE AND THE ECONOMY OF CUBA – With increasing signs of economic weakness, official corruption, shortages, and growing internal dissent to the Castro regime's one party state, the Cuban National Assembly of Popular Power on the week of February 15th passed anti-revolutionary Law No. 88 aimed at stifling the dissemination of information and the free expression by journalists deemed to be in "collaboration" with U.S. policy.

STATE DEPARTMENT ISSUES REPORT ON CUBA'S HUMAN RIGHTS PRACTICES – The State Department's Bureau of Democracy, Human Rights, and Labor released its annual report to Congress on human rights practices in 194 countries on February 26th. The 35-page section on Cuba declared the Castro regime "continued systematically to violate fundamental civil and political rights of its citizens."

CUBAN GOVERNMENT CONVICTS DISSIDENTS IN CLOSED TRIAL – Jailed in July 1997 for writing, "The Homeland Belongs to All," a political and economic critique of the Fifth Communist Party Congress' draft platform, the Cuban government on March 1, 1999 placed on trial for sedition four dissidents: Vladimiro Roca, Feliz Bone, Rene Gomez Manzano, and Marta Beatriz Roque. The March 15th sentences, which ranged from three-and-one-half to five years imprisonment, brought international condemnation of the Castro regime.

HELMS HOLDS SENATE HEARING – Senate Foreign Relations Committee Chairman, Jesse Helms, on March 10th held a hearing on Castro's human rights crackdown. Among the witnesses who testified was Ruth Montaner a representative of the Cuban Dissidence Task Group whose statement to the committee included a copy of the "Homeland" and the Cuban prosecution's court charges against the four dissidents brought to trial.

HOUSE AND SENATE PASS RESOLUTIONS – Both the House (3/4/99) and the Senate (3/23/99) passed resolutions (reprinted below) calling on President Clinton to support a separate resolution at the UN Human Rights Commission convening in Geneva on March 31st. Sen. Connie Mack (R-FL), who along with Sen. Bob Graham (D-FL) introduced the Senate resolution, called on Secretary of State Albright, in a letter reprinted below, to support such a resolution when it comes up for a vote expected on April 23rd.

MACK LETTER TO SECRETARY ALBRIGHT: ADDRESS CUBA'S HUMAN RIGHTS VIOLATIONS AT UNCHR IN GENEVA

United States Senate

February 24, 1999
The Honorable Madeline Albright
Secretary of State
Department of State
Washington, D.C. 20520
Dear Madam Secretary:

We are writing to express our appreciation for your restatement of the Administration's commitment to require political reforms in Cuba before lifting U.S. trade sanctions against Fidel Castro's government. In addition, we request you make every effort to address Fidel Castro's brutal human rights violations when the United Nations Commission on Human Rights meets in Geneva.

Following Pope John Paul II's visit to Cuba, Fidel Castro's regime benefited from suggestions by some governments to allow an interval to give Cuban authorities time to respond to the Holy Father's pleas without international pressure. A year has passed since the visit and the human rights abuses continue. To this end, we hope that you will work to prevent a repeat of the shameful outcome of last year's vote on the Cuba resolution.

International human rights publications note Cuba's failure to make any advances in the past year. Pax Christi reported that Castro used the papal visit to acquire some measure of international legitimacy, and Human Rights Watch, in December reported:

As 1998 drew to a close, Cuba's stepped-up prosecutions and harassment of dissidents, along with its refusal to grant amnesty to hundreds of remaining political prisoners or reform its criminal code, marked a disheartening return to heavy-handed repression.

Fidel Castro and his regime spend considerable time and political capital diverting international attention from their human rights record, and at times attempt to portray the Castro regime as a victim rather than an aggressor of human rights abuses. We hope that the United States will make the Commission meeting a forum to expose this charade and draw international attention and judgment. We are confident that if you devote personal attention to this issue many of the governments comprising the Commission will join the United States in opposing Fidel Castro's tyranny. Thank you in advance for your consideration.

Sincerely,

Sen. Connie Mack (R-FL)
Sen. Dick Lugar (R-IN)
Sen. Joe Lieberman (D-NJ)
Sen. Paul Coverdell (R-GA)
Sen. Thad Cochran (R-MS)
Sen. Herb Kohl (D-WI)
Sen. Frank Lautenberg (D-NJ)

Sen. Bob Graham (D-FL)
Sen. Jesse Helms (R-NC)
Sen. Richard Shelby (R-AL)
Sen. Jeff Sessions (R-AL)
Sen. Chuck Grassley (R-IW)
Sen. Spencer Abraham (R-MI)
Sen. Jon Kyl (R-AZ)

Sen. Robert Torricelli (D-NJ)
Sen. Trent Lott (R-MS)
Sen. Mike DeWine (R-OH)
Sen. Conrad Burns (R-MT)
Sen. John Ashcroft (R-MO)
Sen. Ted Stevens (R-AK)
Sen. Harry Reid (D-NV)

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Senate Resolution 57
March 4, 1999.

Whereas the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland, provides a forum for discussing human rights and expressing international support for improved human rights performance;

Whereas, according to the United States Department of State and international human rights organizations, the Government of Cuba continues to commit widespread and well documented human rights abuses in Cuba;

Whereas such abuses stem from a complete intolerance of dissent and the totalitarian nature of the regime controlled by Fidel Castro;

Whereas such abuses violate internationally accepted norms of conduct;

Whereas the Government of Cuba routinely restricts worker's rights, including the right to form independent unions, and employs forced labor, including that by children;

Whereas such abuses violate internationally accepted norms of conduct enshrined by the Universal Declaration of Human Rights;

Whereas the Government of Cuba has detained scores of citizens associated with attempts to discuss human rights, advocate for free and fair elections, freedom of the press, and others who petitioned the government to release those arbitrarily arrested;

Whereas the Government of Cuba has recently escalated efforts to extinguish expressions of protest or criticism by passing state measures criminalizing peaceful pro-democratic activities and independent journalism;

Whereas the recent trial of peaceful dissidents Vladimir Roca, Marta Beatriz Roque, Felix Bonne, and Rene Gomez Manzano, charged with sedition for publishing a proposal for democratic reform, is indicative of the increased efforts by the Government of Cuba to detain citizens and extinguish expressions of support for the accused; and

Whereas these efforts underscore that the Government of Cuba has continued relentlessly its longstanding pattern of human rights abuses and demonstrate that it continues to systematically deny universally recognized human rights: Now, therefore, be it

Resolved, That it is the sense of the Senate that at the 55th Session of the United Nations Human Rights Commission in Geneva, Switzerland, the United States should make all efforts necessary to pass a resolution, including introducing such a resolution, criticizing Cuba for its human rights abuses in Cuba, and to secure the appointment of a Special Rapporteur for Cuba.

House Resolution 99
March 23, 1999.

Whereas the United Nations Commission on Human Rights in Geneva, Switzerland, is an international mechanism to express support for the protection and defense of the inherent natural rights of humankind and a forum for discussing the human rights situation throughout the world and condemning abuses and gross violations of these liberties;

Whereas the actions taken by the United Nations Commission on Human Rights establish precedents for further courses of action and send messages to the international community that the protection and promotion of human rights is a priority;

Whereas the Universal Declaration of Human Rights which guides global human rights policy asserts that all human beings are born free and live in dignity with rights;

Whereas international human rights organizations, the Inter-American Commission on Human Rights, and the Department of State all concur that the Government of Cuba continues to systematically violate the fundamental civil and political rights of its citizens;

Whereas it is carefully documented that the Government of Cuba propagates and encourages the routine harassment, intimidation, arbitrary arrest, detention, imprisonment, and defamation of those who voice their opposition against the government;

Whereas the Government of Cuba engages in torture and other cruel, inhumane, and degrading treatment or punishment against political prisoners including the use of electroshock, intense beatings, and extended periods of solitary confinement without nutrition or medical attention, to force them into submission;

Whereas the Government of Cuba suppresses the right to freedom of expression and freedom of association and recently enacted legislation which carries penalties of up to 30 years for dissidents and independent journalists;

Whereas religious freedom in Cuba is severely circumscribed and clergy and lay people suffer sustained persecution by the Cuban State Security apparatus;

Whereas the Government of Cuba routinely restricts workers' rights including the right to form independent unions;

Whereas the Government of Cuba denies its people equal protection under the law, enforcing a judicial system which infringes upon fundamental rights while denying recourse against the violation of human rights and civil liberties;

Whereas in recent weeks the Government of Cuba has carried out a brutal crackdown of the brave internal opposition and independent press, arresting scores of peaceful opponents without cause or justification;

Whereas the internal opposition in Cuba is working intensely and valiantly to draw international attention to Cuba's deplorable human rights situation and continues to strengthen and grow in its opposition to the Government of Cuba;

Whereas at this time of great repression, the internal opposition requires and deserves the firm and unwavering support and solidarity of the international community; and

Whereas the Congress of the United States has stood, consistently, on the side of the Cuban people and supported their right to be free: Now therefore, be it

Resolved, That the House of Representatives—

(1) condemns in the strongest possible terms the repressive crackdown by the Government of Cuba against the brave internal opposition and the independent press;

(2) expresses its profound admiration and firm solidarity with the internal opposition and independent press of Cuba;

(3) demands that the Government of Cuba release all political prisoners, legalize all political parties, labor unions, and the press, and schedule free and fair elections;

(4) urges the Administration, at the 55th Session of the United Nations Human Rights Commission in Geneva, Switzerland, to take all steps necessary to secure international support for, and passage of, a resolution which condemns the Cuban Government for its gross abuses of the rights of the Cuban people and for continued violations of all international human rights standards and legal principles, and calls for the reinstatement of the United Nations Special Rapporteur for Human Rights in Cuba;

(5) declares the acts of the Government of Cuba, including its widespread and systematic violation of human rights, to be in violation of the charter of the United Nations and the Universal Declaration of Human Rights;

(6) urges the President to nominate a special envoy to advocate, internationally, for the establishment of the rule of law for the Cuban people; and

(7) urges the President to continue to actively seek support from individual nations, as well as the United Nations, the Organization of American States, the European Union, and all other international organizations to call for the establishment of the rule of law for the Cuban people.

MACK ANNOUNCES RETIREMENT: LEAVES LEGACY OF SUPPORT FOR A FREE CUBA

Standing at the southern most spot of the continental United States, with Cuba just 90 miles away, Rep. Connie Mack began his campaign for the U.S. Senate by making his announcement speech in Key West on October 19, 1987. The then-three-term Florida congressman stood on what he called "a piece of land as significant politically as it is geographically."

Proclaiming that the Cuban "people live under the harsh and absolute domination of a Communist tyrant," Mack carried his passion for a free Cuba well into his second U.S. Senate term which ends in January 2000.

Mack's achievements, working in support of the Cuban people and against the oppression of the Castro regime, are numerous. Throughout his Senate years, Mack has worked effectively behind the scenes, often teamed up with his Democratic colleague, Bob Graham, to achieve a bipartisan solution to the "Cuba" problem.

Following his election to the U.S. Senate in 1988, Mack co-founded the bipartisan Cuba Freedom Caucus. Among Mack's legislative accomplishments are: original cosponsor (1989) of TV Marti, the *Television Broadcasting to Cuba Act*; sponsor (1992) of the amendment embodied in the *Cuban Democracy Act* to close the 1975 embargo loophole by prohibiting U.S. subsidiary companies located in foreign countries from trading with Cuba; original cosponsor (1995) of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996* known as Helms-Burton; supporter and sponsor (1998) of sections 117 and 211 contained in the Omnibus Appropriations Bill dealing with the 'execution of judgments against terrorist states' and the 'prohibition of the United States from recognizing trademarks confiscated by the

Castro regime;' and most recently (1999), along with Graham, introduced - S.Res 57 - to pass a resolution in Geneva condemning Cuba's human rights record.

The 1992 provision to terminate U.S. subsidiary trade, popularly known as the 'Mack Amendment,' cut the Castro regime off from hundreds of millions of dollars annually. Mack cautioned at the time that

the "economic benefits of trading with a free and independent Cuba will be far more advantageous to our Western democratic allies than trading with Castro's regime."

A staunch defender of private property rights, Mack

stated on the Senate Floor (October 11, 1995) in support of the Titles III and IV of LIBERTAD that the bill would "provide a powerful disincentive to those who would use illegally expropriated property belonging to United States citizens to prop up the Castro regime and its instruments of repression."

In calling on President Clinton "to make all efforts necessary to pass a resolution condemning Cuba at the UN Human Rights Commission meeting in Geneva, Switzerland" on March 30th, Mack invoked the memory of the four Brothers to the Rescue pilots' "murder in the Florida straits." (Mack has previously called for the indictment of the Cuban pilots). On the day of the unanimous 98-0 Senate vote, Mack charged that "Castro has arrested more dissidents than he released following the Pope's visit and has instituted new laws which restrict the freedom of speech, even more restrictive than in the previous year."

As conference chairman, Mack is the third highest ranking Republican in the U.S. Senate and, until his March 13th announced retirement, he was considered a strong candidate for re-election.

EU-U.S. AGREEMENT UPDATE

Speaking at a meeting of the U.S. Cuba Business Council in Miami on March 9th, Assistant Secretary of State Alan Larson, considered the chief architect of the EU-U.S. Agreement reached at the London Summit on May 18, 1998 (see USCPR, Vol.5, No.7), declared "Now it is time for us to put the [EU-U.S.] Understanding into operation." Congress, having intended the Agreement to invoke strict disciplines to inhibit and deter investment in confiscated property in Cuba, has not approved the Agreement which loosely applies disciplines worldwide. Further consideration of the Agreement is pending responses to a number of unanswered questions presented to the EU's Leon Brittan by House

International Relations Committee Chairman Ben Gilman on January 8th. (see USCPR, Vol.6, No.1). According to Larson, "We are working closely with the Congress to seek action on legislation that will authorize the president to waive, *on a provisional basis*, application of Title IV with respect to the countries implementing the disciplines...The waiver authority we seek would require the administration to revoke the waivers if a participant failed to live up to the Understanding." The key to Congressional acceptance may be waiver application "on a provisional basis" by country.

THE EURO AND CUBAN TRADE --

The Cuban central bank's planned use of the Euro beginning on July 1, 1999 (see USCPR, Vol.5, No.11) will involve trade and credit transactions with the European Union and, on January 1, 2002, will include currency transactions for use in the island's tourist industry dominated by Europeans. The Euro spot market rate on Thursday December 31, 1998 was \$1.1669. The Euro went into effect for 11 of 15 nations on January 1, 1999. It will be useful to follow these currency rates in the months and years to come.

LEGISLATIVE ALERT

Four additional Cuba specific bills were introduced through March 22, 1999; a fifth (S.327) would effect the embargo on Cuba if passed.

1. [H.R.1181] This bill was introduced in the House by Rep. Ron Paul (R-TX) on March 18, 1999 and referred to the Committee on International Relations, and to the Committees on Ways and Means, Commerce, and Government Reform. This bill calls for lifting the trade embargo on Cuba, and for reestablishing Cuba's sugar quota. Section 2 of the bill authorizes the currently prohibited installation, maintenance and repair of telecommunications equipment in Cuba. There were no cosponsors.
2. [H.R.1211] **Foreign Relations Authorization Act** was introduced by Rep. Chris Smith (R-NJ) on March 22, 1999. The bill authorizes appropriations for the Department of State and related agencies for fiscal years 2000 and 2001. With regard to Cuba, the bill authorizes funding for Radio and TV Marti and requires the president to submit an unclassified report to Congress on Cuban drug trafficking.
3. [H.Res.99] **House Human Rights Resolution** was introduced by Reps. Ileana Ros-Lehtinen (R-FL) and Lincoln Diaz-Balart (R-FL) on March 9, 1999. Thirty one Members cosponsored this resolution. It urges the administration, at the 55th session of the United Nations Human Rights Commission in Geneva, Switzerland, to take all steps necessary to secure international support for, and passage of, a resolution which condemns the Cuban Government for its gross abuses of the rights of the Cuban people and for continued violations of international human rights standards and legal principles. It calls for the reinstatement of United Nations Special Rapporteur for human rights in Cuba. The resolution passed the House on March 23, 1999 by voice vote.
4. [S.327] **Food and Medicine Sanctions Relief Act of 1999** was introduced by Sens. Chuck Hagel (R-NE) and Chris Dodd (D-CT) on January 28, 1999 and referred to the Committee on Foreign Relations. This bill, to exempt agricultural products, medicines, and medical products from U.S. economic sanctions, although not Cuba specific, would affect the embargo on Cuba. S.327 is similar to a bill introduced by Dodd last year which was defeated by House and Senate conferees. There are 16 cosponsors.
5. [S.Res 57] **Senate Human Rights Resolution** was introduced by Sens. Bob Graham (D-FL) and Connie Mack (R-FL) on March 4, 1999. Thirteen Members cosponsored this resolution. It expresses the sense of the Senate that at the 55th session of the United Nations Human Rights Commission in Geneva, Switzerland, the United States should make all efforts necessary to pass a resolution criticizing Cuba for its human rights abuses, and to secure the appointment of a Special Rapporteur for Cuba. The resolution passed by a unanimous vote of 98-0 on March 25, 1999.

CLINTON'S BASEBALL DIPLOMACY

The widely accepted precept that Bill Clinton would like to complete his presidency having achieved one of his major foreign policy objectives, that of opening up Cuba the way President Nixon opened up China with his ping-pong diplomacy, was epitomized by the exhibition baseball game between the Baltimore Orioles and the Cuban All-Star team played in Havana on March 28th at Estadio LatinoAmericano; a second game is scheduled for May 3rd at Camden Yards Stadium in Baltimore. Negotiations among the parties which included the Orioles operating through Major League Baseball, the Major League Baseball Players Association, and the Cuban Institute of Sports, required Treasury Department licensing approval. Along with the involvement of the National Security Council and the Treasury Department (OFAC), the State Department took the lead role in advancing the expanded cultural contacts with the Cuban people advocated by President Clinton.

The administration's January 5th policy shift which announced six unilateral measures (USCPR, Vol.6, No.1) to ease the embargo, paved the way for the games. According to State Department officials, the baseball games were intended to increase people-to-people contacts and not help the Cuban government. All such contacts, however, were ultimately restricted to loyal Cuban Communist Party members approved by the Castro regime.

On March 24th, Michael Ranneberger testified before the House Western Hemisphere Subcommittee that the "exhibition baseball game between the Baltimore Orioles and the Cuban national team...is part of the effort to pursue people-to-people ties. People-to-people contacts expose the Cuban people to the values of a free society." Cuba's government controlled media announced the next day that attendance would be invitation only. As Orioles owner, Peter Angelos and baseball commissioner, Bud Selig flanked Fidel Castro during the Sunday game, the 50,000 capacity stadium - confiscated from the late Roberto Maduro and other uncompensated owners - was filled largely with party faithful and security police lending itself to an unusually sedate event in a country that recorded its first organized baseball game in 1874 where baseball is considered a national pastime.

Opposition to the game came from sports, exile, and political quarters including: numerous baseball players, club owners, coaches, the Major League Umpires Association which filed a grievance, the Cuban American National Foundation (CANF), and Members of Congress such as Reps. Ros-Lehtinen (R-FL), Diaz-Balart (R-FL), and Menendez (D-NJ). In the face of a widespread dissident crackdown, trials, and prison sentences, Menendez accused the Clinton administration of "giving legitimacy and money to a regime determined to silence any opposition to its communist system." Ninoska Perez of CANF said, "The reward for Castro is a baseball game." By March 26th, a senior State Department official conceded, in what had become a major point of contention, that the baseball game profits were to go to the Cuban sports federation. Senate Foreign Relations Chairman, Jesse Helms (R-NC), whose comments are reprinted below, addressed this issue at a hearing held to highlight the Castro regime's human rights record.

HELM'S COMMENTS ON ORIOLES CUBA GAME

Senate Foreign Relations Committee Hearing on Castro's Human Rights Crackdown
March 10, 1999 - Washington, D.C.

"About this baseball game, ladies and gentlemen. I have been led to understand that the Administration was going to insist that the proceeds from the game go to the Cuban Catholic Church. Now, I'm about as strong a Baptist as you ever saw, but I thought that was a good idea. Now the Administration appears to be backing off that position and if anybody will send word to the Administration that one guy on this Committee fervently hopes that the Administration will return to and restore their original position on that.

"The Treasury Department says that ESPN has asked to travel to Cuba to explore arrangements with the Cuban government to broadcast the baseball game on March 28. It's not yet known whether ESPN will request to pay for the broadcast rights or how the money will be divided, but the rumor is that Castro has turned down -- thumbs down -- on the money going to the Church after a preliminary agreement had been entered into by him and others.

"Now, we need to know exactly where we stand on that thing. I'm not saying that the Orioles can't go or that I'm going to try to stop them. But I am going to appeal to the baseball players of the Orioles to examine their own consciences about whether they ought to go under these circumstances -- that the proceeds will go to Mr. Castro. Now, if he's going to get the money, it's a different proposition as far as I'm concerned, and I will oppose personally their going and I certainly hope that the management of the Orioles and the players on the team will examine their consciences."

INTERNATIONAL BRIEFS

CHINESE DEFENSE MINISTER HEADS HIGHLEVEL MILITARY DELEGATION TO CUBA

Chinese Defense Minister, Chi Haotian, began an official three-day visit to Cuba on Friday, February 26th leading a high-level military delegation to Havana including a meeting with Fidel Castro, the first in six years. One source says that Rep. Ileana Ros-Lehtinen (R-FL) has received information from Cuban defectors that Russia is giving intelligence gathered at Lourdes to Castro who in turn is giving it to the Chinese. (MH-In The Americas, 2/27/99, p.27A).

ALBRIGHT DISMISSES BUILDUP AT RUSSIAN CONTROLLED SPY BASE -- Secretary of State Madeleine Albright has dismissed Congressional concerns over apparent upgrades in the listening capability attributed to the Lourdes signals intelligence base operated by Russia on the north coast of Cuba. Lourdes routinely intercepts communications from Washington and is considered the single greatest asset for Russian military intelligence in the world. Construction, including three new satellite dishes, was reported to Rep. Ileana Ros-Lehtinen (R-FL) who found the classified briefing "disturbing." Albright's response has been that the Russians "have no money" and, therefore, the construction may only be facility maintenance. (HL,"Fears grow as Russians work on Cuba base," 3/5/99).

VENEZUELA'S CHAVEZ PREPARED TO SUPPLY OIL TO CUBA — In an interview with the magazine Quinto Dia, newly appointed Venezuelan foreign minister Jose Vicente Rangel said he didn't see any reason "why we can't sell oil directly to Cuba as we do to other countries." Rangel, a television journalist and former congressman, described as a former leftist, is one among the many trusted journalists, academics, and retired military officers to receive ministerial appointments and other senior posts in President Chavez's "Third Way" government. Chavez appointed Ali Rodriguez as Oil and Mines Minister along with two active army colonels to Petroleos de Venezuela (PDVSA), the state owned oil company. Reports indicate that Chavez, an admirer of Fidel Castro, sees himself in the image of the Cuban dictator with whom he has good personal relations.

Operated to save the parties substantial shipping costs, prior to 1990 Venezuela served as a triangular agent with Cuba and Russia to ship oil to Cuba on Russia's behalf and for Russia to ship oil to Venezuelan clients in Germany to complete a Cuban sugar-for-oil deal. According to Rangel, Venezuela opposes the U.S. embargo against Cuba. Annual oil requirements for Cuba are estimated at 7.5 million metric tons or 54.975 million barrels. (HL,"Government willing to sell oil to Cuba," 3/13/99).

STATE DEPARTMENT FAILS TO PROVIDE SECURITY TO COLOMBIAN POLICE CHIEF IN WASHINGTON — Summoned to Washington by the State Department's Bureau of International Narcotics (INL), Rosso Jose Serrano, the director general of the Colombian National Police in charge of the drug war in Colombia and credited with dismantling the Medellin and Cali cartels, was not provided with dignitary protection by the State Department's Bureau of Diplomatic Security during his recent three day trip to Washington. Considered in Washington as "one of the last honest men in Bogata," Serrano has served the Colombian National Police for 39 years. Serrano, who counts 40 assassination attempts against his life, was responsible for the 7.5 ton cocaine seizure linked to Cuba (see USCP, Vol. 5, No. 12 & Vol. 6, No.1) at the port of Cartagena last December. Primary responsibility for this lapse in protection appears to lie with the State Department given that Serrano's trip was coordinated between INL at the State Department and the U.S. Embassy's Narcotics Assistance Section in Bogata. Andrew Laine, State Department spokesman for Diplomatic Security, confirmed for the USCP that the Bureau did not receive any request to provide dignitary protection for Serrano. (TWT,"Security Lapse," 3/26/99, p.A6).

SHORT TAKES

CORRECTION RE: 1998 CUBA HANDBOOK OF TRADE STATISTICS — In this section of the previous USCPR issue, the telephone number to call for purchase of the *1998 Cuba Handbook of Trade Statistics* (APLA 98-10008) was incorrectly listed. The correct telephone number is 1-800-553-6847 for credit card purchases. Payment by check or money order should be made payable to: National Technical Information Service and mailed to: 5285 Port Royal Road, Springfield, VA 22161. The cost is \$29.50 plus \$5.00 shipping and handling. The *Cuba Handbook of Trade Statistics* is an annual publication of the Central Intelligence Agency which presents trade statistics provided by Havana's trading partners. The 1998 issue covers the period 1992 through 1997.

NEW JERSEY REP. BOB MENENDEZ WON'T SEEK OPEN U.S. SENATE SEAT IN 2000 — Four term Representative, Robert Menendez, the single Cuban-American Democrat in Congress has decided not to run for the U.S. Senate seat being vacated by fellow Democrat Frank Lautenberg who will be retiring after serving eighteen years. Menendez, a stalwart supporter of the embargo, has worked tirelessly in the House for a free and independent Cuba. The 45 year old Menendez, a former Union City mayor, is the fourth-ranking Democrat in the leadership and has aspirations of becoming Speaker of the House someday. Menendez will concentrate his efforts on helping the Democrats, who are only six seats shy of a majority, to retake control of the House in the 2000 elections.

MARRIOTT INTERNATIONAL EXECUTIVE JOINS LEISURE CANADA BOARD OF DIRECTORS — Vancouver based Leisure Canada announced the appointment of Simon Cooper to their board of directors. The British born Canadian educated Cooper, who is president of Marriott Lodging Canada and senior vice president of Marriott Lodging International, is touted as having been "instrumental in the operations of several hotels in Cuba" as the former president of Delta Hotels and Resorts prior to joining Marriott. The self-described Leisure Canada "became established in Cuba in the early 1990s through its wholly-owned subsidiary, Wilton Properties Ltd., and a successful mining operation, Miramar Mining Corporation." Leisure Canada also announced its agreement with the Meridien Hotel group, a division of the British based Forte Hotels, to develop Le Meridien Village at Jibacoa located between Havana and the Varadero beach resort. Leisure Canada's website is: www.leisurecanada.com/.

INTERNET SERVICE PROVIDER (ISP) SEEKS FCC AUTHORITY TO CONSTRUCT HIGH CAPACITY UNDERSEA FIBER OPTIC CABLE FROM U.S. TO CUBA — Ft. Lauderdale and Aventura based ISP, Quest Net Corp., announced it has filed with the FCC to construct a telecommunication bridge linking the U.S. with Cuba and Cuba with the world. Since the estimated \$13 million "Project Unidad" is designed to provide high speed Internet and data traffic, it is expecting to skirt the telephone tariff settlement payments that other telecommunications companies such as AT&T, MCI Worldcom, and Sprint are required to make with voice transmission under Section 1705 of the *Cuban Democracy Act of 1992* (CDA) which is the hallmark of Clinton administration telecommunications policy toward Cuba; the CDA, however, makes no distinction between voice and data transmission. Quest Net has also made preliminary contact with the State, Commerce, and Treasury (OFAC) departments. Licensing is required from both governments. The fiber optic cable, having a 25 year life-span, would be designed, engineered, and manufactured by Tyco Submarine Systems formerly known as AT&T Submarine Systems. Tyco would be joined by another New Jersey company, Setwave Communications, which specializes in the management of undersea cables. According to Quest Net, "Project Unidad" will "extend high capacity fiber optics to Havana and all other major cities in Cuba with the U.S. and the world." Quest Net Corp's website is: www.ipquest.com/.

NOTABLE QUOTES

"Properly enforced, Helms-Burton would weaken Castro's grip on power by reducing the flow of foreign capital into his treasury. But Helms-Burton is not properly enforced. Title III has never taken effect because Clinton keeps suspending it ... Title IV has never taken effect because the State Department refuses to carry it out." Jeff Jacoby of the *Boston Globe* staff comments on the third anniversary of the Brothers to the Rescue shootdown of two unarmed civilian planes over international waters. BG, "Murder over the high seas," 2/25/99.

"There have been three determinations of 'trafficking' under Title IV and 15 executives and family members have been denied entry into the United States. Following informal consultations with the State Department, 19 companies have withdrawn or altered their plans in Cuba in order to avoid determinations of trafficking. In sum, it is clear that the LIBERTAD Act [Helms-Burton] has discouraged some foreign investment in Cuba." Assistant Secretary of State Alan Larson's remarks to the U.S. Cuba Business Council in Coral Gables, Florida on March 9, 1999.

"To the international community we say: there remains not a shred of doubt that it is the Cuban government, and the Cuban government alone, that has failed to open itself up to the world as Pope John Paul II pleaded during his visit to the island last year. The time has come for the civilized world to cease turning its back on the suffering Cuban nation in this dark hour of our history, and to stand squarely alongside the people of Cuba in the struggle against Castro's tyranny. Whether it is the King of Spain, the democratically elected leaders of our Hemisphere, or the European Union, the world must fulfill its moral obligation to assure that Castro pay a heavy price for this offense to international norms of conduct." Statement by Jorge Mas the vice chairman of the Cuban American National Foundation on March 15, 1999.

"The vast majority in Cuba, including the ruling elite, undoubtedly know that the government's recalcitrance now increases the risks of instability later. They and we have a strong interest in avoiding that scenario. We must send a message to members of the Cuban ruling elite as well as to ordinary Cubans that they have a role to play in a future democratic Cuba if they help to bring that about and adhere to democratic processes." Prepared text of Michael Ranneberger's testimony before the House International Relations Western Hemisphere Subcommittee on March 24, 1999. Ranneberger is the coordinator for Cuban Affairs at the State Department.

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Ralph J. Galliano, Editor

U.S. DISTRICT COURT TRADEMARK DECISION FAVORABLE TO BACARDI-MARTINI COULD SPARK EU-US DISPUTE

WASHINGTON — The Cuban-French joint venture between the government of Cuba and the French wine and spirits producer, Groupe Pernod Ricard, was dealt a serious setback in U.S. District Court when federal Judge Shira A. Scheindlin ruled in New York in favor of Bacardi-Martini USA. The April 13th decision (96-Civ.9655 (SAS)) denied the Havana Club Holding, S.A. (HCH) and Havana Club International, S.A. (HCI) motion to have the court enjoin Bacardi for "what it believes is unfair competition and to preserve its ability to some day compete in the United States market." The judge ruled they "have no standing to bring this claim." Both HCI and HCH respectively are described in court documents as "a joint stock company organized under the laws of the Republic of Cuba" and "a holding company that owns the Havana Club trademark in certain countries outside the United States." The joint venture, formed in November 1993 pursuant to a "Convenio Asociativo," followed the collapse of Cuba's Soviet and East European markets when state-run "Cubaexport" was the "exclusive exporter of Havana Club rum." In this complex reorganization agreement between Pernod Ricard, and the new Cuban company, Havana Rum & Liquors, S.A. (HRL), each owns 50% of Havana Club Holding and through HCH each owns 50% of Havana Club International. For purposes of the Treasury Department's Office of Foreign Assets Control (OFAC) regulations pertaining to the Cuban embargo, both joint venture companies are considered "specially designated nationals" commonly referred to as SDNs. An SDN action by OFAC has three immediate consequences: 1) it prohibits U.S. persons from engaging in transactions involving property in which these entities and individuals have an interest unless exempted by statute or OFAC license; 2) it bars company products from sale in the U.S., and; 3) it blocks (freezes) all real and personal property belonging to such entities and individuals subject to U.S. jurisdiction. In its June 14, 1995 Press Guidance, OFAC described an SDN as "an entity that is owned or controlled by or acts or purports to act directly or indirectly on behalf of the Cuban government." Thus, Pernod Ricard does not sell its Havana Club brand rum in the lucrative U.S. market. But in 1996, in a calculated effort to preserve its perceived right to do so in the future, Pernod Ricard, through its Cuban joint venture interests, brought an action in District Court in New York against Bacardi-Martini and its distributors to prevent their use in the U.S. of the trademark "Havana Club" to which they claim to be the "successors-in-interest to the rights of the Cuban company that owned the Havana Club rum business prior to its expropriation by the Castro government in 1960."

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HAVANA CLUB TRADEMARK – Court documents stipulate that the original producer of Cuban rum under the "Havana Club" trade name was Jose Arechabala, S.A. (JASA), a Cuban business principally owned by the Arechabala family from the 1930s until January 1960 when "armed forces from the Castro government forcibly entered into possession and confiscated the property and assets of JASA." Under Cuban Law No. 890 issued on October 15, 1960, the Castro regime "expropriated for the Cuban government the physical assets, property, accounts and business records of JASA" without compensation contrary to both Cuban and international law. Subsequently, the Cuban state enterprise registered the "Havana Club" trademark in the U.S. making Cubaexport the "exclusive exporter of Havana Club rum" from 1972 to 1993 until its reorganization into HRL. Although JASA was issued U.S. trademark registrations in 1935, 1936, and 1953, HCI based its litigation on the premise that the trademark was abandoned by the Arechabala family when they fled Cuba under duress. Trial testimony by Thierry Jacquillat, the president of Pernod Ricard, further reveals that it unsuccessfully approached the Arechabala family in 1993 in order to secure their trademark rights by discussing the purchase of a "waiver of any claims to the Havana Club name that they may have had." In 1995, the Arechebalas and Bacardi-Martini entered into negotiations culminating in a formal agreement in 1997 whereby "Bacardi & Co. purchased the Havana Club trademark." In an effort to create greater trademark protection, specifically with respect to uncompensated confiscated property, U.S. Senators Graham (D-FL) and Mack (R-FL) added language included as Section 211(reprinted below) to H.R. 4328 of Omnibus Appropriations for 1999 (PL 105-277, 1998).

EU CHALLENGE EXPECTED – The French position, one of displeasure over the perceived extraterritorial application of Section 211 in this court ruling favoring Bacardi over Pernod Ricard, is expected to lead to both an appeal in U.S. court as well as a dispute settlement challenge by the EU at the WTO as to whether 211 is consistent with U.S. obligations under the Trade-Related Aspects of Intellectual Property Rights (TRIPs). The Europeans have raised concerns with key Members of Congress that the decision could jeopardize the yet to be ratified EU-U.S. Agreement of May 18, 1998. The U.S. view of Section 211 is that it is a restatement of long standing U.S. and European public policy. Jorge Rodriguez-Marquez, the Bacardi vice president for corporate communications, described the favorable court decision as "a great day for the vindication of those whose property was illegally confiscated. This is all about the protection of trademarks and has nothing to do with Helms-Burton, the WTO, or international treaty; end of story." A Pernod Ricard representative could not be reached for comment.

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**OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS
FOR FISCAL YEAR 1999
PL 105-277 (1998)**

SEC. 211. (a)(1) Notwithstanding any other provision of law, no transaction or payment shall be authorized or approved pursuant to section 515.527 of title 31, Code of Federal Regulations, as in effect on September 9, 1998, with respect to a mark, trade name, or commercial name that is the same as or substantially similar to a mark, trade name, or commercial name that was used in connection with a business or assets that were confiscated unless the original owner of the mark, trade name, or commercial name, or the bona fide successor-in-interest has expressly consented.

(2) No U.S. court shall recognize, enforce or otherwise validate any assertion of rights by a designated national based on common law rights or registration obtained under such section 515.527 of such a confiscated mark, trade name, or commercial name.

(b) No U.S. court shall recognize, enforce or otherwise validate any assertion of treaty rights by a designated national or its successor-in-interest under sections 44 (b) or (e) of the Trademark Act of 1946 (15 U.S.C. 1126 (b) or (e)) for a mark, trade name, or commercial name that is the same as or substantially similar to a mark, trade name, or commercial name that was used in connection with a business or assets that were confiscated unless the original owner of such mark, trade name, or commercial name, or the bona fide successor-in-interest has expressly consented.

(c) The Secretary of the Treasury shall promulgate such rules and regulations as are necessary to carry out the provisions of this section.

(d) In this section:

(1) The term 'designated national' has the meaning given such term in section 515.305 of title 31, Code of Federal Regulations, as in effect on September 9, 1998, and includes a national of any foreign country who is a successor-in-interest to a designated national.

(2) The term 'confiscated' has the meaning given such term in section 515.336 of title 31, Code of Federal Regulations, as in effect on September 9, 1998.

UN COMMISSION ON HUMAN RIGHTS VOTES AGAINST CUBA

Czech-Polish Authored Resolution Passes in Close Vote --

The highly politicized UN Commission on Human Rights (UNCHR) adopted the resolution sponsored by the Czech Republic and Poland on April 23rd at its 55th session "expressing its concern" over the "continued violation of human rights and fundamental freedoms in Cuba." The Geneva based 53-nation commission voted 21 in favor, 20 opposed, and 12 abstentions with strong support coming from EU countries including the UK, Ireland, France, Germany, and Italy. Latin American countries were divided with Mexico, Venezuela, and Peru voting against the resolution. Colombia, El Salvador, and Guatemala abstained while Argentina, Chile, Ecuador, and Uruguay voted in favor. Russia, China, South Africa, and the Congo voted against. The United States and Canada supported the resolution which for the first time was introduced by countries other than the United States. In his opening remarks, the Czech envoy, Martin Palous, cited "our own historical experience with the same totalitarian system as the one now practiced in Cuba. Former dissidents learned to appreciate the value of support from the democratic world, and above all from institutions such as this Commission, when they were themselves persecuted not so long ago. Our commitment to help other people persecuted for human rights originates from there." Calling the single vote margin a "moral victory," the Cuban envoy Carlos Amat criticized the Czech Republic and Poland as "puppets." Following the vote, Assistant Secretary of State Harold Koh said, "I think it is a wake-up call for the Cuban government that they have to give greater human rights to their own people." The 1998 U.S. sponsored resolution failed 16-to-19 with 18 abstentions in large part, it has been said, to give Cuba the benefit of the doubt following Pope John Paul's visit to the Communist island in January. The text of the 1999 Czech-Polish resolution follows.

CZECH-POLISH HUMAN RIGHTS RESOLUTION IN GENEVA

UNITED

NATIONS

E

Economic and Social
Council

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15 April 1999
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COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD

Czech Republic and Poland: draft resolution

1999/...Human rights in Cuba

The Commission on Human Rights.

Reaffirming the obligation of all Member States to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and in the Universal Declaration of Human Rights,

Mindful that Cuba is a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and Convention on the Rights of the Child,

Reasserting the Commission's obligation to promote and protect human rights on the basis of the universal nature of the Declaration, in all countries of the world, independently from other bilateral or regional issues affecting the country in question.

Expressing its concern at the continued violation of human rights and fundamental freedoms in Cuba, such as freedom of expression, association and assembly and rights associated with the administration of justice, despite the expectations raised by some positive steps taken by the Government of Cuba in the past few years,

Considering the urgent need to adopt the necessary measures to ensure full respect for human rights in Cuba and to contribute to developing a more pluralistic society and a more efficient economy, and considering also the willingness of the international community to assist therein,

1. Welcomes the fact that the Government of Cuba has taken the first steps towards the opening of the society for religious institutions, and expects the Cuban citizens will be granted the right to freedom of religion and belief;

2. Encourages the Government of Cuba to continue to allow thematic special rapporteurs to visit Cuba;

3. Expresses the hope that positive steps will be taken with regard to all human rights and fundamental freedoms;

4. Expresses the concern about the adoption of the Law for the Protection of the National Independence and Economy of Cuba, and regrets the other steps taken by the Government of Cuba which are inconsistent with the Universal Declaration of Human Rights and other relevant human rights instruments;

5. Calls upon the Government of Cuba to ensure respect for human rights and fundamental freedoms, including freedom of religion, and to provide the appropriate framework to guarantee the rule of law through democratic institutions and the independence of the judicial system;

6. Reiterates its concern about the continued repression of members of the political opposition and about the detention of dissidents, most recently of the four members of the "Grupo de Trabajo de la Disidencia Interna," and calls upon the Government of Cuba to release all the persons detained or imprisoned for peacefully expressing their political, religious and social views and for exercising their rights to full and equal participation in public affairs;

7. Calls upon the Government of Cuba to consider acceding to human rights instruments to which it is not yet a party, in particular the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights;

8. Invites the Government of Cuba to afford the country full and open contact with the democratic world, in order to ensure the enjoyment of all human rights for all Cuban people by utilizing international cooperation, by allowing a freer flow of people and ideas and by drawing on the experience and support of other nations;

9. Calls upon the Government of Cuba also to cooperate with other mechanisms of the Commission;

10. Recommends that the Government of Cuba take advantage of the technical cooperation programmes available to Governments under the auspices of the Office of the High Commissioner for Human Rights, designed to broaden the scope and to speed up reforms in the field of human rights and fundamental freedoms;

11. Decides to consider this matter at its fifty-sixth session under the same agenda item.

EU-US AGREEMENT UPDATE

PRODI TAPPED TO HEAD EUROPEAN COMMISSION — Former Italian Prime Minister Romano Prodi, a shining star in the emerging "Third Way" movement, was unanimously chosen to head the European Commission on March 24th by European Union (EU) leaders meeting in their capacity as the European Council. The choice of Prodi at the EU summit in Berlin last month followed the issuance of a parliamentary report on allegations of pervasive nepotism, fraud, and mismanagement within the 20 member executive body of the EU. Prodi will replace Jacques Santer of Luxembourg as EC president. Although the current European parliament is expected to vote on Prodi in May, he will not be formally chosen until after the EU's June parliamentary elections when the new 626-deputy parliament will hold hearings and a formal vote is taken. Until such time, both Santer and Prodi will cooperate in their respective positions. In addition to his involvement in the May 18, 1998 EU-U.S. Agreement (see USCPR, Vol.5, Nos.5,6,7,&8, 5/31,6/30,7/31,&8/31/98), Prodi served as Italian prime minister during the so-called ITT-STET deal when the State Department delayed enforcement of Title IV action under the Helms-Burton Act of 1996. The deal, nearly a year in the making, permitted STET now known as Telecom Italia to receive the permission of U.S. certified claimant ITT to operate on its confiscated property in Cuba (see USCPR, Vol.4, No.8, 8/8/97). **EC VICE PRESIDENT AND TRADE COMMISSIONER SIR LEON BRITTAN EXPECTED TO BE REAPPOINTED** — With the EC in apparent disarray following the March mass resignation of its commissioners in a fraud and mismanagement scandal, now acting EC vice president and trade commissioner, Sir Leon Brittan, is expected to be reappointed by British Prime Minister Tony Blair following the European parliamentary elections in June, informed sources said. The five year terms would have expired in December absent the resignations. The UK, which is entitled to nominate two commissioners, traditionally the purview of the Labour and Conservative parties, will reappoint Neil Kinnock (Labour) and Leon Brittan (Conservative) for the interim commission lasting from July through December. Brittan is not expected to be reappointed for the new commission term beginning in 2000. The names of Chris Patten and Alastair Goodlad have been raised as a possible UK choice to replace Brittan in the new year 2000 commission. Goodlad is a former Foreign Office minister while Patten, a former Conservative Member of Parliament, was the last British governor of Hong Kong. The trade portfolio held by Sir Leon is expected to go to either France or Germany. **EU AND CUBA COMPLAIN AT WTO ABOUT U.S. TRADEMARK LAW** — Far short of a formal dispute, the EU and Cuba complained this April before the WTO about the Section 211 language (see page 3 above) pertaining to the Havana Club trademark. Section 211, which prevents the use of uncompensated confiscated intellectual property without the permission of the owner, became U.S. law last October when the Omnibus Appropriations bill was signed by President Clinton. The debate over 211 took place under the WTO's Trade-Related Aspects of Intellectual Property rights (TRIPs). Although there is opposition inside the Clinton administration to the new law and a desire to find a way not to implement section 211 because of the belief it is too broad, Washington publicly contends 211 is consistent with its obligations under TRIP. At the end of the day, the latter position is more likely to prevail with European case law becoming the basis for the acceptance of 211 since European courts have refused to recognize uncompensated state confiscation of property including trademarks. **SEATTLE WTO MINISTERIAL MEETING** — The U.S. and the EU are expected to move the talks regarding the international investment agreement to the WTO Ministerial Meeting to take place in Seattle in November. The EU-U.S. Agreement awaits Congressional action granting a presidential waiver to Title IV of the Helms-Burton Act of 1996 which deals with trafficking in confiscated property owned by a U.S. national. Chairman Gilman has questioned the manner in which the EU approved the agreement (see USCPR, Vol.6, No.1).

CUBAN CENTRAL BANK PRESIDENT VISITS WASHINGTON

Financial Times reporter, Richard Lapper, recently wrote of Francisco Soberon, Cuba's central bank president, that he "likes to reread the economic classics - including a well-thumbed copy of Karl Marx's *Capital* - to see what light theory might throw on his country's problems." Those problems, since the collapse of the Soviet Union and the end of its \$6 billion annual subsidies, include, but are not limited to: a stagnating economy with gross domestic product growth of 1.2 percent for 1998; declining sugar and metal export revenues; and a dual dollar-peso economy and soon to come tri-level economy when Cuba begins to utilize the Euro on July 1, 1999 for trade and credit transactions with the European Union. According to Soberon, the Euro will be used "as an alternative to the dollar." At a Washington meeting on April 27th sponsored by The Brookings Institution, the Carnegie Endowment for International Peace, and the Inter-American Dialogue, Soberon confirmed Cuba's intent to use the Euro and openly admitted that economic statistics and banking information is sparingly disseminated because of his concern that it will be used against Cuba by the United States. The articulate English speaking central bank president did reveal Cuba's entry into the high-tech world of electronic banking including the use of computers, debit cards, credit cards, and automated tellers. By the year 2000, he expects the Cuban banking system to be 100 percent computerized. Cuba maintains relationships with the central banks of France, England, Canada, and Italy. Soberon reported that Cuba does business with 122 countries and 500 commercial banks do business with Cuban banks. Explaining that the Cuban Central Bank activity is separated from the Cuban National Bank which deals with commercial activity and was created to access international credit. Of the seven state-owned commercial banks, five were created as share companies where the Cuban government owns 100 percent of the shares. With the exception of the areas of health and education, Soberon declared that foreign investment is permitted in 100 percent of the Cuban economy. Asked about foreign investment in Cuba's sugar industry, he responded by saying "there are no limitations." Soberon said that he approves all foreign investment on a case-by-case basis. Issued a visa by the State Department to attend the annual Spring IMF and World Bank meetings in Washington for the second consecutive year, Soberon arrived for the Group of 24 nations meeting where Cuba sits as an observer nation. Suspended from the IMF 38 years ago in 1961, just two years after the Castro Communist revolution, Cuba is further precluded by Section 104 of the Helms-Burton Act of 1996 which opposes its membership in international financial institutions until "a democratically elected government in Cuba is in power." The Secretary of the Treasury is instructed by law to withhold from any such financial institutions U.S. payments in an amount equal to the loan or assistance granted to Cuba. Regarding membership, Soberon said that Cuba would be uncomfortable in an institution where the United States controlled 15 percent of the vote.

NEW CURRENCIES & COMMODITIES SECTION

The *U.S. Cuba Policy Report* has launched the **Currencies & Commodities** section in this month's newsletter to monitor currency rates and commodity prices. Besides use of the peso, Cuba permitted the dollarization of its economy shortly after the collapse of the Soviet Union and it has recently made public its decision to utilize the Euro for trade purposes beginning July 1st. Key export commodity prices will also be monitored. Production levels in the sugar, mining, and oil sectors will be analyzed and reviewed regularly to assess the impact on the island's economy as well as the implication on U.S. policy. Reader's comments are welcomed.

SUGAR AND OIL FUTURES THREATEN CUBA'S ECONOMIC OUTLOOK

The combination of sharply rising crude oil prices and plummeting raw sugar prices threaten the already battered inherently inefficient state-run Cuban economy. In early April, Cuba's Vice President, Carlos Lage, announced a 1999 growth target of 2.5 percent for the island's economy. This compares to 1.2 percent growth in gross domestic product (GDP) last year due to lower nickel and sugar prices. In January, Economic Minister Jose Luis Rodriguez blamed the embargo for Cuba's failure to reach its 2.5 percent goal set for 1998.

Cuban Sugar Minister, Ulises Rosales del Toro, recently announced the industry would reach its production target of 3.6 million metric tons (mt.) by May 1. The former general, who attributed the projected improvement to dryer weather, greater efficiency, and the husbanding of young cane, described it as a recovery. Earlier in the year, Rosales reported Cuba had 100 of 156 sugar mills operating for the current harvest. Reliable sources with an intimate knowledge of the Cuban sugar industry say this year's crop will reach only 2.7 million mt. a figure closer to Cuba's field estimate which forecast 2.95 million mt. revised in January from its September estimate. Sugar analysts remain cautious.

Cuba's 3.6 million mt. forecast over last year's reported 50-year low of 3.2 million mt. has kept downward pressure on raw sugar prices unwittingly contributing to lower world prices. Brazil, the world's largest sugar producer and exporter, forecast 19 million mt. for next year's crop, up from 18.3 million mt. for the current 1998-99 harvest. Factors contributing to overproduction (India and Thailand) and cheap sugar are the devaluation of the Brazilian currency and flat worldwide demand.

With demand not expected to improve for possibly two-to-three years, the sugar glut could cause a further drop in world prices. Analysts feel prices could fall as low as 2.5 cents per pound. *Barron's* recently reported that "the bottom is not yet in sight." Such a price collapse, along with the inability to obtain financing for fertilizers, fuel, and spare parts, would likely reduce Cuba's already decreasing revenue from raw sugar exports reported at 2.44 million mt. in 1997-98. Cuba is the only country that is a net sugar exporter. Next to nickel and cobalt exports, sugar remains Cuba's largest export earner. At these future prices, Cuba needs to produce 409 pounds of raw sugar in order to purchase one barrel of oil or harvest a crop equivalent to 10.1 million mt. in order to meet its annual oil requirement of 7.5 million mt.

CURRENCIES & COMMODITIES

1 US Dollar = 0.9404 Euro
1 US Dollar = 23.00 Cuban Peso
1 Euro = 24.4570 Cuban Peso

Rates as of April 26, 1999.
Source: Bloomberg.

RAW SUGAR CANE

(cents per pound)

WORLD PRICES

Cash/Spot (fob) = 4.98
Year ago nearby = 10.07
Future (July '99) = 4.35
Lifetime

High = 66.00 (1974)
Low = 2.50 (1984)

Cash/Spot price as of April 26, 1999.
Source: CSCE.

CRUDE OIL

(\$ per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 17.83
Year ago (Apr 28) = 15.32
Future (June '99) = 17.80

Cash/Spot price as of April 27, 1999.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel = 5400
Year ago (Apr 29) = 5475

(\$ per metric ton)
Official Price: April 29, 1999.
Source: London Metal Exchange.

Cobalt = 15.60 - 16.50
Year ago (Apr 27) = 24.40 - 25.00

(\$ per pound for 98.7%)
Price: Week Ending April 23, 1999.
Source: LMB.

INTERNATIONAL BRIEFS

ECONOMIST GROUP SCHEDULES BUSINESS ROUNDTABLE CONFERENCE -- The Economist Group, publisher of the *Economist* magazine, plans to hold a "Cuba Business Roundtable" in Toronto from July 13th - 14th targeting U.S. and Canadian business executives. The conference will be chaired by the former Canadian ambassador to Havana, Mark Entwistle. The Minister for Foreign Investment, Ibrahim Ferradaz, will participate along with other Cuban government officials with responsibilities in the areas of insurance, tourism, and biotechnology. Other speakers include American and British participants in similar fields. For more information, contact Economist Conferences in New York at 212/698-9730. (PRN,"The Economist Sponsors Cuba Business Roundtable," 4/13/99).

CUBA VOICES SUPPORT FOR HUMANITARIAN ASSISTANCE TO KOSOVAR REFUGEES AT GUANTANAMO -- Officially, Foreign Minister Roberto Robaina voiced support for the on-again-off-again American position to maintain airlifted Kosovar refugees at the U.S. Naval Base in Guantanamo, Cuba while continuing to condemn the NATO military campaign in Yugoslavia. Robaina's April 6th statement was clear saying, "the main objective is to condemn the attack, which Cuba has condemned from the first moment. Of course, Cuba has always considered that victims of conflict need help." Robaina disavowed the unofficial statement earlier in the week made by Deputy Foreign Investment Minister Raul Taladriz criticizing the U.S. plan to evacuate and house 20,000 Kosovar refugees at Guantanamo. The Castro regime has consistently opposed the U.S. lease in perpetuity of Guantanamo. (NYT,"U.S.Chooses Guantanamo Bay Base in Cuba for Refugee Site," 4/7/99, p.A13; RL,"Cuba signals agreement to U.S. base refugee plan," 4/8/99).

RUSSIAN ENVOY SUGGESTS CUBA AS MEMBER OF UN CIVILIAN MISSION TO KOSOVO -- Russia's Balkans envoy and former prime minister, Viktor Chernomyrdin, has been conducting rounds of shuttle diplomacy in an effort to find a solution to the NATO conflict with Yugoslavia. In Moscow, *Reuters* reported Chernomyrdin as suggesting that Yugoslavia's Slobodan Milosevic was prepared to accept a civilian mission under a UN flag from countries not supporting the war such as "Namibia, Algeria, perhaps other Arab or Latin American countries, Argentina, Cuba." (RL,"Chernomyrdin Heads West With Peace Proposals," 4/29/99).

CANADIAN YORK MEDICAL GRANTED U.S. PATENTS FOR CUBAN BIOTECH PRODUCTS -- York Medical Inc. of Mississauga, Ontario in Canada announced it has been granted U.S. patents (Nos. 5,891,996 and 5,894,018) for cancer fighting biotechnology products stemming from a joint venture licensing arrangement with the Cuban Centre of Molecular Immunology in Havana. (PRN,"Two U.S. Patents Extend York Medical's Proprietary Position on Oncology," 4/29/99).

SHERRITT INTERNATIONAL ANNOUNCES LOWER NET EARNINGS FOR FIRST QUARTER -- Sherritt International, the Canadian spin-off corporation from the former Sherritt Inc., announced net earnings of \$2.6 million for first quarter 1999 compared to \$9.6 million for the same period last year. The drop was attributed to the decline in worldwide commodity prices although gains were made in increased production levels for metals, oil, and gas particularly in Cuba. Sherritt's spin-off on October 4, 1995 involving the entirety of its Cuba assets appeared to be prompted by the vulnerability of Sherritt's U.S. facilities located in Vancouver, Washington in view of prospective litigation by U.S. certified claimant Consolidated Development Corporation and of the effect of prospective enforcement resulting from the Helms-Burton Act introduced in February 1995. In 1995, on February 21 and 22, Consolidated executive Alberto Diaz-Masvidal issued cease and desist messages to Sherritt concerning Consolidated's confiscated properties in Cuba (see USCPR, Vol.4, Nos.3,8,9 & Vol.5, Nos.5,9). The Consolidated v. Sherritt case is pending appeal at the Eleventh Circuit Court in Atlanta which has been asked to remand the case to the lower court for trial. (RL,"Sherritt International Posts Earnings for 1999," 4/29/99).

SHORT TAKES

STATE DEPARTMENT ISSUES 1998 GLOBAL TERRORISM REPORT -The governments of Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria are listed by the Secretary of State as state sponsors of terrorism in the State Department's annual global terrorism report. While "Cuba no longer actively supports armed struggle in Latin America or elsewhere," the report states that Cuba "nonetheless continues to maintain close ties to other state sponsors of terrorism and leftist insurgent groups in Latin America" including "Colombia's two main terrorist groups, the FARC and the ELN." The complete report entitled *Patterns of Global Terrorism 1998* was released on April 30th and is available on the State Department's website (<http://state.gov>).

TREASURY'S OFAC ISSUES PENALTIES FOR EMBARGO VIOLATIONS - The Treasury Department's Office of Foreign Assets Control (OFAC) announced on April 15th that it recently settled civil claims for embargo related violations. Two airline charter companies and a national magazine were fined. C&T Charters paid a \$125,000 penalty settlement for flying between Nassau, Bahamas and Havana. Wilson International Services paid \$61,000 in settlement penalty for record keeping deficiencies while *Harper's Bazaar* magazine paid \$31,000 in settlement penalty for unlicensed payments involving travel expenses for a photo shoot in Cuba during 1998. Criminal penalties for sanction violations range from up to 10 years in prison, \$250,000 individual fines, and \$1 million corporate fines. Civil penalties of up to \$55,000 may also be imposed. Licenses to both charter travel companies have been suspended.

U.S. CUBA BUSINESS SUMMIT IN CANCUN - Alamar Associates headed by Kirby Jones is planning its third summit for U.S. business executives interested in doing business with the current government of Cuba. In 1998, Washington-based Alamar ran two business summits in Cancun, Mexico with scheduled day trips to Havana. The U.S. Department of the Treasury refused to grant Alamar a license for its second planned summit trip last September; the summit continued but without the side trip to Havana. This third "Business Summit" scheduled from May 19 - 22 lasts three days but excludes the side trip to Havana. Instead, more Cuban officials will arrive in Cancun to meet with U.S. business executives. The summit is billed as "A unique opportunity to meet privately with Cuban ministers, officials, and international business executives working in Cuba to discuss potential business." The codification of the embargo laws and regulations under the Helms-Burton Act of 1996 prevents U.S. citizens from legally doing business with the Castro regime in Cuba. Arguably, licenses issued by the Treasury and Commerce Departments permit exceptions. Sponsors to the summit include: the *Financial Times* of London; the American law firm of Patton Boggs; USA ENGAGE; the Canadian companies GENOIL and MacDonald Mines; GBM from Israel; and the REMAX real estate firm listed as being from Cuba. Alamar's web address is: www.alamarcuba.com.

CORRECTION RE: JUDGE KING'S DECISION TO GARNISH TELECOMMUNICATIONS PAYMENTS TO CUBA - In its Omnibus Order of March 23, 1999, Judge James Lawrence King of the Southern District of Florida granted the United States' Motion To Intervene For The Purposes Of Appeal filed February 25, 1999. It was mistakenly reported in the USCPR March issue that the U.S. government's motion to appeal in case nos. 96-10126-27-28-CIV-KING had been denied. Instead, Judge King denied the United States' Emergency Motion For Stay Pending Appeal reasoning that in its March 18, 1999 Omnibus Order finding in favor of the slain Brothers to the Rescue families in which it garnished all the assets subject to OFAC and owed to ETECSA, the Cuban government joint venture with Telecom Italia, the Order had "not entered any judgment - injunctive or monetary - against the United States." Judge King noted that "when this Court is able to enter a specific monetary judgment against blocked assets, the United States may stay pending appeal by moving to do so."

NOTABLE QUOTES

"I was the one who handed [the armed revolutionaries] the key on October 14, 1960. I want to be the one who gets the key back and who goes to put out the Bacardi flag again." Juan Prado is the advisor to the chairman of Bacardi Ltd. and has worked for the Bacardi family since 1951. (USA Today-Money, "Regaining seized assets," 3/29/99, p.1B).

"We have the obligation to guarantee [for future generations] that Cubans do not return the lands, this sugar mill or a single house." Ricardo Alarcon, president of the National Assembly of Popular Power, attends a meeting at the Hershey (Camilo Cienfuegos) sugar mill that was confiscated by the Castro regime, addressed a recent series of articles appearing in American newspapers regarding Cuban-American property claims. (National edition of *Granma* the Cuban Communist Party newspaper on the web, "Message to the Lobos," April 8, 1999).

"The order by a Spanish judge for the arrest of [Chilean General Augusto] Pinochet in a third country has raised the question of 'why not Castro?' After all, in 1989 the United States arrested Panama's strongman, Manuel Noriega, on drug trafficking charges. To be sure, it raises difficult diplomatic issues, since the 72-year-old Castro is considered a sitting head of state supposedly immune from such an arrest, even though many have questioned the legitimacy of his rule. But because Britain and Spain's extradition treaty gives Pinochet's arrest a legal basis, Castro is sure to curtail his overseas travel and to question his own immunity." Salvador Diaz-Verson, Jr. is president and CEO of Diaz-Verson Capital Investments, Inc. and chairman of the Institute for U.S. Cuba Relations. (LE - Viewpoint, "Castro's Worst Nightmare," 4/11/99, p.F1).

"Unless you're going into the tourist industry, I don't think Cuba is a prudent investment. After Castro, if there's a market economy, a code of investment, the currency is strong, there are exports to the U.S., a good labor force, it becomes part of NAFTA, but not under the present scenario." Comments made by Prof. Jaime Suchlicki of the University of Miami at the Council of the Americas in New York on April 16th. (BLP, "Univ of Miami's Suchlicki on Cuba Investments," 4/16/99).

"No one filed bills in any of the democratic parliaments of Europe saying the Oliveira Salazar regime in Portugal has lasted 50 years or the Franco regime in Spain has lasted 40 years; our policy of isolation has failed. Let us end their isolation, because they have lasted so long. No, no one ever filed bills or initiatives such as those." Rep. Lincoln Diaz-Balart (R-FL) comments on efforts in Congress to lift the nearly four-decade-old U.S. embargo against Cuba's Castro regime. (CR - Special Orders, "The Need to Maintain the U.S. Embargo Against the Castro Dictatorship," Vol.145, No.58, 4/27/99, p. H2351).

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Ralph J. Galliano, Editor

CHAIRMEN HELMS AND GILMAN OPPOSE SPECIAL CUBAN-FRENCH LICENSE FOR "HAVANA CLUB" TRADEMARK

WASHINGTON — The powerful chairmen of the Senate Foreign Relations Committee and the House International Relations Committee recently appealed to the Secretary of State to reconsider having the Treasury Department's Office of Foreign Assets Control (OFAC) - the keeper of the rules and regulations for the U.S. embargo against the Castro regime - from reissuing a special license to the Cuban joint venture headed by French wine and spirits producer Groupe Pernod Ricard in the hotly contested transatlantic trademark battle over the rum "Havana Club." Senator Jesse Helms (R-NC) and Congressman Ben Gilman (R-NY) emphatically state in their May 4th letter to Albright reprinted below, "we hasten to advise you that we consider such a transaction -- and, therefore, any license authorizing it -- to be a blatant attempt to circumvent the embargo of Cuba and contrary to explicit U.S. law." Helms and Gilman ask Albright to personally intervene in the matter to "deny" the license request as a contravention of "U.S. law" and "stated public policy." Although the privately held Cuban distilling company Jose Arechabala, S.A. (JASA), the original producer of Cuban rum under the "Havana Club" trade name, had successfully registered its trademark in the United States in 1935, 1936, and 1953 prior to having their property confiscated by the Castro regime, U.S. trademark law at the time apparently prohibited the Arechabala family from refiling if they were no longer in business. Consequently, in 1976, Cuban state enterprise Cubaexport filed the confiscated "Havana Club" trademark in the United States and in 1993 reorganized with a foreign partner and received a special license from OFAC. The committee chairmen point out in their letter to Albright, concerning the Cuban venture with Pernod Ricard, that in 1997 OFAC "revoked the license and declared the transfer of the U.S. registration null and void" after the factual details were revealed. The U.S. District Court of New York, in its April 13th decision favoring Bacardi-Martini U.S.A. over Pernod Ricard (see USCP, Vol.6, No.4), determined "OFAC acted properly," write the signers in their letter to the Secretary of State. The battle over the "Havana Club" trademark now being waged in the bureaucratic "licensing" arena of the U.S. federal government serves to raise one very important point; any granting of a license by Treasury's OFAC is an admission of an official exception to the rule despite the codification of the embargo under Section 102(h) of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996* commonly known as Helms-Burton.

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EU SEEKS TO NEUTRALIZE SECTION 211 — In an effort to close the trademark loophole, whereby state-run Cuban enterprises and their foreign trading partners were permitted to register Cuban theme trademarks in the United States and U.S. nationals were denied the right, Congress passed Section 211 (see USCPR Vol.6, No.4) last year as part of the Omnibus Appropriations (P.L.105-277) Bill to create greater trademark protection, specifically with respect to uncompensated confiscated property. EU Trade Commissioner, Sir Leon Brittan, in opposing Section 211 has raised the issue with the Clinton administration suggesting that implementing regulations could soften the effect of the law if a more restrictive definition of the use of the term "confiscated" were used. A staff memo inside the Office of the U.S. Trade Representative has taken the position that Section 211 is in violation of the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPs). The EU and Cuba complained about Section 211 at the WTO in mid-April based on the TRIPs argument. Some opponents of Section 211 have suggested that the Clinton administration may even file a friend of the court brief in opposition to Section 211 when the Bacardi decision is appealed by Pernod Ricard as is expected; although, Pierre Marie Chateauneuf, the chief counsel for the Paris-based company, declined to discuss the matter with USCPR. Such a position would not be unusual given the Clinton administration's record of opposition including: Helms-Burton prior to its passage in 1996; the consistent waiver of Title III's right of action; the EU-U.S. Agreement of May 18, 1998 seeking a waiver to Title IV; and, the intervention in the federal court case and in the appeal involving the garnishment of telecommunications funds owned to Cuba. The commencement by the EU of a dispute settlement panel at the WTO in Brussels could serve as leverage for the Clinton administration to pressure Congress to soften the impact of Section 211 thereby averting another transatlantic trade dispute. U.S. corporate opposition to Section 211 is beginning to build over the fear of retaliatory threats voiced by Cuban dictator Fidel Castro concerning the safeguarding of U.S. trademarks registered in Havana. Since the Helms-Gilman letter, Section 211 regulations have been issued but OFAC has not acted on the Cuban-French request to reissue the special license to ratify the purchase of the "Havana Club" trademark.

DESIGNATED NATIONAL — The Cuban-French joint venture that purports to own the "Havana Club" trademark, Havana Club Holding and Havana Club International, referred to as Specially Designated Nationals (SDNs) in the previous issue of USCPR, are considered "designated nationals" for regulatory purposes. The Treasury Secretary has not "designated" them as SDNs; as 50-50 joint ventures OFAC does not consider them Cuban controlled.

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V6N5

HELMS-GILMAN LETTER ON SECTION 211

May 4, 1999
 The Honorable Madeleine Albright
 Secretary of State
 Department of State
 2201 C Street, N.W.
 Washington, D.C. 20520
 Dear Madam Secretary:

Inasmuch as the State Department is considering whether the Treasury Department's Office of Foreign Assets Control (OFAC) should reissue a special license to ratify the purchase of the U.S. trademark registration of "HAVANA CLUB" from a Cuban state enterprise, we hasten to advise you that we consider such a transaction -- and, therefore, any license authorizing it -- to be a blatant attempt to circumvent the embargo of Cuba and contrary to explicit U.S. law.

Asking OFAC to reissue a license that legitimizes a Cuban/French venture involving the transfer of assets confiscated by the Castro regime would be expecting the excellent officers at OFAC to act contrary to U.S. foreign policy, to violate U.S. public law, and to ignore recent judgments of the federal judiciary.

Let's review the facts: In 1961, the Castro regime forcefully confiscated the assets of the family rum-making enterprise known as Jose Arechabala, S.A. Part of the assets confiscated was the trademark for the rum "HAVANA CLUB." Subsequent to the forceful confiscation, a Cuban state enterprise registered the trademark in the United States. The Arechabala family neither consented nor approved of the Cuban state enterprise's actions with regard to the registration of the trademark in the United States. They certainly obtained no benefit from the attempted sale of their trademark from the Cuban state enterprise to the French company, Pernod Ricard. On the contrary, the Arechabala family has instead entered into an agreement with the U.S. company Bacardi to use and sell "HAVANA CLUB" rum.

In 1993, the Cuban state enterprise sought to sell the U.S. registration to a French corporation. As part of its multi-million-dollar transaction, the Cuban state enterprise obtained a special OFAC license -- only afterward withholding factual details concerning the venture with Pernod Ricard. In April 1997, after being apprised fully of the facts, OFAC revoked the license and declared the transfer of the U.S. registration null and void. A U.S. federal court determined subsequently that OFAC acted properly, in light of the facts, laws, treaties, and the United States Constitution. More significantly, the federal court found that the sale and assignment of the U.S. trademark registration would have allowed hard currency to flow into Cuba in contravention of the embargo and the interests of the United States.

Congress addressed this issue recently when it passed section 211 of the Commerce Department Appropriations Act, which states that the assertion of rights based on a confiscated trademark, trade name, or commercial name without the express consent of the original owner will not be recognized under U.S. law. The President approved this Act on October 21, 1998. (Section 211 of the "Department of Commerce and Related Agencies Appropriations Act, 1999" was enacted as part of

the Omnibus Consolidated Appropriations Act for Fiscal Year 1999 (P.L. 105-277).)

The federal judiciary also has addressed this dispute recently ruling in a suit brought by the Cuban/French enterprise after the Arechabala and Bacardi began producing and selling "HAVANA CLUB" in the United States. In addition to the prior ruling referred to above, the trial proceedings concluded recently with the court making the following significant findings of fact:

- The original producer for "HAVANA CLUB" was Jose Arechabala S.A. (JASA);
- Cuba expropriated the assets of JASA without compensation;
- At or around the time of its deal with the Cuban government, Pernod Ricard (through its lawyers) met with members of the Arechabala family to discuss purchasing a waiver of their rights but were unable to reach an agreement; and,
- The Arechabala found a willing partner with Bacardi and entered into an agreement.

In addition to these findings of fact, the court also held that the claims made under the Inter-American Convention were barred; section 211 of P.L. 105-277 was applicable and did not violate the separation of powers doctrine; and the Cuban/French enterprise lacked "standing" to assert a federal law claim. These findings and holdings significantly reaffirm long-standing, bipartisan U.S. policy against recognizing expropriations carried out by the Castro regime.

We bring this to your attention because we understand that the Cuban/French enterprise persists in seeking approval of its transaction in the United States through an OFAC special license. We also understand that some in the State Department may ask OFAC to license the Cuban/French venture. As members of Congress, we are appalled at these continuing efforts to circumvent the embargo, particularly when they would allow the Castro regime to line its pockets with the sale of confiscated assets. These efforts are contrary to our long-standing public policy and, now, Section 211 of P.L. 105-277 as well as federal case law.

We respectfully request that you intervene personally to prevent a transparent attempt by a Cuban state enterprise to bypass the U.S. law that invalidates any assertion of rights based on a confiscated trademark. Furthermore, we request that the State Department advise and permit OFAC to deny any pending requests for issuance of licenses for transactions that contravene U.S. law and our stated public policy. We also request that the Department brief our respective Committee staffs on Administration efforts to implement Section 211 and facilitate the publication of regulations thereon without further delay.

Sincerely,
 JESSE HELMS
 Chairman
 Committee on Foreign Relations
 BENJAMIN A. GILMAN
 Chairman
 Committee on International Relations

**PRESIDENT REPORTS TO CONGRESS ON
AMERICAN TELECOMMUNICATIONS PAYMENTS TO CUBA**

The president's semi-annual report to Congress dated May 6th altered its long-standing language referring to telecommunications payments made to the "Government of Cuba." This followed the position taken in court by the American telecommunications providers and the Clinton administration that payments should not be treated as made to the Cuban government and therefore not subject to garnishment. Pursuant to the final judgment entered by Federal District Court Judge Lawrence King of Miami on December 17, 1997, the families of the slain Brothers to the Rescue pilots have attempted to attach Cuban government assets in the United States to satisfy the \$187.6 million judgment against the government of Cuba for the shootdown. Although the U.S. District Court in Miami in its March 18th decision (see USCPR Vol.6, No.3) declined to find "that the payments under the U.S. telecommunications licenses are made to the Government of Cuba," it did find that the Cuban telecom company ETECSA was an agent or instrumentality of the Cuban government and therefore not immune from garnishment. Instead of stating that telecommunications carriers reported payments "to the Government of Cuba," as have previous presidential reports to Congress, the current report states that telecommunications carriers reported payments "to the Cuban telecommunications company Empresa de Telecommunicaciones de Cuba, S.A. (ETECSA)." Based on available court documents, six of the eight companies listed below reported to the court "amounts representing their indebtedness to ETECSA" as \$6,230,294.90. The president's report (reproduced below) lists payments of slightly over \$40 million covering the current reporting period. Total telecommunications payments made to Cuba by American companies through the reporting period ending December 31, 1998 and as authorized under the 1992 *Cuban Democracy Act* amounts to \$253,209,215 (see USCPR, Vol.5, No.10). According to telecommunications sources, the month of December funds due on the 29th of the following month have been withheld from payment.

TELECOM PAYMENTS TO CUBA

Listing of OFAC licensed American telecommunications companies' payments to ETECSA:

AT&T Corporation (formerly, American Telephone and Telegraph Company).....	\$ 16,031,001
AT&T de Puerto Rico.....	276,485
Global One (formerly, Sprint Incorporated).....	3,437,634
IDB WorldCom Services, Inc. (formerly, IDB Communications, Inc.).....	3,437,234
MCI International, Inc. (formerly, MCI Communications Corporation).....	6,136,866
Telefonica Larga Distancia de Puerto Rico, Inc.	99,397
WilTel, Inc. (formerly, WilTel Underseas Cable, Inc.).....	4,488,055
WorldCom, Inc. (formerly, LDDS Communications, Inc.).....	<u>6,114,471</u>
Total.....	\$ 40,021,143

NEW INDICTMENT FILED AGAINST CUBAN SPIES IN MIAMI

CONSPIRACY TO PROVOKE CONFRONTATION WITH BROTHERS TO THE RESCUE PILOTS

U.S. Attorney Tom Scott and FBI Special Agent Hector M. Pesquera of Miami filed a new indictment in federal court on Friday, May 7th superseding that of September 14, 1998 (see USCPR Vol.5, No.9) which named Manuel Viramontes along with seven other men and two women as spies for the Cuban government. Four new defendants were added to this indictment and the charge of conspiracy to commit murder was filed against Gerardo Hernandez alias Manuel Viramontes,. Viramontes who was identified as "a Cuban national and captain in the Cuban military" in the original indictment. Hernandez allegedly conspired with the Cuban military in a plan called "Operation Scorpion" to provoke a confrontation with the Brothers to the Rescue organization led by pilot Jose Basulto. Cuban MiGs shot down two civilian rescue planes killing four pilots aboard and nearly downing Basulto who narrowly escaped the air tragedy (see USCPR Vol.3, No.3) on February 24, 1996 over the Florida Straits. Basulto who has been vilified since the shootdown, considers the new indictment a "blessing" to the Brothers organization. The indictment alleges that the Brothers' flight plan was passed on to Cuban intelligence (DGI) in Havana with warnings to Cuban operatives not to fly over that period. Basulto told the USCPR that he wants to "establish the truth and seek justice against those responsible for the murder of their pilots." Among the four new indictments was Juan Pablo Roque an apparent Cuban defector who had befriended Basulto and the Brothers only to disappear just days before the shootdown ending up back in Cuba via Mexico according to the indictment. Basulto has contended throughout his ordeal that "Officials of the United States government interfered with procedures that could have saved the lives of the downed pilots."

COMMERCE AND TREASURY DEPARTMENTS ISSUE REGULATIONS

NEW RULES REFLECT CLINTON ADMINISTRATION'S JANUARY 5TH POLICY SHIFT

Regulations, pursuant to the easing of restrictions on Cuba announced by President Clinton on January 5, 1999 (see USCPR Vol.6, No.1) intended to enhance support of the Cuban people and to promote a democratic transition "without strengthening the Cuban government," have now been finalized. New rules issued by both the Treasury's Office of Foreign Assets Control (31 CFR Part 515) and the Commerce Department's Bureau of Export Administration (15 CFR Part 746) became effective May 10th. They include: sales of food and agricultural inputs; remittances; educational, religious, cultural, sports and scientific activities; travel related transactions; and licensing procedures. Remittances have been expanded beyond family-to-family and are now permitted by a U.S. national to a Cuban national except to anyone who is "a senior government or senior communist party official in Cuba." New affidavits will track amounts which could not exceed \$100 per month before but now can be remitted up to \$300 "in any consecutive 3-month period." This means travelers above the age of 18 cannot carry more than \$300 in remittances for any one person at any one time. For travel related transactions, the previous \$100 per diem has been changed to \$183 reflecting "the amount authorized for civilian employees of the United States Government in Havana, Cuba." The sale of food is perhaps the most significant change brought about by the president's January 5th policy shift, a response to the growing pressure on Congress by both the anti-sanction and agriculture trade lobbies. The Bureau of Export Administration will review all applications on a case-by-case basis. This final rule "authorizes the issuance of licenses for exports of food and certain agricultural commodities sold to individuals and independent non-governmental entities in Cuba." In addition, sales will

be on a commercial basis with no U.S. government backed credits. While private banks can extend credits to U.S. companies, according to Under Secretary of State Eizenstat, there will be "No Ex-Im Bank, no OPIC, no CCC credits, no PO-480." The new rules appear in the Federal Register, Vol.64, No.92 for Thursday, May 13 on pages 25807 through 25820. Along with the new rules, applications are available from OFAC and the Bureau of Export Administration on the world wide web under "What's New" at: www.ustreas.gov/ofac and at www.bxa.doc.gov/.

LEGISLATIVE ALERT

DODD AND SERRANO SEEK UNLICENSED TRADE IN FOOD AND MEDICINE WITH CASTRO REGIME

In the wake of President Clinton's April 28th decision to exempt commercial sales of food, medicines and medical equipment from future unilateral sanctions regimes and to currently embargoed countries such as Iran, Libya, and Sudan, Senator Christopher Dodd (D-CT) and Rep. Jose Serrano (D-NY) introduced companion bills to treat Cuba similarly (bills referenced below). On May 10th, however, the administration chose for the first time since the embargo to permit licensed sales of agricultural products to Cuba issuing regulations pursuant to the administration's announced policy shift of January 5th. The licensed sale to Cuba of medicines and medical supplies has been permitted since the passage of the *Cuban Democracy Act* of 1992. Statutorily Cuba could not be included within the presidential sanctions reform decision since the embargo was codified under the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996* commonly known as Helms-Burton. At a press briefing held at the April 28th sanctions reform announcement, Under Secretary of State Stuart Eizenstat explained that such sales to Cuba are "permitted subject to specified conditions and end use verification to guard against diversion." In the case of this recent announcement of food sales to Cuba, goods must be sold to entities independent of the government of which there are admittedly very few; whereas, the administration's sanctions reform move permits sales directly to the governments of Iran, Libya, and Sudan. Dodd expressed regret "the administration did not include Cuba in its announced [sanctions] policy changes." Disagreeing with the administration's position, Dodd said, "in order to facilitate the lifting of such restrictions on such sales to Cuba, Senator Warner, myself, and twelve of our Senate colleagues have decided to move forward with this legislation." Dodd's effort to pass similar legislation last year was soundly defeated.

1. [H.R.1211] **Foreign Relations Authorization Act, Fiscal Year 2000** was introduced by Rep. Christopher Smith (R-NJ) on March 22nd. The bill authorizes appropriations for the Department of State and related agencies for fiscal years 2000 and 2001. With regard to Cuba, the bill authorizes funding for Radio and TV Marti and requires the president to submit an unclassified report to Congress on Cuban drug trafficking. LATEST ACTION: April 29th reported to the House from the International Relations Committee, amended, H. Rept. 106-122.
2. [S.926] **Cuban Food and Medicine Security Act of 1999** was introduced in the Senate by Christopher Dodd (D-CT) on April 26th and referred to the Committee on Foreign Relations. There are 13 cosponsors including John Warner (R-VA). The bill provides for the unlicensed sale of food and medicine to the government of Cuba.
3. [H.R.1644] **Cuban Food and Medicine Security Act of 1999** was introduced in the House by Rep. Jose Serrano (D-NY) on April 29th and referred to the committees on International Relations and Agriculture. There are 132 cosponsors including Rep. Jim Leach (R-IA). The bill is considered the companion to S.926.

RUSSIAN OIL-FOR-SUGAR DEAL

The joint commission on Russian-Cuban economic cooperation culminated its three-day meeting in Moscow on Friday, May 14th by finalizing a new oil-for-sugar agreement, proposing the creation of a joint venture to complete construction of the Juragua nuclear power plant, and agreeing to complete a nickel smelting facility in Las Camariocas started in 1983, according to the Russian Trade Ministry.

Signed by Russian Trade Minister Georgy Gabuniya and Cuban Foreign Trade Minister Ricardo Cabrisas, the oil-for-sugar arrangement calls for the shipment of 1.5 million metric tons (mt.) of crude oil to Cuba in return for 800,000 metric tons of raw sugar for Russia. This compares to an oil-for-sugar deal last year in which Russia reportedly shipped 840,000 mt. of oil to Cuba for 1.5 million mt. of sugar. Bloomberg reported Trade Ministry spokesman Igor Makurin as having stated that Russia exported 300,000 mt. of crude oil to Cuba and imported 800,000 mt. of sugar since the beginning of the year. Makurin also acknowledged the Russian government's role in the Cuban sugar-for-oil swap. According to Makurin, beginning in 2000 only Russia's private trading companies will be involved.

Sugar analysts have described the Russian-Cuban oil-for-sugar deal as political rather than commercial given the price differential with oil futures rising and sugar futures falling to new lows. Based on Monday, May 17th futures, the announced deal amounts to a \$108,342,512 Russian government subsidy to Cuba. The prices used on the NYMEX and CSCE respectively were July crude at \$17.40 per barrel and July raw sugar at 4.66 cents per pound. At these prices, Russia's crude oil shipment is valued at \$190,530,000 while Cuba's raw sugar shipment is valued at \$82,187,488. Reuters reported that General Ulises Rosales del Toro, Cuba's sugar minister, said Cuba "was not working with today's prices" suggesting the agreement is based on a higher world market price for sugar and a lower market price for oil.

This \$108.3 million subsidy constitutes a direct violation of both Section 498A(a)(11) of the Freedom Support Act of 1992 and Section 106(c)(3) of the Helms-Burton Act of 1996, as have previous Russian-Cuban oil-for-sugar arrangements. Besides the "nonmarket based trade" provision of Helms-Burton, the results of this particular joint commission on Russian-Cuban economic cooperation come into conflict with specific provisions of the Freedom Support Act involving trade subsidies, economic assistance and nuclear cooperation.

CURRENCIES & COMMODITIES

1 Euro = 1.05 US Dollar
1 US Dollar = 23.00 Cuban Peso
1 Euro = 24.1523 Cuban Peso

Rates as of May 27, 1999.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 6.03
Year ago nearby = 8.56
Future (July '99) = 4.79
Lifetime

High = 66.00 (1974)
Low = 2.50 (1984)

Cash/Spot price as of May 26, 1999.
Source: CSCE.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 17.35
Year ago (May 27) = 14.99
Future (July '99) = 17.35

Cash/Spot price as of May 26, 1999.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 5135
Year ago (May 27) = 4790

(\$ per metric ton)
Official Price: May 27, 1999.
Source: London Metal Exchange.

Cobalt = 15.25 - 16.00
Year ago (May 22) = 24.40 - 25.00

(\$ per pound for 99.8%)
Price: Week Ended May 21, 1999.
Source: Platts Metal Week.

INTERNATIONAL BRIEFS

EURO-LATIN AMERICA AND CARIBBEAN JOINT SUMMIT -- The first summit meeting between the European Union (EU) and Latin America and the Caribbean (LAC) will be held at the Modern Art Museum in Rio de Janeiro on June 28 and 29, 1999. The joint summit will be co-chaired by Brazil and Mexico for the LAC region and for the EU by Germany which holds the EU presidency for the current six-month rotating cycle. The LAC region will be represented by 33 countries including Cuba while all of the 15 member nations of the EU will be represented. The working agenda will cover "three topics: political issues, trade and economic issues, and cultural-educational-human issues." The meeting was conceived at the XI Summit Meeting of the Rio Group in August of 1997 and introduced by Presidents Jacques Chirac of France and Jose Maria Aznar of Spain. Meetings will begin on the 25th and 26th when senior government officials are scheduled to attend to be followed by meetings on the 27th to be attended by foreign ministers and finally by heads of state and government on the 28th and 29th of June. Trade will be among the most important issues to be discussed at the summit including preferential trade agreements for the African, Caribbean, and Pacific (ACP) region which is commonly referred to as the Lome IV agreement and is of particular importance to Cuba. For more information see their web site at <www.cimeira.mre.gov.br/>

TELECOM ITALIA TAKEN OVER BY OLIVETTI -- At a recent meeting in Washington, Cuban Central Bank President Francisco Soberon (see USCPR, Vol.6, No.4) reconfirmed Telecom Italia's 29 percent stake in Cuba's telecommunications company ETECSA. Cuban telecommunications may experience better times with improved equipment and additional investment as a result of the recent contentious but unexpected takeover by Olivetti of Telecom Italia formerly the Italian state-owned telecommunications company known as STET. Olivetti, the former Italian typewriter manufacturer, stunned the telecommunications industry with its bid and subsequent successful hostile takeover of Telecom Italia, a company five times its size, that began last November when Italian newspapers first broke the story. The \$65 billion package of cash and debt came just two years after the Italian government privatized the telecommunications monopoly and the Clinton administration's ITT-STET deal over the course of a year allowed STET to escape Title IV Helms-Burton sanctions. The deal brokered by the State Department granted STET/Telecom Italia the right to use ITT's confiscated property in Cuba for an undisclosed amount over a ten year period (see USCPR, Vol.4, No.8). Olivetti will leverage its 51 percent share in Telecom Italia to cede its telecom activities to its partner Mannesmann A.G. of Germany for \$8 billion. In turn, Mannesmann is expected to offer U.S. telecommunications company Bell Atlantic a two percent position in the new company. (NYT,"Olivetti Takes High-Stakes Risk In Winning Its Bid for Telecom," 5/23/99, p.10).

CUBA ESCAPES DEFAULT WITH BRITISH BANK -- When Banco Nacional de Cuba (BNC) the state controlled Cuban commercial bank was unable to meet its scheduled payment to Standard Bank London Limited, the British bank came within hours of calling for formal default of the \$16 million loan balance. Ten million dollars remains of the 1997 loan owed by Cubazucar, the Castro government's state owned sugar company. Default was narrowly averted when BNC agreed to pay \$2 million in interest linking future payments on the \$10 million segment owed to sugar revenues and on the \$6 million segment to promissory notes tied to anticipated currency earnings from other state companies. According to the agreement, non-payment would give Standard Bank the right to seize Cuban accounts. Reports indicate the repayment is tied to contracted Cuban sales "to Pacol [SA], the Paris-based company closely linked to ED&F Man, the British sugar trader." With offices in New York and Chicago, ED&F Man operations could come under review for possible Helms-Burton Title IV violations. (FT,"Havana averts default on \$16m UK bank loan," 5/26/99, p.4).

SHORT TAKES

BURTON URGES HELMS TO MAINTAIN OPPOSITION TO ROMERO NOMINATION -- In a May 13th letter to Senate Foreign Relations Committee Chairman Jesse Helms (R-NC), House Government Reform Committee Chairman Dan Burton (R-IN) criticized acting Assistant Secretary of State for Western Hemisphere Affairs Peter Romero for his failure to enforce Title IV of the *Cuban Liberty and Democratic Solidarity Act* also known as Helms-Burton. Burton charged Romero with repeated failure in making "any determinations" under the act.

SECRETARY OF STATE ALBRIGHT SAYS ROMERO RESPONSIBLE FOR TITLE IV ENFORCEMENT -- Recently received answers to questions posed to Secretary of State Albright during the Senate Foreign Relations Committee hearing of February 24th indicate that Romero ultimately has responsibility for Title IV enforcement. "[A]uthority for implementing Title IV rests with the Assistant Secretary of State," Albright responded.

NATIONAL ASSOCIATION OF SUGAR MILL OWNERS OF CUBA CERTIFIES OWNERSHIP IN LOBO DISPUTE -- Alberto Beguristain, the president of the Cuban exile-run organization of sugar mill owners whose properties were confiscated by the Castro regime without compensation in the early 1960s, has weighed in on the Lobo family's dispute over ownership of their confiscated sugar mills in Cuba. The credentials committee of the Asociacion Nacional De Haciendados De Cuba, Inc. issued a "certification of ownership" in the dispute which has arisen between, Maria Luisa and Leonor, the two daughters of Julio Lobo the late Cuban sugar magnate. The association's certification states that surviving daughter Leonor Lobo de Gonzalez "is the owner of 100%" of the shares in the successor company to Chiriqui Sugar Mills Corporation. Cuban National Assembly president Ricardo Alarcon was reported in the April 8th national edition of the Cuban Communist Party newspaper, *Granma*, as having convened a peoples meeting at one of the Lobo family's sugar mills to denounce the ownership claims after news stories of the legal dispute appeared in the American press including the *Wall Street Journal* (see Notable Quotes, USCPR, Vol.6, No.4).

CONSOLIDATED DEVELOPMENT V. SHERRITT -- The Eleventh Circuit of the U.S. Court of Appeals has scheduled oral argument for the week of September 13, 1999 in Miami, Florida regarding Consolidated Development Corp., et al. v. Sherritt,Inc., et al. In its case for "conversion and conspiracy to defraud" against Sherritt, a Canadian natural resource company, Consolidated contends that Sherritt's oil production in Cuba involved use of its confiscated property that was swapped for nickel later processed in the United States (see USCPR Vol.4, No.3).

ADMIRAL 'BUD' NANCE SENATE FOREIGN RELATIONS COMMITTEE STAFF DIRECTOR

R.I.P. -- Retired Navy Rear Admiral James W. "Bud" Nance, the North Carolina boyhood friend of Senate Foreign Relations Committee Chairman Jesse Helms, died at the National Institutes of Health in Bethesda, Maryland on Tuesday, May 11th following a long illness. Nance, who graduated from the U.S. Naval Academy in Annapolis and had a distinguished military career dating back to World War II, the Korean and Vietnam Wars, commanded the aircraft carrier Forrestal and served in the Reagan White House in the 1980s prior to being drafted by ranking committee member Helms to become Republican staff director at Foreign Relations. Nance stayed on as staff director in 1994 when Republicans won the majority in the Senate and Helms, who had become committee chairman, continued to pursue a property rights agenda leading to the introduction and passage of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996*. Steve Biegun, who was brought on by Nance and became the senior professional staff member for European Affairs and the advisor to Helms on matters including Russia, NATO, the European Union and the Organization on Security and Cooperation in Europe, is the new staff director. Biegun also directed the International Republican Institute's Moscow-based training program from 1992 to 1994 and speaks fluent Russian.

NOTABLE QUOTES

"According to Havana, the American embargo is jeopardizing its much touted health system, and making it impossible to offer services to the Cuban people. But this is hard to believe considering that Servimed, the government agency responsible for 'health tourism,' lacks for nothing, despite the end of Soviet subsidies 10 years ago. According to Ulysee, the French travel guide, 'the best hospitals and clinics are open to tourists, payment is in dollars and the hospital service is excellent and fast.' If only the Cuban people could be lucky enough to have access to the same service." Frank Calzon is the executive director of the Washington-based Center for a Free Cuba. (WSJ Europe,"Some Questions for a Cuban Visitor to Britain," 4/29/99.

"Easing the embargo only benefits Fidel Castro since foreign investors must include the Cuban government, i.e., Castro, in all ventures. By enriching Castro and strengthening him politically, ending the embargo would tighten his hold on Cuba and worsen life for the Cubans. If trading with other countries has not improved living standards for Cubans, why would trading with the U.S?" Senator Connie Mack (R-FL) responds in a letter-to-the-editor to the op-ed piece by Al Hunt of the *Wall Street Journal* on April 22nd titled "End the Anachronistic Embargo Against Cuba." Mack is the Senate Chairman of the Joint Economic Committee. (WSJ,"Embargo Best Means of Freeing Cubans," 5/11/99, p.A23).

"For the second time in as many months, the Clinton administration's ill-conceived and ill-timed special brand of baseball diplomacy shifted the focus of debate around the world away from human rights abuses under Fidel Castro's ruthless dictatorship to banal, senseless chatter about batting averages, wood versus aluminum, and padding in the outfield." Op-ed by Jorge Mas who is the vice chairman of the Cuban American National Foundation based in Miami. (TWT,"Strike out Castro," 5/14/99, p.A17).

"The possibility of a waiver under Title III of Helms-Burton, meanwhile, helped get the European Union to link future improvements in its economic and political relationship with Cuba to changes in the Castro regime's human rights record. Moreover, congressional action to provide waiver authority for Title IV of Helms-Burton would permit implementation of a path breaking arrangement to protect the rights of U.S. citizens against illegal expropriation." Stuart E. Eizenstat, Under Secretary of State for Economic Business and Agricultural Affairs writes a letter to the editor discussing in part, the May 18, 1998 EU-U.S. Agreement negotiated by the Clinton administration and pending Congressional approval. (*Foreign Affairs* May-June 1999, p.154).

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Ralph J. Galliano, Editor

PERNOD RICARD TAKES BACARDI-HAVANA CLUB TRADEMARK FIGHT TO SECRETARY OF STATE MADELEINE ALBRIGHT

WASHINGTON — In an effort to counter the May 4th letter from Congressional committee chairmen Jesse Helms (R-NC) and Benjamin Gilman (R-NY) (see USCPR, Vol.6, No.5), Thierry Jacquillat, president of Paris-based Pernod Ricard the French wine and spirits company, urged Secretary of State Madeleine Albright to "support the issuance of a specific license by OFAC [Treasury Department's Office of Foreign Assets Control] for the transfer of the U.S. 'HAVANA CLUB' trademark to Havana Club Holdings, S.A." Havana Club Holdings, S.A. and Havana Club International, S.A. form the complicated investment strategy through which the Cuban-French joint venture, Havana Rum & Liquors, S.A. (HRL), formed in 1993, and Pernod Ricard share in the ownership of the Havana Club trademark currently in dispute (see USCPR, Vol.6, No.4). Jacquillat's May 17th letter, reprinted below, seeks to position Pernod Ricard squarely outside the controversial boundary lines of who is the rightful owner of the "Havana Club" trademark in the United States. The Pernod Ricard president attempts to carve out two distinct areas: 1) insisting that the original Havana Club trademark was "abandoned," and 2) that the "separation of powers doctrine" controls the licensing powers of the executive branch. In his letter, Jacquillat interprets the April 13, 1999 New York federal district court decision narrowly with regard to licensing procedures and quotes Judge Shira A. Scheindlin reiterating that "OFAC's issuance of or failure to revoke, a license rests upon foreign policy considerations." Furthermore, Jacquillat attempts to distance the French company far from the controversy of "whether 'factual details' were withheld from OFAC in 1995 when that license was granted," explaining Pernod Ricard "played no role in the drafting of the OFAC application" and was unaware of the actual application by the Cuban entity at the time. Helms and Gilman in their letter of May 4th to Albright argued that the reissue of a "special license to ratify the purchase of the U.S. trademark registration of 'Havana Club'" to a Cuban state enterprise would "circumvent the embargo of Cuba and [was] contrary to explicit U.S. law." Jacquillat contends that "as a national of France, Pernod Ricard's participation in a joint venture in Cuba is not a matter of U.S. embargo law" but posits instead that "[t]he question is always, is it in the U.S. interests to grant a license allowing payments to Cuba or Cuban nationals -- not, will money flow to Cuba." Not only did Pernod Ricard in its joint venture in 1993 acquire "a fifty percent interest

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in a portfolio of more than seventy 'Havana Club' trademarks registered around the world," but Jacquillat, raises the "reciprocity" issue where U.S. companies have over 400 trademarks in Cuba pursuant to "OFAC general license found in 31 C.F.R. Sections 515.28." With regard to the issue raised by the Helms-Gilman letter that the "U.S. trademark registration would have allowed hard currency to flow into Cuba in contravention of the embargo and the interests of the United States," Jacquillat points out "[e]very license, either general or special, that is issued by OFAC allows funds to 'flow to Cuba.'" OFAC's overview <<http://www.ustreas.gov/ofac/t11cuba.pdf>> of Cuban Assets Control Regulations (5/20/99) continues to state that the "basic goal of the sanctions is to isolate the Cuban government economically and deprive it of U.S. dollars." An OFAC license by definition is an exception to the embargo regulations and permits funds to flow to Cuba that directly or indirectly benefit the Cuban government.

U.S. PATENT AND TRADEMARK OFFICE REGISTRATION – In papers entitled "The True Story of the Havana Club Trademark in the United States" attached to Jacquillat's letter to Albright but not reprinted here, the issue of abandonment is addressed as it is also addressed by Bacardi in a paper entitled "The Truth About the Havana Club Dispute: Background and Analysis" issued on June 7th. Acknowledging the expropriation of the property of the original owner of the "Havana Club" trademark, Jose Arechabala, in 1960 by the Castro regime, Jacquillat asserts in his May 17th letter that the "expropriation had no effect on the U.S. 'Havana Club' trademark" and that "[t]hose events were entirely unrelated." The attachment to Jacquillat's letter states, "[b]ecause the Patent and Trademark Office has long held that the embargo on trade with Cuba constitutes justifiable non-use of a Cuban-origin trademark, doing so would have required nothing more than the payment of a \$20 fee and the filing of an affidavit." The Bacardi documents explain the matter differently: "Under U.S. law as it existed at the time, in order to renew the registrations the family would have had to certify to the USPTO that they were using the trademark in U.S. commerce, that is, that they were selling rum under that brand. But the Arechabala family could not sell Havana Club rum because they were deprived of the means of making the product. The Arechabala family refused to commit a fraud on the U.S. government by filing a false affidavit, so the Havana Club trademark registrations in the U.S. lapsed." Although the issue of abandonment may continue to be debated, Section 211 (see USCPR, Vol.6, No.4), considered "a piece of special-interest legislation" by Pernod Ricard, provides that no "commercial name" be registered at the USPTO unless there is express consent by the "original owner" or the "bona fide successor-in-interest."

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PERNOD RICARD LETTER FOR LICENSE ON HAVANA CLUB TRADEMARK

Pernod Ricard
Paris, France

May 17, 1999

The Honorable Madeleine Albright
Secretary of State
Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Madam Secretary,

We write in response to Senator Helms and Congressman Gilman's letter of May 4, 1999, wherein they request that you "intervene personally" to prevent the issuance of a license by the Office of Foreign Assets Control (OFAC) for the transfer of the U.S. "HAVANA CLUB" trademark to a Luxembourg company (Havana Club Holding, S.A.) in which Pernod Ricard holds a fifty percent interest, the remaining equity being owned by a Cuban state enterprise.

With all respect to the distinguished authors of the May 4th letter (whom we know to be honest in their concerns, but whom we believe to have been misinformed about the "HAVANA CLUB" case) we wish to correct significant portions of the "review of facts" with which they begin their letter:

1. (a) While it is true that the government of Cuba expropriated the Jose Arechabala rum company in 1960, that expropriation had no effect on the U.S. "HAVANA CLUB" trademark. That mark's ownership and validity within the United States are purely matters of U.S. law. It is therefore misleading for Senator Helms and Congressman Gilman to say that "*subsequent to the forceful confiscation* [i.e., of the "HAVANA CLUB" trademark], *a Cuban state enterprise registered the trademark in the United States*", thereby creating the mistaken impression that the expropriation of the Cuban Jose Arechabala company and the registration of the "HAVANA CLUB" trademark were related and, indeed, even contemporaneous events.

Those events were entirely unrelated. In fact, pursuant to U.S. law, a Cuban state enterprise registered the "HAVANA CLUB" trademark at the USPTO in 1976, sixteen years after the expropriations of the Arechabala company in Cuba -- and, then, only after the trademark was abandoned in the U.S. by the Arechabala company, in 1973, through failure to renew the mark at the USPTO.

(b) It is also misleading for the authors of the May 4th letter to say that the Arechabala company did not "approve" of or "consent" to the registration in the U.S. of the "HAVANA CLUB" mark by a Cuban enterprise.

By reason of its conscious decision not to renew the "HAVANA CLUB" trademark in the U.S., the Arechabala company tacitly approved of and consented to the registration of that mark by anyone who wished to subsequently claim it at the USPTO. That, after all, is how U.S. trademark law operates -- if one does not preserve one's rights they are, by operation of law, ceded to anyone who takes the necessary steps to acquire that abandoned mark.

Intellectual property rights are not infinite in their duration, nor are they subject to unilateral reclamations several decades after their abandonment -- they must be maintained by periodic renewal. Companies that once did business in Cuba are no more exempt from those requirements of U.S. law than anyone else.

2. It is true that the Arechabala company "*obtained no benefit*" from the conveyance, in 1993, of the U.S. "HAVANA CLUB" trademark from a Cuban state enterprise to a joint venture company involving Pernod Ricard.

But why should that company obtain a "*benefit*" when it abandoned any right or interest it had in the U.S. "HAVANA CLUB" trademark twenty years earlier through its failure to renew it at the USPTO? To say the obvious, an enforceable right in property exists only so long as the responsibilities attendant upon the maintenance of that right are met. The Arechabala company appears to wish only the benefits of U.S. law, but none of its burdens.

3. It is simply untrue, in any meaningful sense, to say that Bacardi is a "*U.S. company*".

Bacardi is headquartered in Bermuda. The "HAVANA CLUB" rum that it introduced into the U.S. in 1996 was manufactured at a Bacardi-owned distillery in the Bahamas. Bacardi's chief involvement with the United States over the years has been the distribution by a Miami-based subsidiary of its foreign-made rums.

4. It is not true that a Cuban state enterprise "*obtained a special [OFAC] license concerning the venture with Pernod Ricard*".

In fact, a Luxembourg company (Havana Club Holding, S.A.) of which Pernod Ricard has a fifty percent interest was licensed, in 1995, to receive the transfer of the "HAVANA CLUB" trademark from a Cuban state enterprise. Moreover, whether "*factual details*" were withheld from OFAC in 1995 when that license was granted is something, if true, for which Pernod Ricard cannot fairly be held responsible. Pernod Ricard played no role in the drafting of the OFAC application and, indeed, did not even know a license had been applied for until it was actually notified by an attorney six weeks later that the license had been granted.

5. It is not true that "*a U.S. federal court determined that OFAC acted properly* [i.e., in rescinding its earlier license to transfer the "HAVANA CLUB" trademark] *in light of the facts, laws, treaties, and the United States Constitution*".

In fact, the court merely held that "because the issuance or revocation of licenses is committed to OFAC's discretion, OFAC's decisions are not reviewable by this court"¹. In an earlier decision the same court refused Bacardi's challenge to OFAC's initial approval of the licenses to transfer the "HAVANA CLUB" trademark, saying; "...OFAC's issuance of or failure to revoke, a license rests upon foreign policy considerations ... of the Executive Branch ... that should not be disturbed by the courts"².

It is clear, in both of the decisions referred to above, that the court neither endorsed nor rejected the substance of OFAC's licensing determinations. Instead, consistent with the separation of powers doctrine, the court deferred to

those OFAC decisions because they lie within the purview of Executive Branch discretion. Such judicial deference may confidently be expected to any decision by OFAC to grant the pending application for a license to transfer the U.S. "HAVANA CLUB" trademark to Havana Club Holding, S.A.

6. It is untrue that the judge in the New York litigation found that the sale of the U.S. "HAVANA CLUB" trademark "*allowed hard currency to flow into Cuba in contravention of the embargo and the interests of the U.S.*".

In fact, the court simply said: "...*the inclusion of Pernod Ricard as a partner in the reorganization [of a Cuban state] allowed hard currency to flow into Cuba*". (Emphasis added)³. As a national of France, Pernod Ricard's participation in a joint venture in Cuba is not a matter of U.S. embargo law.

The transfer of the U.S. "HAVANA CLUB" mark, by contrast, is a matter of U.S. law. In consideration whether an OFAC license should be issued for that transfer, we believe the following facts to be relevant: (1) In 1993, Pernod Ricard acquired a fifty percent interest in a portfolio of more than seventy "HAVANA CLUB" trademarks registered around the world. No value was assigned to the U.S. "HAVANA CLUB" trademark and no payment was made by Pernod Ricard to Cuba in respect of that mark. Nor will such payment be made in the future. (2) However, even if hard currency were to "flow" to Cuba should the license be granted (which would not be the case) there is nothing in the federal court's opinion (as Senator Helms' letter suggests) that describes such a result as, per se, "*in contravention of the embargo and the interests of the United States*". Every license, either general or special, that is issued by OFAC allows funds to "flow to Cuba", whether it be in the form of expenditures in Cuba by licensed U.S. travelers, or remittances sent to relatives in Cuba, or the payment of fees to Cuba by U.S. companies for the transmission of telephone and television signals, or, finally, payments to the government of Cuba by U.S. corporations to register their trademarks in Cuba under 31 C.F.R. Section 528.

The question is always, is it in the U.S. interests to grant a license allowing payments to Cuba or Cuban nationals -- not, will money flow to Cuba. In her March 10, 1997 opinion in the "HAVANA CLUB" case, the judge said: "...*issues of reciprocity ... arise in the context of trademark assignments considering that United States companies have registered over 400 brands for products in Cuba pursuant to the OFAC general license found in 31 C.F.R. Sections 515.528... Cuban authorities permit United States companies to assign their registered Cuban marks after mergers, acquisition and other reorganizations of business*"⁴. So even if money were to flow to Cuba as a result of a license being issued to transfer the "HAVANA CLUB" trademark (which again, will not happen) that is not the point. Every license issued by OFAC results in money going to Cuba.

The point is this, is it in the interests of the United States that a license be granted to allow the transfer of the "HAVANA CLUB" trademark? The answer is, yes. As the judge indicated in her decision, a sufficient reason for granting the license would be to reciprocate Cuba's

facilitation of the transfers between American and foreign companies of U.S.-origin marks registered in Cuba. 7. It is not true that "*the Arechabals and Bacardi began producing and selling "HAVANA CLUB" in the United States*".

Bacardi alone produced "HAVANA CLUB" in the Bahamas in 1996 and then tried to sell it in the U.S. until sued by Havana Club Holding. Shareholders in the Arechabala company had no role in this Bacardi endeavor, or for that matter, in any other aspect of the rum business, anywhere, for forty years.

It was only when Bacardi was sued by the owners of the "HAVANA CLUB" brand that the company hastily struck a deal in 1997 with a few shareholders in the long-defunct Arechabala company for the "rights" to the "HAVANA CLUB" trademark in the U.S.. Bacardi of course achieved nothing by this transaction because the Arechabala shareholders had -- as a result of having abandoned the "HAVANA CLUB" at the USPTO twenty-four years earlier -- no trademark rights to sell.

Bacardi is a company with Cuban origins that maintained its U.S. trademarks after the 1959 revolution in Cuba and therefore knew that the Arechabala company had, by contrast, abandoned its rights to "HAVANA CLUB" in the U.S.. Accordingly, a former senior executive of Bacardi, Juan Prado, admitted in sworn testimony in the New York case that he did not "*inform any of the Arechabals in advance when Bacardi applied [unsuccessfully] in 1995 for a <<HAVANA CLUB>> trademark at [USPTO]*". Mr. Prado also testified that Bacardi did not "*request the permission of Ramon Arechabala*⁵ in 1995 or 1996", to sell "HAVANA CLUB" in the United States.

For your convenience a memorandum detailing additional facts pertaining to the U.S. "HAVANA CLUB" trademark is attached. We hope that information and the contents of this letter prove helpful. We further hope that you will support the issuance of a specific license by OFAC for the transfer of the U.S. "HAVANA CLUB" trademark to Havana Club Holdings, S.A.

Thank you for your consideration in this matter.

Yours respectfully,
Thierry Jacquillat
President

Footnotes:

¹ *Havana Club Holding, S.A. v. Galleon, S.A. and Bacardi Martini, (USA)* 974 F.Supp. 302 at 306 (S.D.N.Y. 1997).

² *Havana Club Holding, S.A. v. Galleon, S.A. and Bacardi Martini, (USA)* 961 F.Supp. 498 at 503 (S.D.N.Y. 1997).

³ *Havana Club Holding, S.A. v. Galleon, S.A. and Bacardi Martini, (USA)* 974 F.Supp. 302 at 309 (S.D.N.Y. 1997).

⁴ *Havana Club Holding, S.A. v. Galleon, S.A. and Bacardi Martini, (USA)* 961 F.Supp. 498 at 504 (S.D.N.Y. 1997).

⁵ Ramon Arechabala was called as a witness, by Bacardi, at the New York trial. He testified that he was a shareholder in the Arechabala company and that he had discussed Bacardi's acquisition of the U.S. "HAVANA CLUB" trademark. (These discussions took place at about the time of the expiry of the "HAVANA CLUB" mark at the USPTO). Nothing came of those discussions and in 1973 the mark was not renewed in the U.S.

BRITTAN TO GILMAN: EU-U.S. AGREEMENT NOT RENEGOTIABLE

The June 3rd letter from the acting trade commissioner for the EU to the House International Relations Committee chairman makes it more likely the Clinton administration will be unable to deliver on a negotiated promise to have the U.S. Congress grant a presidential waiver over Title IV of the Helms-Burton Act of 1996 which denies U.S. entry to foreign executives whose companies traffic in uncompensated confiscated property in Cuba belonging to U.S. nationals. Sir Leon Brittan's letter to Congressman Ben Gilman is a response to the chairman's January 8th list of 22 detailed questions (see USCPR, Vol.6, No.1) seeking Congressional clarification over the implementation of the May 18, 1998 EU-U.S. Agreement (Understanding). Running the gauntlet through each EU capital over the course of five months, Brittan's response, reprinted below, reflects the collective viewpoints of 15 different nations. Says Brittan, "I must therefore make clear that I am not in a position to re-open negotiation on the text of the Understanding." Moreover, Brittan reiterates that the May 18th agreement is also tied to a continued Title III presidential waiver. Differing interpretations of the May 18th agreement led to a view by Secretary of State Madeleine Albright (see USCPR, Vol.5, No.8) that the EU described as an internal U.S. matter. The question of what constitutes confiscated property under international law continues to span this great EU-U.S. divide in a manner that appears unbridgeable particularly with respect to the status of the confiscated property owned by Cuban-Americans who as U.S. nationals are covered under the Helms-Burton law. This latest impasse over the interpretation and implementation of the May 18th agreement is more likely than not to create further friction over the continued European investment in confiscated American property in Cuba and reopen the EU challenge at the WTO against U.S. Cuba trade policy. This perceived EU inflexibility is highly likely to lead to increased pressure for a Title IV sanction against a European company known to be trafficking in U.S. confiscated property in Cuba as well as to a concerted effort to repeal the Title III presidential waiver permitted under Helms-Burton. The LIBERTAD Enforcement Act (see USCPR, Vol.6, No.2) introduced by Rep. Bill McCollum (R-FL), could become a political issue during the upcoming 2000 election campaign when McCollum is expected to run for the U.S. Senate in Florida.

BRITTAN LETTER TO GILMAN ON THE EU-US AGREEMENT

**THE RIGHT HONOURABLE
 SIR LEON BRITTAN, QC
 VICE-PRESIDENT OF THE EUROPEAN COMMISSION**

3 June 1999
 Mr. Benjamin J. Gilman
 Chairman
 Congress of the United States
 Committee on International Relations
 House of Representatives
 Washington, D.C. 20515
 Dear Mr. Gilman,

Thank you for your letter of 8 January regarding the EU-US Understanding With Respect to Disciplines for the Strengthening of Investment Protection.

I note and appreciate your determination to take the Understanding seriously. As I mentioned during our meeting in Washington, I believe that this Understanding, together with the declaration on Transatlantic Partnership on Political Co-operation which was issued at the same time, offer the prospect of a lasting resolution of our differences with the United States. I welcome this opportunity to reassure you that the Understanding provides for worthwhile and meaningful disciplines relating to investment in property that has been expropriated in contravention of international law.

Let me, first of all, make a few general remarks. First, I must emphasise that the EU remains opposed both in law and in principle to the imposition of secondary boycotts and legislation with extraterritorial effect and retroactivity. This Understanding does not alter our conviction that the Helms-Burton Act is contrary to international law and WTO rules. However, the EU and its Member States have undertaken to implement the Understanding provided that the United States does likewise. Provided the US does so, and provided that no action is taken against EU companies or persons, the EU will not request the establishment of a WTO Panel against the Helms-Burton or Iran/Libya Sanctions Acts.

As you know, under the terms of the Understanding the EU is not obliged to apply the investment disciplines until a waiver has been granted under Title IV of the Helms-Burton Act. So far there has been no evidence of movement towards such a waiver on the part of the United States. I would also remind you that the EU only undertook to apply the investment disciplines for as long as the waiver under Title III of the Helms-Burton Act remains in effect. I was therefore concerned to note that you recently cosponsored a bill which was designed to put to an end the

President's authority to waive Title III of the Helms-Burton Act. This has not been seen as an encouraging signal in the EU.

Second, I do not believe that the Understanding is ambiguous. On the contrary, its text was carefully negotiated over many hours and is clear both in what it provides for and what it does not provide for. Whilst some on either side may believe that it does not go far enough on certain points, or goes too far on others, this is a reflection of the fact that the Understanding is balanced, and required a degree of comprise on both sides. I must therefore make clear that I am not in a position to re-open negotiation on the text of the Understanding in the context of elaborating, in due course, the modalities foreseen in its paragraph I.B.1(b) and Annex B.

Third, in evaluating the Understanding, the general context in which it was reached should be borne in mind. In the New Transatlantic Agenda, we confirmed our joint commitment, through closer co-operation, to promote peace, stability and democracy. We share a strong common interest in non-proliferation of weapons of mass destruction and are strategic allies in the global fight against terrorism. We, on the EU side, have taken numerous specific steps to strengthen respect for human rights, to promote non-proliferation of weapons of mass destruction, to fight terrorism and to address crises in troubled regions. In the specific case of Cuba, we share the commitment to support a peaceful transition to democracy, the respect for human rights and fundamental freedoms as well as sustainable economic recovery and improvements in the living standards of the Cuban people, as witnessed, on the EU side, by the active implementation of the Common Position on Cuba adopted by the Council on 2 December 1996, including through recent action.

As you can see, the Understanding goes well beyond the problem of Cuba. As regards the disciplines it is important to recall that they aim at improving worldwide the respect for international law in the area of expropriation of private property -- an objective the EU and the US clearly share. They should discourage illegal expropriation anywhere in the world of property held, amongst others, by EU and US investors.

I turn now to the substance of your letter. First, regarding the nature of the Understanding, paragraph II(2) makes clear the participants' intention to apply the disciplines as a matter of policy. On 25 May 1998, the Council of the EU welcomed the decisions and statements made at the EU-US Summit in London on 18 May 1998. There is thus a clear political signal by the EU and its Member States of their willingness to implement the terms of the Understanding, if the US does likewise. However, I must point out once more that the Understanding makes clear that the first step towards implementation should be the adoption of legislation in the Congress to authorize the Title IV waiver.

As to the operational impact of the Understanding, its provisions make it clear that an application by an EU investor for government commercial assistance or other government support for an investment in a third country which is alleged to have expropriated illegally would alert the competent authorities on the EU side, which would then apply a heightened degree of scrutiny when processing such cases. This would include, in particular, an assessment as to whether the property in question had been expropriated in contravention of international law.

Whenever there is an international award or where it has been concluded (in accordance with modalities to be elaborated among the participants) that a property was expropriated in contravention of international law, the specific disciplines enumerated in Paragraph I.B.2 will apply. The procedure provided for in paragraph I.B.3 is an additional procedure which applies in cases where there is no such award or joint decision, but where the other party to the Understanding has submitted information alleging that a pattern of illegal expropriations has occurred.

In such cases, the government agencies responsible for deciding on government commercial assistance and governmental support would be expected to consider all available information, including that provided by the US. Where the view is reached by the authorities responsible for such an assessment that an individual property has been expropriated in contravention of

international law, the disciplines described in paragraph I.B.2 will be applied. However, where the information available was deemed by the government authorities responsible to be insufficient to justify making such an assessment, the Understanding would not prevent the granting of government commercial or other support for investments in that property.

Paragraph I.B.3 is clear in that it provides the US with the possibility of informing the EU of its view that there has been a record of repeated expropriations in contravention of international law, and that particular care is therefore warranted when assessing applications for governmental commercial support. Paragraph I.B.3(a) underlines that such action by the US should be accompanied by information explaining the reasons for this view, including, as appropriate, information about specific claims. The US could moreover provide additional information upon request or if supplementary information became available. The EU will then, under paragraph I.B.3(b), make that information available to the government agencies responsible for deciding on government commercial assistance and government support. These provisions would enable the US to provide as much information as is appropriate, including detailed information regarding individual properties, with the assurance that the EU will disseminate the information to the national agencies who decide on applications for support. Paragraph I.B.3(e) also provides the US with the possibility to be kept informed of the actions taken on the EU side.

It is not possible for the EU to acknowledge that the property subject to the FCSC certified claims would automatically be subject to the agreed investment disciplines. It is neither legally nor politically possible for the EU to take such a view. The Commission has, as you know, looked at a limited number of FCSC cases with regard to Cuba and, as many of these did appear to have been expropriated in contravention of international law having regard to the discriminatory provisions of Cuban Law 851, it would be reasonable to assume that such properties would be subject to the disciplines in the Understanding. If, as the US indicates, the cases mentioned above are typical of the other expropriations, it is reasonable to assume also that, if those other expropriations were reviewed, as provided for under paragraph I.B.3, this would lead to a similar result. The final assessment would, however, depend on a case-by-case consideration after examination of specific claims. If the determinations made by the FCSC are contained in the information provided by the US under paragraph I.B.3, the EU will make that information available to the government agencies responsible for deciding on governmental commercial assistance.

As regards the general effectiveness of the disciplines in inhibiting and deterring investments, past experience indicates that investment in countries with weak investment climates is often dependent on some form of governmental support or commercial assistance. I am, however, not in a position to provide you with detailed information on existing investment made by investors of our Member States, nor the extent to which such past investment benefited from the type of government support and commercial assistance which could be withheld under the new disciplines.

Finally, as regards your concern about governments' expropriation of property of their own nationals, the Understanding, as you know, provides that anybody who is of the opinion that his property was expropriated in contravention of international law may register his claim in the Registry provided for by paragraph I.A.3 of the Understanding. Such registration of a claim does not, however, imply any judgment by the responsible national authorities as to its validity, and in particular as to whether the expropriation in question was in contravention of international law at the time of the expropriation. However, national agencies will take appropriate account of information which appears in the Registry.

I hope that this letter, which reflects discussions with representatives of the Member States, provides clarification on the points which you raise.

I am copying this letter simultaneously, for information, to Stuart Eizenstat.
Sincerely,
Leon Brittan

CUBA CONSIDERED FOR SAN JOSE OIL-FOR-TRADE PACT

Venezuela and Mexico are edging closer to Cuba's inclusion in the San Jose Pact currently reserved for Central American and Caribbean countries. The pact, created by the two countries on August 3, 1980, supplies 160,000 barrels of oil a day (80,000 barrels a day from each country) to the 11 participating countries including: Barbados, Belize, Costa Rica, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, Panama and the Dominican Republic. Renewed on an annual basis, the Program of Energy Cooperation for the Countries of Central America and the Caribbean is intended to "promote economic and social development and to further regional integration." The inclusion of Cuba in the upcoming Joint Declaration to be signed by the presidents of Venezuela and Mexico likely would continue to maintain the operating terms of the San Jose Pact while leading to an increase in the barrel per day contribution to the arrangement. Linked to oil prices, the Pact "sets aside a percentage of the oil bill to generate resources for financing the commercial exchange of goods and services and/or development projects in the countries participating in the Program."

Hugo Chavez, elected president of Venezuela in February, has served as the catalyst for Cuban and Venezuelan officials who have been actively involved in talks to explore for oil in Cuba, invest in the Cienfuegos refinery, and to supply crude to the energy-starved island. According to Venezuelan Foreign Minister Jose Vicente Rangel, "We are open to do business with Cuba." In the meantime, Venezuela, an oil dependent nation (40% of GDP and 75% of export earnings), is facing recession following depressed world oil prices.

Until the collapse of the Soviet Union in 1991, when Cuba received 94 million barrels or nearly 13 million metric tons of crude annually, the island's oil supply has been significantly curtailed. Today, Cuba produces less than one-quarter of its annual domestic requirements of 7.5 million metric tons of crude. Even with the recent Russian-Cuban economic cooperation agreement signed on May 14th in Moscow (see USCPR, Vol.6, No.5) which provides 1.5 million metric tons of oil in exchange for 800,000 metric tons of raw sugar, Cuba falls far short of its domestic oil requirements even given its own optimistic 1999 production target of 2 million metric tons. Venezuela is currently conducting a study on the Soviet-built 76,000 barrel per day Cienfuegos refinery. At the same time, Venezuela, which owns the CITGO gas station network in the United States, has its attorneys examining exploration opportunities in view of the trafficking provisions in the Helms-Burton Act.

CURRENCIES & COMMODITIES

1 Euro = 1.03 US Dollar
1 US Dollar = 23.00 Cuban Peso
1 Euro = 23.7543 Cuban Peso

Rates as of June 29, 1999.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 7.19
Year ago nearby = 8.74
Future (July '99) = 5.95
Lifetime
 High = 66.00 (1974)
 Low = 2.50 (1984)

Cash/Spot price as of June 28, 1999.
Source: CSCE.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 18.20-18.25
Year ago (June 28) = 14.07
Future (Aug '99) = 18.23

Cash/Spot price as of June 28, 1999.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 5490
Year ago (June 25) = 4460

(\$ per metric ton)
Official Price: June 25, 1999.
Source: London Metal Exchange

Cobalt = 21.00 -22.00
Year ago (June 29) = 23.00 - 24.00

(\$ per pound for 99.8%)
Price: June 28, 1999.
Source: Metal Bulletin (London).

INTERNATIONAL BRIEFS

SHERRITT INTERNATIONAL LOOKS BEYOND CUBA FOR INVESTMENT --

Whether Sherritt International's chairman, Ian Delaney, anticipated the need to assuage shareholders, who have watched the company's stock price plummet along with the market price of nickel, cobalt, and oil over the last year, that Sherritt was a forward looking company whose investments were not mired down in the socialist command economy of the Castro dictatorship is conjecture. What is not conjecture, however, is the lackluster reality of Sherritt's Cuba investments and Delaney's comments at the May 27th annual meeting held in Toronto where he stated, "there's a limit to the rate at which you can invest in Cuba that's limited by their infrastructure." The Canadian mining company announced on May 14th it purchased a 9% stake in the Australian nickel and cobalt mine, Anaconda, for US\$34.4 million adding to its outside Cuba investments which include petroleum production in Spain and Italy. Sherritt International is no longer looking to invest the nearly \$500 million raised several years ago in Cuba. Sherritt Inc. spun off its Cuba assets to form Sherritt International prior to the passage of Helms-Burton following which it was cited as a violator of the new law's Title IV trafficking provision. (WSJ,"For Jilted Engineers from Canada, Cuba Wasn't a Cheap Date," 6/28/99, p.A1).

CANADIAN COMPANY TAKES LOSS AS CUBAN GOVERNMENT RENEGES ON CONTRACT --

The Ontario-based engineering company, FirstKey Project Technologies, took a \$9 million loss that it spent on developing a proposal to upgrade Cuba's electrical power grid. According to a report in *The Wall Street Journal*, FirstKey chairman Clarence Boudreau who spun off a division from the venerable Toronto engineering company Bennett & Wright to work on the Cuba project in 1997, has been jilted by the Cubans and replaced by European partners to complete the project. Faced with chronic blackouts, Cuba is said to be operating on only 74% of the electrical power of five years ago and with the Soviet-built plant FirstKey was to upgrade operating at only 40% capacity. (WSJ,"For Jilted Engineers from Canada, Cuba Wasn't a Cheap Date," 6/28/99, p.A1).

DAIMLER-CHRYSLER BEATS VOLVO FOR CUBAN BUS ORDER -- Daimler's Mercedes-Benz AB unit, in cooperation with Brazilian Busscar, won a \$200 million contract to provide the Cuban government with 1,400 busses beating out Volvo AB the second largest bus maker. German automaker Daimler-Benz acquired U.S. automotive manufacturer Chrysler last year while Ford Motor Company recently bought Swedish automotive manufacturer Volvo. (BLP,"Volvo Loses Cuban Bus Order to Mercedes," 6/16/99).

BANCOMEXT NEGOTIATING INVESTMENT TREATY WITH CUBA -- Bancomext, Mexico's state-owned foreign trade bank with offices in the United States including Atlanta, Chicago, Los Angeles, Miami, New York, and San Antonio, is expected to sign a reciprocal investment treaty with Cuba that it has been negotiating for two years. It was reported by the London-based *Financial Times* newspaper on May 28, 1996 that CEMEX's 1994 annual report indicated it had been providing "technical support" to a plant jointly owned by the Cuban Cement Producers Association and Bancomext." The Miami Herald reported on May 29th that CEMEX had terminated that contract and transferred responsibility to Bamcomext. The cement plant involved is the Mariel plant which was confiscated by the Cuban government in the early 1960s the claim to which is owned by Lone Star Industries an American cement company located in Connecticut. (See USCPR, Vol.3, No.5, 5/31/96).

BRITAIN AND CUBA SEEK AGREEMENT ON DEBT RESCHEDULING ACCORD -- British diplomats in Havana expect a debt rescheduling accord in two to three months that will pave the way for renewed British government credit to Cuba through the Export Credits Guarantee Department (ECGD). Following agreement on \$30 million of short-term debt, credits are once again expected to flow to the state-run economy of the Communist-ruled island. Of the estimated \$11 billion in foreign debt, Cuba owes Britain \$200 million. (RL,"Britain, Cuba move toward accord," 6/15/99).

SHORT TAKES

NED HOLDS ROUNDTABLE DISCUSSION ON CUBA TRANSITION — The Washington-based National Endowment for Democracy (NED) held a roundtable meeting to discuss the "Prospects for and Dynamics of Social and Regime Transformation in Cuba." The June 2nd meeting highlighted the growing dissident movement on the island.

CUBA SITUATION UNSTABLE SAYS STATE DEPARTMENT OFFICIAL — Participating in a panel discussion held at the Americas Society in New York, the State Department Director of Cuban Affairs, Michael Ranneberger, called the present situation in Cuba "very unstable" saying "the currency is dropping and the social structure is coming apart." Ranneberger attributed these conditions to the flow of dollars into the failing Marxist economy. (MH,"U.S. official: Cuba growing more unstable," 6/11/99).

FEDERAL JUDGE RULES FAMILIES OF DOWNED PILOTS MAY IDENTIFY CUBAN ASSETS IN U.S. — Federal Judge James Lawrence King ruled on June 16th in Miami that the families of the Brothers-to-the-Rescue pilots killed in the February 24, 1996 shootdown (see USCPR, Vol.3, No.3) by Cuban MiG jet fighters over the Florida Straits may seek to identify Cuban assets held in the United States in an effort to collect on a \$187 million judgment King issued in December 1997. Lawyers representing the families may now take depositions from executives of the telecommunications companies permitted by Clinton administration policy to do business with Cuba including AT&T and MCI. On appeal as to whether Cuban assets may be garnished, Judge King (96-10126-CIV-KING) gave the families the go-ahead to trace Cuban assets held in the United States (see USCPR, Vol.6, Nos.2,3&4). Cuban accounts held at the Chase Manhattan Bank of New York have already been identified.

In a related matter, the Cuban government on May 31st filed suit in a Havana civil court against the U.S. government asking for \$181 billion in compensation for death and injury of Cubans over a 40 year period. The 8-page document refers to Judge King's December 1997 judgment. (TWT,"Cuba sues U.S., seeks \$181 billion," 6/2/99; RL,"Families can seek assets in Cuba shootdown case," 6/17/99).

BURTON WARNS CLINTON ADMINISTRATION NOT TO NORMALIZE RELATIONS WITH CUBA — House Government Reform Committee Chairman Dan Burton (R-IN) warned the Clinton administration to "stop efforts to further normalize relations with Fidel Castro's communist dictatorship," according to a press release issued on June 22nd. Of particular concern to Burton was the administration's move to have Coast Guard officers meet with government officials in Cuba to discuss U.S. cooperation with Cuban anti-narcotics police. Citing the December 3, 1998 seizure by Colombian police of 7.2 metric tons of cocaine destined for Cuba (see USCPR, Vol.6, No.1), Burton described the Castro government as "beleaguered by decades of complicity with Colombian drug traffickers."

CUBAN EXILE ORGANIZATIONS FILE CLASS ACTION SUIT AGAINST MULTINATIONALS IN FLORIDA — Attorneys on behalf of the Cuban Committee for Human Rights and the Independent Federation of Electric, Gas and Water Plants of Cuba filed a class action suit on June 24th in Miami-Dade Circuit Court against foreign investors that exploit Cuban labor. The 41-page complaint (99-15148-CA4) is assigned to Judge Steve Levine. Among the 24 parties cited are British Airways, the Russian airline Aeroflot, ABC Charters of Miami, Leisure Canada, Sherritt International, and American Express Travel Related Services. Casting a wide net, the suit names American corporations which are believed to have stakes in foreign companies doing business with Cuba; NationsBank, BancAmerica, and Bank of Boston are named for having a majority interest in Leisure Canada. The fact that all companies named in the suit have a business presence in the State of Florida is believed to address the issue of court jurisdiction. The suit asks for \$1.35 billion in compensatory damages. (AP,"Rights groups sue companies doing business in Cuba," 6/24/99; MH,"Exile lawsuit: Foreign firms discriminate against Cubans," 6/25/99; NP,"Two Canadian companies in Cuban lawsuit," 6/29/99).

NOTABLE QUOTES

"The May 1998 Understanding with Respect to Disciplines for the Strengthening of Investment Protection between the United States and the European Union, designed to settle their differences over the controversial U.S. legislation known generally as 'Helms-Burton,' was a missed opportunity to negotiate a treaty that would confirm and clarify internationally recognized rules protecting property rights. Not only could such a treaty confirm the traditional prohibition on confiscation of aliens' property, but like other human rights treaties, it could also clearly establish states' obligations in respect of a fundamental human right of their own nationals -- the right to own property." Excerpt from The Catholic University Law Review article written by Edwin D. Williamson, a former State Department Legal Adviser and partner at the Washington office of Sullivan & Cromwell. (Catholic Univ. L. Review, "U.S.-EU Understanding on Helms-Burton: A Missed Opportunity to Fix International Law on Property Rights," Vol. 48, No.2, 293).

"I think that medical exchanges would be appropriate. Cuba can benefit from the research of the National Institutes of Health and we can benefit from the research of the (the Cubans) are doing on meningitis B, for example." Senator Arlen Specter (R-PA) comments during a two-day visit to Cuba and a six-and-a-half hour meeting with Fidel Castro. (AP, "U.S. Senator Urges Cuban Ties," 6/3/99).

"Doug Farah's recent articles [May 25] recounted an isolated case in 1996 when Cuban authorities seized a cocaine-laden boat that had drifted into Cuban waters after being overtaken by the U.S. Coast Guard. But that tale paints a distorted picture of Fidel Castro's brush with cocaine. Just last December, seven tons of cocaine bound for Havana were seized by Colombian police. That huge shipment, consigned to a Cuban state-owned joint venture, could not have been the first or only one of its kind." Letter-to-the-editor written by Roger Noriega who is a senior professional staff member of the Senate Committee on Foreign Relations. (WP, "Fidel Castro's Drug-Trafficking Record," 6/4/99, p.A34).

"They had all my drawings, all my engineering data, so they didn't need me anymore. I tell you, if you're going to do business in Cuba these days, the No. 1 rule is cash on the table." Clarence Bourdreau, chairman of Ontario-based FirstKey Project Technologies in Canada, comments on his recent business experience in Cuba. (MH, "Crackdowns, restrictions sour investors on Cuba," 6/10/99).

"Several large European investment groups asked me to take the 'Trump Magic' to Cuba. They have 'begged' me to form partnerships to build casino-hotels in Havana. With the influx of foreign tourists, we would make a fortune, they promise, and they are no doubt right. They are also right to say that this type of arrangement would allow me to skirt the U.S.-imposed embargo. But rushing to join those who would do business in Cuba would do more than that. It would place me directly at odds with the longstanding U.S. policy of isolating Fidel Castro. I had a choice to make: huge profits or human rights. For me, it was a no-brainer." Op-ed by real estate investor Donald Trump who is head of the Trump Organization in New York. (MH, "A choice of human rights," 6/25/99, p.23A).

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Ralph J. Galliano, Editor

WHITE HOUSE APPROVES U.S. CHAMBER OF COMMERCE TRIP TO CUBA

WASHINGTON -- The White House, through its executive authority, granted a special license to Thomas Donohue the president and CEO of the United States Chamber of Commerce for its fact-finding trip to Cuba. Issued by the Treasury Department's Office of Foreign Assets Control, the Chamber's official three-day visit to Cuba, which lasted from July 13 - 15, was the first such visit since Fidel Castro came to power in 1959 for the organization touted as the "world's largest business federation representing more than three million businesses." The Chamber also represents American Chambers of Commerce, commonly referred to as AmChams, "in 86 countries and operates bilateral business councils through its International Division." According to Donohue, the Chamber "has a long track record of providing training to fledgling entrepreneurs and business associations in emerging economies around the globe, including many former Soviet-bloc nations." The Chamber is well known for opposing unilateral sanctions and specifically for its opposition to the U.S. embargo against communist Cuba. Its six-member delegation to Cuba included Donohue, L. Craig Johnstone, Craig Fuller, David Hirschmann, and two staffers. Johnstone, now Senior Vice President for International, Economic and National Security Affairs at the Chamber, is a former U.S. ambassador to Algeria while Fuller, a former White House aide to President Bush, is now in the Washington office of Korn-Ferry International, a senior executive global search firm based in New York. Hirschmann, the former head of the Chamber's Western Hemisphere Division, heads the National Chamber Foundation. Facilitating the visit, the state-controlled Chamber of Commerce of Cuba, which extended the invitation to Donohue, greeted his delegation at the Jose Marti Airport in Havana upon its arrival. Over the three-day period, Donohue met extensively with senior Cuban government officials. He and his delegation also met with members of the Catholic Church and Caritas, a Jewish leader, students and professors at the University of Havana, foreign businessmen, street vendors, a small restaurateur, and assorted dissidents. At the residence of the principal officer of the U.S. Interest Section in Havana, the Chamber delegation met with foreign press and commercial attaches from the G-8 countries. Ostensibly, the purpose for its ground breaking trip was to: explore "economic conditions in the small Cuban private sector;" to determine "if there is a role the U.S. Chamber can play in supporting" that private sector; as well as lending support for "the growth and development of Cuba's private enterprise system." The small private sector consists of the self-employed who number about 200,000 and are subjected to prohibitive controls and high taxes by the state. Cuba's population approaches 12 million.

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U.S. POLICY IMPLICATIONS OF THE CHAMBER'S VISIT TO CUBA -- That President Clinton wants to open up Cuba before he leaves office in nearly 18 months the way President Nixon opened up China in 1972 is no secret among those who have followed closely this administration's policy of constructive engagement with Castro's Cuba. At the outset, its two-track approach and telecommunications policy under the *Cuban Democracy Act of 1992* typified Clinton's desire to open up to the Communist-controlled island. Interrupted by the rafter crisis in 1994 and then by the shootdown of two American civilian planes piloted by Brothers-to-the-Rescue leading to the passage of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996*, Clinton used the historic visit to Cuba by Pope John Paul II in January of 1998 as a hopeful sign that the Castro regime was opening up to the world and that in turn his administration could open up to Cuba. Since then, Clinton has released his January 5, 1999 statement easing travel, easing financial remittance restrictions imposed after the shootdown, allowing the sale of food and agricultural inputs, all with the intent of expanding people-to-people contact "without strengthening the Cuban government." As part of the so-called people-to-people contact, Clinton introduced another measure, 'baseball diplomacy.' Sending what amounts to an unofficial trade mission to Cuba under the guise of the U.S. Chamber of Commerce is perhaps Clinton's final gambit to go down in history as having become the American president who opened up Cuba before he leaves office with Fidel Castro still in charge. Chamber President Donohue unwittingly summed up when he told reporters in Havana on the day of his arrival, "For the long run, we are interested in how the companies we represent in the United States might be able to advance their business interests and partnerships here in the years to come." The Chamber delegation proceeded to meet with Cuban government officials including: Ricardo Alarcon, president of the National Assembly of People's Power; Ricardo Cabrisas Ruiz, the Minister of Foreign Trade; Ibrahim Ferradaz, the Minister of Foreign Investment and Economic Cooperation; Jose Luis Rodriguez, Minister of Economy and Planning; Marcos Portal, Minister of Basic Industry; Eddy Rodriguez de la Vega, Vice Minister of Tourism; and, Fidel Castro. Following his return, Donohue stated that "After some back and forth, the Cuban authorities agreed that we would build our relationship along two avenues. We will deal directly with the self-employed and work with the Cuban Chamber of Commerce and its state-managed member corporations." At the end of the day, Donohue who said he was "quite satisfied with the agreement reached with the Cuban government" proposes doing business with Cuba while Fidel and Raul Castro remain in power, contrary to U.S. law.

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HELMS, GILMAN SAY U.S.- CUBA DRUG COOPERATION VIOLATES U.S. LAW

U.S. officials can be held criminally liable for shootdowns of civilian planes by the Cuban government based on information provided by the U.S. government in drug cooperation efforts with the Castro regime according to the July 13th letter to President Clinton from Senate Foreign Relations Committee Chairman Jesse Helms and House International Relations Committee Chairman Ben Gilman. Helms and Gilman cite a June 17, 1994 memorandum from then-Assistant Attorney General Walter Dellinger regarding similar drug cooperation efforts with Peru and Colombia. The State Department and the Coast Guard have informed Helms and Gilman that "they have been routinely providing tracking data to Cuban authorities regarding suspicious aircraft heading toward Cuban territory." Helms and Gilman write that it is their expectation Clinton "will instruct U.S. officials to cease and desist from sharing such information with the Cuban regime until" he has informed them of their potential criminal liability. The Helms-Gilman letter is reprinted below.

Congress of the United States Washington, DC 20515

July 13 1999
The President
The White House
Washington, D.C. 20500
Dear Mr. President:

We write regarding the emerging notion that it might be possible for the United States to cooperate with the Castro regime in Cuba on counter-narcotics matters.

Mr. President, we defer to no one in our insistence that the United States exhaust all efforts to stem the tide of illegal drugs. In the case of Cuba, however, we expect that such cooperation will do little more than enable the Castro regime to divert attention from the fact that, since the early 1980s, senior officials of the Castro regime have been repeatedly accused, in U.S. federal court of conspiring to smuggle cocaine into the United States.

The purpose of this letter, however, is more specific. We have been informed by State Department and Coast Guard officials that they have routinely provided tracking data to Cuban authorities regarding suspicious aircraft heading toward Cuban territory. We understand, in fact, that these agencies have proposed the establishment of direct telephone communications with the Castro regime in order to pass this data to their Cuban counterparts more quickly.

It appears to us, however, that such information-sharing raises serious concerns under the analysis of applicable U.S. criminal laws set forth in the Memorandum of June 17, 1994, from Assistant Attorney General Walter Dellinger to Deputy Attorney General Jamie Gorelick. This memorandum concluded:

...USG agencies and personnel may not provide information (whether "real time" or other) or other USG assistance (including training and equipment) to Colombia or Peru in circumstances in which there is a reasonable foreseeable possibility that such information or assistance will be used in shooting down civilian aircraft...¹

The Dellinger Memorandum reached this result based on its finding that U.S. Government officials who provide information or assistance to a foreign government where there is a reasonably foreseeable possibility that such information or assistance will be used in shooting down civilian aircraft could be held criminally liable under 18 U.S.C. sec 32(b)(2) and 18 U.S.C. sec 2(a).² The memorandum provided the following guidance regarding when there is a "reasonably foreseeable possibility" that U.S. assistance may be used in shooting down a civilian aircraft:

...if a foreign nation with no announced policy or known practice of unlawful shoot-downs did in fact use USG aid in carrying out a shoot-down, that event would create no liability for the prior acts of USG personnel...The same analysis, however, does not apply where the foreign state does have an announced policy or known practice of carrying out shoot-downs...³

Because Peru had shot down civilian aircraft and Colombia had announced that it intended to do so, the memorandum concluded that there was a reasonably foreseeable possibility that U.S. information or assistance to the aerial interdiction programs of these countries could be used in shooting civilian aircraft.

In the case of Cuba, it is undisputed that the Castro regime has a "known practice of carrying out shoot-downs." This policy was publicly announced as early as July 1989⁴. Any question about the Castro regime's commitment to this policy was put to rest by the intentional

¹ Memorandum for the Deputy Attorney General from Walter Dellinger, Assistant Attorney General, and H.Jefferson Powell, Deputy Assistant Attorney General, regarding United States Assistance to Countries that Shot Down Civil Aircraft Involved in Drug Trafficking, dated June 17, 1994 (hereinafter cited as "Dellinger Memorandum"), at 17.

² The memorandum also found that U.S. officials could be held criminally liable under 18 U.S.C. sec. 32 (a) in the event that they assisted the shoot-down of a United States - registered aircraft. Dellinger Memorandum at 8.

³ Dellinger Memorandum at 12. (Emphasis added).

destruction of two United States-registered aircraft on February 24, 1996, in which three American citizens and one resident alien were killed. So far as we are aware, the Castro regime has never apologized for this incident, characterized it as a mistake, or in any way indicated that it would not destroy civilian aircraft under similar circumstances in the future. Accordingly, the analysis set forth in the Dellinger Memorandum would appear to preclude any U.S. information sharing with, or other assistance to, Cuban authorities involved in aerial surveillance and interdiction.

When U.S. assistance to the aerial interdiction programs of a foreign government is prohibited under the reasoning of the Dellinger Memorandum, we are aware of only two means by which U.S. assistance can be provided to such programs notwithstanding that prohibition. The first is on the basis of a "reliable assurance" from the government in question, either that it will no longer shoot down civilian aircraft, or, alternatively, that it will not use information or assistance provided by the Untied States to carry out shoot-downs. Cuba plainly has not provided the first type of assurance to the Untied States, and almost certainly would not provide the second in a manner satisfying the exacting standards set forth in the Dellinger Memorandum.⁵

The second means by which U.S. assistance can be provided to a foreign government notwithstanding the Dellinger memorandum is on the basis of a determination by the President pursuant to 22 U.S.C. sec. 2291-4(a)(2) that, *inter alia*, "the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction..." This law was enacted by Congress at the request of your Administration in 1994 in an effort to prevent the Dellinger Memorandum from forcing the termination of Untied States support to the aerial narcotics interdiction programs of Peru and Colombia. The presidential determination mechanism provided by this law has been used only twice, with regard to Peru and Colombia.

Our Committee staffs have been told by Mr. Rand Beers, Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, that the information-sharing with Cuba will continue, even though you have not made a presidential determination as required by law and have not sought assurances from the Cuban government on how it would use U.S. -provided information. In light of the Castro regime's actions on February 24, 1996, we would be shocked if anyone in the Administration thought that such a determination could appropriately be made with respect to Cuba or that Cuban assurances in this regard could be relied upon.

We did not agree with the Dellinger Memorandum when it was issued in 1994, but your Administration insisted that it was a correct interpretation of U.S. criminal law. Therefore, in order to insulate U.S. officials involved in counternarcotics activities from potential criminal liability, we supported your request for enactment of the law now codified at 22 U.S.C. sec. 2291-4.

In view of the events of February 24, 1996, we obviously question whether the Castro regime can be trusted to use U.S.-provided information in a responsible manner. Surely no one in your Administration would argue that the Cuban regime, which shot down innocent Americans, deserves more trust than was accorded Peru and Colombia, which vowed to force down drug smugglers. In view of the Dellinger Memorandum, however, it must also be asked whether Castro may choose to destroy an aircraft identified to him by U.S. authorities with the dual purposes of impressing the world with his zeal to fight drugs and intentionally creating criminal liability for the U.S. officials who provided him with the information.

We will appreciate your review of any information sharing activities with the Castro regime and an explanation of why these activities are not prohibited under the reasoning of the Dellinger Memorandum. It is our expectation that you will instruct U.S. officials to cease and desist from sharing such information with the Cuban regime until you have ensured that they are not exposing themselves to criminal liability by so doing.

We will further appreciate your assurances that during any future meetings with Cuban officials to discuss anti-drug cooperation, the U.S. participants will demand that Cuba extradite the two Cuban officials who are wanted in U.S. federal court on drug charges, as well as nearly 80 fugitives from U.S. justice (including at least one cop-killer) who have been granted safe haven in Cuba.

Sincerely,
Jesse Helms
Chairman
Committee on Foreign Relations

Benjamin A. Gilman
Chairman
Committee on International Relations

⁴ President Fidel Castro Ruz, in a speech at the Council of State meeting in Havana on July 9, 1989, publicly described Cuba's shoot-down policy as follows: "Three orders had been given to open fire on small aircrafts that were taking irregular flight paths...[I]f we want the country's sovereignty to be respected, if we do not want them to mock our laws, we will have no other alternative but to fire at aircraft that violate our airspace in strange and very irregular ways..." See FBIS Daily Report, July 13, 1989, FBIS-LAT-89-133.

⁵ See Dellinger memorandum at 15-16. Among the minimum requirements identified for acceptably reliable assurances that U.S.- supplied information will not be used [to] shoot down civilian aircraft by a government that has not renounced a policy of shooting down such aircraft are that the foreign government agree to "establish mechanisms by which USG personnel would obtain detailed specific knowledge as to how USG-provided information and assistance were in fact being used" so that United States would "be able to identify at an operational level any instances of non-compliance," and that such government agree that "if any incident should occur in which the foreign government's agents fired on a civil aircraft, USG personnel would be able to verify whether USG- provided information and assistance had been used in that instance, or whether the foreign country had employed only information and assistance from other sources in carrying out that operation."

CUBA: FIRST LATIN AMERICAN COUNTRY TO ADOPT THE EURO

Cuba's Central Bank issued a statement officially announcing that effective Thursday, July 1st, Cuba would make the use of the euro a requirement for all of the island's trade and credit transactions with 11 of the 15 countries of the European Union (EU) that have adopted the new currency. On January 1, 2002, Cuba's use of the euro will include currency transactions for use in the island's tourist industry which is dominated by Europeans. The president of Spain's Higher Council of Chambers of Commerce, Industry and Navigation hailed Cuba's July 1 move as "a message of confidence" in the stability of the euro. At the close of the 1st European-Latin American and Caribbean Summit held in Rio de Janeiro, Brazil (June 28-29) where trade and economic issues were of paramount importance Castro said, "The euro will help to free us from the privileges and tyranny of the dollar." The Central Bank justified Cuba's use of the euro since more than 40 percent of its total trade is with the EU. Spain, Britain, and France accounted for 33%, 20%, and 14% respectively of Latin America's direct European investment in 1997.

As Cuba planned to move toward use of the euro, Argentine President Carlos Menem floated the idea in January that his country make the U.S. dollar the standard currency. Then, in March at the annual meeting of the Inter-American Development Bank (IDB) in Paris, the idea of a single Latin American dollar currency modeled after the euro was raised to the level of a great debate. In fact, Treasury Secretary Lawrence Summers, then Deputy Secretary, speaking at the IDB meeting didn't rule out Argentina's use of the U.S. dollar. As countries like Argentina, El Salvador, and Ecuador debate dollarization, Cuba moves inexorably toward the euro. Cuba legalized the dollar in 1993 and continues to benefit from dollar denominated remittances.

Since the euro went into effect on January 1st, it has fallen in value against the dollar from \$1.17 to \$1.07 on July 29th a drop of 8.5%. The euro's steady decline is attributed by economists to the sharp contrast between the American and European economies.

Cuba stands to benefit marginally by its use of the euro through the EU's special raw sugar quota of which, according to the EU's 1998 Annual Sugar Report, Cuba was entitled to export 89,094 metric tons. In addition, Cuba is under consideration for the EU's preferential trade protocol commonly known as the Lome IV Convention currently set to expire in 2000.

CURRENCIES & COMMODITIES

1 Euro = 1.07 US Dollar
1 US Dollar = 23.00 Cuban Peso
1 Euro = 24.6375 Cuban Peso

Rates as of July 29, 1999.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 6.31
Year ago nearby = 8.52
Future (Oct '99) = 5.96
Lifetime

High = 66.00 (1974)
Low = 2.50 (1984)

Cash/Spot price as of July 28, 1999.
Source: CSCE.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)

Cash/Spot (fob) = 20.50-20.55
Year ago (July 28) = 14.27
Future (Sept '99) = 20.65

Cash/Spot price as of July 28, 1999.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 5646
Year ago (July 25) = 4475

(\$ per metric ton)
Official Price: July 28, 1999.
Source: London Metal Exchange

Cobalt = 18.40 -20.20
Year ago (July 27) = 22.00 - 23.00

(\$ per pound for 99.8%)
Price: July 26, 1999.
Source: Metal Bulletin (London).

EIZENSTAT DECLARES ADMINISTRATION'S INTENTION TO IMPLEMENT SECTION 211

In response to a letter from one of the attorneys representing Bacardi-Martini, USA, Inc. in its litigation with the French wine and spirits producer, Grupo Pernod Ricard (see USCPR, Vol.5,Nos.4,5,6) over the right to use the Havana Club trademark, the former Under Secretary of State and now Deputy Secretary of Treasury, Stuart Eizenstat, declares the Clinton administration's intention to implement the provisions of Section 211 (see USCPR, Vol.5,No.4) of the Omnibus Appropriations Act of 1999. Writing to Ignacio Sanchez who is with the law firm of Verner Liipfert, Eizenstat responds saying, "I can assure you that although Sir Leon Brittan and I discussed the topic of Section 211 at the EU-US Summit, I never stated or implied that the Administration planned to urge an omnibus derogation." Both letters are reprinted below.

VERNER LIIPFERT
BERNHARD MCPHERSON AND HAND
Miami, Florida 33131

June 25, 1999
The Hon. Stuart Eizenstat
Under Secretary of State for
Economics, Business and Agricultural Affairs
Department of State, Room 7256
Washington, D.C.
RE: HAVANA CLUB
Dear Ambassador Eizenstat:

The purpose of this letter is to request your assistance in clarifying a matter of great interest and considerable confusion to a client of our firm.

We represent Bacardi-Martini, USA, Inc. As you may be aware, Bacardi and some of its distributors have been involved in litigation (U.S. District Court, So. Dist. of N.Y.) over the rights to the HAVANA CLUB trademark. Bacardi claims rights in the trademark by virtue of its purchase from and association with the Arechabala family [the shareholders of a now dissolved Cuban company, Jose Arechabala S.A. (JASA), that created and owned the trademark since prior to 1935]. Bacardi was sued by Havana Club Holding S.A. (HCH) and Havana Club International, S.A. (HCI), joint ventures created by the Cuban government and the French liquor company, Pernod Ricard. HCH and HCI claim rights in the trademark as successors in interest to the Cuban government's illegal confiscation of JASA's assets.

Throughout the course of the case, the Court has authored several opinions concerning the subject matter. First, on August 12, 1997, the Court ruled:

1. Cuba's attempt to sell any U.S. rights to the HAVANA CLUB trademark to HCH/HCI was governed by the Cuban Asset Control Regulations (CACR);

2. The attempted sale by Cuba of U.S. trademark rights allowed hard currency to flow into Cuba in contravention of U.S. law and policy; and

3. The Office of Foreign Assets Control (OFAC) properly declared the attempted sale of U.S. trademark rights by Cuba to HCH/HCI as null and void and such determination did not violate the due process clause of the U.S. Constitution.

One year later, Congress passed H.R. 4328, which in Section 211, contains an amendment to the CACR prohibiting the recognition in the U.S. of trademarks rights claimed by Cuba or its successors in interest if the trademark is a product of confiscation without compensation and the consent of the original owner has

not been obtained. Section 211 codifies long-standing U.S. and Western European case law and public policy.¹

Just last month, the federal court presiding over the Bacardi case concluded the trial of the remaining issues and issued a new Opinion and Order that found:

1. The original producer of HAVANA CLUB was JASA and Cuba forcibly expropriated the assets of JASA without compensation;
2. At or around the time of its deal with the Cuban government Pernod Ricard (through its lawyers) met with members of the Arechabala family to discuss purchasing a waiver of their rights but were unable to reach an agreement;
3. The Arechabala family found a willing partner with Bacardi and entered into an agreement with Bacardi;
4. HCH/HCI's trade name claims under the Inter-American Convention were barred;
5. Section 211 of H.R. 4328 was applicable to the litigation;
6. Section 211 did not represent an attempt by Congress to dictate how the Court should rule and did not violate the separation of powers doctrine; and
7. HCH/HCI's federal law claims were barred because they lacked standing to assert the claims.

Although the Court's rulings have been a vindication of the Bacardi and Arechabala rights, Bacardi is concerned because it has come into possession of a European Union report/minutes relating the results of the December 18, 1998 EU-US Summit in Washington which describe representations made by you to the EU representatives concerning the Bacardi litigation described above

¹ We would be pleased to provide you with briefs or copies of numerous cases on point. As a small example, in France the Court of Cessation, 38 years later, refused to recognize a 1917 Russian decree nationalizing a bank and finding that the Russian decree was confiscatory and of no legal effect in France. The court went on to hold that all of the shareholders of the confiscated bank, regardless of their nationality, were entitled to share in the funds in an account in France. See, Bauer Marchant et Cie v. Pioton, March 2, 1955. In Germany, the Federal Supreme Court addressed a case of confiscation by the Czech government of a Czech company and transferred its trademarks to a state enterprise. When the state enterprise tried to use the trademark in Germany, an injunction against the use was granted for the benefit of the original owners of the company. See, Confiscation of Trademark Case, 22 I.L.R. 17, June 7, 1955).

and Section 211. Under that part of the meetings related to sanctions, the EU reports the following:

"40. Brittan expressed disappointment about the adoption of Section 211 of the Omnibus Appropriations Act. We were anxious that this new legislation might have a negative impact on the law suit pending before the New York District Court. Eizenstat replied that the issue was politically closely related to Helms-Burton. The Administration was urging an omnibus derogation."

Bacardi is concerned and puzzled because it has been reassured, repeatedly, by State Department officials that the U.S. position vis-à-vis the HAVANA CLUB dispute was to allow the

judicial process to resolve the matter. It appears, however, from the minutes (as interpreted by the E.U.) that a promise was made to undermine the judicial and legislative processes. While we have no way of evaluating the legitimacy of the E.U. document, neither do we have any evidence with which to question it.

Therefore, we request that you advise us of whether or not the statements attributed to you are accurate. This matter is of the greatest importance to Bacardi as it may have considerable commercial and legal implications. If the statements described in the E.U. minutes are not correct, in whole or in part, we would appreciate your specifically clarifying the official position.

We appreciate your prompt attention to this matter and look forward to hearing from you.

Sincerely,
Ignacio E. Sanchez

United States Department of State
Washington, D.C.20520-7512

July 12, 1999
Mr. Ignacio Sanchez
Verner Liipfert
Miami, Florida 33131

Dear Mr. Sanchez:

Thank you for your draft letter of May 6, 1999 in which you request a clarification of what was said about the Havana Club case and Section 211 of the Omnibus Appropriations Act at the December 18, 1998 US-EU Summit. I stated categorically, as I have said on many instances, that these issues were completely unrelated to Helms-Burton. I urged that the EU not pursue a WTO case and await the judgment of the courts.

I can assure you that although Sir Leon Brittan and I discussed the topic of Section 211 at the EU-US Summit, I never stated or implied that the Administration planned to urge an omnibus derogation, quite the contrary. Our minutes clearly reflect this. In fact, the Administration has issued regulations implementing this provision. Any different information in the EU minutes is grossly inaccurate. This was our position then and remains our position now.

I appreciate the opportunity to clarify this issue.

Very truly yours,
Stuart E. Eizenstat
Ambassador

EU REQUESTS WTO CONSULTATIONS ON SECTION 211

The European Union (EU) announced it would seek World Trade Organization (WTO) consultations regarding U.S. trademark law, specifically Section 211. The announcement, which came in Brussels on July 9th, asked for "consultations on a recent U.S. law restricting the rights of Cuban holders of U.S. trademarks...Under the new legislation, companies that have legitimately acquired a trademark in the U.S. are no longer entitled to enforce such rights under certain conditions." The EU has now formally taken the first step in the dispute settlement process. Consultations are set for September 13th in Geneva. According to the request for consultations, "The EC is of the view that Section 211 violates several provisions of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) since it treats certain right-holders, such as the French-Cuban joint venture, differently from other right-holders, including U.S. right-holders." Pernod Ricard general counsel, Pierre-Marie Chateauneuf, voiced his pleasure with the 15 member states of the EU for their unanimous support. Chateauneuf said Section 211 "jeopardizes trademark rights worldwide by opening the door for countries to revoke intellectual property as a tool of foreign policy." Jose Manuel Arechabala representing the original owners of the Havana Club trademark called the dispute a "civil matter and not in any way connected to world trade laws or the WTO." While Arechabala charges Pernod Ricard with "knowingly purchas[ing] an interest in property the Castro government illegally confiscated from my family," Chateauneuf claims the Havana Club trademark was abandoned "by its initial Cuban owner." In a related matter, the Arechabala family and Bacardi filed suit last month challenging the trademark registration in Spain.

INTERNATIONAL BRIEFS

ANNUAL IBERO-AMERICAN SUMMIT IMPORTANT TO SPAIN AND CASTRO'S CUBA

CUBA -- The annual Ibero-American summit scheduled to be held this November in Havana is of equal importance for different reasons to both Spain and Cuba. The ninth Ibero-American Summit involving 20 Ibero-American nations, which is scheduled for November 13-16, is important to Spain in the context of its leadership in the European community. "What really concerns me is that the Ibero-American Summit takes place. It was the heads of states and government who decided that the 1999 summit should be in Havana," said Spanish Prime Minister Jose Maria Aznar following his Washington visit and meeting with President Clinton last April. To Fidel Castro it is another way to show up the U.S. which opposes Cuba's political and economic system. Although for differing reasons, Nicaragua, Chile, Argentina, El Salvador, and Costa Rica have indicated they may not attend. President Arnaldo Aleman says Castro has failed to live up to previous agreements signed at the summits (Declaration of Vina de Mar in 1996) and Chile is unhappy with Spain's treatment of former Chilean President Augusto Pinochet. Argentina may follow suit in support of its Chilean neighbor. (MH, "Spain urges leaders to attend Havana summit," 4/14/99; MH, "Who'll attend Cuba summit?" 7/1/99;

VENEZUELAN ENERGY MINISTER ANNOUNCES CUBA NOT INCLUDED IN SAN JOSE PACT

Reuters reported on July 27th that Mexico and Venezuela would not be extending to Cuba the favorable oil subsidy terms that it has extended to 11 other participating Central American and Caribbean nations since 1980 (see USCP, Vol.6, No.6). Energy Minister Ali Rodriguez said that the San Jose Pact, which would be renewed on August 3rd, "does not include Cuba" and that Cuba was not discussed when he met with his Mexican counterpart Luis Tellez. This after Venezuelan President Hugo Chavez encouraged Cuba's inclusion in the Pact. Now, Venezuela is more likely to pursue a bilateral accord with Cuba that involves the Cienfuegos oil refinery and oil exploration to boost the islands two million ton 1999 projection. (RL, "Caribbean oil pact will not include Cuba - Rodriguez," 7/27/99).

THE CHINA-CUBA NEXUS: MORE THAN A PASSING INTEREST

Writing in the *Wall Street Journal*, University of Miami Professor Jaime Suchlicki observed that impoverished Cuba offers China little in terms of trade or economic advantages suggesting their relationship is driven far more by strategic considerations. Chinese activities in Cuba have quickened over the past year particularly since February when Chinese Minister of Defense Chi Haotian traveled to the island marking the first ever such visit. In exchange for economic aid, Suchlicki points to Chinese investment in the "Cuban military telecommunications (and possibly biotechnology)" field citing the "Terrena Caribe Satellite Tracking Base," the Soviet political vacuum is filled. With the acquisition of key port facilities in Panama as the U.S. brings to an end its nearly 100-year presence in the Canal Zone, China's reach extends deeper into the Western Hemisphere with its involvement in Cuban communications and the re-broadcast of "Chinese information and news from Cuba to Latin America" while Cuba intensifies its jamming of Radio Marti.

CHINA'S CALCULATED GAMBLE IN THE WESTERN HEMISPHERE — Notes Suchlicki, "the Chinese seem to be taking a calculated gamble: that the U.S.'s complex relations with and economic interests in China will prevent the Clinton administration from raising a big fuss over China's activities in Cuba." This vital bilateral trade relationship, in light of recent revelations over Chinese campaign funding of the Democratic Party and release of the bipartisan "Cox Report" detailing Chinese espionage at U.S. nuclear laboratories, makes the Chinese penetration of the Western Hemisphere more of a "gambit." The gamble may manifest itself in the upcoming presidential campaign where Texas Governor George W. Bush, the likely Republican Party nominee, has staked out his positions (<http://www.georgewbush.com>) on trade and foreign policy with China. (WSJ, "Those Men in Havana Are Now Chinese," 7/30/99, p.A19).

SHORT TAKES

PRESIDENT CLINTON ISSUES SEVENTH TITLE III SUSPENSION OF THE LIBERTAD ACT -- The White House announced on July 16th President Clinton's exercise of his waiver authority under the Title III provision of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996* also known as Helms-Burton. Effective August 1, 1999, this becomes the seventh consecutive six-month waiver exercised by the president preventing U.S. nationals with claims to confiscated property in Cuba from filing suit in federal court against foreign traffickers. In his statement, Under Secretary of State Stuart E. Eizenstat said, "the President took into consideration the important steps taken by our allies and friends to promote democracy and human rights in Cuba." (See USCP, Vol.3, No.7; Vol.4, Nos.1,7; Vol.5, Nos.1,7; and, Vol.6, No.1).

WHITE HOUSE NOMINATIONS HELD UP FOR TITLE IV SANCTIONS -

- The Senate is holding up the confirmation of White House nominations until the State Department cites Sol Melia for trafficking under Title IV. Among the nominations being held up are: Peter Romero, now Acting Assistant Secretary of State for Inter-American Affairs; and, Michael Ranneberger for U.S. ambassador to Mali.

TITLE IV IMPLEMENTATION OF HELMS-BURTON IMMINENT --

The staff of the Senate and House foreign affairs committees is pressuring the State Department to apply a Title IV sanction against Grupo Sol Melia, the Madrid-based Spanish hotel company, for trafficking in the uncompensated confiscated property in Cuba belonging to a U.S. national. Over the course of the past two years, Nicholas J. Gutierrez, Jr., the Miami-based attorney for the owners of Central Santa Lucia holdings around Playa Guardalavaca, has been asking the Coordinator of the State Department's Office of Cuban Affairs, Michael Ranneberger, to investigate the matter. A Title IV sanction on Sol Melia, which bars foreign company executives and their families from entering the United States, would be the first against a European company. At press time, the State Department was prepared to issue Sol Melia an official letter, according to a reliable source.

EIZENSTAT SWORN IN FOR TREASURY POST -- Stuart Eizenstat, who takes Lawrence Summers' place

as the second-highest ranking official at the Treasury Department, was sworn in on July 19th as Deputy Secretary of the Treasury. Among other responsibilities, Eizenstat is expected to oversee the Office of Foreign Assets Control (OFAC), the regulatory body administering and enforcing U.S. embargoes. Alan Larson, Assistant Secretary of State for Economic Affairs has been nominated by the White House to replace Eizenstat. Both were instrumental in the May 18, 1998 negotiations between the EU and the U.S. leading up to the understanding on expropriated properties. The new deputy secretary has been the administration's key figure in promoting democracy and human rights in Cuba.

CANF ELECTS NEW LEADERSHIP -- Jorge Mas Santos, son of the late founder and leader of the Cuban American National Foundation (CANF),

was elected mid-month as the new Chairman of the Board of Directors of CANF. Mas, 36, becomes the second chairman to be elected since the passing of his father.

SUCHLICKI SEMINAR RAISES QUESTION: IS CUBA A SECURITY THREAT? --

University of Miami professor Jaime Suchlicki held a luncheon seminar on Monday, July 26th to explore whether Cuba presents a security threat to the United States or the region. Held on the 46th anniversary of Fidel Castro's infamous attack on the Moncada army barracks in Santiago de Cuba in 1953, the seminar featured Brian Latell, Professor of International Studies at Georgetown University in Washington, D.C. and Roberto Fabricio, the Associate Editor of *El Nuevo Herald* in Miami. "In the Moncada, over the years, and later in Grenada, Castro has continued with the same spirit of fighting until the end," said Professor Latell who is retired from the Central Intelligence Agency as its chief analyst for Latin American Affairs. Fabricio cited Cuba's biotechnology advances as posing a "very serious threat."

NOTABLE QUOTES

"We recognize that some in the Congress have concerns about European implementation of the Understanding. We believe that the Understanding itself, coupled with a detailed letter from Secretary Albright to you and the recent letter from Sir Leon Brittan to Chairman Gilman, should go a long way towards addressing these concerns. But we are not asking Congress to leave to chance the question whether the Understanding will work. We have in mind an amendment that would authorize waiver of Title IV for countries that are implementing the Understanding but that would require revocation of the waiver if implementation is inadequate." Under Secretary of State Stuart Eizenstat's statement before Chairman Jesse Helms and the Senate Foreign Relations Committee on July 1, 1999.

"I can't imagine Congress, especially in the wake of the China nuclear espionage incident, tolerating the acquisition of Northrop Grumman by, as Gansler puts it, even a 'dependable ally.' Many of these same allies have a defense and merchandise trade relationship with countries which the U.S. has imposed security embargoes, like China, Vietnam and even Cuba." U.S. Senate Judiciary Committee Chairman Orrin Hatch (R-UT) responds to remarks by Jacques Gansler, U.S. Defense Under Secretary for Acquisition, regarding transatlantic defense mergers. Hatch is an announced candidate for the Republican Party nomination for president. (BLP,"U.S. Senator Orrin Hatch on Gansler, Defense Mergers," 7/9/99).

"President Clinton was in Miami two days ago talking tough. Actions speak louder than words, however. Suspending Title III of the Helms-Burton law and sending the U.S. Chamber of Commerce to Cuba in the same week speaks a lot louder than hypocritical talk in Miami." Rep. Lincoln Diaz-Balart (R-FL) issues statement in response to President Clinton's renewed suspension of Title III of the Helms-Burton Act of 1996. (PR,"Clinton Again Shows Who He Is By Suspending Helms-Burton Title III," 7/16/99).

"After two years of denunciations of U.S. policy, it is heartening to hear [Thomas Donohue] the senior Chamber representative clearly state, in Cuba, that organization's fundamental disapproval of 'the political, economic, and human rights policies of the Cuban government'." Daniel W. Fisk is a former senior staff member of the Senate Foreign Relations Committee involved in Cuba policy. (TWT,"One cheer for the U.S. Chamber," 7/30/99, p.A19).

"And it is arrogant and counterproductive to think that leaders like [Castro], profoundly involved in their greatness and glory and potency in the world, will change because we nicely proffer them our little commercial gifts." Georgie Anne Geyer is a nationally syndicated columnist and author of the best selling biography of Fidel Castro: *Guerrilla Prince*. (Human Events, "Trying to Deal With Castro is Futile," 7/30/99, p.20).

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Ralph J. Galliano, Editor

FARM STATE SENATORS POISED TO OPEN TRADE WITH CUBA -- WOULD REQUIRE PRESIDENT TO CEASE UNILATERAL SANCTIONS

WASHINGTON — The influence of the farm lobby has driven both Democrats and Republicans in Congress to support legislation that would permit the commercial sale of food and medicine to any country currently under embargo or otherwise require the President of the United States to obtain Congressional approval in order to impose an embargo on any government. Encouraged by President Clinton's announcement on January 5th to ease the embargo further (USCPR, Vol.6, No.1) by permitting licensed *food sales* to Cuba for the first time since 1963 when the sales of food and agricultural inputs were suspended, the American Farm Bureau (AFB) along with the American Soybean Association, Continental Grain, Archer Daniels Midland, U.S. Rice Federation, U.S. Dairy Export Council, U.S. Wheat Associates, and U.S. Grains Council have lobbied law makers on Capitol Hill to open trade with Cuba. AFB President, Dean Kleckner led a 19-member delegation to Cuba in May declaring that "[b]ecause of our Congress' embargo, Cuba must buy \$600 million worth of food products from farmers that aren't you and me. Think of the transportation costs involved; a hemisphere away compared to a hundred miles. We could move products we aren't moving now and get income we aren't getting now." On June 24th, Senator Ashcroft (R-MO) and five cosponsors, including: Hagel (R-NE), Baucus (D-MT), Roberts (R-KS), Kerrey (D-NE), and Dodd (D-CT), introduced an amendment to the agriculture appropriations bill for fiscal year ending September 30, 2000 (S.1233). The Ashcroft amendment, S.Amendt.736 (see Legislative Alert pages 6 and 7 for a reprint), would require the president to obtain Congressional approval for any agricultural or medical sanction and to allow the commercial sale of agricultural commodities and medicines to countries already sanctioned. Granted routine visas by the State Department in July, representatives from many of the farm groups met with two Cuban officials in a Capitol Hill event sponsored by the AFB and coordinated with the office of Senator Christopher Dodd, a staunch opponent of the embargo. Maria de la Luz B'Hammel, the director of trade policy for North America, and Igor Montero Brito, the vice president of ALIMPORT the state food-importing agency, in an unprecedented showing, were feted at a reception in Washington, D.C. before traveling to Iowa and Boston to meet with farm group representatives there. During the August summer recess, various farm state Congressional delegations separately traveled to Cuba headed by Reps. Lampson (D-TX), Davis (D-IL), Bishop (D-GA), and Senators Daschle (D-SD) and Dorgan (D-ND).

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-

DASCHLE AND DORGAN VISIT CUBA ON BEHALF OF FAMILY FARMER --

Senator Tom Daschle, Minority Leader to the Democrats, and Senator Byron Dorgan, representing large wheat growing states, both called for a lifting of the embargo on food and medicine following their three-day trip to Cuba (August 13-15) which included a 7-hour meeting with Fidel Castro. Their offices indicated they "told Castro and other Cuban officials that further easing of the embargo would be considered only if the Cuban government makes progress on economic reforms and human rights" neither of which are included in the Senate language of the Ashcroft amendment to the agriculture appropriations bill passed by voice vote on August 4th. "It serves neither the U.S.'s nor Cuba's interest to continue the embargo on vital supplies like food and medicine," Daschle said. Dorgan added, "To continue such an embargo only hurts U.S. family farmers who are prevented from serving that market and the citizens of Cuba who need the food and medicine." Along with S.1233, the Senate passed an "emergency" agriculture spending package for \$7.6 billion not counted against the budget caps. During this debate, Senator Lugar (R-IN), chairman of the Agriculture Committee, cited the Department of Agriculture which "points out that with low commodity prices in 1999, the year we are in, net farm income will be \$43.8 billion. They point out that will fall below the revised estimate of \$44.1 billion for 1998, last year. That means the estimate for this year is \$300 million, or less than 1 percent change, from net income in 1998." Peter Sperry of the Heritage Foundation (Executive Memorandum No.621) examining the "family farmer" cites these figures and concludes "it would mean that over half a million farms subsidized by the federal government might earn an average of \$438 less in 1999 than they had in 1998." Victor Davis Hanson, author of *The Land Was Everything*, addressed the "emergency" agriculture appropriations passed by the Senate. Writing in the *Wall Street Journal* (8/10/99) he states, "[t]he government claims its handouts are justified by invoking the specter of the family farmers in distress, but in fact family farmers have nearly vanished." In floor debate over whether to table the Ashcroft amendment on August 3rd, Senator Connie Mack (R-FL) addressed the issue saying he found it strange and unsupportable "that at just the time when Members are coming to the floor and asking the American taxpayer to come to the aid of the American farmer, they are at the same time asking us to lift sanctions to allow them to sell products to terrorist states." Although the move to table the Ashcroft amendment failed in a vote of 28-to-70, Ashcroft was persuaded to modify its language to require licensing and deny government financing; it is silent on private financing. The Ashcroft amendment, contained in S.1233, faces a tough hurdle in conference committee.

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SPANISH HOTEL FIRM SOL MELIA SA RECEIVES STATE DEPARTMENT ADVISORY LETTER

The State Department sent an "advisory" letter dated July 30th to the chief executive of Sol Melia S.A. informing the Spanish owned hotel firm that their joint venture with the government of Cuba may involve previously expropriated property the claim to which is owned by a U.S. national. Although the State Department declined to make a copy of the letter available, earlier advisory letters sent out in May of 1996 (see USCPR, Vol.3, No.5) to executives of Sherritt International (Canadian), Grupo Domos (Mexican), and STET (Telecom Italia) inform the recipients of the passage of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act* (named after its authors Helms-Burton) including the Title IV requirements that provide for the denial of visas and exclusion from the United States of any foreign national who is determined to be trafficking in confiscated property in Cuba. Since that time, the State Department has issued implementing guidelines which became effective on June 17, 1996, as Public Notice 2403 upon publication in the Federal Register (FR Doc.96-15406). (See highlights to the Title IV guidelines USCPR, Vol.3, No.6). Accordingly, these guidelines specify that "[d]eterminations of ineligibility and excludability under Title IV will be made when fact or circumstances exist that would lead the Department reasonably to conclude that a person has engaged in confiscation or trafficking after March 12, 1996." The issuance of a so-called advisory letter is not specifically provided for under the guidelines but is tantamount to a notification of an investigation by the State Department that the recipient "may be involved" in trafficking. Notification "by registered mail" of a "determination" of trafficking (see USCPR, Vol.3, No.7) will become effective "45 days after the date of the notification letter." In the case of Sol Melia, that critical stage in the Title IV implementation process has not been reached. No time period is specified in the guidelines between the time any sort of "advisory" letter is issued and the time the specified "determination" letter is issued. The USCPR has been informed that Sol Melia's Washington lawyers at the firm of Jones Day already are preparing a brief in response to the State Department's advisory letter.

This particular Title IV notification by the State Department is the first against a European-based company since the signing of the May 18, 1998 EU-US agreement in London formally known as the "Understanding with Respect to Disciplines for the Strengthening of Investment Protection" (see USCPR, Vol.5, No.5). Ella Krucoff, the press spokeswoman for the European Union Delegation in Washington, told the USCPR, "the EU is concerned and watching the situation closely." EU trade commissioner, Sir Leon Brittan, stated in a June 3rd letter (see USCPR, Vol.6, No.6) to House International Relations Committee Chairman Ben Gilman (R-NY) that it would not "request the establishment of a WTO Panel against the Helms-Burton" Act provided the U.S. takes no action "against EU companies or persons." The implementation of the EU-U.S. agreement by Washington, a foreign policy priority for the Clinton administration, would require the Congress to grant the president the right to waive Title IV. With a Title IV determination, however, the tacit adherence to the EU-U.S. agreement would end.

The Madrid-based hotel franchise and management chain, Sol Melia S.A., operates 224 hotels under the names "Melia," "Sol," and "Paradisus" in 21 countries and the US. The largest hotelier in the Spanish-speaking world, it operates 12 hotels in Cuba including the Sol Rio de Luna, Sol Rio de Mares, and Sol Rio de Oro in Holguin Province at Bahia Naranjo now called Playa Esmeralda or Estero Ciego. The attorney for the claimant Sanchez-Hill family, Nicolas J. Gutierrez, Jr. of the Miami law firm of Rafferty, Gutierrez & Sanchez-Aballi called the State Department's investigation "significant, especially since the trafficking is occurring on the property of a Cuban-American owner." Gutierrez said the EU is justifiably concerned given "the precedential value of this case."

PEOPLE TO PEOPLE CONTACT: WHITE HOUSE APPROVES FLIGHTS FROM NY AND LA

Although President Clinton announced on January 5th a loosening of the Cuban embargo to expand flight departures from cities other than Miami "to cities in Cuba other than Havana," the recent announcement specified added departures only from airports in New York and Los Angeles with no mention of any specific destination in Cuba. The August 3rd Clinton administration announcement was silent on any destination in Cuba, even Havana where all flights from Miami currently arrive. According to a statement by State Department spokesman, James Rubin, it was "decided that New York and Los Angeles will be the gateway cities for charter flights to Cuba. This decision was based on a market study." The White House's silence on destination airports raises questions as to whether the Cuban government was agreeable to destinations other than Havana suggesting another unilateral Clinton administration move without any reciprocal consideration. According to Rubin, "the flights will be only available to travelers licensed by the Office of Foreign Assets Control and the Treasury Department, in addition to the existing general license for journalists, government travelers, and the once-a-year humanitarian visit by family members." Reaction to the new airport departure sites was swift. Rep. Dan Burton (R-IN) called the decision "appalling" and a move to "normalize relations with Castro while there were still severe human rights violations in Cuba." Rep. Lincoln Diaz-Balart (R-FL) described the move as "part of the Clinton administration's campaign to circumvent the Cuba embargo." Jose Basulto of Brothers-to-the-Rescue said it was "regrettable." New York JFK and Los Angeles LAX were also chosen due to the readiness of immigration and customs officials at those airports. Strict OFAC guidelines in the form of a signed "outbound declaration" (see USCPRA, Vol.5, No.7) will be in effect at both JFK and LAX where travel qualifications, remittances, and spending requirements will be checked closely.

President Clinton's January 5th announcement authorized the new measures as an effort to expand "people-to-people contact

through two-way exchanges among academics, athletes, scientists, and others." By all indications, the so-called "people-to-people contact" is a policy that was crafted by the Clinton administration over the past year and since Pope John Paul II's visit to Cuba. As such, the exact language "people-to-people contact" does not appear anywhere under U.S. statutes. USCPRA's research finds it was first used publicly in remarks by Michael E. Ranneberger, the former coordinator for Cuban Affairs at the State Department in a speech at Tulane University on November 9, 1998. "Since the passage of the bipartisan Cuban Democracy Act in 1992, reaching out to *support the Cuban people* has become the central focus of U.S. policy. We believe that change in Cuba must come from within, led by Cubans on the island who recognize the problems and injustices of the current system and challenge them. Increasing the flow of information to, from, and within Cuba, fostering *people-to-people contacts*, and facilitating outside support for independent groups is essential to fostering this dynamic," said Ranneberger. Until January 5th, the closest President Clinton came to using this new phrase was on March 20, 1998 when he announced the first loosening of the embargo since the February 24, 1996 shootdown of the two Brothers-to-the-Rescue planes by Cuban MiG jet fighters. The president stated, "we should continue to look for ways to *support Cuba's people* without supporting the regime." The administration points to Section 1705 of the Cuban Democracy Act of 1992: *Support for the Cuban People* when asked for the legal basis of the phrase "people-to-people contact" that has brought about Clinton's baseball diplomacy and the U.S. Chamber of Commerce's July trip to Cuba. More recently, OFAC has licensed American rap-music groups to participate in festivals in Cuba and U.S.-based Major League Soccer is scheduled to play the Cuban team in Havana on July 19, 2000 with a return match in the US. Nonetheless, OFAC regulations (31 CFR Sec. 515.574) for the CDA's *Support for the Cuban People* govern so-called *people-to-people contact*.

SHERRITT INTERNATIONAL FINDS CUBA NICKEL MINING PROFITABLE

Toronto-based Sherritt International of Canada has become synonymous with Cuban nickel production, the most important mineral commodity to the island economy's export revenue. Nickel and cobalt mining traditionally have been the second most important industry in Cuba after sugar. Cuba's nickel reserve base, the largest in the world, is described as "laterite" or close-to-the-surface deposits easily mined at reasonably low cost. In order of importance during 1998, Russia, Canada, Australia, and New Caledonia were the largest worldwide producers of nickel, a strategic mineral used primarily in the production of stainless steel. On June 10, 1999, the U.S. sold the last nickel in its strategic stockpile authorized in 1946 after World War II to reduce America's dependence on foreign sources (USGS-Kuck).

With the 1991 collapse of Cuba's main trading partner, the Soviet Union, nickel production declined from 40,800 metric tons (mt) in 1990 to a low of 26,926 mt in 1994 (USGS). Located in eastern Cuba, the Punta Gorda, Moa, and Nicaro mines in Holguin Province are the main nickel production areas having a combined annual capacity of 74,000 mt. In response to the loss of its East-bloc market, the Cuban National Assembly approved a new Mining Act in December 1993 along with an amendment to the 1976 constitution permitting foreign investment (USGS-Rabchevsky) followed by the passage of the Foreign Investment Act in September 1995 (Law No.77). In 1995, Sherritt, Inc. entered into a 50-50 joint venture with the Cuban government introducing state-of-the-art technology and improved management practices that led to increased productivity and a turnaround in Cuban nickel production from 42,696 mt to 53,624 mt in 1996, 61,500 mt in 1997 (USGS-Torres), and 68,000 mt in 1998 (FT-Fletcher). Sherritt's vertically integrated nickel/cobalt mining, processing and refining joint-venture, Metals Enterprise, includes a refining complex located in Ft. Saskatchewan, Alberta which receives shipments from Moa Bay via Nova Scotia helping to make Canada the biggest importer of Cuban nickel.

The spot price of nickel has gradually recovered from previous years' lows on the London Metals Exchange. On August 26th the settlement price was \$6,560 per metric ton compared to \$4,005 a year ago and is expected to continue to rise based on increased demand and a recovery in the Asian market. As nickel prices rise, Sherritt's stock price will reflect the improvement. Second quarter operating earnings increased C\$2.3 million over the same period last year.

CURRENCIES & COMMODITIES

1 Euro = 1.04 US Dollar
1 US Dollar = 23.00 Cuban Peso
1 Euro = 24.0545 Cuban Peso

Rates as of August 30, 1999.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 6.44
Year ago nearby = 7.50
Future (Oct '99) = 6.14
High = 11.58 (Nov. '97)
Low = 4.46 (April '99)

Cash/Spot price as of August 27, 1999.
Source: CSCE.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)

Cash/Spot (fob) = 21.25-21.30
Year ago (August 27) = 13.23
Future (Oct. '99) = 21.27

Cash/Spot price as of August 27, 1999.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 6560
Year ago (Aug. 26) = 4005

(\$ per metric ton)
Official Price: August 26, 1999.
Source: London Metal Exchange

Cobalt = 18.60 - 19.50
Year ago (Aug. 24) = 21.50 - 22.50

(\$ per pound for 99.8%)
Price: August 23, 1999.
Source: Metal Bulletin (London).

LEGISLATIVE ALERT

Two important pieces of legislation have been introduced since the USCPR's last legislative alert (Vol.6, No.5) that bare particular scrutiny. The Burton legislation would require Cuba to be designated a major drug trafficking state and is a "result of an ongoing joint committee investigation into a 7.2 metric-ton shipment of cocaine which was seized by Colombian National Police in Colombia last December," according to Burton who is chairman of the House Committee on Government Reform (see USCPR, Vol.5, No.12 & Vol.6, No.1). The so-called Ashcroft amendment sponsored by Senator John Ashcroft of Missouri could lead to a substantial lifting of the trade embargo on food and medicine to Cuba if Congressional passage of the Agriculture appropriations bill for fiscal year ending September 2000 contains the Ashcroft language as passed the Senate on August 4th. Both are reprinted below.

[H.R.2365] **To authorize the Director of the Office of National Drug Control Policy to enter into negotiations with representatives of the Government of Cuba to provide for increased cooperation between Cuba and the United States on drug interdiction efforts** was introduced in the House by Rep. Charles B. Rangel (D-NY) on June 25th. There are 5 cosponsors. [S.AMDT.1182] **Relaxation of Restrictions on Travel by American Citizens to Cuba** would have amended S.1234 (appropriations for foreign operations for fiscal year ending September 30, 2000) and was proposed as an amendment to Senate Amendment 1157 proposed by Senator Dodd (D-CT). S. Amendment 1182 proposed to terminate prohibitions and restrictions on travel to Cuba. Sponsored by Sen. Patrick J. Leahy (D-VT) on June 30th, S. Amendment 1182 fell when S. Amendment 1157 was tabled on June 30th.

[H.R.2422] **Cuban Drug-Trafficking Act of 1999** (reprinted below) was introduced in the House by Rep. Dan Burton (R-IN) on July 1st and referred to the House Committee on International Relations. This bill provides for the determination that Cuba is a major drug-transit country for purposes of section 490(h) of the Foreign Assistance Act of 1961. Rep. Benjamin A. Gilman (R-NY), chairman of the Committee on International Relations, is the cosponsor.

[S.AMDT.736] **Requirement of Congressional Approval of Any Unilateral Agricultural or Medical Sanction** (reprinted below) amends S.1233 (appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for fiscal year ending September 30, 2000) and was proposed by Senator Ashcroft (R-MO) on June 24th. There were five (5) cosponsors. Senate Foreign Relations Committee Chairman Helms (R-NC) made a motion to table the Ashcroft amendment contending it had not been considered by a committee of jurisdiction and that he considered it too far reaching, but it failed 28-70 on August 3rd. The Senate approved the amendment and the entire Agriculture Appropriations bill, S.1233, by voice vote on August 4th but not before Ashcroft was persuaded to modify his bill by requiring licensing. S.1233 containing the Ashcroft language will be sent to conference to reconcile the differences between the House and Senate versions of the Agriculture Appropriations bills when Congress returns from August recess in early September. The House Agriculture Appropriations bill, H.R.1906, contains no similar language to the Ashcroft amendment.

Cuban Drug-Trafficking Act of 1999
HR 2422
106th CONGRESS
1st Session

H. R. 2422

To provide for the determination that Cuba is a major drug-transit country for purposes of section 490(h) of the Foreign Assistance Act of 1961.
IN THE HOUSE OF REPRESENTATIVES

July 1, 1999

Mr. BURTON of Indiana (for himself and Mr. GILMAN) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To provide for the determination that Cuba is a major drug-transit country for purposes of section 490(h) of the Foreign Assistance Act of 1961.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Cuban Drug-Trafficking Act of 1999'.

SEC. 2. DETERMINATION THAT CUBA IS A MAJOR DRUG-TRANSIT COUNTRY UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) DETERMINATION-

(1) IN GENERAL- For purposes of section 490(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(h)), Cuba shall be deemed to be a major drug-transit country, notwithstanding any other provision of law.

(2) APPLICABILITY- Paragraph (1) shall apply with respect to determinations of major drug-transit countries that are required to be included in the notification to the appropriate committees of the Congress and submitted to such committees not later than November 1, 1999, and November 1 of each of the 12 subsequent years, under section 490(h) of such Act.

(b) EXCEPTION- Subsection (a) shall not be effective if the President-

(1) determines, based upon conclusive evidence, that no substantial portion of the approximately 7.2 metric tons of cocaine seized in December 3, 1998, in Cartegena, Colombia, was destined for transit to the United States either directly or indirectly through Cuba; and

(2) transmits to the appropriate committees of the Congress a report containing the determination under paragraph (1), including a description of the conclusive evidence described in such paragraph.

ASHCROFT (AND OTHERS) AMENDMENT NO. 736

(Senate - June 24, 1999)

(Ordered to lie on the table.)

Mr. ASHCROFT (for himself, Mr. Hagel, Mr. Baucus, Mr. Roberts, Mr. Kerrey, and Mr. Dodd) submitted an amendment intended to be proposed by them to the bill (S. 1233), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2000, and for other purposes; as follows:

On page 76, between lines 6 and 7, insert the following:

Sec. 7XX. Requirement of Congressional Approval of Any Unilateral Agricultural or Medical Sanction: (a) Definitions: In this section:

(1) Agricultural commodity:

(A) In general: The term 'agricultural commodity' has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

(B) Exclusion: The term 'agricultural commodity' does not include any agricultural commodity that is used to facilitate the development or production of a chemical or biological weapon.

(2) Agricultural program: The term 'agricultural program' means—

(A) any program administered under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et. seq.);

(B) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) any commercial sale of agricultural commodities, including a commercial sale of an agricultural commodity that is prohibited under a unilateral agricultural sanction that is in effect on the date of enactment of this Act; or

(D) any export financing (including credits or credit guarantees) for agricultural commodities.

(3) Joint resolution: The term 'joint resolution' means—

(A) in the case of subsection (b)(1)(B), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (b)(1)(A) is received by Congress, the matter after the

(B) resolving clause of which is as follows: 'That Congress approves the report of the President pursuant to section

XX(b)(1)(A) of the XXXXX Act XX, transmitted on XXXXXXXX,' with the blank completed with the appropriate date; and

(B) in the case of subsection (e)(2), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (e)(1) is received by Congress, the matter after the resolving clause of which is as follows: 'That Congress approves the report of the President pursuant to section XX(e)(1) of the XXXXX Act XX, transmitted on XXXXXXXX,' with the blank completed with the appropriate date.

(4) Medical device:

(A) In general: The term 'medical device' has the meaning given the term 'device' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(B) Exclusion: The term 'medical device' does not include any device that is used to facilitate the development or production of a chemical or biological weapon.

(5) Medicine:

(A) In general: The term 'medicine' has the meaning given the term 'drug' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(B) Exclusion: The term 'medicine' does not include any drug that is used to facilitate the development or production of a chemical or biological weapon.

(6) Unilateral agricultural sanction: The term 'unilateral agricultural sanction' means any prohibition, restriction, or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

FEDERAL APPEALS COURT OVERTURNS JUDGE'S RULING IN GARNISHMENT CASE FOR TELECOMMUNICATIONS FUNDS

A three judge federal appeals court in Atlanta's 11th Circuit overturned a Miami federal judge's March 18th ruling (USCPR, Vol.6, No.3) allowing the families of three of the four downed pilots killed while flying with the Brothers-to-the-Rescue search team on February 24, 1996 off the coast of Cuba to garnish telecommunications payments due to Cuba from U.S. companies. The appeals court did not dispute the families' judgment awarded on December 12, 1997 for \$187.6 million (USCPR, Vol.6, No.2) by Senior U.S. District Court Judge James Lawrence King. The garnishment of \$6.2 million was an attempt to satisfy the 1997 judgment. The telecommunications companies including AT&T, MCI, and Sprint argued on appeal that the Cuban telephone company ETECSA was a separate entity from the Cuban government and therefore not responsible for its actions in the matter. Accordingly, ETECSA should not have payments owed to it garnished by the families to satisfy their judgment. None of the attorneys for the parties could be reached for comment but reports indicate there may be no further appeal which would have to be to the Supreme Court. Garnishment of any available Cuban government funds still remains an option to the families regardless of the appeals court decision.

INTERNATIONAL BRIEFS

ANNUAL IBERO-AMERICAN SUMMIT JEOPARDIZED BY PINOCHET ARREST --

The arrest of former Chilean President Augusto Pinochet in Britain last year at the request of a Spanish judge has placed the attendance at the annual Ibero-American Summit in jeopardy. At a press conference in Chile's capital Santiago on Thursday, August 19th, the presidents of Chile and Argentina announced they would not be participating in the annual heads of state meeting usually attended by the leaders of Spain, Portugal, and Latin America. Chile's Eduardo Frei called it a personal decision not to attend while Argentina's Carlos Menem concurred saying that if Chile would not attend, then neither would he. The October arrest of the 83 year old Pinochet in Britain for extradition to Spain to face questioning over alleged human rights abuses in Chile from 1973 to 1990 has caused political problems in Chile for Frei. Nicaraguan President Arnaldo Aleman has already announced he would not attend. The leaders of Mexico and Venezuela, Presidents Ernesto Zedillo and Hugo Chavez, are already committed to attend. Prime Minister Jose Aznar and King Juan Carlos of Spain have confirmed their attendance at the ninth annual summit to be held this year in Havana from November 13 to 16 (see USCPR, Vol.6, No.7). (AP,"Chile, Argentina To Skip Summit," 8/20/99; RL,"Cuba summit stirs early controversy," 8/27/99).

SUMMIT THEME SET: IBERO-AMERICA AND THE

INTERNATIONAL FINANCIAL SITUATION -- The economic ministers of the major nations still planning to participate in the annual Ibero-American Summit are expected to meet in Havana during the first week of September to plan the agenda for the upcoming November summit. Delegations from 17 countries including Spain, Mexico, Venezuela, Peru, Honduras, Costa Rica, and Guatemala are anticipated. Cuba's planned socialist economy, where dominant state control and ownership has been the standard over the past 40 years of the Cuban revolution, stands out among the participating countries which practice some degree of Western-style free-market capitalism. Cuba is barred under U.S. law from receiving IMF and World Bank financial assistance. (RL,"Economics ministers will not seek consensus - Cuba," 8/31/99).

VENEZUELA EXPECTED TO SIGN OIL SUPPLY DEAL WITH CUBA AT IBERO-AMERICAN SUMMIT -- Venezuelan Energy and Mines Minister, Ali Rodriguez, announced on Wednesday, August 18th President Hugo Chavez's intention to sign an oil supply deal with Cuba's Fidel Castro on the occasion of the ninth annual Ibero-American Summit in Havana in November. Talks involving an oil supply, refining, and exploration deal have been ongoing. Cuba had been considered for inclusion in the so-called San Jose oil-for-trade pact that Venezuela and Mexico have had with the Central American and Caribbean countries since 1980 (see USCPR, Vol.6, Nos.6&7) but agreement between the two major oil suppliers could not be reached. An oil supply deal with Cuba would highlight Castro's hosting of this years Ibero-American Summit at a time when Russian oil-for-sugar swaps have diminished and notice has been given that Russia's oil-for-sugar deals will be conducted on a market basis beginning in 2000.

THE PRESIDENT OF VENEZUELA'S STATE-OWNED OIL COMPANY PDVSA RESIGNS -- The resignation of Roberto Mandini, the president of Venezuela's state-owned oil company Petroleos de Venezuela, SA (PDVSA), paves the way for the appointment of the company's vice president and Chavez supporter, Hector Ciavaldini. Prior to Chavez's election in December (see USCPR, Vol.5, No.12), PDVSA's strategy was to enlarge its market share by subordinating price to supply. Since Chavez took over, that strategy has been reversed with PDVSA cutting production to boost sagging worldwide oil prices in coordination with OPEC and Chavez taking a leadership role in the oil cartel. As head of PDVSA, Ciavaldini would pursue Chavez's policy of support for Cuba (see USCPR, Vol.6, No.3). (AP,"Venezuela's oil company president quits," 8/31/99).

SHORT TAKES

FLORIDA TRADE DATA CENTER (FTDC) MAKES CUBA REPORT AVAILABLE –

The economic study conducted by Arthur Anderson for the Florida Legislature (see USCPR, Vol.6, No.1, p.10) is available to the public. *Cuba: An Economic Impact and Opportunities Analysis for the State of Florida Upon Resumption of Trade Between the United States and Cuba* consists of 5 separate reports individually available. The reports include: 1) Analysis of Cuba's Maritime, Transportation and Related Infrastructure, Vol. 1 \$495; 2) Vol. 2 \$495; 3) Opportunities Summary \$95; 4) The Cuban Seaport Network \$145; and 5) Cuban Tourism Summary \$95. To order any of the reports listed above contact FTDC directly at P.O. Box 590750, Miami, Florida 33159-0750 or telephone 305/876-9747. FTDC's web site is www.flatrade.org.

ORAL ARGUMENT SCHEDULED IN APPEAL FOR HAVANA CLUB HOLDING TRADEMARK CASE –

The U.S. Court of Appeals for the Second Circuit in New York has ordered an expedited schedule to hear oral argument agreed to by the parties in the case (99-7582) of Havana Club Holding v. Bacardi-Martini. District Court Judge Shira A. Scheindlin ruled in New York on April 13th that the plaintiffs had no standing to bring their claim for unfair competition against Bacardi-Martini (see USCPR, Vol.6, No.4). Oral argument is set for the week of October 12th in case number 99-7582.

REVISED ARGUMENT DATE IN SHERRITT INC. APPEAL –

The U.S. Court of Appeals for the Eleventh Circuit in Atlanta has revised the date for oral argument in the case (97-5726) Consolidated Development Corporation, et al. v. Sherritt, Inc. et al. from the week of September 13th (see USCPR, Vol. 6, No.5) to the week of November 1st. Consolidated, a certified claimant led by Alberto Diaz-Masvidal, filed suit in July of 1996 (see USCPR, Vol.3, No.7) against Sherritt, Inc. and the government of Cuba and its instrumentalities for use of its confiscated property in Cuba (see USCPR, Vol.6, No.4). The U.S. District Court for the Southern District of Florida dismissed the case (USCPR, Vol.4, No.9) against the parties in July and September of 1997. Sherritt, a Canadian mining and resource company, and its executives have been sanctioned under Title IV of the Helms-Burton Act since receiving letters of determination dated July 10, 1996 (see USCPR, Vol.3, No.7). Denial of entry visas and exclusion from the United States remain in effect.

OFAC AUTHORIZES U.S. HEALTHCARE EXHIBITION IN HAVANA –

The Treasury Department's Office of Foreign Assets Control (OFAC) has issued a license to PWN Exhibicon International L.L.C. and Peter W. Nathan to hold "the first U.S. sanctioned and Cuban Government approved U.S. HEALTHCARE EXHIBITION in Havana." The exhibition will be held from January 25 through January 29, 2000. Kallman Worldwide, an international marketing organization, will promote the exhibition to be "attended by officials of the Cuban Ministry of Public Health and MediCuba (the primary importer of healthcare products for Cuba's 11 million citizens), as well as hospital and clinic administrators and staff, physicians, nurses and other healthcare personnel from throughout Cuba." PWN touts its 43 years of experience in the exhibition industry having organized the first trade shows for U.S. companies in the Peoples Republic of China and the former Soviet Union. For more information contact Peter Nathan at PWN (203/222-8660) in Westport, Connecticut and at Kallman Worldwide (201/251-2600) in Waldwick, New Jersey ask for Barbara Downey.

SMITHKLINE BEECHAM PHARMACEUTICALS APPROVED BY U.S. TO TEST CUBAN VACCINE AT U.S. FACILITIES ABROAD –

The British pharmaceutical manufacturer SmithKline Beecham (SB), with world headquarters in London and U.S. headquarters in Philadelphia, has received approval from OFAC to test Meningitis B vaccine produced by Cuba's Instituto Carlos Finlay in Havana. This became necessary when SB planned to use test facilities in Belgium owned by its U.S. subsidiary. Bipartisan licensing support began over a year ago. If upcoming tests prove effective, SB will seek FDA approval to sell the vaccine in the United States.

NOTABLE QUOTES

"I tell you categorically there is not the slightest possibility that Cuba will break its obligations in the migration accords, and allow massive departures of illegal immigrants." Fidel Castro denounced Washington's immigration policy toward Cuba during a 5 hour speech in Matanzas Province. (FT,"Castro vows to halt new exodus by sea," 8/5/99, p.4).

"Fidel Castro is a world-class deadbeat. Just ask the French, the Spanish...Unilaterally lifting the U.S. sanctions against his regime without fundamental concessions in return will not help the American farmer and certainly will not help the Cuban people, who desperately seek a future without this despot, the longest-reigning dictator in the world." Jorge Mas Santos, chairman of the Cuban American National Foundation based in Miami. (CANF PR,"CANF Rips Farm Lobby Claims on Cuba," 8/12/99).

"We should work with independent groups of doctors, journalists, lawyers and others in Cuba. Such groups will form the eventual succession to the Castro regime." Daniel W. Fisk is the former staff member and associate counsel of the Senate Foreign Relations Committee. (LA Times, Business Section, "Helping, Not Isolating, Cuba a Better Policy," 8/15/99).

"Nothing will really happen [in Cuba] until the maximum leader departs." Edward Gonzalez is a professor emeritus of political science at the University of California at Los Angeles and is also a resident consultant to the RAND Corporation in Santa Monica. (LA Times, Business Section, "Helping, Not Isolating, Cuba a Better Policy," 8/15/99).

Change might occur "if the nations of the Caribbean would get together and, rather than cozy up to Cuba, tell the Castro regime that we mean business." William Crotty, U.S. ambassador to the Eastern Caribbean comments on those nations' policy toward Cuba while visiting St. Lucia. (AP,"U.S. Ambassador Comments on Cuba," 8/19/99).

"U.S. officials must complete by October a review of past Cuban involvement in drug smuggling as requested by the White House in July. Opponents of the administration's recent proposal to increase drug interdiction cooperation with Cuba believe the review will show that the Cuban authorities have winked at or assisted traffickers outright and therefore are unreliable anti-narcotics partners. But even if the expectations of these critics are fulfilled, the United States should move ahead with its plans to cooperate. Whatever Castro's actions may have been in the past, his interest in survival now coincides with President Clinton's interest in stemming the flow of drugs across the Florida Straits." Gillian Gunn Clissold is the director of the Caribbean Project located at Georgetown University in Washington, DC. (WP, "Cooperate With Castro on Drugs," 8/25/99, p.A17).

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Ralph J. Galliano, Editor

HELMS AND GILMAN URGE LIBERTAD TITLE IV GUIDELINES COMPLIANCE-- STATE DEPARTMENT ISSUES ADDITIONAL ADVISORY LETTER

WASHINGTON -- Judging by the Congressional pressure exerted on the State Department, the request for compliance of the "Guidelines Implementing Title IV of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act*" seems to be achieving a modicum of results. *Advisory* letters have now been sent to two European companies (Sol Melia and LTI International hotel chains) who are believed to be trafficking in confiscated property the claim to which is owned by American nationals. In accordance with a reading of its own guidelines, the State Department has asserted a cloak of "confidentiality" over the "records related to the determination of ineligibility or excludability" under Title IV, whereby, it has become difficult for the Congress, let alone the public, to obtain information pertaining to its enforcement actions against traffickers. The Congressional pressure comes from the chairmen of the Senate Foreign Relations Committee and the House International Relations Committee. Senator Jesse Helms, chairman of the Foreign Relations Committee, has refrained from holding confirmation hearings for Peter Romero, the *Acting* Assistant Secretary of State for Western Hemisphere Affairs, and Michael Ranneberger, the former Coordinator for Cuban Affairs whose White House nomination to become ambassador to the African nation of Mali remains on hold. In effect, the longer the State Department takes to do its job and enforce the law, the longer it will be before either Romero or Ranneberger attend their confirmation hearings. Largely through a process of calculated bureaucratic delay, the State Department has managed over the past two years to please the White House and simultaneously anger the Congressional committee chairman by blocking, within the IWG process or Interagency Working Group, any U.S. government decision with regard to Title IV enforcement. Spanish hotel firm Sol Melia, S.A. received an "advisory" letter from the State Department on July 30th (USCPR, Vol.6, No.8) informing them that their joint venture with the Cuban government "is the subject of an investigation under Title IV and that its officers, principals, and controlling shareholders could be excluded from the United States if that company is indeed trafficking in confiscated property." The letter from chairmen Helms and Gilman addressed to Romero dated September 15th (reprinted below) emphatically states that these "matters should have been dealt with months ago." The letter concludes with a request for "any such material relating to subsequent consideration of these Title IV cases." On September 7th, a second "advisor" letter was issued by the State Department.

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QUARTERLY REPORT ON LIBERTAD SECTION 401 IMPLEMENTATION --

The State Department's quarterly reporting requirement is the only window available to Title IV enforcement. In compliance with Section 2802 of Public Law 105-277, (22 U.S.C. 6901 et seq.), the State Department issued a partially classified report to Congress on August 30th regarding the implementation of Title IV of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996*. The first two reports issued on January 12th and May 10th cover the periods March 12, 1996 through November 21, 1998 and November 22, 1998 through February 21, 1999, respectively. The latest report covers the period February 22nd through May 21, 1999. Altogether, 24 foreign companies doing business in Cuba are listed as being under investigation. Listed by economic sector, the numbers are as follows: tourism (3); sugar (3); other agriculture (6); energy (1); mining and extraction (5); communications (1); consumer goods (4); and, general manufacturing (1). Three companies have received letters of *determination* including: BM Group (Israel); Sherritt International (Canada); and, Grupo Domos (Mexico). Only one company has had Title IV sanctions lifted against it, Grupo Domos. At BM Group (4), Sherritt (19-1), and Grupo Domos (5-5) names of persons have been entered and deleted in the so-called "lookout system for denial of visas and exclusion from the United States." The report describes Stet International (Telecom Italia) as having "reached a ten-year agreement with the U.S. national claimant (ITT) regarding use of ITT's confiscated property in Cuba" on July 15, 1997 (see USCP, Vol.4, No.8). The report further specifies that foreign corporate entities contained within the tourism (2), other agriculture (1), and consumer goods (1) are in the advanced stage of review while all others are in the intermediate stage of review.

The Cuban government, according to the report, faces problems in obtaining financing as do potential investors. Specifically, the report states: "Implementation of Title IV has had a significant negative impact on investment in the Cuban economy. Since enactment, as a result of the Department's investigations, including contacts with companies, firms from various parts of the world have changed plans for investment in Cuba, or have pulled out altogether. Implementation has exacerbated the unstable and risky investment climate, and interest rates for projects in Cuba have been driven in excess of 20 percent. The Cuban government is finding it increasingly difficult to obtain financing, and potential investors face the same problems." The classified annex to the report lists the "names of the individuals determined to be subject to Title IV sanctions." The report attributes the lack of *determinations* in various cases under investigation to the "difficulty of uncovering evidence on the use of confiscated property in Cuba."

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HELMS-GILMAN LETTER TO ROMERO

Congress of the United States
Washington, DC 20515

September 15, 1999
 The Honorable Peter Romero
 Assistant Secretary of State for
 Western Hemisphere Affairs (Acting)
 U.S. Department of State
 2201 C Street, N.W.
 Washington, D.C. 20520

Dear Mr. Secretary:

We regret the necessity of reminding you, to whom the responsibility was delegated by the Secretary of State for making determinations of excludability and visa ineligibility under Title IV of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996* (Public Law 104-114), of matters that should have been dealt with months ago.

Under the law, you are required to exercise this responsibility in compliance with the "Guidelines Implementing Title IV of the Cuban Liberty and Democratic Solidarity Act," (published in the *Federal Register* on June 17, 1996, and which have not been amended or superseded).

Paragraph 5 of the Guidelines states: "Determinations of ineligibility and excludability under Title IV *will* be made when facts or circumstances exist that would lead the Department *reasonably to conclude* that a person has engaged in confiscation or trafficking..." (Emphasis added).

Paragraph 6(a) provides: "An alien who may be the subject of a determination under Title IV *will* be sent a notification by registered mail...that he/she will be denied a visa upon application or have his/her visa revoked, 45 days after the date of the notification letter. The alien will be informed that divesting from a 'trafficking' arrangement would avert the exclusion." (Emphasis again added).

Paragraph 6(b) further provides that, "If no information is received within the 45 day period above that leads the Department reasonably to conclude (I) that the alien or company involved has not engaged in trafficking or is no longer doing so, or (ii) that an exception to trafficking ... applies, the Department *will notify consular officers and the Immigration and Naturalization Service (INS)* of a determination by entering the alien's name, including the names of the alien's agents, spouse, and minor children, if applicable, in the appropriate lookout system, and a visa application from the named alien will be denied or a visa revoked in accordance with the law." (Emphasis again added).

Members of our Committee staffs have been informed that on July 30th the Department of State sent a

letter to a Spanish hotel firm (identified by the *Miami Herald* as Sol Melia) notifying that company that it is the subject of an investigation under Title IV and that its officers, principals, and controlling shareholders could be excluded from the United States if that company is indeed trafficking in confiscated property.

Indeed, an officer of that company was informed of this pending inquiry on July 2nd of this year in a telephone call by then director of the State Department's Office of Cuban Affairs, Michael Ranneberger.

Our Committee staffs have been assured by you and by Mr. Ranneberger that you were fully briefed as each of these steps were taken in this case. Logic leads to the conclusion that the July 2nd telephone call and the July 30th letter were initiated *only* after you, as the responsible officer, reasonably concluded that the company in question is guilty of trafficking. Moreover, Secretary of State Albright could not have been clearer when she told the Senate Foreign Relations Committee in a February hearing, "[A]uthority for implementing Title IV rests with the Assistant Secretary."

Mr. Secretary, the law, the guidelines, and the policy are clear: Once you are presented with information that leads you "reasonably to conclude" that a company is trafficking in confiscated U.S. property, your *duty* is to sanction that company. The law and guidelines do not permit any discretion to grant a "grace period" during which the trafficker can seek the rightful owner's permission for using such property.

As key authors of the LIBERTAD Act we now insist that you faithfully execute the law. In addition, we urge that you make certain that the Department of State provide to our respective Committees the following material:

- Copies of any letters (apparently sent in lieu of notification letters under section 6(a) of the Title IV Guidelines) to hotel firms since July 1, 1999.
- Copies of any cables, memoranda, legal opinions, electronic mail messages, or other documents (including but not limited to diplomatic notes) relevant to the decision to contact these hotel firms recently, and any such material relating to subsequent consideration of these Title IV cases.

Please favor each of us with a prompt reply.

Sincerely,
 Jesse Helms
 Benjamin Gilman

PROPERTY OWNER SENDS LIABILITY LETTERS TO TRAFFICKERS

The *advisory* letter sent to a second company on September 7th was issued by the State Department to LTI International Hotels of Dusseldorf, Germany regarding their joint venture with the Cuban state corporation Gaviota, S.A. at the Costa Verde Beach Resort at "Playa Pesquera" near Playa Guardalavaca located in Holguin Province. While a copy of the State

Department's *advisory* letter was not made publicly available, the USCPR was able to obtain a copy of the "Notice of Liability to Foreign Trafficker." The letter, which is reprinted below, was issued on behalf of the Sanchez-Hill family represented by the Miami law firm of Rafferty, Gutierrez & Sanchez-Aballi and asks LTI International Hotels, along with its affiliates including LTU Airlines, to "immediately cease and desist from their unlawful trafficking in connection with the hotel joint venture with the Cuban state corporation, Gaviota S.A." The Cuban Communist Party newspaper, *Granma International*, reported on September 4, 1998 that "LTI International Hotels of Germany signed an administration and marketing contract in Varadero that will serve to further expand its operations in Cuba." The two new hotels included LTI Los Cactus on Pesquero Beach "on the north coast of the eastern Cuban province of Holguin" and LTI Jardin del Caribe in Varadero, both under construction at the time. LTI maintains similar agreements with Gaviota regarding the Tuxpan and the Bella Costa Hotels in Varadero, and the Carisol-Los Corales in the southeastern province of Santiago de Cuba. LTI's affiliate, LTU International Airways, maintains a significant presence in the U.S. market with regular flights to and from Germany to points throughout Florida (Miami, Ft. Myers, Orlando), Los Angeles, Central America, and the Caribbean. This latest "notice of liability" coincides with the figures reported by the State Department in its report to Congress, as specified above (see page 2), where within the tourism sector, two foreign entities are in the advanced stage of review. The third within the tourism sector is believed to be Delta Hotels & Resorts, a Canadian company based in Toronto which also received a notice of liability letter from the law firm of Rafferty, Gutierrez & Sanchez-Aballi dated September 24th.

LETTER TO LTI INTERNATIONAL HOTELS

Rafferty, Gutierrez & Sanchez-Aballi, P.A.
1101 Brickell Avenue
Suite 1400
Miami, Florida 33131
Office 305-373-0330 Facsimile 305-373-2735

September 10, 1999

VIA FACSIMILE 011-49-211-9417430

AND REGISTERED MAIL

Mr. Wolfgang Hedderich
General Director
LTI International Hotels
Parceval Str. 7A
D-40468 Dusseldorf
Germany

Re: Notice of Liability to Foreign Trafficker

Dear Mr. Hedderich:

Pursuant to Sub-Sections 302(a)(3)(B) and (D), as well as Section 401(a), of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996* (22 U.S.C. 6082, 100 Stat. 814), I hereby notify you of your company's liability to my U.S. national client, Central Santa Lucia, L.C., a Florida limited liability company which duly owns the claim against any foreign entity trafficking in the properties illegally confiscated by the Castro regime from Santa Lucia Company, S.A. in 1960 (totaling approximately 100,000 acres held by the same family since 1857), which include and completely surround the prime ocean-front areas specified in the subsequent paragraph.

Therefore, in accordance with the above-cited statutory authorities, my client hereby demands that LTI International Hotels and all of its affiliated entities (including LTU Airlines) immediately cease and desist from their unlawful trafficking in connection with the hotel joint venture with the Cuban state corporation, Gaviota S.A., on my client's property at Playa Pesquero (Playa Guardalavaca), Cuba. Your failure to cease such trafficking within the next thirty (30) days will result in a treble damages liability remedy under Section 302(a)(3)(C) of LIBERTAD, in the action which my client intends to commence against your company, as well as subject your company to the denial of visas and exclusion from U.S. territory for your officers, directors, principals, controlling shareholders and executives, together with their spouses and minor dependent children under Section 401(a) of LIBERTAD.

If you should have any further questions regarding the foregoing, please contact me directly. I anticipate your prompt attention to this matter.

PLEASE GOVERN YOURSELVES ACCORDINGLY

Sincerely,
Nicolas J. Gutierrez, Jr.

Enclosure

cc: Amb. Peter Romero,
Acting Assistant Secretary of State for Inter-American Affairs

Mr. Charles Shapiro, Director of Office of Cuban Affairs

Mr. Roger Noriega,

Majority Staff Director for Inter-American Affairs of Senate Foreign Relations Committee

Mr. Stephen G. Rademaker, Chief Counsel to House International Relations Committee

Frederick Kerstein, Esq., Assistant State Attorney for Miami-Dade County

SENIOR CUBAN INTELLIGENCE OPERATIVE SET TO BE POSTED IN WASHINGTON

Although Fernando Garcia Bielsa has yet to be granted a visa to enter the United States to assume permanent duties at the Cuban Interests Section in Washington, under White House pressure, the State Department has given its approval. In his letter to Secretary of State Albright, reprinted below, Senate Foreign Relations Committee Chairman Jesse Helms calls Garcia Bielsa "a notorious Cuban intelligence operative" who is "known for his support of terrorism and espionage." An official of the Cuban Communist Party Central Committee's 'America Department' (DA) from November 1975 to December 1978, Garcia Bielsa worked for the organization that trained, built, and unified active terrorist organizations throughout Latin America and the Caribbean including the MIRA (1969), FALN (1974), Los Macheteros (1974) and other Puerto Rican separatist groups hostile to the United States. From October 1977 to May 1980, Garcia Bielsa served in the Cuban Ministry of Foreign Relations where DA officials occupy key positions. Testimony by Daniel James, before the U.S. Senate Subcommittee on Security and Terrorism on March 12, 1982, revealed that in early 1974 the "FALN was organized by a Puerto Rican agent of Cuban intelligence" named Filiberto Ojeda Rios "operating under cover of the Cuban Mission to the United Nations" in New York City. MIRA, the FALN predecessor, is "credited with 35 [bombings] in New York alone in 1970." The FALN is responsible for death threats against the life of President Reagan and other high level U.S. government officials in the 1980s. FALN and Los Macheteros acts of terrorism on U.S. soil have included: the bombing of Fraunces Tavern in Manhattan in 1974 injuring dozens and killing four; the 1979 attack on a U.S. Navy bus in Puerto Rico killing two sailors while injuring ten others; the destruction of nine U.S. jet fighters in San Juan in 1981; an attack on a Wells Fargo office in Connecticut netting \$7.2 million in 1983; and, numerous attacks on federal buildings in Puerto Rico from 1983-85. President Clinton announced on August 11th the pardon of 16 FALN terrorists serving prison terms. Both the Cuban Mission to the UN in New York and the Interests Section in Washington are known to be covers for Cuban intelligence and security agents who perform few traditional diplomatic functions. Garcia Bielsa's posting in Washington would permit him to occupy a new position at the Interests Section rather than to rotate with someone in an existing position in true diplomatic fashion at a time when Havana is mounting a major campaign to have the Clinton administration lift the economic and trade embargo against Cuba.

HELMS LETTER TO ALBRIGHT

United States Senate
Committee on Foreign Relations
Washington, D.C. 20510-06225

September 21, 1999
The Honorable Madeleine Albright
U.S. Secretary of State
2201 C Street, N.W.
Washington, D.C. 20520
Dear Madame Secretary:

I was surprised -- a better word would be, dismayed -- at reports that the Department of State may allow a notorious Cuban intelligence operative, Fernando Garcia Bielsa, to be posted at the Cuban Interests Section in Washington -- just as 12 Puerto Rican terrorists are freed from prison and 10 Cuban spies await trial for murder and espionage in U.S. federal court.

The American people will be outraged if and when they learn that a Cuban spymaster, known for his support of terrorism and espionage, is allowed to set up shop in Washington.

Is it not imperative that the views of the Federal Bureau of Investigation be respected in the decision regarding a U.S. visa's being granted to Garcia?

I will personally appreciate your providing the Foreign Relations Committee with written answers to the following questions:

1. Has any representative of the Department of Justice or the FBI at any time raised objections to, or expressed concerns about, granting of a visa to Fernando Garcia Bielsa?
2. Has any representative of the Department of Justice or the FBI provided any information to the State Department regarding Garcia Bielsa's anti-U.S. espionage or pro-terrorism activities? Did this information allege his contact with Puerto Rican terrorist or so-called "nationalist" groups?
3. In the wake of the 1998 Cuban spy scandal and the resulting murder indictments, has the Department of State expelled from the United States all of the Cuban personnel whom the FBI specified as having had contact with the captured spies? Are any such persons in the United States today?
4. Finally, I respectfully request your personal assurances that any persons having contact with terrorist groups -- particularly Puerto Rican "nationalist" or other U.S.-based groups -- will be excluded from entering the United States.

Many thanks, and best personal wishes.

Sincerely,
Jesse Helms

CURRENCY & COMMODITY BRIEFS

EURO -- Since making the Euro its official currency for international trade and credit transactions in July (see USCP, Vol.5, No.11), Cuba's central bank (see Soberon USCP, Vol.6, No.4) has "avoided extra charges when changing European currencies," according to Economy and Planning Minister Jose Luis Rodriguez during an interview with Reuters in Stockholm, Sweden (RL-de Bendern, 0/9/99). Officially introduced by the European Union on January 1st, the Euro has fallen steadily against the dollar from its high of \$ 1.18 on Monday, January 4th, its first business day, to a low of nearly \$ 1.02 and near parity with the dollar by July 8th. **RAW SUGAR** -- Rodriguez projected production for the 1999-2000 sugar harvest would exceed 4 million metric tons (mt.), the same rate of growth as the 1998-1999 crop which he said increased 554,000 mt. over the previous year...Spain's Azucarera Ebro Agricolas S.A., the 5th largest European sugar producer, announced on September 3rd it has signed an agreement with the Cuban government to help increase its sugar production per metric ton of cane harvested. World sugar price futures on the New York Board of Trade remain low. **CRUDE OIL** -- Venezuela continues to play a major role in both crude oil futures as well as expectations it will meet Cuba's 7.5 million mt. annual oil supply needs. Venezuelan President Hugo Chavez who says he plans to sign an agreement with Cuba's Fidel Castro at the Ibero-American conference to be held in Havana in November (see USCP, Vol.6, No.8) plays a pivotal role in OPEC's strategic supply cuts driving crude oil prices to new highs on the NYMEX. **NICKEL** -- Along with Cuba's upturn in Nickel production since 1995 (see USCP, Vol.6, No.8), world prices continue to rise as Cuba strives this year to reach its annual production capacity of 74,000 (mt.) from 68,000 mt. last year at its Punta Gorda, Moa, and Nicaro mines located in eastern Cuba's Holguin Province. Prices settled at \$7,075 per mt. on September 29th on the London Metal Exchange, up from \$4,035 a year ago... The Cuba-UK bilateral agreement signed in London to settle its short-term debt (see p.8), has led the UK government to reinstate medium-term cover through its Export Credits Guarantee Department (ECGD) rekindling interest by British heavy truck manufacturers to supply equipment to Cuba's nickel mining industry (FT-Fletcher). **COBALT** -- A byproduct of nickel mining, Cuba's annual cobalt production has increased steadily along with its nickel production since 1994 from 1,000 to 2,100 mt. in 1998. Unlike nickel, however, cobalt prices have fallen steadily according to the London-based Metal Bulletin.

CURRENCIES & COMMODITIES

1 Euro = 1.05 US Dollar
1 US Dollar = 23.00 Cuban Peso
1 Euro = 24.25 Cuban Peso

Rates as of September 28, 1999.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 6.72
Year ago nearby = 6.93
Future (Oct '99) = 6.67
High = 11.58 (Nov. '97)
Low = 4.46 (April '99)

Cash/Spot price as of September 27, 1999.
Source: NYBOT.

CRUDE OIL (\$per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 24.60-24.65
Year ago (Sept. 28) = 15.64
Future (Nov. '99) = 24.61

Cash/Spot price as of September 27, 1999.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 7075
Year ago (Sept. 29) = 4035

(\$ per metric ton)
Official Price: September 29, 1999.
Source: London Metal Exchange

Cobalt = 16.30 -17.30
Year ago (Sept. 28) = 19.20 - 20.00

(\$ per pound for 99.8%)
Price: September 30, 1999.
Source: Metal Bulletin (London).

MACK PRESSES CLINTON ADMINISTRATION ON ANTI-TERRORISM COMMITMENT

Senator Connie Mack (R-FL) continues to press the Clinton administration on its apparent commitment to fight terrorism particularly when it involves acts against American citizens abroad. Two specific cases stand out in the midst of the administration's controversial actions since the passage of the *Anti-Terrorism and Effective Death Penalty Act of 1996* (28 USC 1605 Sec.(a)(7)) that President Clinton signed into law following the February 24, 1996 shootdown by Cuban MiG jets of two unarmed, civilian

Brothers-to-the-Rescue (BTTR) planes flying over international waters in the Florida Straits which took four lives (see USCP, Vol.3, No.3). On October 2, 1996, President Clinton directed the Secretary of the Treasury to vest Cuban assets maintained in blocked accounts for the purpose of compensating the BTTR victims' survivors. The families of the BTTR victims and of Alisa Flatow have subsequently won multi-million dollar judgments in separate U.S. federal court cases against the governments of Cuba and Iran, respectively, under the Anti-Terrorism Act. The Flatow family of New Jersey sued the government of Iran for terrorist acts that led to the death of their daughter, a student, while visiting Israel in 1995. Although the Anti-Terrorism Act amended the *Foreign Sovereign Immunities Act of 1976* allowing suits against foreign governments and their political subdivisions, another bill signed into law (the Omnibus Appropriations Act of 1999) by the president on October 21, 1998 contained a provision, Section 117, permitting victims of terrorism to execute their court judgments against the assets of terrorist states held in the United States. But, no sooner had the ink dried when President Clinton exercised his waiver

authority that same day thereby invoking "national security" effectively denying the Flatow and BTTR families from attaching Cuban and Iranian assets (see USCP, Vol.5, No.11). Congressional debate over Section 117 assured "that the intent and purpose of the *Anti-Terrorism and Death Penalty Act of 1996* is dutifully implemented and is not circumvented to benefit terrorist regimes and pariah states to the detriment of American citizens." Section 117, according to the president's National Security Adviser Samuel R. Berger, "provides that certain private claimants may execute judgments by attaching blocked assets of terrorist-list countries. It would also allow attachment of blocked diplomatic property, despite other U.S. laws and treaty obligations."

Following the president's Section 117 waiver, Senators Graham (D-FL) and Mack called on the president "to reconsider his action, in the name of fighting against international terrorism." In the Postal and Treasury Departments Appropriations bills for FY 2000, Mack inserted a provision clarifying Section 117 to limit the president's power, but it was later removed. On September 28th, Mack questioned the White House's intentions on *NPR's Morning Edition*. "The message is a very confused one. Are we really committed in fighting terrorism? Is there going to be a price to pay by a country that's involved in terrorist activities? The administration wants to say yes, but their actions seem to say no," declared Mack.

Following the announcement by President Clinton offering pardons to 16 Puerto Rican FALN terrorists serving prison terms, (see page 5) Mack declared, "Not only did he release 16 people in jail, he's now protecting the assets of terrorist countries."

**"Not only did he
release 16 people in
jail, he's now
protecting the assets
of terrorist
countries."**

Senator Connie Mack

INTERNATIONAL BRIEFS

CUBAN OFFICIAL SAYS PROPERTY CLAIMS WON'T BE RESOLVED BY LIFTING EMBARGO

-- Olga Miranda Bravo, described as an international attorney, declared in Havana on Tuesday, September 21st that U.S. property owners totaling 5,911 individuals and businesses whose certified claims were adjudicated by the U.S. Foreign Claims Settlement Commission would not have their claims resolved without factoring into negotiations the alleged damages brought about by 40 years of the U.S. embargo. "This is more complicated than settling accounts. It seems to me that the theme of nationalizations cannot be considered without the blockade," said Miranda. (AP, 9/21/99). **SPANISH POWER COMPANY CONTRACTS TO UPGRADE PROPERTY OWNED BY U.S. CERTIFIED CLAIMANT BOISE CASCADE**

-- Bloomberg reported on September 22nd that Ibermico Engineering, a part of Iberdrola S.A. Spain's second largest power generating company, has been granted a \$3.2 million contract to upgrade three power plants in Cuba. The Cuban Electric claim, owned by Idaho-based Boise Cascade Corporation, "provided more than 90 percent of all electricity sold in Cuba and furnished manufactured gas in the City of Havana," in 1960 according to the U.S. Foreign Claims Settlement Commission. Under the Helms-Burton Act, an entity would be considered to be trafficking in confiscated property owned by a U.S. national when that entity "engages in a commercial activity using or otherwise benefiting from" such property "without the authorization of any United States national who holds a claim to the property." (BLP, 9/22/99).

FROM CUBAN NATIONAL ASSEMBLY TO UN GENERAL ASSEMBLY -- The National Assembly of People's Power of the Republic of Cuba issued a proclamation on September 13th denouncing the U.S. trade and economic embargo against Cuba as "genocidal." The proclamation called for U.S. officials responsible for the embargo to be prosecuted by Cuban courts in accordance with international conventions. The newly appointed Cuban foreign minister, Felipe Perez Roque who replaced Roberto Robaina, in a speech at the opening of the 54th Session of the U.N. General Assembly on September 24th defended the National Assembly's proclamation due to the U.S. failure to heed calls from the international community to lift its embargo against Fidel Castro's Cuba. While in New York, Perez Roque also spoke before a meeting organized by the National Health and Human Services Employees Union and the Interreligious Foundation for Community Organization (IFCO) Pastors for Peace and justified the Cuban position. (RL, 9/26/99). **PARIS CLUB CHAIRMAN OF CREDITOR NATIONS MEETS IN HAVANA** -- An internal "technical committee" led by France, which excludes the United States, is seeking to arrange a multilateral debt rescheduling deal with Cuba and its largest creditors Japan, Germany, France, Spain, and the UK. The U.S. opposes "special treatment" for Cuba which froze all foreign debt payments in 1983. Francis Meyer, Paris Club chairman, and his colleagues met informally in Havana on the week of September 27th with Carlos Lage, Cuban vice president and chief economic minister, and with Cuban central bank president, Francisco Soberon (see USCP, Vol. 6, No.4) for exploratory talks leading to the resolution of Cuba's \$11.2 billion long-term foreign debt. Contrary to Paris Club policy, Cuba reached bilateral agreement on short-term debt with Italy and Japan last year and with the UK in September. This agreement allows the UK government to provide cover for British business through the Export Credits Guarantee Department (ECGD). (FT 9/23/99; FT, 9/29/99).

RUSSIAN FOREIGN MINISTER IGOR IVANOV VISITS CUBA -- Termed a visit to discuss political matters, Igor Ivanov made a two-day visit (Sept. 27-29) to Havana to meet with officials of Castro's communist government, the first for a Russian foreign minister since Yevgeny Primakov in May of 1996. Ivanov left the matter of Cuba's \$20 billion in Soviet-era debt to future discussions by their respective finance ministers. (AP, 9/28/99).

SHORT TAKES

LONE STAR INDUSTRIES ACQUIRED BY DYCKERHOFF OF GERMANY -- Stamford, Connecticut based cement producer, Lone Star Industries, announced on September 2nd it is entering into a "definitive merger agreement" providing for its acquisition by the Dyckerhoff entrepreneurial group of Amoeneburg, Germany. Dyckerhoff chairman, Peter Rohde, said the acquisition "establishes critical mass in the important North American market, and provides a strong platform for future growth." In the deal, Dyckerhoff, described as "one of the leading cement and building materials companies in Europe," will acquire Lone Star's U.S. operations along with its certified Cuban claim consisting of the cement plant located in Mariel and other Cuban properties. Lone Star chairman, David Wallace, who also serves as chairman of the Joint Corporate Committee on Cuban Claims an "organization whose membership is comprised of corporations and individuals with claims against the government of Cuba," has called for the "settlement of American claims against Cuba before trade and diplomatic relations are restored." Wallace has expressed his concerns over the EU-U.S. Agreement of May 18th 1998 charging that the agreement "grandfathers existing investment and permits further investment in unlawfully confiscated property so long as no [European] government assistance is provided." The EU-U.S. Agreement has not been approved by the U.S. Congress.

U.S. DEPARTMENT OF ENERGY CLARIFIES CLOSE AND CONTINUING CONTACT WITH CUBAN NATIONALS -- In the wake of the Chinese espionage scandal at the Department of Energy's nuclear labs, a four-page internal clarification was issued last month regarding its policy dealing with "close and continuing contact" not unlike those guidelines already in effect at other U.S. intelligence operations such as the CIA, FBI, and Defense Intelligence. Close and continuing contact which may lead to a breach of national security includes romantic relationships, personal friendships, professional friendships, and Internet communications. The countries besides Cuba include: the republics of the former Soviet Union, China, Israel, India, Pakistan, North Korea, and Taiwan.

STATE DEPARTMENT SUBMITS FIRST ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM TO CONGRESS -- Pursuant to Public Law 105-292 cited as the *International Religious Freedom Act of 1998* passed in the 105th Congress, the State Department has issued, under the Bureau of Democracy, Human Rights, and Labor where the Office of Religious Freedom is located, on September 8th, the first annual report on religious persecution in a number of countries including Cuba. The more than 1000 page report, consisting of an executive summary and 194 reports, is available on the Internet from the State Department's web site located at www.state.gov. In its fact sheet, the State Department charges that "[t]otalitarian and authoritarian regimes remain determined to control religious belief and practice." Of Cuba, it states, "the Government monitors and controls religious institutions, including surveillance, infiltration and harassment, evictions from places of worship, and preventive detentions of religious activists." (see USCPR, Vol.4, Nos.3,11). This is of particular significance following Pope John Paul's 1998 visit.

U.S. COURT OF APPEALS TO HEAR SHERRITT CASE -- The U.S. Court of Appeals for the Eleventh Circuit will hear oral arguments in Consolidated Development Corporation, et al., Appellants v. Sherritt, Inc. (97-5726) scheduled for Friday, November 5th at the Federal Justice Building in Miami. The Canadian resource and mining company, Sherritt, Inc., spun off its Cuba investments creating Sherritt International in order to shield itself from litigation in anticipation of the passage of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act*, also known as the Helms-Burton Act (see USCPR, Vol. 6, No.8). Certified claimant, Consolidated, led by Alberto Diaz-Masvidal, contends Sherritt, Inc. used its oil in Cuba and swapped it for nickel later processed in the United States.

NOTABLE QUOTES

"Asked if we should normalize relations with Cuba, Rice flashed back the answer: Not as long as Fidel Castro holds power. Castro 'bet on the wrong horse,' and he should be made to pay for it." Geneva Overholser writing for the *Washington Post* recounts remarks made by Condoleezza Rice to a group of newspaper executives in California. Rice, a member of the Stanford University faculty since 1981, served as President Bush's special assistant for national security affairs and senior director for Soviet affairs with the National Security Council. Rice is a foreign policy adviser to Texas Gov. George W. Bush, a Republican candidate for president. (WP,"Profile of a Heavy Hitter," 9/7/99, p.A19).

"Naturally we're following the process with a lot of interest. There's an agreement between the European Union and U.S. not to apply the law, so there's no justification for penalties for companies [with operations in Cuba]." Spanish Prime Minister Jose Maria Aznar comments on the State Department's Title IV investigation of Spanish hotel chain Sol Melia. (BLP,"Sol Melia Gains as Govt. Takes 'Measures' on Business in Cuba," 9/10/99).

"The gradual pace of change is so modest and slow that, in the short term, it could degenerate into chaos. Except for a small group, the majority of Cubans in Cuba favor dialogue and reconciliation among Cubans in Cuba and Cubans living abroad. We reject violence for change." Vicar General of Havana, Catholic Bishop Carlos Cespedes. (ZENIT,"Slow Pace of Change Could Cause Chaos in Cuba," 9/15/99, Madrid).

"Cuba is a very special place because of all the Cuban-American voters in South Florida. Bill Clinton wants to do nothing that is going to cause Al Gore political problems in Florida. Beyond that, though a senior White House official told me, if you use a carrot with the North Koreans it may improve their behavior. It wouldn't work with Castro. He'd be as ornery as ever. It's better to keep using a stick on Castro." (Exchange between Charles Gibson, ABC television network anchor, and John Cochran, White House correspondent, on ABC World News Tonight on 9/17/99).

"The apprehension, of course, is reminiscent of the fear that surrounded Fidel Castro's ascension to power in 1959 in Cuba. He almost immediately began creating a parallel dictatorial structure, with himself ever on top, and soon that autocratic structure replaced the old, wildly imperfect but formally democratic system in Cuba. Can a country with Venezuela's political, economic and moral problems reorganize, re-create and right itself without falling into the excesses of fascism or communism, as most often happens?" Georgie Anne Geyer, nationally syndicated columnist. (TWT,"Chavez inciting reforms," 9/26/99, p.B4).

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Washington, D.C. USA**

Ralph J. Galliano, Editor

DIAZ-BALART WORKS WITH HOUSE LEADERSHIP TO DEFEAT ASHCROFT AMENDMENT ON SALE OF FOOD AND MEDICINE TO CUBA

WASHINGTON — With solid backing from the Republican leadership in the House and key members of the Senate such as Jesse Helms (R-NC) and Connie Mack (R-FL), Rep. Lincoln Diaz-Balart (R-FL), grateful for the support of his congressional colleagues, saw the Ashcroft amendment to the 2000 Agriculture Appropriations Bill stripped in conference committee. Diaz-Balart told the USCPR he was especially thankful to his House colleagues, particularly Speaker Dennis Hastert (R-IL), Majority Whip Tom DeLay (R-TX), Appropriations Committee Chairman Bill Young (R-FL), and Agriculture Appropriations Subcommittee Chairman Joe Skeen (R-NM). Speaker of the House Hastert, expressing his displeasure with the Ashcroft amendment last September, described the legislation to permit the commercial sale of food and medicine to embargoed terrorist states as the type of rider "we don't want on the appropriations process." The House Republican leadership, having worked successfully to keep the embargo provision off the agricultural spending bill in June, had to face it once again in the House-Senate conference committee after it passed the Senate modified to include: *Guidelines With Respect to State Sponsors of International Terrorism* (see USCPR, Vol.6, No.8). According to reliable sources, when Senator John Ashcroft (R-MO) refused a Cuba carve-out offer and Rep. George Nethercutt (R-WA) started to broaden the embargo provision by amending the language to allow for U.S. government loan guarantees for food and medicine producers, the leadership suspended the House conference for seven days, during which time the embargo and dairy provisions were stripped from the agriculture appropriations bill. DeLay who has always felt strongly about Cuba, told the USCPR, "I used all the resources available to me to stop any legislation in a spending bill IN ITS TRACKS that would - in any way - aid or support the communist regime in Cuba. This is a victory for democracy and freedom." In a letter to the Speaker dated September 23rd that is reprinted below and signed by numerous Members of Congress including Rep. Ben Gilman (R-NY), the chairman of the Committee on International Relations, Diaz-Balart charges Senate conferees with having rejected "earnest efforts to compromise and, in doing so, have needlessly made this section increasingly controversial and unacceptable." Diaz-Balart, a four-term congressman from Miami, who serves on the powerful Rules Committee, along with his colleague from South Florida, Rep. Ileana Ros-Lehtinen (R), have skillfully leveraged their two votes in the House to thwart any loosening of the economic embargo against Cuba as long as the Castro regime remains in power.

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SUPPORT FOR THE AMERICAN FARMER -- In a deal that would have moved forward the agriculture appropriations bill containing an \$8.7 billion emergency aid package for U.S. farmers, the American Farm Bureau was insistent upon not carving out Cuba from the Ashcroft amendment. As a result, the House Republican leadership omitted the Ashcroft amendment altogether and shut down the conference committee. A September 29th press conference held by Senators Ashcroft, Byron Dorgan (D-ND), Chuck Hagel (R-NE), Brownback (R-KS), and Richard Durbin (D-IL) clearly expressed the lawmakers frustration. Ashcroft revealed that the American Farm Bureau was urging conferees to hold fast and not to sign the conference report unless it contained the controversial language. "The debate and the vote in the Senate [was] never intended to be about Cuba," an exasperated Ashcroft said. "Every major farm organization in my state has contacted me and said don't sign the report, don't vote for the bill," explained Durbin. Expressing the all-or-nothing position staked out by the powerful and influential farm lobby, Dorgan, who with Senate Minority Leader Tom Daschle (D-SD) traveled to Cuba in August, plainly stated, "we've got a crisis in a major part of farm country, USA, and this is the historic opportunity to do something about it both in income support and disaster relief and embargoes and sanctions." Arguably, the Ashcroft amendment would expand overseas agricultural markets for hard pressed American farmers. Yet, the six countries, Cuba, Iran, Iraq, Libya, North Korea and Sudan, to which the U.S. restricts exports, account for 1.4% of imports worldwide. According to an often cited U.S. Department of Agriculture analysis, these six countries "reduced U.S. agricultural exports by roughly \$500 million in 1996" while farm income was reduced by \$150 million, far short of the \$600 million Cuba figure used by the farm lobby and the \$2 billion figure promoted by Castro.

The agriculture appropriations conference report was adopted by the House on October 1st and by the Senate on October 13th without the Ashcroft language. On October 19th, Senator Ashcroft along with 31 cosponsors reintroduced his legislation, this time as a stand-alone bill, announcing the "renewal of a broadly based bipartisan effort to protect the American farmers from being used as pawns of diplomacy." The Ashcroft bill, S.1771, is staunchly supported by the American Farm Bureau and the U.S. Chamber of Commerce. In response, Reps. Diaz-Balart and Ros-Lehtinen issued a warning saying in part that "U.S. agriculture must not exacerbate the difficult situation of the American farmer by authorizing a terrorist dictatorship to export to the U.S. the vast array of crops, including tobacco, rice, sugar and citrus, which would become exportable by Castro to the US." The most conservative farm state Senator up for reelection in 2000, Ashcroft is also among the most vulnerable, being challenged by Missouri Governor Mel Carnahan who announced the day after Election Day 1998.

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DIAZ-BALART LETTER TO HASTERT

Congress of the United States
Washington, D.C. 20515

September 23, 1999

The Honorable J. Dennis Hastert
Speaker of the House
U.S. House of Representatives
Washington, D.C.

Dear Mr. Speaker:

We are deeply concerned about a controversial section of the Senate Agriculture Appropriations Bill which would effectively reverse a quarter century's worth of steadfast resistance to terrorism. Language inserted by Senator Ashcroft would allow the direct sale of broadly defined "agricultural commodities" to terrorist states which have American blood on their hands.

We would have thought that by now Members of Congress would understand the evil of appeasement and danger of conducting business-as-usual with terrorist governments. Americans continue to suffer attacks by terrorists and die worldwide, yet certain Members of

Congress push for trade with and financing for terrorist states. Inclusion in the conference report of this language would underscore a basic lack of commitment to fight terrorism and open the door to broader, unrestricted trade with terrorist states.

The controversial Ashcroft language is not included in the House version of this bill. However, Senate conferees have rejected earnest efforts to compromise and, in doing so, have needlessly made this section increasingly controversial and unacceptable.

Mr. Speaker, there is more to America than the drive to make money at any cost. Profit from business with terrorist governments is blood money and is simply not acceptable.

Sincerely,
Lincoln Diaz-Balart (R-FL) Benjamin Gilman (R-NY)
Robert Menendez (D-NJ) Ileana Ros-Lehtinen (R-FL)

GILMAN LETTER TO HASTERT

CONGRESS OF THE UNITED STATES
COMMITTEE ON INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
Washington, DC 20515

September 24, 1999

The Speaker
House of Representatives
Washington, DC

Dear Mr. Speaker:

We want to express our objection to inclusion in the Agriculture Appropriations bill of language that would weaken the ability of our Nation to continue to maintain in place restrictions on trade with states such as Iran and North Korea, and could prevent the president from imposing additional controls on these and other countries under existing authorities.

Language to amend (explicitly or implicitly) the Export Administration Act or similar laws, or to tie the hands of the President under the International Emergency Economic Powers Act are squarely within the jurisdiction of this Committee, as are "export controls," "foreign loans," international commodity agreements," "measures to . . . safeguard American business interests," "measures relating to international economic policy," and "trading with the enemy." We have confirmed with the House parliamentary authorities that the Ashcroft amendment, as modified by the proposed Nethercutt language, would, if introduced as a bill, likely be primarily referred by you to our Committee, with additional referral to committees such as Agriculture, Rules, and Budget.

Measures so squarely within our jurisdiction ought not be passed by way of appropriations bills.

We will of course continue to work with Members with other views on this difficult issue, as we have done in the past. We are sure you are aware from press reports that Senator Helms, Chairman of the Committee on Foreign Relations, has been working on sanctions reform legislation with the Administration and with the export community.

Some of the issues that need to be carefully explored are whether there are such things as "non-state entities" which are appropriate beneficiaries of taxpayer loans in nations such as Iran. Our Committee has passed measures to provide relief for those affected by sanctions on India and Pakistan as well as other indications of our concern for farmers.

Mr. Speaker, we have significant farm populations in our own districts. But we [are] not willing to have very sensitive legislation on a topic over which our committee has primary jurisdiction written in a forum where we have no say.

Thank you for your consideration of these comments.

With best wishes,
Sincerely,
Benjamin A. Gilman
Chairman

ILLINOIS GOVERNOR LEADS TRADE DELEGATION TO CUBA

Republican Governor George Ryan led a nominal humanitarian mission of more than 40 people to Cuba after the Clinton White House, through the U.S. Treasury Department, granted the State of Illinois a license to travel. A license issued for export by the U.S. Department of Commerce, permitting the shipment and donation of the requisite food, medical, and educational supplies, helped to carry out the de facto trade trip (see Diaz-Balart letter below) and thereby legally complete the humanitarian mission to Cuba which lasted five days from October 23 -27. Delivering over \$2 million in supplies, Ryan's agenda was more far reaching as he looked toward the day the U.S. embargo is lifted. The delegation groups were composed of Ryan and his wife, sundry high level Illinois politicians and select state officials including: the director for the Department of Commerce; the managing director of the International Business Division of Commerce; corporate equipment manufacturer commodities giant Archer Daniels Midland (ADM), and pharmaceutical major Schering-Plough. Expectations of multi-billion purchases by the Cuban White House cooperation, Cuba was also conveniently anticipated passage in amendment allowing for the embargoed terrorist states.

"There would be great financial benefit to the people of Cuba...more than to the farmers of Illinois. We would be more than delighted to open up our markets..."

Allen Andreas
CEO of ADM

Chicago, Fernando Remirez de Estenoz, the chief of the Cuban Interests Section in Washington, has freely met with and spoken to scores of Illinois business leaders calling for a lifting of the embargo and improved relations with the United States on the promise of big profits. Decatur, Illinois-based ADM has been at the forefront of food and agricultural sales to Cuba (USCPR, Vol.6, No.1). In an interview for NPR, ADM CEO Allen Andreas, who accompanied Ryan to Cuba, felt "[t]here would be great financial benefit to the people of Cuba....more than to the farmers of Illinois. We would be more than delighted to open up our markets and our trade opportunities to Cuba." *The Wall Street Journal* reported ADM's third quarter earnings in a slump, down 69% over the previous year. On the other hand, Schering-Plough reported higher profits for the third quarter while Deer & Co.'s outlook is considered stable. By trip's end, Castro praised Ryan for his call to end the embargo and stated that Illinois had lost no less than \$20 billion over the years since the embargo has been in place.

AGRICULTURE AND MEDICAL DELEGATIONS

Agriculture Delegation

Joe Hampton, director, Department of Agriculture
 William Sand, representative
 John Deere Foundation
 Allen Andreas, CEO
 Archer Daniels Midland Corporation
 Richard P. Reising, vice president
 Archer Daniel Midland Corporation
 David Chicoine, dean
 University of Illinois College of Agriculture
 Dan Martin, director, Ecosystems, Conservation & Policy
 MacArthur Foundation
 Orion Samuelson, WGN-AM Radio

Medical Delegation

Dr. John Lumpkin, director, Department of Public Health
 Jorge Guerra, vice chairman
 Baxter International Regional Business Practice Committee
 Dr. Lisa Thornton, director of pediatrics
 LaRabida Children's Hospital, Chicago
 Dr. Carl Getto, dean, Southern Illinois University School of Medicine
 Dr. Roberto Diaz, physician, Sacred Heart Hospital, Chicago
 Pete Peters, specialist, long-term health care
 John Glennon, president, Health Alliances
 Areccilia Vila, vice president of public affairs, Schering-Plough

DIAZ-BALART LETTER TO RYAN

Congress of the United States
Washington, D.C. 20515

October 6, 1999

Dear Governor Ryan:

I was deeply disappointed to learn of your trip to Cuba. From what I have read, this trip has been in the planning stages for some time. Working with officials of the Castro dictatorship as you have, and meeting with the Cuban tyrant, as you apparently will, clearly indicates a profound insensitivity toward the suffering of the Cuban people.

Talk of trade with Cuba may sound humanitarian to you, but in reality all transactions take place through a government which oppresses its people. Castro directly controls -- and exploits -- the distribution of all goods and services in Cuba. For instance, there are no privately-owned pharmacies in Cuba, access to medicine and medical services is severely rationed by the regime, and yet the dictatorship operates well-stocked, modern medical facilities for foreign "health-tourists" (with services denied to Cubans) who pay in dollars.

The Cuban dictatorship is bankrupt and in debt to more than a dozen nations. Free expression and all labor rights are prohibited in Cuba. Furthermore, the Cuban regime is a Terrorist State responsible for murdering American citizens during your tenure in politics.

It is hard to believe that you would have supported business deals by Illinois-based companies with Hitler's regime,

and yet press reports indicate that you will dine with and promote business with a corrupt and oppressive tyrant who maintains thousands imprisoned because of their support for freedom and democracy.

Rather than promoting business with the dictatorship, you would do better by supporting the inevitable transition to democracy in Cuba. You should insist on meeting with the imprisoned future leaders of Cuba, with other members of the brave internal opposition and with the thousands of former political prisoners now in exile who languished for decades in Castro's gulag. And when you feast with Castro, you should ask the tyrant to release all political prisoners, legalize all political parties, labor unions and the press, and schedule free and fair, internationally supervised democratic elections.

Though you may not wish to realize it, Governor Ryan, Cuba will be free. And since you seem to be so concerned about promoting business, rest assured that it is bad business policy and that there will be an inevitable price to be paid for having promoted deals with the jailers of the future leaders of Cuba.

Sincerely,

Lincoln Diaz-Balart

cc: Republican Governors Association

Members of the Illinois Congressional Delegation

CLINTON URGED TO PLACE CUBA ON DRUG MAJORS LIST

As the opponents of the Castro regime continue to urge the Clinton administration to place Cuba on the drug majors list, the advocates of normalization of U.S. relations continue to urge cooperation with Cuba to fight drug trafficking in the region. On December 4th of last year, President Clinton, in a letter to Congress (see USCPR, Vol.5, No.12) designated the annual list of "major illicit drug-producing or drug-transit countries," and called on the Cuban government to cooperate in the war on drugs, latterly permitting U.S. Coast Guard officers to meet with government officials in Cuba to discuss such cooperation, which is viewed as a violation of U.S. law (USCPR, Vol.6, No.7). Given the events over the past year, however, Clinton will be hard pressed not to include Cuba on the drug majors list. Of specific consequence would be the December 3, 1998 seizure by Colombian police of a seven-and-a-half-ton shipment of cocaine bound from Cartegena to Havana in containers owned by an instrumentality of the Cuban government in a joint venture (51% - 49%) with two Spanish businessmen. In a January 6th letter to Secretary of State Albright, House Government Reform and Oversight Committee Chairman, Dan Burton, charged the State Department with a cover-up over the Colombian drug bust (see USCPR, Vol.6, No.1 and www.house.gov/reform/letters/99-01-06ltr.pdf). Describing the Castro regime as "beleaguered by decades of complicity with Colombian drug traffickers," Burton warned the Clinton administration to "stop efforts to further normalize relations with Fidel Castro's communist dictatorship" (see USCPR, Vol.6, No.6, p.9). Three of Burton's Oversight Committee investigators, in interviews conducted in Spain on October 16th with the two Spanish businessmen previously cleared by Spanish authorities, uncovered evidence the Havana joint venture was run by Cuban intelligence agents while the illegal Colombian drug shipment was indeed bound for the United States rather than to Europe as the State Department had concluded earlier from evidence provided by Cuban police. Placing Cuba on the drug-majors list would have serious implications for U.S. Cuba relations and likely set back President Clinton's desire to normalize relations with Castro's Cuba before ending his term of office in January 2000.

CANADA'S SHERRITT BOOSTS NET EARNINGS OVER RECORD NICKEL AND OIL PRODUCTION IN CUBA

Higher commodity prices along with record nickel and oil production in Cuba, have helped to boost Sherritt International Corporation's earnings in the third quarter of 1999. The Toronto-based mining and energy company announced net earnings on October 25th reporting C\$26 million compared to C\$6.6 million for the third quarter of 1998. Sherritt's net earnings for the first nine months of 1999 rose 60% to C\$43.1 million compared with net earnings of C\$26.9 million for the same period last year. Total assets listed as C\$1.3 billion on September 30, 1999 include cash and short-term investments of C\$400.8 million.

Nickel prices on the London Metal Exchange, which were on the decline throughout 1998, have been on the rise in 1999 rebounding from a settlement price of \$4,100 per metric ton (mt) on December 31, 1998 to \$7,100 per mt. on September 30, 1999. The Metal Bulletin's free market price for cobalt was \$21.56 per pound in 1998 down from an average of \$23.09 in 1997. Cobalt prices continued to fall in 1999. Sherritt has steadily increased its nickel/cobalt mixed sulphide production at the Moa mining operation from 20,651 mt. in 1995 to 27,066 mt. in 1998. For the first nine months of 1999, production of mixed sulfides was 19,975 mt.

Stronger crude oil prices in 1999 coupled with increased production from Cuban wells raised Sherritt's earnings from C\$15.7 million for the third quarter of 1998 to C\$19.8 million on revenue of C\$36.8 million for the third quarter of 1999. As a result of production from new blocks that began in 1998 at Puerto Escondido and Varadero West, net production in Cuba increased from 5,441 barrels per day (bpd) in 1997 to 12,075 bpd. in 1998. New wells in the Canasi and Yumuri blocks contributed to the increase in production to 16,067 bpd. through the third quarter of 1999. In Cuba alone, Sherritt's oil and gas capital expenditure, made through a wholly owned subsidiary, was C\$91.65 million in 1998 compared to overall expenditure for oil and gas during that same year of C\$97.5 million.

Since the breakup of the Soviet Union in 1991, Canada has become Cuba's largest commodity trading partner while Sherritt, among the world's largest refiners of nickel and cobalt, has become the biggest foreign investor in Cuba. In 1994, Sherritt and General Nickel created a joint-venture partnership with the Cuban government, that was later called Metals Enterprise, where Cuba's Moa Bay nickel reserves were merged with Sherritt's refinery in Fort Saskatchewan, Canada to form a vertically integrated metals business which mines, refines, markets, and sells nickel and cobalt primarily to Europe and Canada.

The rate of exchange between the U.S. dollar and the Canadian dollar is \$.68 per Canadian dollar. Sherritt International Corporation is a widely held public corporation that trades on the Toronto Stock Exchange (www.twe.com) and the Montreal Exchange (www.me.org) under the symbol "S."

CURRENCIES & COMMODITIES

1 Euro = 1.05 US Dollar
1 US Dollar = 23.00 Cuban Peso
1 Euro = 24.22 Cuban Peso

Rates as of October 28, 1999.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 7.05
Year ago nearby = 7.55
Future (Mar '00) = 6.91
High = 10.00
Low = 5.06

Cash/Spot price as of October 27, 1999.
Source: NYBOT.

CRUDE OIL (\$per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 22.90-22.95
Year ago (Oct. 27) = 14.13
Future (Dec. '99) = 22.92

Cash/Spot price as of October 27, 1999.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 7620
Year ago (Oct. 27) = 3820

(\$ per metric ton)
Official Price: October 27, 1999.
Source: London Metal Exchange

Cobalt = 14.75 -15.70
Year ago (Oct. 26) = 16.50 - 17.50

(\$ per pound for 99.8%)
Price: October 25, 1999.
Source: Metal Bulletin (London).

PRESIDENT REPORTS TO CONGRESS ON AMERICAN TELECOMMUNICATIONS PAYMENTS TO CUBA

President Clinton transmitted his semi-annual message to Congress reporting on American telecommunications payments to Cuba. Unlike earlier reports (see USCPR, Vol.5, No.10), the October 13th report to Congress showed payments by only two of the original eight companies, Telefonica Larga Distancia de Puerto Rico, Inc. and Global One (formerly Sprint Incorporated) for \$169,848 and \$3,408,365, respectively. This total of slightly over \$3.5 million compares to the much higher semi-annual average of \$42 million previously reported. According to the report covering the period January 1 through June 30, 1999, "[t]he other licensees accrued payments as appropriate but did not transfer any funds as a result of writs of garnishment filed against them pending the outcome of ongoing litigation" (see USCPR, Vol.6, No.5). On August 11th of this year, the Circuit Court of Appeals in Atlanta overturned a Miami federal court judge's March 18, 1999 decision to garnish telecommunications payments due to Cuba from U.S. companies (see USCPR, Vol.6, No.8). Although Cuba cut off direct calls to and from the United States as a result of the court's garnishment order, withheld telecommunications payments to Cuba will likely appear in the following semi-annual report to Congress. The cut-off of direct calls to Cuba caused U.S. telecom companies to divert calls through third countries which would not create a sum due to Cuba and thereby diminish the reported amounts otherwise expected for the upcoming reporting period.

CUSTOMS SERVICE ISSUES FINAL RULE ON FLIGHTS TO AND FROM CUBA

On February 26, 1996, just two days after the shootdown of two Brothers-to-the-Rescue planes that killed four Cuban-Americans, President Clinton announced measures to indefinitely suspend all commercial charter flights to Cuba from the United States (USCPR, Vol.3, No.3). Then in the wake of Pope John Paul II's visit to Cuba, the White House announced on March 20, 1998, the reinstatement of direct flights (USCPR, Vol.5, No.3). Effective May 13, 1998, the Clinton administration issued new rules and regulations implementing the March 20th changes in policy (USCPR, Vol.5, No.5). On January 5, 1999, President Clinton announced a series of measures to ease the embargo further by including the expansion of direct passenger charter flights to Cuba (USCPR, Vol.6, No.1). The State Department announced on August 3, 1999 (USCPR, Vol.6, No.8) that New York and Los Angeles would, in addition to Miami, become the gateway cities for the expansion of direct flights announced in January. In part, the rule specifically states: "direct passenger flights would be authorized to and from Cuba and other U.S. cities in addition to Miami, as part of a humanitarian effort designed to reach out to and ease the plight of the Cuban people, and to help them prepare for a democratic future." The purpose of the measure is: "to facilitate licensed travel to and from Cuba, including family reunification for Cuban resident aliens and U.S. citizens of Cuban heritage living in U.S. cities other than Miami." Accordingly, a final rule was published in the Federal Register (Volume 64, Number 191, pp. 53627 - 53628) on October 4th. Issued by the Treasury Department's Customs Service, the final rule does not require comment since it "falls within the foreign affairs function of the United States." Interested parties are directed to contact Margaret R. Pearson located in Washington, DC at the Customs Service Office of Field Operations 202/927-0494.

INTERNATIONAL BRIEFS

CASTRO INVITED TO ATTEND WTO TALKS IN SEATTLE -- In addition to various heads of state, the WTO ministerial meeting to be held in the Northwest port city of Seattle, Washington from November 30th through December 3rd is expected to attract 3,000 official delegates from 135 countries, 2,000 journalists, and countless anti-trade groups and environmental protesters from all over the world. Among the invited heads of state, Cuban dictator Fidel Castro, who was extended an invitation by Rep. Jim McDermott (D-WA) and the Seattle City Council, may show since he attended the 1998 WTO meeting in Geneva. Cuba has been a WTO member since 1948. (ST,"Readers write about Fidel Castro," 8/17/99;ST,"Castro Eyes Trip to Seattle for WTO" 9/8/99).

SEATTLE-CUBA FRIENDSHIP COMMITTEE HOSTS CUBAN OFFICIALS -- In September, leaders of the Seattle-Cuba Friendship Committee, Chris Pforr, Doug Barnes, and Chris Laroche hosted Cuban officials Felix Wilson Hernandez and Jose Imperatori given the possibility Castro may attend the WTO meeting. The two officials, from the Cuban Interests Section based in Washington, DC, met with Seattle business leaders, local government officials, the Seattle WTO Host Committee, and the Seattle-Cuba Friendship Committee, which is making plans for the arrival of the Cuban delegation. (ST,"WTO in Seattle: Members of Cuba group accuse FBI of harassment," 9/22/99).

REPORTED VISA REQUEST FOR FIDEL CASTRO TO ATTEND WTO TALKS IN SEATTLE -- Attendance by Castro at the WTO meeting in Seattle is dependent upon approval by the State Department which must grant a visa as has been done in the past by the Clinton administration when approval was granted for a visit to New York during the 50th United Nations anniversary held in October 1995 (see USCPR, Vol.2, Nos.9,10). The White House National Security Council is unlikely to deny Castro a visa since, they have argued before that as an international organization member, Cuba is entitled to participate in events held in the United States, irrespective of Cuba's designation on the State Department's annual list of terrorist nations. At the State Department's daily press briefing on October 19th, spokesman James Foley denied any knowledge of the Cuban government's request for such a visa. President Clinton and Vice President Gore are likely to attend the Seattle meeting when China is expected to be admitted to the WTO increasing trade opportunities for U.S. business. (ST,"Background on the WTO meeting in Seattle," 9/19/99).

LATIN AMERICAN PRESIDENTS TO BOYCOTT IBERO-AMERICAN SUMMIT -- Presidents of five Latin American nations have announced they will not attend the ninth annual Ibero-American Summit (USCPR, Vol.6,No.8) to be hosted by Fidel Castro in Havana starting November 13th. Presidents Flores of El Salvador and Rodriguez of Costa Rica, whose countries have not reestablished diplomatic relations with Cuba, have complained about the lack of democracy on the Communist-ruled island, specifically that their speeches will be censored by state security and not carried in their entirety to the Cuban people. President Aleman of Nicaragua, who has long opposed the Cuban-supported Sandanistas, has also refused to attend. Presidents Frei of Chile and Menem of Argentina have decided to join forces and boycott the Havana conference in protest of a Spanish court's extradition request to try former Chilean Gen. Augusto Pinochet. (MH,"Cuba summit: A shout in the dark," 10/24/99).

ISRAELI-CUBAN RELATIONS REVOLVE AROUND TRADE AND SECRET MIGRATION AGREEMENT -- British newspaper reports have revealed a trade venture and a secret migration agreement between Israel and Cuba that has allowed 400 Jews, mostly youths from Havana, to migrate to Ashkelon, Israel via Canada, which provided the visas since Israel and Cuba do not maintain diplomatic relations. The once 12,000 strong Cuban-Jewish community has fallen to barely 1,000 since the Castro communist revolution of 1959. Israel and Cuba inaugurated the \$200 million twin six-story Miramar Trade Center on October 12th. (FT,"Israel office venture launched in Cuba," 10/13/99, p.7).

DOMESTIC BRIEFS

ROMERO: U.S. SUPPORTS PEOPLE-TO-PEOPLE CONTACT – Acting U.S. Assistant Secretary of State for Western Hemisphere Affairs, Peter Romero (USCPR, Vol.6, No.9), speaking at the *Miami Herald's* 1999 Americas Conference in Miami on October 1st, reiterated the Clinton administration's support for the Cuban embargo along with its so-called people-to-people contact (see USCPR, Vol.6, No.8). People-to-people contact, the administration's euphemism to unilaterally ease the increasingly nominal economic embargo to include expansive cultural exchanges, increased remittances, direct flights, and baseball diplomacy (USCPR, Vol.6, No.3), admittedly has improved Cuba's human rights very little. According to Romero, "Latin American countries and European governments are looking at what is happening in Cuba with respect to progress on human rights, or probably more accurately, the lack of progress on that since the Pope's visit" (USCPR, Vol.5, No.2).

TOURISM TO CUBA IS NOT PERMITTED UNDER U.S. LAW – State Department spokesman Jamie Rubin responded emphatically to a question posed at the daily press briefing on October 6th when asked by a reporter about a large part of a 100 member U.S. delegation whose license requests were denied attempting to attend a conference in Havana celebrating the 100th anniversary of Ernest Hemingway's birth. "Travel to Cuba for legitimate scholarly purposes is permitted under general license. The applicant must demonstrate proper academic credentials and demonstrate that the trip is academic in nature. The application in question was submitted by a fishing organization," said Rubin.

RE/MAX SUES TO STOP USE OF ITS NAME IN CUBA – The Denver, Colorado-based real estate giant, RE/MAX International (USCPR, Vol.6, No.4), with 56,000 affiliates around the world, has sued and won a court injunction to prohibit the illegal use of its name in Cuba. On October 5th, Senior District Court Judge John L. Kane found Stephen Anthony Marshall in contempt of court for failing to obey a preliminary injunction entered on June 18th. As a result, the Court ordered the arrest of Marshall and fined both Marshall and his company, Inmocuba, \$1,000 per day until they stop using the RE/MAX name. Advertising the "purchase of real estate in Cuba" as a reality, although all private property was confiscated by the Castro regime in the early 1960s and private ownership of property in Cuba is non-existent, the now controversial web site www.realestatecuba.com using the RE/MAX trademark touts "condos, homes, office space and more" as foreign investment opportunities. Inmocuba S.A. claims it "holds and, RE/MAX International has on file" the documents pertaining to the franchise rights. (PRN, "Federal Judge Orders Arrest of Cuban Businessman in RE/MAX Trademark Case," 10/07/99).

SECRETARY OF STATE FAILS TO RAISE CUBA ISSUE -- Relying on long standing Clinton administration human rights policy, Secretary of State Madeleine Albright in her October 26th State Department meeting with Dutch Foreign Minister Jozias van Aartsen failed to raise the Cuba issue. Albright admitted as much at the press availability when asked by reporters if she had raised the issue in light of the October 28 - November 3 Dutch trade delegation to Cuba comprised of 30 businessmen. Citing EU-U.S. policy regarding human rights, transition to democracy, non-investment in expropriated properties, Albright confessed, "actually, we didn't have a chance to talk about it."

NUCCIO SEES ANOTHER CRISIS WITH CUBA AS INEVITABLE -- In an interview with *Business Week Online*, Richard A. Nuccio, the former special advisor for Cuba to President Clinton from 1995 through 1996 (see USCPR, Vol.2, No.8) until Helms-Burton became law, believes another crisis with Cuba, not unlike the 1994 rafter crises and the 1996 Brothers-to-the-Rescue airplane shootdown, is inevitable. The answer, suggests Nuccio, is for the Clinton administration to allow selective U.S. investment in "food, medicine, telecommunications, and other sectors where it would be likely to foment small-business activity" giving the U.S. more leverage than it has under current Cuba policy. (BWO, "U.S. Policy toward Cuba is Schizophrenic," 10/27/99).

NOTABLE QUOTES

"Castro's day is coming. Our greatest export to the world has been, is, and always will be the incredible freedom we understand in America. This freedom must be spread throughout all the Americas. This freedom is meant for all our neighbors. This freedom is meant for Cuba." **Texas Governor George W. Bush** criticizes Fidel Castro's Communist regime while campaigning in Orlando, Florida on Friday, October 8th at the Republican Party's Victory 2000 gathering. (AP, "Bush Stands Firm on Cuba Embargo," 10/8/99).

"In Cuba, it is hard for an honest person to get on a soapbox without having it yanked out from beneath. Numerous correspondents, including Raul Rivero and Manuel Gonzalez Castellanos, have been arrested or detained for directly or indirectly criticizing Fidel Castro." Remarks to the Institute of International Education in New York City by **Secretary of State Madeleine Albright** on October 14, 1999.

"It's a tragedy that during one of the most exciting and dynamic periods of global economic expansion and technological innovation, the Cuban people have been left out. Castro blames the U.S. embargo. And no doubt the embargo has contributed to the hardship. But it is the absence of private enterprise, more than any other factor, that has kept Cuba at a standstill as all the world around it moves forward." Remarks during a luncheon address to AmCham Cuba on October 18, 1999 in Washington, D.C. by **Thomas J. Donohue**, President and CEO of the United States Chamber of Commerce.

"Potential future external threats could include a hostile foreign power and/or transnational criminal organizations. Cuba and China have strong economic interests in Panama, but do not pose a threat to the security of the Canal at this time. Cuba operates businesses in Panama to generate hard currency as a means of circumventing the U.S. embargo. China maintains diplomatic relations with 18 countries in the U.S. Southern Command area of responsibility and maintains links with more than 200 commercial entities and joint-venture enterprises in Latin America and the Caribbean." Statement by **General Charles E. Wilhelm**, U.S. Marine Corps Commander-In-Chief, U.S. Southern Command before the Senate Armed Services Committee on October 22, 1999.

"When President Clinton signed the [Helms-Burton] law, his administration issued a statement saying it does not restrict the right of the Executive Branch to make foreign policy. In its own view, the administration has the legal authority to make any changes in the embargo that involve regulatory powers, and that is just about everything." Business Week Online interview with **Richard A. Nuccio**, President Clinton's special advisor for Cuba from 1995 to 1996. (BWO, "U.S. Policy toward Cuba is Schizophrenic," 10/27/99).

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Ralph J. Galliano, Editor

HATCH'S JUDICIARY COMMITTEE HOLDS HEARING ON VICTIMS' ACCESS TO ASSETS OF TERRORIST STATES: SENATORS MACK & LAUTENBERG TESTIFY

WASHINGTON — Senate Judiciary Committee Chairman, Orrin Hatch (R-UT) joined with Senators Connie Mack (R-FL) and Frank Lautenberg (D-NJ) to hold a full committee hearing on victims' access to assets of terrorist states. The October 27th hearing, chaired by Senator Jon Kyle (R-AZ) in Hatch's absence, sought to further clarify Congress' intent when on two previous occasions it created narrow exceptions in support of victims of terrorism who were U.S. nationals by amending the *Foreign Sovereign Immunities Act* (FSIA). In 1996, Congress passed the *Anti-Terrorism and Effective Death Penalty Act* (AEDPA) which permitted lawsuits by U.S. nationals who were victims of state sponsored terrorism occurring outside the terrorist state. Again in 1998, Congress attempted to clarify AEDPA when it passed Section 117 - *Exception To Immunity From Attachment Or Execution* (USCPR, Vol.5, No.11). President Clinton supported and signed both bills before reversing course. The two cases that propelled the clarifying FSIA amendments into law were brought by the families of Alisa Flatow and the Brothers to the Rescue (BTTR) pilots. Both families brought and won separate actions in federal court holding Iran and Cuba, designated terrorist states, accountable for the respective deaths of Alisa Flatow and the BTTR pilots. Senator Mack, who together with Senator Lautenberg and many other Member of Congress has worked long hours to attain justice for the families of the victims, testified at the hearing that the "[a]nti-terrorism provision is not being implemented as promised" (USCPR, Vol.4, No.11) by President Clinton who "signed the laws passed by Congress [and] encouraged the families to take the terrorists to court." Mack cited Clinton's own words just two days after the February 24, 1996 shootdown in international airspace over the Florida Straits of the BTTR planes by the Castro regime's MiG 29 jet fighters (USCPR, Vol.3, No.3). Emphatically restating the president's own words, Mack quoted Clinton as saying, "I am asking that Congress pass legislation that would provide immediate compensation to the families, something to which they are entitled under international law, out of Cuba's blocked assets here in the United States." Ironically, Clinton drew upon the Cuban blocked assets but without first receiving the congressional authority he earlier said he would seek. Mack offered a vivid depiction of related White House actions during litigation, "[P]icture a black stretch limousine," he said, "pulling up in front of a federal courthouse, a gaggle of Justice Department attorneys rolling out and entering the court not to take sides with the families, but to take sides with Fidel Castro's agents (USCPR, Vol.6, No.2). I cannot imagine a greater hypocrisy."

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JUSTICE FOR VICTIMS OF TERRORISM ACT -- In his statement to the committee, Hatch credited Mack and Lautenberg with "leading the legislative effort to clarify the rights of victims of state sponsored terrorism to due process in the courts." Having secured 21 initial cosponsors, Senator Lautenberg along with Senator Mack on October 26th introduced S.1796, the 'Justice for Victims of Terrorism Act.' A key provision of the bill addresses the assets of an 'agency or instrumentality of a foreign state' such as ETECSA (USCPR, Vol.6, No.3), the Cuban government owned telecommunications joint venture company whereby "all assets of an agency or instrumentality of a foreign state shall be treated as assets of that foreign state." S. 1796 is reprinted below.

Justice for Victims of Terrorism Act
106th CONGRESS
1st Session
S. 1796
To modify the enforcement of certain anti-terrorism judgments, and for other purposes.
IN THE SENATE OF THE UNITED STATES

October 26, 1999

Mr. LAUTENBERG (for himself, Mr. MACK, Mr. KYL, Mr. GRAHAM, Mr. ROBB, Mr. LOTT, Mr. LIEBERMAN, Mr. HATCH, Mr. CONRAD, Mr. HELMS, Mr. TORRICELLI, Mr. SPECTER, Mr. MOYNIHAN, Mr. HOLLINGS, Mr. SCHUMER, Mr. COVERDELL, Mr. EDWARDS, Mr. CLELAND, and Mr. SANTORUM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To modify the enforcement of certain anti-terrorism judgments, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENFORCEMENT OF CERTAIN ANTI-TERRORISM JUDGMENTS.

- (a) **SHORT TITLE-** This Act may be cited as the 'Justice for Victims of Terrorism Act'.
- (b) **DEFINITION-**
 - (1) **IN GENERAL-** Section 1603(b) of title 28, United States Code, is amended—
 - (A) in paragraph (3) by striking the period and inserting a semicolon and 'and';
 - (B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;
 - (C) by striking '(b)' through 'entity-' and inserting the following:
 - '(b) An 'agency or instrumentality of a foreign state' means—
 - '(1) any entity—'; and
 - (D) by adding at the end the following:
 - '(2) for purposes of sections 1605(a)(7) and 1610 (a)(7) and (f), any entity as defined under subparagraphs (A) and (B) of paragraph (1), and subparagraph (C) of paragraph (1) shall not apply.'

(2) **TECHNICAL AND CONFORMING AMENDMENT-** Section 1391(f)(3) of title 28, United States Code, is amended by striking 1603(b) and inserting '1603(b)(1)'.

(c) **ENFORCEMENT OF JUDGMENTS-** Section 1610(f) of title 28, United States Code, is amended—

(1) in paragraph (1)—

- (A) in subparagraph (A) by striking '(including any agency or instrumentality or such state)' and inserting '(including any agency or instrumentality of such state)'; and
- (B) by adding at the end the following:

'(C) Notwithstanding any other provision of law, moneys due from or payable by the United States (including any agency, subdivision or instrumentality thereof) to any state against which a judgment is pending under section 1605(a)(7) shall be subject to attachment and execution, in like manner and to the same extent as if the United States were a private person.;

(2) by adding at the end the following:

'(3)(A) Subject to subparagraph (B), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive this subsection in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against the premises of a foreign diplomatic mission to the United States, or any funds held by or in the name of such foreign diplomatic mission determined by the President to be necessary to satisfy actual operating expenses of such foreign diplomatic mission.

'(B) A waiver under this paragraph shall not apply to—

- (i) if the premises of a foreign diplomatic mission has been used for any nondiplomatic purpose (including use as rental property), the proceeds of such use; or
- (ii) if any asset of a foreign diplomatic mission is sold or otherwise transferred for value to a third party, the proceeds of such sale or transfer.

'(4) For purposes of this subsection, all assets of any agency or instrumentality of a foreign state shall be treated as assets of that foreign state.'

(d) **TECHNICAL AND CONFORMING AMENDMENT-** Section 117(d) of the Treasury Department Appropriations Act, 1999 (Public Law 105-277; 112 Stat. 2681-492) is repealed.

(e) **EFFECTIVE DATE-** The amendments made by this section shall apply to any claim for which a foreign state is not immune under section 1605(a)(7) of title 28, United States Code, arising before, on, or after the date of enactment of this Act.

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MACK SAYS PRESIDENTIAL WAIVERS DENY ALL VICTIMS COMPENSATION

During the Judiciary Committee hearing, Senator Dianne Feinstein (D-CA) referred to the four basic points the Clinton administration reserves when justifying the president's national security waiver of Section 117 that denies, under the law, the families of the victims of terrorism the ability to recover from assets of foreign terrorist states located in the United States. One of the four points, exclusively dealing with Cuba, is the administration argument that it is unfair for others to jump to the head of the line to collect judgments from frozen assets when thousands of displaced Cubans have been waiting over 30 years to collect. Senator Mack's response follows:

"If you'll recall we passed the Helms-Burton law a few years ago, and, Title III of that, allowed for individuals who have experienced losses as a result of the taking of property. There is an avenue for them to pursue justice, if you will, through Title III of Helms-Burton. Most of the individuals who have claims against Cuba for the taking of properties have an avenue through that law. I will tell you though, that again, the president has waived Title III ever since it has become law so that even that avenue has been denied to Cuban-Americans to receive some form of compensation for those who are trafficking in properties."

220 HOUSE MEMBERS CALL ON SPEAKER FOR VOTE ON SALE OF FOOD AND MEDICINE TO CUBA

In a letter to House Speaker Dennis Hastert, 220 Democrats and Republicans ask for a floor vote on the sale of food and medicine to Cuba and other designated terrorist states. The letter urges the Speaker "to expedite consideration of such legislation." Reps. Maurice Hinchey (D-NY) and Rosa DeLauro (D-NY) led the effort to include the Ashcroft amendment (USCPR, Vol.6, No.10) for the sale of food and medicine in the Agriculture Appropriations conference committee which considered the issue "after a 70-28 vote in the Senate... A majority of the conferees in both bodies supported a revised version of the sanctions language but were not allowed to complete consideration of this issue in the conference report," the members state in their letter. Hinchey takes the position "unilateral sanctions punish American farmers and depress American commodity prices by denying access to significant markets." On November 5th during a radio conference call in Chicago with agricultural broadcasters, President Clinton stated, "there is consideration being given in the Congress to broad legislation which would permit us to, in effect, not apply sanctions or embargoes to food or medicine. And under the right circumstances, I could support that." The November 18th letter drafted by Hinchey is reprinted below.

HINCHEY LETTER TO HASTERT

CONGRESS OF THE UNITED STATES
Washington, DC 20515

November 17, 1999

Dear Speaker Hastert:

We are writing to express our support for meaningful reform of food and medicine sanctions policy in the 106th Congress.

We believe Congress should act to end such sanctions for three reasons:

- 1)Unilateral food and medicine sanctions do not work because our allies freely supply the same products to sanctioned states;
- 2)Denying access to food and medicine is an abhorrent foreign policy tool;
- 3)Unilateral sanctions punish American farmers and depress American commodity prices by denying access to significant international markets.

Sanctioned markets currently buy \$7 billion of agricultural commodities a year, and the USDA estimates that rural communities lose \$1.2 billion in economic activity annually because of sanctions. Rural America desperately needs access to these markets.

As you are aware, the Agriculture Appropriations Conference Committee recently considered the issue of food and medicine sanctions, after a 70-28 vote in the Senate included the Ashcroft amendment in the Senate version of the bill. A majority of the conferees in both bodies supported a revised version of the sanctions language but were not allowed to complete consideration of this issue in the conference report.

We strongly support House action on a meaningful food and medicine sanctions reform bill this Congress and urge you to expedite consideration of such legislation.

Sincerely,

George Nethercutt (R-WA)	Brian Bilbray (R-CA)	John E. Peterson (R-PA)	Jerry Costello (D-IL)
JoAnn Emerson (R-MO)	Robert Aderholt (R-AL)	Tom Latham (R-IA)	Eva M. Clayton (D-NC)
Rosa DeLauro (D-CT)	John Sweeney (R-NY)	Chris Cannon (R-UT)	John Conyers, Jr. (D-MI)
Maurice Hinchee (D-NY)	Michael Oxley (R-OH)	Richard Burr (R-NC)	Carolyn Maloney (D-NY)
Larry Combest (R-TX)	Ken Calvert (R-CA)	Steven Kuykendall (R-CA)	Corrine Brown (D-FL)
Jack Metcalf (R-WA)	Robin Hayes (R-NC)	Joe Knollenberg (R-MI)	Bernie Sanders (I-VT)
Bob Ney (R-OH)	Harold Rogers (R-KY)	Ernest Istook (R-OK)	Stephanie Jones (D-OH)
Bill Barrett (R-NE)	Richard Pombo (R-CA)	Wes Watkins (R-OK)	John Tanner (D-TN)
Doc Hastings (R-WA)	Johnny Isakson (R-GA)	Jerry Lewis (R-CA)	William Jefferson (D-LA)
Frank Lucas (R-OK)	Sue Kelly (R-NY)	Elijah Cummings (D-MD)	Zoe Lofgren (D-CA)
Saxby Chambliss (R-GA)	Robert Riley (R-AL)	Lynn N. Rivers (D-MI)	Gary Condit (D-CA)
Henry Bonilla (R-TX)	John J. Duncan, Jr. (R-TN)	Dennis J. Kucinich (D-OH)	Dennis Moore (D-KS)
Pete Sessions (R-TX)	Barbara Cubin (R-WY)	Chris John (D-LA)	Tom Allen (D-ME)
Jerry Moran (R-KS)	David Drier (R-CA)	Debbie Stabenow (D-MI)	Gregory W. Meeks (D-NY)
Nick Smith (R-MI)	Van Hilleary (R-TN)	David Price (D-NC)	Baron P. Hill (D-IN)
Todd Tiahrt (R-KS)	Randy Cunningham (R-CA)	Brian Baird (D-WA)	George Miller (D-CA)
Jay Dickey (R-AZ)	James Walsh (R-NY)	Michael McNulty (D-NY)	Lynn C. Woolsey (D-CA)
Zach Wamp (R-TN)	Robert Ehrlich (R-MD)	Patsy T. Mink (D-HI)	Diana DeGette (D-CO)
Jim Kolbe (R-AZ)	Vernon Ehlers (R-MI)	Julian C. Dixon (D-CA)	Louise Slaughter (D-NY)
John Doolittle (R-CA)	Ray LaHood (R-IL)	Pat Danner (D-MO)	John E. Baldacci (D-ME)
Tom Ewing (R-IL)	Janice Schakowsky (D-IL)	David E. Bonier (D-MI)	Ron Paul (R-TX)
Kenny Hulshof (R-MO)	Jim McGovern (D-MA)	Bob Clement (D-TN)	Pat Toomey (R-PA)
Sherwood Boehlert (R-NY)	Carolyn Kilpatrick (D-MI)	Matthew Martinez (D-CA)	Mac Thornberry (R-TX)
Charles Bass (R-NH)	Jay Inslee (D-WA)	Jim Oberstar (D-MN)	David Camp (R-MI)
John Cooksey (R-LA)	Barbara Lee (D-CA)	Charles B. Rangel (D-NY)	Jerry Weller (R-IL)
Kevin Brady (R-TX)	Charles Gonzalez (D-TX)	Burt Stupak (D-MI)	Greg Walden (R-OR)
Doug Ose (R-CA)	Jesse Jackson, Jr. (D-IL)	Bud Cramer (D-AL)	Steven LaTourette (R-OH)
John Shimkus (R-IL)	Ciro Rodriguez (D-TX)	Jose E. Serrano (D-NY)	Spencer Bachus (R-AL)
Asa Hutchinson (R-AR)	Jim Turner (D-TX)	Rick Boucher (D-VA)	Sonny Callahan (R-AL)
John Oliver (D-MA)	Anna Eshoo (D-CA)	Robert T. Matsui (D-CA)	Terry Everett (R-AL)
Jim McDermott (D-WA)	Fortney Pete Stark (D-CA)	John J. LaFalce (D-NY)	Connie Morella (R-MD)
Tammy Baldwin (D-WI)	Joseph Moakley (D-MA)	Tom Campbell (R-CA)	Mark Green (R-WI)
Marion Berry (D-AR)	Cynthia McKinney (D-GA)	Doug Bereuter (R-NE)	J.D. Hayworth (R-AZ)
Darlene Hooley (D-OR)	Michael P. Forbes (D-NY)	Greg Ganske (R-IA)	Nancy Johnson (R-CT)
Tom Barrett (D-WI)	Bill Luther (D-MN)	Fred Upton (R-MI)	Edward J. Markey (D-MA)
Cal Dooley (D-CA)	Adam Smith (D-WA)	Christopher Shays (R-CT)	Major Owens (D-NY)
James H. Maloney (D-CT)	Shelia Jackson-Lee (D-TX)	David McIntosh (R-IN)	Gene Green (D-TX)
Michael Capuano (D-MA)	Max Sandlin (D-TX)	Jack Quinn (R-NY)	William L. Clay (D-MO)
Melvin L Watt (D-NC)	Charles Stenholm (D-TX)	Lee Terry (R-NE)	Silvestre Reyes (D-TX)
Sam Farr (D-CA)	Sherrod Brown (D-OH)	James Greenwood (R-PA)	Lois Capps (D-CA)
Danny K. Davis (D-IL)	Nick Lampson (D-TX)	Jim Nussle (R-IA)	Sanford Bishop (D-GA)
Earl F. Hilliard (D-AL)	Peter Defazio (D-OR)	Kay Granger (R-TX)	James Traficant (D-OH)
Vic Snyder (D-AR)	Lindsey Graham (R-SC)	Jim Gibbons (R-NV)	Collin C. Peterson (D-MN)
Tom Sawyer (D-OH)	David Vitter (D-LA)	Philip M. Crane (R-IL)	John Tierney (D-MA)
David Minge (D-MN)	Charles Pickering (R-MS)	Howard Coble (R-NC)	Rod Blagojevich (D-IL)
Tony P. Hall (D-OH)	Helen Chenoweth (R-ID)	Jim Ramstad (R-MN)	Xavier Becerra (D-CA)
Earl Blumenauer (D-OR)	Rick Hill (R-MT)	Amo Houghton (R-NY)	Nydia Velazquez (D-NY)
David Phelps (D-IL)	Jack Kingston (R-GA)	Jennifer Dunn (R-WA)	Edolphus Towns (D-NY)
Neil Abercrombie (D-HI)	Phil English (R-PA)	Paul Ryan (R-WI)	Bennie Thompson (D-MS)
Earl Pomeroy (D-ND)	Michael Simpson (R-ID)	Judy Biggert (R-IL)	Maxine Waters (D-CA)
Eddie Johnson (D-TX)	Gary Miller (R-CA)	Charlie Norwood (R-GA)	John Boehner (R-OH)
James Talent (R-MO)	Ernie Fletcher (R-KY)	Mark Sanford (R-SC)	John Edward Porter (R-IL)
Wayne Gilcrest (R-MD)	John Thune (R-SD)	James Leach (R-IA)	Virgil Goode, Jr. (D-VA)
Ron Lewis (R-KY)	Ed Whitfield (R-KY)	Bruce F. Vento (D-MN)	Sam Gejdenson (D-CT)
Jim McCrery (R-LA)	Don Sherwood (R-PA)	Chet Edwards (D-TX)	Bobby L Rush (D-IL)

cc: Minority Leader Richard Gephardt

CLINTON LAMENTS CASTRO'S LACK OF COOPERATION

The following remark was made by President Clinton during an interview with Telemundo in Hartford, Connecticut on November 5, 1999.

"The most important thing for me, though, is, I have -- every time I have reached out to Cuba -- and I have tried to increase contacts, to make it easier for people in America to send money home, to have direct telephone service, to have more trips to Cuba more accessible for people -- and, you know, something happens. [Castro] puts journalists in jail, or shot the Brothers to the Rescue people out of the air. And they were -- those people were murdered. It was illegal for them to be shot. I don't care -- even if they had been inside the territorial waters of Cuba, which they weren't, there is a convention which binds the United States and Cuba which would not have permitted them to be shot down, because they did not present a threat. So all my efforts to change things have been met with rebuff. And it makes me wonder whether [Castro] really wants this to change, because he can always use us as an excuse."

WTO MINISTERIAL

In anticipation of the upcoming World Trade Organization (WTO) Ministerial meeting (USCPR, Vol.6, No.10) to be held in Seattle, Washington, beginning on November 30th, Congressman Lincoln Diaz-Balart (R-FL), a staunch foe of the Castro regime circulated a 'Dear Colleague' letter on the House floor and gathered 41 bipartisan signatures calling for the Castro regime to: liberate all political prisoners; legalize all political parties, labor unions and the press; and, schedule internationally supervised free and fair elections. Members of Congress included seven committee chairmen. In addition, 14 Democrats signed Diaz-Balart's letter, a sign of the Cuban-born congressman's growing stature on Capitol Hill where he serves on the all-powerful Rules Committee after nearly four terms in Washington. Diaz-Balart said Castro's "primary objective" in attending the WTO Ministerial is "to meet with as many members of the U.S. Congress as possible" to have the embargo lifted. In addition to numerous other events for Castro, Rep. Jim McDermott (D-WA) is expected to have a reception for Cuba's Communist leader, during the WTO Ministerial. Planned well in advance by the Washington, DC-based Cuban Interest Section, one official, Felix Wilson, according to sources, lived in Seattle for a month working out details from a rented apartment while preparing for the attendance of the Cuban delegation, an indication of the importance the Cuban government attaches to the WTO Ministerial that President Clinton and Vice President Gore will host in Seattle. Diaz-Balart's 'dear colleague' letter is reprinted below.

DEAR COLLEAGUE LETTER

CONGRESS OF THE UNITED STATES
WASHINGTON, DC 20515

November 18, 1999

Dear Colleague:

It is very possible that the Cuban dictator, Fidel Castro, will attend the WTO Ministerial to be held in Seattle, Washington, beginning on November 30th.

The primary objective of Castro's trip, though he will not admit it, would be to use the Ministerial to meet with as many members of the U.S. Congress as possible in order to push his number one foreign policy objective - the unilateral lifting of U.S. sanctions against his dictatorship.

If you attend the WTO Ministerial, and should the Cuban dictator speak with you, we would respectfully request that you inform him that three fair and elemental steps would lead to the immediate lifting of U.S. sanctions against Cuba: the liberation of all political prisoners; the legalization of all political parties, labor unions and the press; and the scheduling of internationally supervised, free and fair elections.

The Cuban people are being denied all human rights by the Castro dictatorship, including and most especially, basic labor rights. They do not deserve to be the only people in the Western Hemisphere condemned to live under a totalitarian dictatorship.

Furthermore, the Cuban dictatorship is the only terrorist state in the world that has murdered unarmed American citizens with its own air force and has engaged in the trafficking of illicit narcotics into the United States.

We ask for your strong support for the three basic steps to bring freedom to that long oppressed island: the liberation of all political prisoners; the legalization of all political parties, labor unions and the press; and the scheduling of internationally supervised, free and fair elections.

Cordially,

Porter J. Goss (R-FL)
William M. Thomas (R-CA)
Lindsey O. Graham (R-SC)
Christopher H. Smith (R-NJ)
Bob Barr (R-GA)
J.C. Watts, Jr. (R-OK)
David Dreier (R-CA)
Phil English (R-PA)
Donald A. Manzullo (R-IL)
Lincoln Diaz-Balart (R-FL)
Robert Menendez (D-NJ)
Gene Green (D-TX)
Silvestre Reyes (D-TX)
Solomon P. Ortiz (D-TX)

Martin Frost (D-TX)
Frank Pallone, Jr. (D-NJ)
David Wu (D-OR)
Robert E. Andrews (D-NJ)
Bill Pascrell, Jr. (D-NJ)
Patrick J. Kennedy (D-RI)
Luis V. Gutierrez (D-IL)
Bob Franks (R-NJ)
Frank R. Wolf (R-VA)
Peter Deutsch (D-FL)
Bill McCollum (R-FL)
Ileana Ros-Lehtinen (R-FL)
Dan Burton (R-IN)
Spencer Bachus (R-AL)

Joseph Crowley (D-NY)
Peter T. King (R-NY)
Henry Bonilla (R-TX)
Carrie P. Meek (D-FL)
E. Clay Shaw, Jr. (R-FL)
Frank A. LoBiondo (R-NJ)
Benjamin A. Gilman (R-NY)
Van Hilleary (R-TN)
Jim DeMint (R-SC)
Sue Wilkins Myrick (R-NC)
Todd Tiahrt (R-KS)
Christopher Cox (R-CA)
John A. Boehner (R-OH)

WILL U.S. ASSIST INDEPENDENT FARMERS?

In the letter dated October 27th addressed to Mrs. Vicki Huddleston, Reps. Lincoln Diaz-Balart (R-FL), Ileana Ros-Lehtinen (R-FL), and Robert Menendez (D-NJ) urged the new chief of the U.S. Interests Section (USINT) in Havana to attend a planned national gathering of dissident farmers, (Encuentro Nacional), organized by the Allianza Nacional de Agricultores Independientes Cubanos (ANAIC) or the National Alliance of Independent Cuban Farmers scheduled for November 13th, two days prior to the Ibero-American Summit. ANAIC, an indigenous campesino organization opposed to the system of state control of the agricultural economy, is seen by some Washington policy watchers with extensive experience in Eastern Europe as having the potential of becoming a grass roots agrarian force for change in Cuba not unlike the Polish industrial union movement, Solidarity. As in the case of Poland, opposition to Communism is rooted in the socio-economic conditions prevalent in Cuba today. In virtually every province, ANAIC has found farmers supporting its call for the right to produce and market free of government control. In advance of ANAIC's Encuentro Nacional, the Castro regime cracked down on ANAIC by jailing its president, Antonio Alonso, and other ANAIC organizers. As stated by President Clinton on January 5th, U.S. policy measures (USCPR, Vol.6, No.1) permit the sale of agricultural inputs to private independent farmers in Cuba as long as verification is possible. At the time, Clinton's statement authorized the "sale of food and agricultural inputs to independent non-governmental entities, including....private farmers." Despite this high-level indication of U.S. support for independent farmers, the Clinton administration has not taken action on a Helms-Burton Section 109 grant proposal submitted five months ago by a U.S. agricultural development organization to undertake a program of cooperation with ANAIC. The reported reason for the delay is that USINT/Havana has been too busy to verify that ANAIC merits the support proposed. The congressional letter is reprinted below.

DIAZ-BALART, ROS-LEHTINEN, MENENDEZ LETTER TO HUDDLESTON

Congress of the United States
Washington, D.C. 20515

October 27, 1999
Mrs. Vicki Huddleston
Chief, USINT
Havana, Cuba
Dear Mrs. Huddleston:

We are writing to you with respect to Illinois Gov. Ryan's trip to Cuba. It has come to our attention that several opposition activists about whom the Cuba Desk at the State Department had been contacted, such as Dr. Oscar Elias Biscet, Maritza Lugo Fernandez and Angel Polanco, were not invited to the meeting you organized for Gov. Ryan with dissidents. We have been informed that these leaders were very disappointed to have missed this opportunity and wish to know why they were excluded.

The opposition inside Cuba includes many groups representing a variety of democratic viewpoints in every Cuban city, town and village. Their voices need to be heard. In anticipation of the upcoming Ibero-American Summit, the Castro dictatorship has stepped-up repression of opposition activity. Arrests, harassment and exile of opposition activists has increased in recent weeks.

You are in a unique position to assist those who share America's vision of freedom, democracy, and human rights. To that end, we hereby respectfully request that you:

* Invite to USINT meetings opposition activists other than those regularly contacted by USINT (including the above-mentioned and the others which were brought to the State Department's attention);

* Initiate a monthly "open house" for opposition activists to meet with international media and each other;

* Invite international human rights groups to meet with you and Cuban opposition leaders at USINT;

* Organize a conference on recent historical experiences in transactions to democracy to be held at USINT and include opposition activists, especially those who have been recently most active, leading hunger strikes and other such courageous actions.

* Attend the National Association of Independent Farm Cooperatives [sic] (ANAIC) conference on November 13 and look for other ways to assist them.

The so-called "people-to-people exchange" program, as of [this] date, has been a vehicle for people who oppose U.S. policy to come from Cuba to the U.S. to lobby against our policy, while U.S. citizens who oppose U.S. policy are encouraged to go to Cuba to meet, in turn, with Cubans who oppose U.S. policy.

Thank you for your consideration. Cordially,

Lincoln Diaz-Balart (R-FL) Ileana Ros-Lehtinen (R-FL)

Robert Menendez (D-NJ)

cc: Charles Shapiro

PRESIDENT ISSUES ANNUAL LIST OF MAJOR ILLICIT DRUG PRODUCING OR DRUG TRANSIT COUNTRIES TO CONGRESS

As required by statute, each November President Clinton submits to Congress his annual determination of which countries are to be placed on the "major illicit drug producing or drug transit" list. This certification process was established by the International Narcotics Control Act of 1986. This year's list excluded Cuba, for which the White House has been severely criticized by Congress for not including. "[W]e have yet to receive any confirmation that [Cuban] traffic carries significant quantities of cocaine or heroin to the United States." With regard to the 7.2 metric ton shipment of cocaine seized in December 1998 by Colombian police headed for Cuba, Clinton said it was the judgment of the intelligence and law enforcement communities who reviewed the information "that Spain, and not the United States, was the intended final destination." Although this appears contrary to the results of interviews conducted by Rep. Dan Burton's (R-IN) Government Operations Oversight Subcommittee investigators on October 16th of two Spanish businessmen (USCPR, Vol.6, No.10), Clinton excluded Cuba from the list. Clinton stated, however, that the United States would "continue to keep trafficking in the area under close observation and will add Cuba to the majors list if the evidence warrants." Rep. Diaz-Balart (R-FL) disputed the White House referring to the January 28th letter the congressman received from "Drug Czar Barry McCaffrey which said 'it is clear that criminal drug organizations are increasingly penetrating Cuban air and sea space' and that 'the Jamaica-Cuba-Bahamas Vector was the only vector in the Caribbean where drug activity increased.'" The text of the president's letter pertaining to Cuba is reprinted below.

PARTIAL TEXT OF A LETTER FROM THE PRESIDENT TO THE CHAIARMEN OF THE SENATE COMMITTEES ON FOREIGN RELATIONS AND APPROPRIATIONS AND THE CHAIARMEN OF THE HOUSE COMMITTEES ON INTERNATIONAL RELATIONS AND APPROPRIATIONS

THE WHITE HOUSE
WASHINGTON

November 10, 1999

Dear Mr. Chairman:

In accordance with the provisions of section 490(h) of the Foreign Assistance Act of 1961, as amended, I have determined that the following are major illicit drug producing or drug transit "countries" (including certain entities that are not sovereign states): Afghanistan, The Bahamas, Bolivia, Brazil, Burma, Cambodia, China, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, Hong Kong, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, Taiwan, Thailand, Venezuela, and Vietnam. This year I have removed Aruba and Belize from the majors list; added Belize as part of this year's Central America region of concern; added the entire Eastern and Southern Caribbean, including the Leeward and Windward Islands, Aruba, and the Netherlands Antilles, as a region of concern; and also added North Korea as a country of concern. I wish to make clear that the inclusion of a country or entity on the majors list does not reflect an assessment of its government's counter-drug efforts or extent of cooperation with the United States. For example, among the reasons that a transit country or entity is placed on the majors list is the combination of geographical, commercial, and/or economic factors that allow drug traffickers to operate despite the most assiduous enforcement measures of the government concerned. In the case of Hong Kong and Taiwan, for instance, both entities have excellent counter-drug records and cooperate closely with the United States.

Cuba. While there have been some reports that trafficking syndicates use Cuban land territory for moving drugs, we have yet to receive any confirmation that this traffic carries significant quantities of cocaine or heroin to the United States. In particular, the intelligence and law enforcement communities reviewed the information concerning whether the 7.2 metric ton shipment of cocaine seized in Colombia in December 1998, in a container reportedly headed to Cuba, was destined for the United States. Their judgment remains that Spain, and not the United States, was the intended final destination. We also looked closely at the use of Cuban waters and airspace for transit of drugs to the United States, as the term "major drug transit country" is understood to apply to the land, waters, and airspace of a country over which sovereignty may be exercised, consistent with international law and United States practice. Although we have detected what appears to be some air and sea activity consistent with trafficking patterns, this activity has decreased significantly since last year and indicates a corresponding decrease in drug flow. We continue to keep trafficking in the area under close observation and will add Cuba to the majors list if the evidence warrants. Eastern and Southern Caribbean. The Leeward and Windward Islands, together with Aruba and the Netherlands Antilles, constitute a broad geographical area through which drugs bound for the United States may pass en route from Latin America. We have no evidence at this time, however, that any of these Eastern Caribbean nations is a major drug transit country under the statutory definition. The information we do have indicates that drugs moving through the area are overwhelmingly destined for Europe. We are, therefore, keeping the region under observation, and I will add the relevant countries to the majors list should conditions warrant.

Sincerely,
William J. Clinton

MICA HOLDS HEARING ON CUBA'S LINKS TO DRUG TRAFFICKING

Congressman John Mica (R-FL), Chairman of the House Subcommittee on Criminal Justice, Drug Policy and Human Resources, conducted an oversight hearing Wednesday, November 17th on the subject of Cuba's involvement in illegal narcotics trafficking. The witness list included: Reps. Ben Gilman (R-NY), Chairman of the House International Relations Committee, Dan Burton (R-IN), Chairman of the House Government Reform Committee; Rand Beers, Assistant Secretary, International Narcotics and Law Enforcement Affairs - State Department; William Ledwith, Chief of International Operations - Drug Enforcement Agency (DEA); and, Admiral Ed Barrett, Director Joint Interagency Task Force East. Mica described the Clinton administration witnesses as "officials involved in assessing Cuba's illegal drug activities" and the other witnesses as "knowledgeable about alleged Cuban narcotics and criminal connections." The hearing was apparently prompted by the view of many in Congress of President Clinton's conspicuous exclusion of Cuba from the so-called drug majors list. Mica made a particular point of the awful toll taken in the United States by the entry of illegal narcotics saying, "Last year more than 15,700 Americans -- most of them young -- died from drug induced deaths. Few wars have so devastated our population...With thousands of American citizens dead, imprisoned or with their lives and families destroyed, we must go after the violators and bring this mounting problem under control." Jointly, the House Committees on Government Reform, International Relations, and Senate Foreign Relations reviewed and reported on the investigative results of the 1998 Colombian cocaine seizure headed for Cuba (USCPR, Vol.6, No.1) and concluded: "The U.S., Spanish, and Colombian authorities interviewed by the Committees' staff confirmed that the sole basis for the conclusion that the shipment was headed for Spain are assertions by the Cuban police and a public speech by Fidel Castro. Presently, there is no documentary evidence of any kind to support this accusation." Yet, Beers testified, "If we knew that such a shipment were ultimately destined for the United States, that information would have influenced our decision concerning Cuba's role as a transit country." Given the tenor of this hearing, it is clear that direct evidence linking Cuba to narcotics trafficking surely would become the Achilles heel of the Castro regime insofar as U.S. policy is concerned. At the hearing, Gilman called the "inclusion of Cuba" on the majors list "long overdue." Based on the Colombian seizure, Reps. Burton and Gilman believe such direct evidence exists and have introduced H.R. 2422 (USCPR, Vol.6, No.8) called *the Cuban Drug Trafficking Act of 1999* to require Cuba be placed on the drug majors list.

GILMAN CONDUCTS HEARING ON THE 'CUBAN PROGRAM' FORMER VIETNAM POW TESTIFIES OF TORTURE

Congressman Ben Gilman (R-NY), Chairman of the House International Relations Committee, conducted a hearing on Thursday, November 4th on the topic of the so-called "Cuban Program," which deals with the torture of American prisoners-of-war and the death of another in North Vietnam, allegedly by Cuban agents one of whom was nicknamed "Fidel," between July 1967 and August 1968. The list of witnesses consisted of: Colonel Jack Bomar, United States Air Force, Retired; Andres Garcia, Vice President of the Cuban American Veterans Association; Capt. Raymond Vohden, United States Navy, Retired; Mike Benge, former POW and POW historian; Robert Jones, Deputy Assistant Secretary of Defense - Prisoner of War and Missing Personnel Affairs (POW/MPA); and, Robert Destatte, Chief Analyst POW/MPA - Department of Defense. Vohden, Bomar, and approximately 20 others were held at the "Zoo," a prison camp in Hanoi where they were routinely beaten. Vohden testified "[t]here have been considerable efforts to locate Fidel in Cuba, but without success." Vohden concluded his testimony saying, "Maybe this hearing and the interest shown by Congressman Gilman and Congresswoman Ros-Lehtinen to investigate will mean that some justice will be served."

VENEZUELA'S PDVSA AGREES TO JOINT VENTURE INVOLVING CUBA'S CIENFUEGOS OIL REFINERY

Venezuela's president, Hugo Chavez, announced, while in Havana for the Ibero-American Summit (USCPR, Vol.6, No.8) on November 17th, that "[I]n the energy sector, we are ready to start a joint work in the Cienfuegos refinery." The world's second largest state-owned multinational oil and gas conglomerate, Petroleos de Venezuela, SA (PDVSA), which maintains extensive holdings in the United States through its refineries and its CITGO gas station network, will enter into a joint venture with CUPET (Cubapetroleo) to produce oil derivative products. The 50-50 joint venture is expected to provide kerosene, diesel, and jet fuel primarily for the Cuban market but also for the Caribbean and for Venezuela according to Hector Ciavaldini, president of PDVSA. If, as reported, PDVSA ultimately provides 50 percent of Cuba's annual crude oil needs (7.5 million metric tons), the value of the oil supply deal at November 30th spot prices would be \$711.75 million. Crude oil futures compared to year ago nearby contracts have more than doubled and are reported at nine year highs. Although the details leading to a signed agreement have yet to be worked out between the parties, Venezuelan Foreign Minister Jose Vicente Rangel told reporters in Havana, "The Cienfuegos refinery is going to start to function within a month, a month- and-a-half, more or less."

Cuba attempted to structure a similar deal with Venezuela in 1991 as subsidized crude oil imports from the Soviet Union plummeted from 8.5 million metric tons in 1990 to 1.8 million metric tons in 1992. (The Soviet Union ceased to exist on December 26, 1991). As a result, Cuba wanted to work out either a joint venture or lease arrangement with PDVSA involving the Soviet designed 70,000 barrels per day Cienfuegos refinery. As Cuba tried desperately to line up oil supplies, it unsuccessfully sought entry into the Venezuelan-Mexican supported San Jose Pact (USCPR, Vol.6, No.6). Then, in 1994, Mexico, which had agreed to invest \$200 million for the complete modernization of the Cienfuegos installation, pulled out of the public-private deal leaving the long-idled refinery unused. Today's joint venture is expected to cost Venezuela \$5 million for what Ciavaldini described as "minor changes."

Cuba's four oil refineries located at Havana, Santiago de Cuba, Cabaiguan, and Cienfuegos have a combined capacity of 220,000 barrels per day. Of Cuba's 10 main ports, Havana and Mariel on the north coast and Cienfuegos on the south central coast are the most important. □

CURRENCIES & COMMODITIES

1 Euro = 1.01 US Dollar
1 US Dollar = 23.00 Cuban Peso
1 Euro = 23.22 Cuban Peso

Rates as of November 30, 1999.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 5.92
Year ago nearby = 8.23
Future (Mar '00) = 6.06
High = 10.00
Low = 5.06

Cash/Spot price as of November 30, 1999.
Source: NYBOT.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)

Cash/Spot (fob) = 25.95-26.00
Year ago (Nov. 30) = 11.22
Future (Jan. '00) = 25.96

Cash/Spot price as of November 29, 1999.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 7895
Year ago (Nov. 25) = 4085

(\$ per metric ton)
Official Price: November 25, 1999.
Source: London Metal Exchange

Cobalt = 13.50 -14.75
Year ago (Nov. 26) = 13.00 - 14.50

(\$ per pound for 99.8%)
Price: November 25, 1999.
Source: Metal Bulletin (London).

INTERNATIONAL BRIEFS

UN VOTES FOR END TO U.S. EMBARGO AGAINST CUBA -- Lost in the routine of the annual ritual that now extends into its eighth consecutive year, news that the UN General Assembly voted overwhelmingly to end the U.S. embargo against Communist Cuba was barely noticeable in the national and international press. In a recorded vote of 155 in favor to 2 against and 8 abstentions, the 54th General Assembly of the United Nations on November 9th called for an end to the U.S. embargo against Cuba. The resolution A/54/21 contained in document A/54/L.11 was introduced by, Ricardo Alarcon, the representative of Cuba. Only Israel joined the United States to vote for the continuation of the 39 year old embargo in place since October 1960. The eight abstentions were: Estonia, Federated States of Micronesia, Georgia, Latvia, Morocco, Nicaragua, Senegal and Uzbekistan. Absent and not voting were the countries of: Albania, Bosnia and Herzegovina, Cameroon, El Salvador, Kiribati, Marshall Islands, Nauru, Oman, Palau, Saint Vincent and the Grenadines, Saudi Arabia, and Tonga.

IBERO-AMERICAN SUMMIT HELD IN HAVANA -- The ninth Ibero-American Summit in Havana, held on a rotating basis in various capitals, produced mixed results for the Castro regime. The annual meeting hosted by Cuba from November 15-16 consisted of heads of state from Spain, Portugal, and the Latin American countries. The Summit culminated with the Declaration of Havana that predictably condemned the U.S. embargo and the extraterritoriality of the Helms-Burton Act. The Declaration also pledged to "strengthen and make work the functioning of democratic institutions, political pluralism, the rule of law, and respect for human rights and fundamental liberties, including the right to development." Not scripted, however, were the calls for freedom by a number of the visiting Ibero-American leaders including Mexico's President Zedillo and Spain's Prime Minister Aznar. "There cannot be sovereign nations without free men and women," said Zedillo, while Aznar is reported to have criticized Cuba directly. Aznar, who opposes the Helms-Burton Act, however, showed his solidarity with the Spanish hotel chain, Sol Melia, under scrutiny by the U.S. State Department for trafficking in confiscated property the claim to which is owned by U.S. nationals, by staying at the Havana Melia Hotel. Aznar, who maintains a delicate balance between support for the "Cuban people" and support for Spanish business in Cuba, recognizes change will only take place in Cuba when Castro is gone.

CASTRO INVITED TO ATTEND PANAMA CANAL HANDOVER -- The Panamanian government has extended an invitation to Cuban dictator Fidel Castro to attend the U.S. transfer of the Panama Canal over to the government of Panama. The turnover of the Panama Canal will occur on December 31st as required under the U.S. Senate approved 1977 Carter-Torrijos treaties. Ceremonies will include heads of state from throughout the Western Hemisphere. A decision has been announced by the White House that President Clinton will not attend. Secretary of State Albright will lead the U.S. delegation to this historic event.

RUSSIAN MILITARY WEEKLY ANNOUNCES FLIGHT OF NUCLEAR BOMBERS TO CUBA AND VIETNAM -- The Russian military weekly, Nezavisimoye Voyennoye Obozreniye, quoted Mikhail Oparin, chief of long-range aviation, that Russia's 37th air division in an effort to impress NATO may fly Tupolev-160 swing-wing supersonic bombers capable of carrying nuclear tipped cruise missiles to Cuba and Cam Ranh Bay in Vietnam next year funds permitting, according to reports by Reuters. For the first time since the end of the Cold War, Russian long-range strategic bombers conducted exercises up to Alaska and Norway earlier this year. The White House was skeptical, however, over the possibility suggesting that the story in the Russian military weekly is viewed as Russian political posturing in advance of next year's elections. Spokesman Joe Lockhart responded to a reporter's question on November 12th saying, "I've seen the report, but I have nothing to indicate whether that report is accurate or not."

DOMESTIC BRIEFS

SENATE APPROVES LARSON NOMINATION – Before closing out the 1st Session of the 106th Congress, the U.S. Senate confirmed Alan Larson to become the new Undersecretary of State for Economic, Business, and Agricultural Affairs. Larson succeeds Stuart Eizenstat (see USCPR Vol.6, No.7) who at mid-year moved over to become Deputy Secretary, the second highest ranking official at the Treasury Department. Larson worked closely with Eizenstat to negotiate the EU-U.S. Agreement ("Understanding with respect to Disciplines for the Strengthening of Investment Protection") at the London Summit of May 18, 1998 that produced "New TransAtlantic Economic Partnership" in tandem with EU-U.S. Agreement (see Institute for U.S. Cuba Relations, "Policy Forum Remarks: The EU-U.S. Agreement and Protection of American Property Rights in Cuba," July 23, 1998). **STATE DEPARTMENT LAUNCHES NEW WEB SITE ON U.S.- CUBA POLICY** – Spokesman Jerry Rubin announced at a State Department press briefing on Monday, November 8th, the creation of a web site dedicated to the Clinton administration's U.S. -Cuba policy. The site, www.state.gov/www/regions/wha/cuba, consists of information previously available that is now organized into nine easily identifiable sections: Country Information; U.S.-Cuba Relations; U.S. Interests Section; Human Rights; Migration; Libertad Act; Travel to Cuba; Sale of Medicine; Humanitarian Assistance; People-to-People; Labor Practices; and Related Sites. Citing this year's policy changes with regard to travel and remittances, Rubin said that "American citizens are interested in what they can and can't do with respect to Cuba." Rubin explained, "these are the kinds of changing facts that we need to be able to get provided to the American people very quickly." Generally, however, the new site proved slow and cumbersome. **WEB SITE SECTION ON U.S. CUBA RELATIONS EXPLAINS BACKGROUND OF U.S. POLICY** – This section seeks to explain the background and rational behind U.S. -Cuba policy; how it started and how we arrived at the point where the U.S. government and the Cuban government find themselves today. In part, the section explains that "[t]he United States recognized the new Cuban government, headed by Fidel Castro, on January 7, 1959. However, bilateral relations deteriorated rapidly as the regime expropriated U.S. properties and moved towards adoption of a one-party Marxist-Leninist system. As a result, the United States established an embargo on Cuba in October 1960 and broke diplomatic relations the following January. Tensions between the two governments peaked during the April 1961 'Bay of Pigs' invasion and the October 1962 missile crisis."

RUBIN SAYS U.S. POLICY DIRECTED AT ISOLATING CUBAN GOVERNMENT – During the November 8th press briefing, Rubin was asked whether the Clinton administration's approach toward Cuba was not "contrary to the policy of isolation and the embargo that the U.S. espouses...?" Rubin responded, "it is a policy that is directed against the Cuban government, not against the Cuban people. And the more the world understands the nuances and subtleties of our Cuba policy, the more the world will hopefully focus on the human rights and democracy, violations of human rights and the refusal to pursue democracy when visitors make their own decision and go to Cuba."

U.S. CHAMBER OF COMMERCE INVITES CASTRO TO BUSINESS FORUM IN SEATTLE – The U.S. Chamber of Commerce is planning to host a business forum "with President Fidel Castro and the Cuban Trade Delegation to the WTO Ministerial" meeting on Thursday, December 2nd at the Seattle Hilton Hotel. Thomas Donahue, president of the Chamber, who received a Treasury Department license to travel to Cuba (see USCPR, Vol.6, No.7), visited with Castro last July. While Castro's travel schedule is closely held by Cuban state security, the island's Communist leader is expected to attend the first WTO meeting to be held in the United States from November 30th through December 3rd. Events are planned for the Cuban delegation beginning November 29th through December 4th, including a speech by Castro at the University of Washington's Meany Hall on December 2nd at 8 PM.

NOTABLE QUOTES

"We think that the euro is a great European economic and political conquest for the world economy, and we are firmly committed to working for the use of the euro." Cuban vice president **Carlos Lage** comments on Cuba's adoption of the new European currency, the euro. For USCPRA coverage of Cuba's adoption of the euro see: Vol.5, No.11; Vol.6, Nos.3,4,&7. (MH, 11/1/99).

"Do you want to bring all the students to a meeting, Escalona? We'll gather them to ask them if they want a plebiscite. We don't need a plebiscite to become aware of the people's support and their support for the revolution. Therefore, we will not hold a plebiscite. We have elections every five years. No other country in this hemisphere has such a high percentage of people who vote, and voting is not mandatory...Let's ask the people if they want me to leave. There's no need for a plebiscite. We can discuss that openly in any city square. I am a combatant. I am a fighter. And as long as I have any energy left, I will not leave my post." Cuba's Communist leader, **Fidel Castro**, responds to questions by Alejandro Escalona, editor of *Exito*, a Spanish language weekly owned by the Chicago Tribune. The incident took place following Illinois Gov. George Ryan's speech at the University of Havana on Wednesday, October 27th. (CT, "My Encounter with Fidel," 11/7/99).

"What's lacking in Cuba, what I think all of us can appreciate, one of the necessary ingredients for democratic society anywhere in the world, is an independent civil society. and that's exactly what is lacking in Cuba today. There is no independent civil society. And, we are hopeful that by people making contact, and I'm talking about the United States, because I'm an official of the United States government." **Charles Shapiro**, coordinator of the State Department Office of Cuban Affairs, comments on Cuba policy at a foreign press briefing. (FISC-FNS, "State Department Briefing," 11/9/99).

"Let me be clear: I believe a post-Castro Cuba is not far off. And when that day comes, I believe Havana will become the Hong Kong of the Caribbean -- a model of economic freedom and prosperity. As president, I will do everything in my power to make that happen." **Steve Forbes**, Republican candidate for president, addresses the Hispanic Business Roundtable in Miami. (PR, "Forbes Vows to Help Hispanic Americans Prosper in the New Economy," 11/9/99).

"The democratically-elected leaders of Spain, Portugal and Latin America have this week delivered a message of freedom to Fidel Castro's doorstep at the Ibero-American Summit. This is an important test, both for Castro and the leaders who have criticized the U.S. embargo and who advocate a policy of 'engaging' his brutal regime...by holding their summit in Havana, the Ibero-American leaders gave Castro something he desperately wanted: legitimacy. In exchange, they bluntly demanded that Castro ease his grip on dissidents, respect human rights, and hold free elections...if I am wrong, and this engagement produces real change in Cuba, I will not only admit it: the day after the Cuban government frees all prisoners of conscience, lifts all restrictions on expression and political activity, and schedules internationally observed elections, I will go to the Senate floor to introduce legislation lifting the U.S. embargo on Cuba. Mr. Castro, the ball is in your court." Senate Foreign Relations Committee Chairman **Jesse Helms** (R-NC) issues statement on the Ibero-American summit in Havana: (PR, "Helms calls Ibero-American Summit a test of engagement with Castro," 11/17/99).

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U.S. ★ CUBA

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Ralph J. Galliano, Editor

CASTRO SAYS BOY KIDNAPPED -- DEMANDS RETURN AS CUBANS TAKE TO STREETS IN ANTI-AMERICAN PROTESTS ON U.S. MISSION IN HAVANA

WASHINGTON — The five year old boy, Elian Gonzalez, rescued by fisherman off the southeast coast of Florida on Thanksgiving day, has become the focus of an international custody dispute precipitated by the Castro regime. The boy, whose mother and nine others drowned after their boat capsized while fleeing Communist Cuba, was placed in temporary custody with his relatives in Miami by the Immigration and Naturalization Service (INS) rather than being returned to his divorced father and grandparents living in Cuba. The crisis situation began to gather steam in Seattle during the WTO ministerial meeting that took place from November 30th through December 3rd to which Cuban dictator Fidel Castro had been invited and was expected to attend (USCPR, Vol.6, No.10) but cancelled. The so-called U.S.-Cuba Conference 2000, in favor of lifting the embargo and normalizing trade relations with Cuba, was quickly mobilized by Havana to promote a campaign at the WTO for the return of Elian to Cuba that included a resolution stating his retention was tantamount to "kidnapping." The ad-hoc organization composed of numerous pro-Castro groups included representatives from the 50 states and Puerto Rico. In addition, the National Network of Solidarity with Cuba, composed of 85 grassroots groups, vowed to organize committees supporting Elian's return in cities throughout the United States. In a December 14th interview published in *Granma*, Castro described the incident as a "kidnapping" and recalled meetings in Washington at the State Department on December 9th with his representatives of the Cuban Interests Section. Castro cited the exchange of diplomatic notes between the Cuban and U.S. governments on Friday, December 10th and on Sunday and Monday of December 12th and 13th in which "all the conditions for an honorable solution have been created." Prior to these exchanges, however, on Sunday and Monday of December 5th and 6th, Castro issued an ultimatum demanding that the U.S. return the boy in 72 hours unleashing a torrent of marches and anti-American protests outside the U.S. Interests Section in Havana. Communist youth groups and workers waved Cuban flags and chanted "long live Fidel, long live the revolution, down with the Yankees, down with Clinton." In the interview, Castro said the "struggle" would be "a battle of national and world opinion, and that battle will not cease until that child returns." Castro stated emphatically that "this situation cannot go on because the United States cannot pay the terrible cost of keeping this child kidnapped." Castro revealed his extensive support network in America saying, "there are important sectors in the United States

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that want the child returned. So when we protest and denounce to the world what is happening and unleash a battle, we are also unleashing a battle for those persons within the United States." Ricardo Alarcon, president of the National Assembly, and Felipe Perez Roque, foreign minister, communicated with governments worldwide sending messages seeking solidarity. In the process, the Castro regime generated support abroad and whipped up Cuban nationalism at home. As Castro pushed the protest envelope in Havana, the White House responded both publicly and diplomatically. Joe Lockhart briefing the press on December 7th said, "We will make decisions here based on what laws of this country indicate – also based on the best interests of the young man in question. We do not respond to the kind of threats that Castro has engaged in, and we also made quite clear that we hold him responsible for the safety of Americans who are in Cuba." State Department spokesman, James Foley, also stated on December 7th (see below) that the INS regulations "recognize the right of a parent to assert parental interests in an immigration proceeding. The INS will be in contact with Mr. Gonzalez in the near future to explain the process." Rep. Jose Serrano (D-NY), who favored Elian's return to Cuba, stated in a December 8th letter to President Clinton (see below), "It is my understanding that an inter-agency task force, led by the National Security Agency, is trying to determine what procedures should be followed with respect to the case of Elian Gonzalez." A critical point apparently dismissed by the Clinton administration in this process was the father's approval of Elian's tragic journey. Castro acknowledged this fact during the December 14th *Granma* interview saying, "It had been said that [the father] had given authorization to the mother. The possibility of accepting it was not rejected, but take notice, we were told that the most important thing, what would be decisive, was contact with the father on the part of officials from the U.S. Interests Section." Rep. Ileana Ros-Lehtinen (R-FL) who appealed to Attorney General Janet Reno to grant the attorneys for Elian standing wrote in a December 15th letter (see below), "if the attorneys are not granted standing, nobody would be working within the U.S. legal system to ensure that INS' Guidelines for Children's Asylum Claims are implemented in Elian's case..."

CITIZENSHIP FOR ELIAN GONZALEZ – Encouraged by Senator Connie Mack (R-FL), Senate Republican leaders on December 20th issued a missive to President Clinton (see below) informing him that "when Congress returns from the current recess, we intend to move to consider a measure granting United States citizenship to Elian Gonzalez" and asked the president "take no action to deliver this boy to Cuba before we can act on his citizenship measure." In the meantime, Clinton attempts to diffuse the situation and appease the Castro regime in hopes of achieving normalized trade and diplomatic relations with Cuba before his term ends in January 2001.

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STATE DEPARTMENT OUTLINES REGULATIONS

U.S. DEPARTMENT OF STATE
Office of the Spokesman
For Immediate Release December 7, 1999
Statement by James B. Foley, Deputy Spokesman

Cuba: Elian Gonzalez/U.S. Interests Section

As in the case of any unaccompanied minor who arrives on U.S. shores, our primary concern is for the child. We are committed to working with the family of Elian Gonzalez, including the father, and all relevant officials to achieve an appropriate resolution to this case.

The regulations of the Immigration and Naturalization Service (INS) recognize the right of a parent to assert parental interests in an immigration proceeding. The INS will be in contact with Mr. Gonzalez in the near future to explain the process by which it will evaluate his rights in this case.

The United States will follow a deliberate process consistent with our rules and procedures. The United States will not be intimidated or pressured into taking actions that are inconsistent with these principles. We reject any ultimatum or deadline imposed by the Government of Cuba for resolution of this case.

We would hold the Cuban government responsible for any harm to U.S. citizens or damage to our Interests Section that may come from the public protests called for by the Cuban government. The Government of Cuba has assured us that it will fulfill its obligation to protect international diplomatic missions and their personnel.

As evidenced by our interdiction of a Cuban vessel yesterday, the United States remains committed to the full implementation of the migration accords and to facilitating migration to the United States in a safe, legal, and orderly manner. (end text)

MEMBER'S LETTER TO PRESIDENT

Congress of the United States
Washington, D.C. 20515

December 8, 1999

Dear Mr. President:

It is my understanding that an inter-agency task force, led by the National Security Agency, is trying to determine what procedures should be followed with respect to the case of Elián González, the Cuban child rescued off the coast of Florida. I am at a loss to understand what would justify deviating from established procedures governing the rights of children found outside the protection of their own governments, which were designed and negotiated to protect not only the rights of nationals of other countries but also those of our own citizens.

Although I can appreciate the sensitivity of this case, I believe that the United States government, immediately upon finding this child, should have returned him to Cuba to his natural father, who is his only surviving parent. Unfortunately, the Immigration and Naturalization Service placed Elián in the temporary custody of relatives in Miami. Elián's father has now stated clearly and on numerous occasions that he wants his son returned to his care, and I believe that the parental rights of the

father should take precedence over all political considerations.

You should quickly and personally intervene to facilitate the return of this small child to his father, his grandparents, and the place of his birth. In this particular case, a state court is not the appropriate forum. Moreover, a judicial process will only further delay the return of this child to Cuba, and will exacerbate already strained relations between the United States and Cuba.

Could there be a more poignant example of the irrationality governing our policy towards Cuba than the plight of this child, who has now become an international poster child for competing national interests? Time honored international procedures are being ignored in favor of political interests. This is a travesty.

With thanks for your attention to my views and best wishes,I am
Sincerely,
José E. Serrano
Member of Congress

MEMBER'S LETTER TO ATTORNEY GENERAL

**Congress of the United States
House of Representatives**

December 15, 1999
The Honorable Janet Reno
Department of Justice
940 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Reno:

I am writing concerning an issue which has been called to my attention by the attorneys for Elian Gonzalez, the 6 year-old Cuban boy who was rescued off the coast of Florida on Thanksgiving Day, clinging to an inner tube. Per the attorneys, the Department of Justice and specifically the General Counsel's office of the Immigration and Naturalization Service are questioning the standing of these attorneys to represent Elian because of the child's age and the custody claim by the father in Castro's Cuba.

While arguments in response are currently being drafted, I wanted to take this opportunity to express my concerns about the rights of the child and the need for all U.S. actions to take the boy's best interest and welfare into consideration.

It would seem that to deny the standing of the attorneys would leave Elian Gonzalez unprotected and

unsheltered. It would leave this defenseless little boy without anyone to advocate on his behalf. It would mean that a summary [sic] judgement could be rendered at the highest levels without an opportunity for Elian's voice to be heard -- without taking into account that his mother's dying wish was for Elian to live in freedom and liberty in the U.S. Further, if the attorneys are not granted standing, nobody would be working within the U.S. legal system to ensure that INS' Guidelines for Children's Asylum Claims are implemented in Elian's case nor to ensure that the Castro regime's practices constituting child abuse and endangerment are evaluated before a decision is made on the boy's fate.

I appreciate your ongoing cooperation and assistance and ask that your Department and, specifically, INS, reconsider the issue of standing and allow the boy to keep his legal representation.

Sincerely,
Ileana Ros-Lehtinen
Member of Congress

SENATE LEADERSHIP LETTER TO PRESIDENT

**United States Senate
WASHINGTON, DC 20510**

December 20, 1999
The Honorable William Jefferson Clinton
President of the United States
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

The world knows the story of a mother who gave her life to protect her child and give him freedom. Along with his stepfather and several other people, she joined her young son in a small boat and entered dangerous waters. In all, this young six-year old boy's story of how he arrived on our shores for freedom is a story for the ages. It is a story of the steps people will take to find and secure freedom.

Throughout our long history, people throughout the world have found freedom on our shores. Countless people through the years have fled the brutality of communism. In this young boy, Elian Gonzalez, hanging on to an inner-tube for his life is indeed a miracle. It should be recognized as such.

Therefore, when the Congress returns from the current recess, we intend to move to consider a measure granting United States citizenship to Elian Gonzalez.

Mr. President, there has been much too much debate; we should make this simple. Elian's mother, Elizabeth Rodriguez, gave her life so that her son would have the full protection of America's freedom. We undertake this initiative in honor of his mother and in recognition of the danger the boy faces. We in the Senate understand this young man has a right to freedom.

There is talk that the INS will simply send Elian back to the clutches of Castro's communist dictatorship. To return him without American citizenship would be a tragedy and a travesty. To ensure he gets a fair hearing in court by people who treasure liberty and honor and respect the rule of law, we hope the United States will bestow citizenship on him. At this point, Elian's future should be decided by his family and the courts. But later in life as an American citizen, he will have the freedom to choose where he wishes to live. His future will no longer be a political decision, but a decision based upon the best interests of the child. By confirming citizenship, we will be preserving the father's rights to see and be with his son. But most importantly, we will be preserving the boy's rights to live in freedom.

Since citizenship would also prevent the INS from forcefully removing Elian, we request that you take no action to deliver this boy to Cuba before we can act on his citizenship measure. Any act to do so would stand in conflict with the spirit of the season and the memory of Elian's mother.

Sincerely,

Connie Mack (R-FL)
Paul Coverdell (R-GA)

Trent Lott (R-MS)
Larry Craig (R-ID)

Don Nickles (R-OK)

CURRENCIES & COMMODITIES: 1999 REVIEW

EURO DECLINE DAMPENS BUSINESS AND TRADE

-- Cuba's use of a third currency, the European euro, to give its economy a badly needed lift and to trump the U.S. dollar, appears to have fallen short of its expectations in 1999. Cuba's National Bank (USCPR, Vol.6, No.4), which began to use the euro on July 1, 1999 for trade and credit transactions with the European Union, witnessed the euro's disappointing decline. One year after its inauguration on January 1st, 11 of the 15 EU new single currency countries saw the euro depreciate by 14 percent to near parity with the U.S. dollar in a year-long trough. The euro spot market rate on December 31, 1998 was \$1.1669 compared to \$1.01105 a year later. On December 6th, the euro reached its lifetime low against the dollar at \$0.9986. Cuba announced in late 1998 that it planned to begin using the euro in trade with China, Vietnam, and North Korea starting January 2000 (USCPR, Vol.5, No.11). Cuba has set January 1, 2002, when euro cash arrives in EU member countries, as the start date for euro currency transactions for use with the island's tourist industry (USCPR, Vol.6, No.7).

SUGAR AND OIL FUTURES CONTINUE TO THREATEN CUBA'S ECONOMIC OUTLOOK -- 1999 was marked by low world sugar prices in the face of a doubling in crude oil prices increasing the cost of production for the Cuban government. The USCPR reported the raw sugar cane spot price for April (Vol.6, No.4) below five cents per pound at 4.98 cents. At the time, year-ago prices stood at 10.07 cents per pound dramatically depicting the near collapse in world sugar prices along with a detrimental impact on the Cuban economy. Market drivers continued to be Russia with high demand and Brazil with high production levels, according to Merrill Lynch's Commodity Market Trends report (26 November 1999). The Russian trade ministry announced proposed oil for sugar deals were to be based on market prices carried on by private trading companies without government intervention (USCPR, Vol.6, No.5). Under the Chavez regime, Venezuela demonstrated a willingness to cooperate with Cuba over petroleum exploration, investment, and supply (USCPR, Vol.6, Nos.6-9,11).

METALS PRICES LIFT EXPORT REVENUES -- London nickel and cobalt prices tended to lift export revenues for the Cuban government in 1999 (USCPR, Vol.6, Nos.8,10). Nickel prices on the LME over year-ago more than doubled from \$4,095 to \$8,450 per metric ton while cobalt free market prices began an upturn with year-end selling ranging from \$14.70 to \$15.40 per pound. That was higher over year-ago prices according to the Metal Bulletin. □

CURRENCIES & COMMODITIES

1 Euro = 1.01 US Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 21.23 Cuban Peso

Rates as of December 31, 1999.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 6.13
Year ago nearby = 7.88
Future (Mar '00) = 6.12
High = 10.00
Low = 5.06

Cash/Spot price as of December 30, 1999.
Source: NYBOT.

CRUDE OIL (\$per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 25.55-25.65
Year ago (Dec. 30) = 11.75
Future (Feb. '00) = 25.60

Cash/Spot price as of December 30, 1999.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 8450
Year ago (Dec. 31) = 4095
(\$ per metric ton)
Official Price: December 30, 1999.
Source: London Metal Exchange (LME)

Cobalt = 14.70 -15.40
Year ago (Dec. 31) = 10.50 - 11.50
(\$ per pound for 99.8%)
Price: December 30, 1999.
Source: Metal Bulletin (London).

INTERNATIONAL BRIEFS

JAPAN AND CUBA AGREE TO RESCHEDULE SHORT-TERM DEBT – In an agreement hailed by Japanese businessmen, Japan and Cuba agreed to reschedule 12 billion yen in short-term debt owed by Cuba thereby permitting the resumption of trade insurance to cover exports to Cuba. Trade insurance was suspended in 1987 after Cuba terminated its debt repayments to Tokyo. The Japanese delegation of legislators and businessmen was headed by former finance minister Hiroshi Mitsuzuka. (RL, "Japan, Cuba agree on short-term debt rescheduling," 11/26/99).

CANADIAN CUSTOMS LAUNCHES INVESTIGATION INTO CONCRETE PRODUCTS DUMPING BY CUBA

Canada's Customs and Revenue Agency began an inquiry into charges that concrete reinforcing bar products have been dumped into the country from Cuba, South Korea, and Turkey at an average of 14% below normal prices. A formal investigation is being conducted by the Canadian International Trade Tribunal and is expected to be completed by January 12th. The largest cement plant in Cuba is located at Mariel and is a U.S. certified claim owned by Lone Star Industries of Stamford, Connecticut. (RL, "Canada Customs launches inquiry into dumping charges," 12/13/99).

EU EXTERNAL AFFAIRS COMMISSIONER CHRIS PATTEN URGES CONGRESS TO ADOPT TITLE IV WAIVER

-- Chris Patten (USCPR, Vol.6, No.4), the recently appointed (October 1, 1999) European Union commissioner for external affairs, urged the U.S. Congress to pass the waiver to Title IV of the Helms-Burton Act as agreed upon by President Clinton and British Prime Minister Blair during the May 18th EU-US summit (USCPR, Vol.5, No.5) held in London in 1998. On the eve of the semi-annual EU-US summit, Patten said he had urged Senate Foreign Relations Committee Chairman Jesse Helms (R-NC) that if he would agree to the waiver, "we would be able to put in place across the board a programme of measures that would help to deal with the question of the illegal expropriation of property." Such disciplines would bar the EU from financing investments in confiscated properties but would not preclude private financing independent of the EC. Approval of the waiver has faced strong Congressional opposition (USCPR, Vol.5, Nos.6-8 & Vol.6, No.3). It appears Patten has picked up the EU-US Agreement portfolio as it pertains to relations with the United States over Cuba that was previously held by Sir Leon Brittan (USCPR, Vol.6, No.1) the former EC vice president and trade commissioner who was not reappointed to the Commission. The trade portfolio has gone to Pascal Lamy of France. The EU is particularly concerned about the State Department's recent review of Spanish hotel chain Sol Melia (USCPR, Vol.6, No.9) for trafficking in confiscated property in Cuba the claim to which is owned by a U.S. national. (Reuters, "EU appeals for U.S. understanding on Cuba law," 12/16/99).

CUBA AND VENEZUELA APPROVE CHINA WTO AGREEMENTS – The Cuban and Venezuelan governments separately concluded "market-opening" agreements in Beijing bringing China closer to meeting the requirements to enter the World Trade Organization. (AP, "Venezuela, Cuba OK China WTO Deals," 12/24/99).

CUBA TRANSMITS CHINESE RADIO PROGRAMS TO LATIN AMERICA -- Cuban Communications Minister Silvano Colas has acknowledged the retransmission of Chinese radio programs to Latin America. The programs, picked up from Terrena Caribe a Cuban military satellite tracking base, are broadcast via two short wave radio transmitters in several languages, including Chinese, Spanish, Portuguese, and English. Colas denied China had established a military communications base in Cuba. The largest intelligence-gathering facility operated by Moscow in the Western Hemisphere is located near Havana at Lourdes. (RL, "Cuba broadcasts Radio China to Americas," 12/28/99).

CHINA-CUBA STRENGTHEN POLITICAL-ECONOMIC-MILITARY TIES – The February 1999 high-level military delegation visit to Cuba (USCPR, Vol.6, No.3) led by Chinese Defense Minister Chi Haotian marked the strengthening of Chinese-Cuban relations leading to the regular broadcast of Chinese radio programs to Latin America from Cuba as well as the modernization of the Cuban telephone system. Colas acknowledged China's SINOTECH and Great Dragon Telecommunications have installed digital telecommunications on the Isle of Youth formerly the known as the Isle of Pines. University of Miami Professor Jaime Suchlicki (USCPR, Vol.6, No.7) suggests the relationship is driven more by strategic considerations than by economic factors since Cuba has little to offer China in terms of markets or trade. (RL, "Cuba broadcasts Radio China to Americas," 12/28/99).

DOMESTIC BRIEFS

2000 INDEX OF ECONOMIC FREEDOM – The Heritage Foundation and *The Wall Street Journal* have co-published the *2000 Index of Economic Freedom*, now in its sixth edition. Described as "an indispensable handbook for everyone who invests or does business abroad," the nearly 500 page paperback book measures various economic factors in 161 countries including Cuba while attempting to "document and substantiate the relationship between economic freedom and economic prosperity." The *Index*, calling Cuba's state-run economy "rife with corruption and graft," ranks the Communist controlled island at 157, and categorizes it as "repressed" scoring it at 4.75 out of a possible 5.0 (where free = 1.95 or less and repressed = 4.00 or higher). Generally, Cuba is characterized as "resource-rich" but remains "one of the world's poorest countries," which it attributes to "Castro's continuing repressive rule." The *Index* includes a new chapter by Harvard economist Robert Barro entitled, "Rule of Law, Democracy, and Economic Performance" where he points out that "[r]ecent empirical research supports the idea that property rights and the rule of law are key determinants of economic growth and investment." Accordingly, Barro concludes "U.S. advice to poor countries should focus more on the rule of law, property rights, and free markets, and less on the romance of democracy." The 2000 Index of Economic Freedom is available from the *Wall Street Journal* Fulfillment Center for \$24.95 by calling toll free 1-800-975-8625.

FIRST DIRECT FLIGHTS OUTSIDE MIAMI TO CUBA BEGIN – Pursuant to the easing of restrictions on Cuba announced by President Clinton in January of 1999 (USCPR, Vol.6, No.1), the first non-Miami flight departure occurred from New York-JFK to Havana-Marti on Friday, December 3rd. The charter flight, a Grupo Taca Airbus A320, was conducted by Marazul Tours of Weehawken, New Jersey. While the Departments of Commerce and Treasury issued new rules effective May 10th, the Clinton administration announced on August 3rd that besides Miami, New York and Los Angeles would become additional gateways (USCPR, Vol.6, Nos. 5 & 8). The Treasury Department's Customs Service issued the final rule on October 4th (USCPR, Vol.6, No.10).

CUBAN EXILES ACQUITTED OF PLOTTING TO KILL CASTRO – Five Cuban exiles, who were brought to trial for allegedly plotting to assassinate Fidel Castro, were found not guilty by a federal jury in Puerto Rico on December 8th following seven hours of deliberation. The case is the first of its kind to be brought by the Justice Department. The U.S. alleged that seven men aboard a boat stopped by the U.S. Coast Guard off the coast of Puerto Rico in October 1997 were intent on killing the Cuban Communist leader, who at the time was planning to attend the seventh annual Ibero-American Summit on Venezuela's Margarita Island. The five including: Angel Alonso (59), Angel Hernandez Rojo (62), Francisco Secundino Cordova (51), Jose Rodriguez Sosa (59), and Jose Antonio Llama (67) were found not guilty on all counts. The Cuban government protested the jury acquittal issuing a statement linking the timing to Cuba's demand for the return of Elian Gonzalez. (NYT, "5 Cuban Exiles Charged With Plotting to Kill Castro Are Acquitted," 12/9/99, p.A18; AP, "Cuba Protests Acquittals in Plot," 12/9/99).

U.S. COAST GUARD CONTINUES TO REPATRIATE CUBAN BOAT PEOPLE – Under the September 1994 and May 1995 Washington-Havana immigration accords, the U.S. continues to repatriate boat people interdicted at sea. However, once Cubans fleeing the Castro regime set foot on U.S. soil, they are permitted to apply for residency. The U.S. Coast Guard has repatriated a total of 1,108 Cubans during 1999, under the accords. The number of Cubans returned to Cuba since the agreements, which followed the exodus of tens of thousands of Cubans in boats and rafts crossing the Florida Straits, is now 2,500 according to Prensa Latina. Coast Guard figures show that 1,343 Cubans were interdicted in 1999 while 3,825 were interdicted since the accords. (RL, "U.S. sends back 1,108 Cuban boat-people in 1999," 12/31/99).

NOTABLE QUOTES

"The United States, of course, is not responsible for the economic, social, political, legal and security conditions that lead hundreds of thousands of Cuban citizens to seek to flee their homeland. [It is] a function of the terrible deprivations they live under in Cuba. It's particularly outrageous to try to make political hay out of the deaths of people at sea like that." **James Rubin**, U.S. State Department spokesman, vehemently denied accusations by the Cuban government that the U.S. was responsible for the death of 10 Cubans aboard a boat on Thanksgiving Day leaving three survivors including a five year old boy named Elian Gonzalez. (State Department Briefing, Monday, November 29, 1999.)

"There is nothing to negotiate, there is nothing to discuss in any court or any other forum. No one can question that a father is the person who has the right to his minor children." **Ricardo Alarcon**, President of the Cuban National Assembly and leader of the semi-annual U.S.-Cuba migration talks. (AP,"Pleas Mount for Cuban Boy's Return," 12/03/99).

"It is in the best interest of the boy to let the courts make the determination about the custody dispute. The boy's mother died in pursuit of freedom for her child and her wishes should be considered. Fidel Castro must make the humanitarian decision and permit the boy's father and any other relatives to come to the U.S. and be heard in a court of law to decide what's best for the boy." **Senator Connie Mack** (R-FL) makes statement on December 7, 1999 in response to Fidel Castro's remarks demanding the return of Elian Gonzalez to Cuba.

"Under both federal and state law, a court of law, and not an administrative agency, must decide conflicts regarding minors. Clinton has agreed to Castro's demands that Janet Reno (in other words, Clinton himself in appeasement of Castro) make this decision." **Rep. Lincoln Diaz-Balart** (R-FL) weighs in on the appropriate manner in which the Elian Gonzalez case should be handled. (PR,"Diaz-Balart Blasts Clinton/Gore for Appeasing Castro on Cuban 6 Year Old Boy Case," 12/8/00).

"Clinton has many people who appreciate the situation in the United States and enough capable of advising him. I have my own perception of him, which I told you about the first time we spoke. That perception is that Clinton wants the child to return as soon as possible. I doubt that he can achieve it; because we don't [know] what pettifogging measures others are going to adopt in order to delay this process." **Fidel Castro** interviewed by NBC news correspondent Andrea Mitchell in Havana on December 14, 1999. A segment of the interview was related to the Elian Gonzalez case. (Source: Granma International, Digital Edition, an organ of the Cuban Communist Party.)

"Pundits did not see this [Elian Gonzalez] case as a freedom versus repression issue, dismissing what they saw as the argument put forward by the Cuban American community in Miami and U.S. conservatives. In fact, analysts did not dwell so much on the shortcomings of Castro's autocratic rule, as on the perceived demerits of the American 'system'." **Diana McCaffrey**, Editor from the Office of Research at the U.S. Department of State assesses the foreign media reaction from a survey of editorial excerpts on 19 reports in 15 countries including Canada, Cuba, and other nations in Latin America, Europe, and Asia. ("Elian Gonzalez Custody Case -- 'Send Him Home,'" 12/28/99.)

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Ralph J. Galliano, Editor

CLINTON ADMINISTRATION REVERSES COURSE IN ELIAN GONZALEZ CASE -- CONGRESS MOVES TO GRANT BOY LEGAL STATUS

WASHINGTON – The case of six year old Elian Gonzalez, which continued to dominate national and international news headlines for over two months since the Cuban boy was rescued by fishermen off Florida's east coast on *November 25th*, took a decidedly different course when the Clinton administration quietly reversed its position to have the INS determine the child custody issue rather than having the family court in the state of Florida decide the matter. In a Justice Department Immigration and Naturalization Service document dated *December 1, 1999*, (reprinted below) the INS acknowledged it had "no role in the family custody decision process" and that "the issue of legal custody must be decided by its state court" particularly if the child's family in Miami and the father, Juan Gonzalez, in Cuba were "unable to resolve the question of custody." Until that time, the INS had 'paroled' Elian, scheduling a deferred inspection for December 23rd, and "placed him in the home of his U.S. family" stating clearly that the "involved parties will have to file in Florida family court" in order to resolve the custody issue. Arguably, the INS parole made Elian eligible for 'permanent residence status' under the *Cuban Adjustment Act of 1966* (INS, "Clarification of Eligibility for Permanent Residence," 4/26/99). However, on *December 7, 1999*, the State Department issued a press statement (USCPR, Vol.6, No.12) that obliquely hinted at the coming course reversal and on *December 8th* Rep. Jose Serrano (D-NY), advocating the return of Elian to his father in Cuba, disclosed in a letter to President Clinton (USCPR, Vol.6, No.12) the process by which the administration through its "inter-agency task force led by the National Security Agency" was decidedly becoming involved in the determination that ultimately would be announced by INS on January 5, 2000 (reprinted below) to return Elian to the custody of his father in Cuba. Serrano, who later proclaimed that "[a]ll my efforts will be directed to getting the child reunited with his father" in Cuba, advised the president he "should quickly and personally intervene" because "a state court is not the appropriate forum." The Clinton administration then began a concerted process to facilitate the circumvention of the Florida state family court system, in effect denying Elian his right to due process, by appropriating the custody issue from which it had earlier disclaimed jurisdiction. On *December 9th*, Deputy Attorney General Eric Holder in response to a reporter's question declared, "I don't think we anticipate that it would go to the state courts at this time." The INS concluded in an internal memorandum, dated *January 3, 2000*, made public in federal court documents, that the assertion of parental authority by "Elian's father's arrival [in the U.S.] would necessarily change the custody arrangement we sought with his uncle in his absence." Although Juan Gonzalez was offered a visa, he was "uninterested" and refused according to the INS memo. Yet, in their letter to Elian's father dated *January 5th*, the INS recounting their December 13th and 31st meetings that took place in Cuba, ascribing to him sole legal authority thereby withdrawing the petitions for political asylum and application for admission to the U.S. setting a date certain for Elian to be returned to Cuba by January 14th. INS further

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stated, "We have determined that you are Elian's biological father and lawful guardian and, as such, you have the right and obligation to represent Elian in all legal transactions and acts in which Elian has an interest." Without Juan Gonzalez's appearance in the United States and with credible suspicion of duress under the watchful eyes and ears of the repressive Castro regime, the INS proceeded to convey certain rights to Elian's father by letter stating that we "recognize your authority to speak on behalf of your son Elian in immigration matters. Consequently, we are granting your request to withdraw Elian's application for admission to the United States" and "consistent with the wishes you expressed at our two interviews with you, we accept your decision not to assert Elian's right to apply for asylum in the United States." Senate Foreign Relations Committee Chairman, Jesse Helms, condemned the INS decision (reprinted below) and called for "this matter to be resolved in the courts." On *January 7th*, in an effort to forestall the imminent return of Elian to Cuba mandated by the INS, House Government Reform Committee Chairman, Dan Burton (R-IN), served Elian with a subpoena requiring him to testify before Congress on February 10th and, Lazaro Gonzalez, as Elian's custodian, filed a Verified Petition for Temporary Custody in Miami-Dade County Circuit Court. On *January 10th*, the Court set an evidentiary hearing on the Petition for Temporary Custody for March 6, 2000 and issued a Temporary Protective Order prohibiting Elian's removal from the 11th Circuit. The Court also asked that the father come to the United States to present his views. Attorney General Reno's letter (reprinted below) of *January 12th*, reaffirms INS jurisdiction and emphatically states she is "not currently aware of any basis for reversing Commissioner Meissner's decision." Consequently, attorneys for Elian, opposing the January 5th INS determination, filed a Complaint for Injunctive Relief and Petition for Writ of Mandamus in federal court in Miami on *January 19th*. With the father's refusal to come to the United States and with Congress due to return to Washington pledging to introduce legislation granting Elian citizenship, Rep. Serrano, who admitted "working closely" with the National Council of Churches, stated on *January 20th* that the Clinton administration granted the grandmothers visas with the purpose of giving "Elian to his two grandmothers so he can go back" to Cuba. Under extraordinary circumstances, the grandmothers lobbied vigorously against the proposed legislation and visited with Elian briefly before returning to Cuba empty handed. Introducing the Elian Gonzalez American citizenship bill (S.1999 reprinted below), Senator Connie Mack (R-FL) in his floor statement of *January 24th* said the legislation means, "the most important decision in this young boy's life will not be made by a political bureaucracy -- but by a **family court**." Additional legislation includes a Concurrent Resolution demanding Elian's return to Cuba introduced in the House (H.ConRes.240) by Rep. Rangel (D-NY) and introduced in the Senate (S.Con.Res.79) by Sen. Dodd (D-CT); a permanent resident status bill in the House (H.R.3532) introduced by Rep. Menendez (D-NJ); and, the companion to Sen. Mack's bill (H.R.3531) introduced by Rep. McCollum (R-FL). The Justice Department's Motion to Dismiss a challenge to the January 5th INS order to return Elian to the custody of his father in Cuba filed on *January 27th* is scheduled for Feb. 22nd.

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INS STATEMENTS**U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE****Response to Query**

12/01/99

Elian Gonzalez

Although INS has no role in the family custody decision process, we have discussed this case with State of Florida officials who have confirmed that the issue of legal custody must be decided by its state court. However, Elian will remain in the U.S. until the issues surrounding his custody are resolved. If Elian's family is unable to resolve the question of his custody, it is our understanding that the involved parties will have to file in Florida family court. Either Elian's father in Cuba or his U.S.-based family members may initiate proceedings. Once proceedings have been initiated, it is likely that the court will appoint a guardian ad litem, i.e., someone who will specifically represent Elian's interests in the custody determination process.

Until such time as custody can be resolved, we have placed Elian in the home of his U.S. family. We believe that Elian's immediate needs are best served by living among family members. The INS has asked the United States Catholic Conference (U.S.C.C.), working with the Catholic Charities (C.C.) of the Archdiocese of Miami, to contact Elian's family; visit their home; discuss any needs Elian may have; and, as necessary social service referrals. U.S. C.C. and C.C. are experienced social service agencies that provide extensive services to unaccompanied minors for the INS. The follow-up visit is standard procedure in the case of unaccompanied minors.

Contacts: Catholic Charities: Dr. Richard Turcott, (305) 754-0444
 U.S. Catholic Conference: Raul Hernandez, (305) 541-8100, extension 10
 INS Press Office: Dan Kane, (202) 305-0006

**U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE****STATEMENT**

January 5, 2000

INS Decision in the Elian Gonzalez Case
Doris Meissner
Commissioner
Immigration and Naturalization Service

The case of Elian Gonzalez has been a difficult one for several reasons. Elian Gonzalez is a six-year-old boy, too young to make legal decisions for himself. In this circumstance, the U.S. Immigration and Naturalization Service (INS) had to decide who could legally speak for him on immigration issues. This task was complicated by the fact that several people other than Elian's father—a great uncle as well as three lawyers—claimed to represent him. As a result, INS met with the father in Cuba, and separately, with the great uncle and the lawyers in Miami. After careful evaluation of the relevant facts, INS has determined that Mr. Juan Gonzalez of Cuba has the sole legal authority to speak on behalf of his son, Elian, regarding Elian's immigration status in the United States.

There is no question that Mr. Gonzalez is Elian's father. Moreover, Mr. Gonzalez has had a close and continuous parental relationship with his son. During INS' interviews with Elian's father, he provided vivid details about his parental relationship with his son and about the nature of the bond they share as father and son. He provided extensive documentation about Elian's schooling and his medical and health histories, as well as photographs depicting the activities in which he and his other family members frequently participated with Elian. This scope of information and level of detail Mr. Gonzalez provided helped inform INS as to the nature and closeness of the relationship Mr. Gonzalez shared with his son Elian. INS has not uncovered any information that might call into question Mr. Gonzalez's parental and legal rights with regard to Elian's immigration status.

During INS' two meetings with Mr. Gonzalez, his wishes for Elian were discussed at some length. He made it very clear during both of these meetings that he wants Elian returned to him as soon as possible. Based on these meetings, INS believes that he is expressing his true wishes, and therefore we have determined that Elian should be reunited with his father, Mr. Gonzalez.

INS has advised both Mr. Gonzalez and Elian's great uncle in Miami of this decision, and is prepared to work with all the parties involved to make the appropriate arrangements for Elian's return to his father by January 14, 2000.

Having reached a decision, INS believes there are several ways this decision can be implemented. The United States has discussed with the Government of Cuba their consideration of allowing Mr. Gonzalez, Elian's father, to travel to the United States to accompany Elian home. INS also has offered Elian's great uncle in Miami and any member of his Miami family an opportunity to escort Elian back to Cuba. In addition, third parties have offered to assist in facilitating Elian's return to his father. INS is ready to work with the family and others to make appropriate arrangement for Elian to be reunited with his father. We believe this decision can be carried out without INS' taking charge of Elian.

This decision has been based on the facts and the law. Both U.S. and international law recognize the unique relationship between parent and child, and family reunification has long been a cornerstone of both American immigration law and INS practice.

It is our hope that with the knowledge of today's decision, the Miami relatives will agree to cooperate and work together, with either Elian's father or a third party, to facilitate Elian's return to his father. This little boy, who has been through so much, belongs with his father. We urge everyone involved to understand, respect and uphold the bond between parent and child and the laws of the United States.

— INS —

SENATE FOREIGN RELATIONS COMMITTEE CHAIRMAN RESPONDS

FOR IMMEDIATE RELEASE
Date: January 5, 2000

Contact: Marc Thiessen
Phone: (202) 224-4651

HELMS CONDEMS DECISION TO RETURN ELIAN TO CASTRO'S CUBA

Washington, D.C. — Senate Foreign Relations Committee Chairman Jesse Helms (R,NC) issued the following statement today:

"Attorney General Reno called me earlier today to advise me of the Immigration And Naturalization Service's unwise decision to return Elian Gonzalez to Cuba. While I have enormous respect for her, I advised her that she, of all people, should want to see this matter resolved in the courts. Furthermore, I advised her, Elian's father should be required to come to the United States to make his case for custody of the boy. Cuba is one of the most tyrannical nations on earth, and Fidel Castro has undoubtedly made Elian's return a personal cause. For this reason, Elian's father is not free to speak his mind in Cuba, under the glare of Cuba's brutal dictator. Unless Elian's father, and indeed his entire family in Cuba, are out of Castro's reach, we cannot possibly know what they really want for Elian. We do know this: Elian's mother gave her life so he could grow up in freedom in America. For this reason, I reiterate that when Congress reconvenes later this month, I intend to proceed with a personal relief bill to give Elian United States citizenship. That way, when he is old enough to make decisions for himself, he will be able to claim the freedom his mother purchased for him with her life."

##

RENO'S LETTER ON RULING

Office of the Attorney General Washington, D.C. 20530

January 12, 2000

Dear Messrs. Eig and Bernstein and Ms. Osberg-Braun:

I have reviewed your letter of January 5 concerning the case of Elian Gonzalez, as well as the issues that Mr. Bernstein raised when he and others met with me on the evening of January 7, including the fact that you have filed a custody action on behalf of Lazaro Gonzalez in the Miami-Dade County Circuit Court. I understand that court has granted a temporary protective order to Lazaro Gonzalez. While I am always open to considering new information that might arise, I am not currently aware of any basis for reversing Commissioner Meissner's decision that Juan Gonzalez - Elian's father - has the sole authority to speak for his son on immigration matters.

As you know, the United States is not a party to the action you have filed in Florida court, nor is it named in the temporary protective order that the Florida Circuit Judge issued January 10. Indeed, the question of who may speak for a six-year-old child in applying for admission or asylum is a matter of federal immigration law. Nothing in the temporary protective order changes the government's determination that Juan Gonzalez can withdraw applications for admission and asylum relating to Elian and that he has done so. In the Department's judgment, the Florida court's order has no force or effect insofar as INS's administration of the immigration laws is concerned.

In our meeting last Friday evening, Mr. Bernstein said that the INS itself had originally announced that state courts could resolve Elian's status in the United States. I think it is important to clarify, therefore, this Department's views about the possible role of state courts in a case such as this. In the first few days after Elian's arrival in the United States, when it was suggested that INS's placement of Elian in the care of his great-uncle amounted to a grant of custody, INS indicated that it could not grant custody and that such a request would have to be put before the state courts. As the case evolved, it became clear that Elian's father, who was still in Cuba, was asserting a parental relationship with Elian and had adequately expressed his wish, under the immigration laws, for Elian's petition for admission to this country to be withdrawn. In these circumstances, INS was obliged to determine whether the father was the appropriate person to speak for Elian on immigration issues. That question, as I have said,

remains one of federal, not state, law. The Commissioner's resolution of that question - as well as of other immigration matters - may be challenged, if at all, only in federal court. We are prepared to litigate in that forum. Accordingly, Commissioner Meissner has determined that the January 14 date should be extended to accommodate any federal court proceedings. This little boy has been through so much, and it is therefore imperative that all of us do what we can to resolve his case as soon as possible.

With respect to the issues raised in your January 5 letter, I would make the following observations. Elian Gonzalez is a six-year-old child who has lost his mother. As a general matter, when dealing with a child this young, the immigration law, like other areas of law, looks to the wishes of the surviving parent. One circuit court case indicated that a twelve-year-old child may apply for asylum over the wishes of his parents in some circumstances. *See Polovchak v. Meese*, 774 F.2d 731, 736 (7th Cir. 1985). That case also makes it clear, however, that a twelve-year-old child is "near the lower end of an age range in which a minor may be mature enough to assert certain individual rights that equal or override those of his parents." Commissioner Meissner has determined that, under applicable law, Elian is too young to make the legal decisions for himself, and that his father has the legal authority to speak for him in immigration matters.

Commissioner Meissner reached her decision through a careful and thorough process. All of the available information was considered, including the reports from two lengthy and private interviews with Elian's father, Juan Gonzalez, and the report from the December 20 meeting with Elian's great uncle and cousin and each of you. Commissioner Meissner also carefully considered the allegation that Juan Gonzalez was under some form of coercion, and is confident, based on her representative's direct contact with Juan Gonzalez, the father's very close relationship with Elian, and the other evidence provided, that the father has expressed his true wishes in asking that his son be returned to him.

The INS does not rule out the possibility of a case in which an asylum application would be accepted from a young child against the wishes of a parent. In that regard, the INS Guidelines for Children's Asylum Claims provide a useful

framework. In particular, they provide for a review of the objective circumstances relating to possible torture or persecution in the child's home country in cases where a child is too young to express a competent view on these matters. The INS reviewed the asylum application you sought to file on Elian's behalf, considered all other relevant available information, and found no objective basis for overriding the father's wishes for his son. In particular, the INS found no credible information indicating that the child would be at risk of torture or persecution if returned to his father, and thus concluded that it had no reason to question the father's decision not to assert an asylum claim.

The specific language you cite from the INS Inspector's Field Manual is not applicable here. It is designed to protect an unaccompanied minor who arrives here illegally, has no parent to speak for him, and is also capable of speaking for himself. In those circumstances, if the child indicates a wish to return voluntarily to his country of origin, he would normally be allowed to withdraw the application for admission and be sent home, rather than being placed into removal proceedings. If the child expresses a fear of persecution, however, the Field Manual provides that the child should be placed not in expedited removal proceedings, but rather in conventional removal proceedings before an immigration judge.

Nothing in the field guidance suggests that a father's wishes regarding his six-year-old child should be overridden. On the contrary, in a related provision you do not cite, the Field

Manual makes it clear that the first responsibility of the INS when confronted with an unaccompanied minor is to attempt to remedy the situation by finding the child's parent or legal guardian, even if that person is outside the United States. It is only when that effort is unsuccessful that the Field Manual provisions you cite even come into play.

Even if it were applicable in this situation, the provision you cite would not answer the basic question presented by this case: Who speaks for the child? If Elian is not competent to "indicate [] a fear of persecution or intention to apply for asylum," then someone would have to decide in his behalf whether to do so. That someone, under universally accepted legal norms, is his father. And his father has stated, in no uncertain terms, that he does not wish for Elian to make an asylum claim. As noted above, the INS considered relevant information, including the statements of Elian's Miami relatives and information in the asylum application, and determined that there is no objective basis for a valid asylum claim. Consequently, it found no conflict between Elian and his father. Under these circumstances, the appropriate course of action was to honor the desires of the father regarding Elian's applications for admission and asylum. It is not appropriate to commence removal proceedings against this six-year-old boy. The Field Manual does not suggest otherwise.

Once again, it is my strong hope that we can work together to resolve this child's status as soon as possible.

Sincerely,
Janet Reno

Senator Mack's Floor Statement to Introduce the Elian Gonzalez Citizenship Bill January 24, 2000

Mr. President- I rise today to introduce a bill granting Elian Gonzalez American citizenship.

What it means is that the most important decision in this young boy's life will not be made by a political bureaucracy -- but by a family court.

Mr. President, neither the President of the United States, his Attorney General, nor the dictator ruling Cuba are qualified to decide the fate of this little boy. The United States is a country of laws, and we zealously believe in the rule of law. Elian deserves access to the legal protections of our family courts. These courts are in the business of considering family cases day after day. And they would consider "what is in the boy's best interests." Today, the INS' only concern is, "who speaks for the boy," – not about his future.

The primary purpose of this legislation is to ensure Elian has access to America's family courts: A court that will consider the choice that his mother made when she gave her life for freedom.

Mr. President, we will continue this debate sometime later in the week and make no mistake, I believe that Elian should remain here in the United States where he can live in freedom. But it is not my purpose to make that decision; that is the function of a family court.

This bill is intended to allow a family court to settle this dispute based upon the best interests of Elian Gonzalez.

106th CONGRESS
2d Session
S. 1999

For the relief of Elian Gonzalez-Brotos.

IN THE SENATE OF THE UNITED STATES
January 24, 2000

Mr. MACK (for himself, Mr. TORRICELLI, Mr. HELMS, Mr. LOTT, and Mr. GRAHAM) introduced the following bill; which was read the first time

A BILL

For the relief of Elian Gonzalez-Brotos.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATURALIZATION OF ELIAN GONZALEZ.

Notwithstanding section 337(a) or any other provision of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), Elian Gonzalez-Brotos shall be considered to be a naturalized citizen of the United States as of the date of enactment of this Act and shall be furnished by the Attorney General with a certificate of naturalization.

CUBAN LAW AND THE RETURN OF ELIAN TO HIS FATHER

By Alberto Luzarraga

A basic understanding of Cuban law is key to the question of whether Elian Gonzalez should be returned to his father in Cuba. In particular, a look at the 1976 Cuban Constitution as amended August 1, 1992, (<http://www2.cuba.cu//gobierno/cuba.htm>) and the Code of the Child and Youth, Law No. 16 of June 28, 1978, (<http://www.lanuevacuba.com/codigo.htm>) helps to shed light on the extent to which the father actually retains parental rights as commonly understood and the kind of future the six year old Elian can expect under current Cuban law. The issue rests on whether Elian's father has real or only illusory parental rights in Castro's Cuba and whether, if even effective rights exist, he has the sole right to speak for the child.

The 1976 Constitution of the Republic of Cuba is resolved to build socialism and, led by the Communist Party, to build a communist society. In Article 6, the Union of Communist Youths is exclusively recognized by the State "to promote the active participation of the juvenile masses in the tasks of the socialist construction" of society. Under Article 38, the parents have the "duty" to "actively contribute to their children's education and the integral formation as useful citizens including preparations for life in socialist society." Article 39 mandates that the State's control of cultural and educational policy be based on "Marxist ideals" and again on the "communist formation" of youth. Article 62 criminalizes resistance or opposition to these edicts stating unequivocally that "no rights granted by this constitution and the laws can be exercised against the existence of and objectives of the communist state. The infraction of this article is punishable."

Blas Roca, Secretary General of the Communist Party, as President of the National Assembly, oversaw the passage of the Code of the Child and Youth. Law No.16, which comprises the body of Cuban law that regulates the lives of children and youth, specifies that personality must change, any influence contrary to communism must be combated, and school admission is predicated on political attitude. More specifically, Title II, Article 3 states, "The communist formation of the young generation is a valued aspiration of the State, the family, the teachers, the political organizations, and the mass organizations that act in order to foster in the youth the ideological values of communism." In Article 5, the society and the State watch to "ascertain that all persons who come in contact with the child during his educational process constitute an example for the development of communist personality." In Article 8, the society and the State

"work for the efficient protection of youth against all influences contrary to their communist formation." In Article 9, "Educators have a high mission in the development of the communist personality." Title III, Article 23 determines whether a student may attain a higher level of education based on his adherence to communist doctrines and states, "Upon completion of primary schooling, young people may continue their education at pre-university centers, vocational schools, or other specialized schools, on the basis of their academic achievement, political attitude and social conduct." To insure adherence to Marxist doctrine, a "cumulative dossier" is compiled for each student where political attitude is recorded forming the basis for higher education. At age eleven, the State imposes a boarding school requirement and separates parents from their children. According to the *Cuba Country Report on Human Rights Practices for 1998* (http://www.state.gov/www/global/human_rights/) issued by the U.S. State Department, the Cuban government "requires children to work without compensation. All students over age 11 are expected to devote 30 to 45 days of their summer vacation to farm work, laboring up to 8 hours per day. The Ministry of Agriculture uses 'voluntary labor' by student work brigades extensively in the farming sector." Title IV, Article 68 describes how "Children and young people prepare" for military education and active military service by subscribing to ideological indoctrination referred to as the "principles of proletarian internationalism and combative solidarity." The *Cuba Country Report* further states that "The military channels some conscripts to the Youth Labor Army, where they serve their 2-year military service requirement working on farms that supply both the armed forces and the civilian population."

As becomes clear by reading the *Cuban Constitution* and the *Code of Child and Youth*, the alleged parental rights accruing to Elian's father are non-existent since they have been usurped by the State which assumes the right to educate, indoctrinate and to sculpt a child's personality according to the tenets of Marxism. This is the future that awaits Elian if the Clinton administration prevails. Ironically, it is Cuban law which the Justice Department's Immigration and Naturalization Service selectively relied upon to render its January 5th determination that Elian should be sent back to Cuba.

Alberto Luzarraga has a Ph.D. in Civil Law from the University of Villanova in Havana and an MBA from the University of Miami. He resides in the New York City metropolitan area.

CUBA'S NICKEL-COBALT PRODUCTION TARGET FALLS SHORT FOR 1999

At a time when world nickel prices were reaching their highest levels in nearly four years and cobalt prices were recovering, Cuba fell short of its 1999 production target levels of nickel and cobalt mixed sulphide set at 73,000 metric tons (mt.) according to Pascal Fletcher writing for Reuters. 1999 production estimates reported at 66,500 mt. were less than record production levels of 68,000 mt. set in 1998. Antonio de los Reyes, executive adviser to Basic Industry Minister Marcos Portal, said that rising world prices are expected to lift Cuba's metal export earnings to over \$500 million in the year 2000. De los Reyes attributed the failure to meet 1999 production levels to the heavy year-end rains in the Moa mining region located in eastern Holguin province.

London Metal Exchange (LME) nickel prices more than doubled by the end of January settling at \$8,710/mt. compared to \$4,220/mt. a year ago. Several factors, including under performance in new Australian laterite mines, labor problems at Canada's Manitoba Inco mine, and global economic growth, all worked to raise demand for stainless steel used in such products as kitchenware and car parts in which two thirds of all nickel is used. At the end of January, the *Metal Bulletin* reported declining LME nickel stocks in Rotterdam with fresh supply going straight to the consumer and contributing to the upward trend in prices. Deutsche Bank projects a downward trend for cobalt prices through 2001 despite increased demand. Overproduction to meet increased needs is expected to create a supply surplus driving down the price of cobalt.

Cuba's year 2000 production target is set at last year's level of 73,000 mt. Based on year-end production estimates, the island's three operating mines Punta Gorda, Moa Bay, and Nicaro produced 30,000 mt., 27,000 mt., and 9,500 mt. respectively. Moa Bay and Nicaro are two formerly U.S. owned operations confiscated without compensation subjecting foreign investors to the trafficking provisions of Helms-Burton. A fourth but unfinished nickel operation at Las Camariocas is attracting the attention of foreign investors said to include Sherritt International (Canada), Sumitomo Metal Mining (Japan), and Norilsk Nickel (Russia). The estimated investment needed to complete the project is between \$200 million to \$300 million. Increased productivity in Cuba's nickel sector is credited to the investment and efficiencies introduced by Canadian mining company Sherritt International presently under U.S. government sanction for its joint venture partnership with the Cuban government at the Moa Bay facility.

CURRENCIES & COMMODITIES

1 Euro = 0.97 US Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 20.40 Cuban Peso

Rates as of January 31, 2000.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 5.45
Year ago nearby = 7.11
Future (May '00) = 5.52
High = 9.05
Low = 5.26

Cash/Spot price as of January 31, 2000.
Source: NYBOT.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)

Cash/Spot (fob) = 27.60-27.65
Year ago (Jan. 29) = 12.75
Future (Mar. '00) = 27.64

Cash/Spot price as of January 31, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 8710
Year ago (Jan. 29) = 4220

(\$ per metric ton)
Official Price: January 31, 2000.
Source: London Metal Exchange

Cobalt = 14.50 -15.20
Year ago (Jan. 28) = 13.50 - 14.50

(\$ per pound for 99.8%)
Price: January 31, 2000.
Source: Metal Bulletin (London).

INTERNATIONAL BRIEFS

VATICAN CALLS FOR GREATER RELIGIOUS FREEDOM – In a meeting with Pope John Paul II, the 34-year old Cuban foreign minister, Felipe Perez Roque, heard from the Holy See that the Vatican still wanted "greater religious freedom" for the Cuban people from the Communist-ruled government. Since the historic January 1998 visit to Cuba (USCPR, Vol.5, No.2), the Pope has yet to realize his request for the Castro regime to give the people greater political freedom and for the Church to be given more 'space' for religious, educational, and charitable activities on the island. Roque, who was on a 10-day mission throughout Europe seeking international support for the return of the six-year old boat boy, Elian Gonzalez, to his father in Cuba, also met with top Vatican diplomats Secretary of State Cardinal Angelo Sodano and Foreign minister Archbishop Jean-Louis Tauran. (RL, "Pope says Vatican wants more freedom in Cuba," 1/17/00). **CUBAN CENTRAL BANK DENIES LICENSE TO BRITISH FINANCE COMPANY** – Pascal Fletcher reports in the *Financial Times* that Central Bank president Francisco Soberon (see USCPR Vol.6, No.4) has been instrumental in rejecting a representative office license to British finance company Caribbean Finance Corporation (CFC) which has been doing business in Havana since 1996. Fletcher cites foreign bankers in Havana who say the CFC partnership with Cuban finance company Interholdings owned by Esicuba, the Cuban state insurance company, is apparently the problem having led to a "turf war" that Soberon has won at the expense of CFC. Publicly, the high interest rates ranging from 17 to 24 percent charged by CFC are the object of contention within the Central Bank. Moreover, the sense among foreign bankers in Havana is that the Central Bank now is inclined to deal with high profile foreign financial institutions like Netherlands banking group ING. (FT, "Cuba denies office licence to British finance company," 1/25/00, p.7). **U.S. HEALTHCARE EXHIBITION HELD IN HAVANA** -- In the midst of the Castro regime's uproar over demands to return six year old Elain Gonzalez to his father in Cuba, an estimated 8,000 of the elite of the island's medical bureaucracy from the Ministry of Public Health and MediCuba, the primary importer of healthcare products, including doctors, nurses, and technicians, mingled with U.S. medical equipment and pharmaceutical sales representatives at the first U.S. sponsored healthcare exhibition to be held in Havana since the revolution in 1959. PWN Exhibicon International L.L.C. was granted a license by the U.S. Treasury Department's Office of Foreign Assets Control (USCPR, Vol.6, No.8) to hold the medical trade fair. Rep. Maxine Waters (D-CA) inaugurated the event that opened in Havana on January 25th lasting through January 29th. Since the Clinton administration began, some 40-to-50 export licenses have been granted to American companies according to U.S. government officials. The administration's policy has been to encourage humanitarian assistance to Cuba, such as food, medicine, and medical equipment. According to the State Department, "more than \$227 million in humanitarian donations of medicines and medical equipment" have been licensed since 1992. Among the 100 U.S. companies participating at the trade fair were some of the best known in the industry including: 3M, Archer Daniels Midland Company, Baxter, Eastman Kodak, Eli Lilly, Hewlett-Packard, Kimberly-Clark, Monsanto, Procter & Gamble, and G.D. Searle which featured NutraSweet as a health product for diabetics. (FT, "High hopes for Cuba trade fair," 1/26/00, p.9; MH, "U.S. trade show opens in Cuba," 1/26/00; NYT, "On Show in Cuba: Marvels of American Medicine," 1/28/00, p.A4). **LEISURE CANADA ANNOUNCES CONSTRUCTION IN CUBA** – Vancouver-based Leisure Canada announced the start of construction in early January for its flagship resort hotel Jibacoa east of Havana (USCPR, Vol.6, No.3). Outgoing president, Berukoff called the appointment of Peter MacLeod as president and CEO the "perfect candidate to lead the next phase of development." MacLeod's career has included the development of over 30 hotels, nine of which were in Cuba for Delta Hotels Ltd. (www.leisurecanada.com).

DOMESTIC BRIEFS

FORMER U.S. AG SECRETARY BLOCK CALLS FOR TRADE WITH CUBA – In a mid-January visit to Cuba, John Block, former Secretary of Agriculture for President Reagan in the 1980s, called for trade with the Communist dictatorship of Fidel Castro comparing it to trade with the former Soviet Union. Block joined corporate executives from 10 leading multinational agricultural firms including Archer Daniels Midland (ADM), Dow, Monsanto, and ContiGroup, formerly Continental Grain, which made up the 15-member delegation sponsored by the Washington-based non-profit organization called The Citizens Network for Foreign Affairs (CNFA). The nonpartisan organization (<http://www.cnfa.com>) says it is "dedicated to stimulating international economic growth in developing and emerging world markets" and is currently working in the food and agriculture sector of the former Soviet Union, Central Europe, and southern Africa. Along with corporate sponsors such as ADM, Cargill, Caterpillar, John Deere, Dow, DuPont, Florida Citrus Mutual, FMC, H.J. Heinz, Kraft, Monsanto, Rhone Poulenc, Sea-Land, and York International, CNFA counts among its supporters the American Farm Bureau (USCPR, Vol.6, No.8). CNFA lists among its "government and international donors" the Commerce Department, Ex-Im Bank, Gore-Chernomyrdin Commission, Foreign Agricultural Service (FAS), House Committees on International Relations and Agriculture, Senate Committees on Foreign Relations and Agriculture, USAID, OPIC, and IMF. Block is president of Food Distributors International, an association of food wholesalers. He also serves on CNFA's Board of Directors with former New York Congressman Stephen Solarz. Among its 'honorary advisors,' CNFA lists such luminaries as Alexander Haig, Henry Kissinger, David Rockefeller, Donald Rumsfeld, George Schultz, and Cyrus Vance. Frank Carlucci, a former secretary of defense in the Reagan administration, serves as CNFA's chairman. Carlucci supported the National Bipartisan Commission on Cuba initiative that was proposed by former Secretary of State Lawrence Eagleburger in September 1998. Not unlike 1999, when the so-called Ashcroft Amendment nearly passed as part of the Agricultural Appropriations Bill (USCPR, Vol.6, No.10), the U.S. farm lobby is expected to mount an aggressive campaign in 2000 in Congress to open trade in food and medicine with Cuba. (RL, "Ex-Reagan cabinet official backs trade with Cuba," 1/12/00).

PRESIDENT CLINTON ISSUES EIGHTH TITLE III SUSPENSION OF THE LIBERTAD ACT -- On January 14, 2000, President Clinton informed the chairmen of the House and Senate committees on foreign affairs and appropriations that he had decided to continue for an additional six months the suspension of implementation of provisions of Title III of the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996*. Virtually unnoticed, this, the eighth suspension of Title III (USCPR, Vol.6, No.7) of the law popularly known as the Helms-Burton Act, would otherwise allow legal actions to be brought in federal court against foreign firms doing business in the United States also found to be trafficking in confiscated properties in Cuba the claim to which is owned by an American national. Clinton stated in his transmittal letter to Congress that his decision was "necessary to the national interests of the United States and will expedite a transition to democracy in Cuba," thereby meeting the two criteria set forth in the law. In a statement to the press, Alan Larson, Under Secretary of State for Economic Affairs said that in taking this action, "the President took into consideration the important steps taken by our allies to promote a democratic transition and respect for human rights in Cuba." Cuba's actions, however, remain steadfastly opposed to any 'transition to democracy' as called for in the Helms-Burton law.

TITLE III SUSPENSION AND MULTILATERAL SUPPORT HELPS CUBA TO HEAR A MESSAGE – Of the multilateral effort to promote democracy in Cuba, Larson said these efforts "have resulted in greater international focus on the plight of the Cuban people." Citing world leaders especially in Europe and Latin America, Larson said they have "raised issues of human rights...visited with dissidents...and spoken out publicly" referring specifically to the recent 9th Ibero-American Summit held in Havana (USCPR, Vols.7,8,10) where "[s]everal heads of delegations and other senior officials from countries such as Spain, Portugal, and Mexico met with Cuban dissidents and publicly urged Fidel Castro to grant his people fundamental human rights." Larson also recognized the EU for repeatedly renewing "its Common Position on Cuba." (USCPR, Vol.3, No.12). Larson concluded his statement by pledging to "continue our efforts internationally and with Congress and the American people to seek ways to bring about the goal of a peaceful transition to a free, prosperous, and democratic Cuba." Larson succeeded Stuart Eizenstat who became Deputy Secretary of the Treasury in July (USCPR, Vol.6, No.7).

NOTABLE QUOTES

"Perhaps the struggle between Castro and the U.S. could have been depersonalized, and resolved much more easily, if Castro's vain desire for a lifetime's hold on office had been clipped by simple international standards." **Jeffrey Sachs**, professor of economics at Harvard University suggests a plan for international term limits. (FT,"Twenty years and you're out," 1/4/00).

"The sovereignty of nations must be respected. But nations derive their sovereignty – their legitimacy – from the consent of the governed. Thus, it follows, that nations can lose their legitimacy when they rule without the consent of the governed; they deservedly discard their sovereignty by brutally oppressing their people. Slobodan Milosevic cannot claim sovereignty over Kosovo when he has murdered Kosovars and piled their bodies into mass graves. Neither can Fidel Castro claim that it is his sovereign right to oppress his people. Nor can Saddam Hussein defend his oppression of the Iraqi people by hiding behind phony claims of sovereignty. And when the oppressed peoples of the world cry out for help, the free peoples of the world have a fundamental right to respond." Excerpt of an address by **Senator Jesse Helms**, Chairman, U.S. Senate Committee on Foreign Relations before the UN Security Council on January 20, 2000.

"The arguments about a father's rights and family unity are phony when it comes to Elian's predicament. If U.S. authorities send Elian back to Cuba, it won't be to Elian's father; it will mean sending him back to be paraded around as a Castro trophy and raised, perhaps in a day-care center, to be a good communist." **Phyllis Schlafly** is a lawyer, author, and leader of the pro-family movement in the United States since 1972 when she founded her national volunteer organization now called Eagle Forum. (TWT,"Elian due his day in court," 1/23/00, p.B4).

"We had inspected one of the many tunnel complexes that are still under construction all over the island. Aware of U.S. doctrine for raining smart bombs on practically all of an opponent's exposed equipment, the Cubans have been working for years to get theirs underground... 'If an aggressor chooses to attack Cuba,' we had been advised by the Chief of the General Staff, 'the aggressor will have to come down from his aircraft and ashore from his ships and face us man-to-man in the countryside'." **Maj. Gen. Edward B. Atkeson**, U.S. Army retired, states that his group has been making annual military-to-military visits to Cuba "over the last four or five years." (Army, "Nine Hours with Fidel," January 2000, p.13).

"There will be all kinds of lawsuits...we'll seize every Cuban plane and ship and every asset that comes in U.S. jurisdiction...Once Cuban-Americans have their foot in the door, you can't cast aside their claims." **Nicolas J. Gutierrez, Jr.**, who is an attorney with the law firm of Rafferty, Gutierrez & Sanchez-Aballi in Miami, discusses confiscated property claims by the Castro regime in Cuba. (The American Lawyer, "The Gathering Storm," January 2000, p.65).

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Ralph J. Galliano, Editor

SENATE FOREIGN RELATIONS COMMITTEE CHAIRMAN HELMS CALLS STATE DEPARTMENT ROLE IN ELIAN GONZALEZ CASE IMPROPER

WASHINGTON – Responding to the declaration of Mary Ryan, the Assistant Secretary of State for Consular Affairs, Senator Jesse Helms submitted a counter declaration in his capacity as Chairman of the Senate Foreign Relations Committee having "oversight over all programs of the United States Department of State, including consular affairs." The Ryan declaration was initially submitted as an attachment (Record at 290) to the Justice Department's brief filed on January 27th at the U.S. District Court in Miami in the case of Elian Gonzalez (Case No. 00-206-CIV-Hoeveler). The Helms counter declaration, reprinted below, is among the attachments filed with the motion on February 24th by Elian's lawyers (Case No. 00-206-CIV-Moore) opposing the INS January 5th decision by Dorothy Meissner (USCPR, Vol.7, No.1). Helms characterizes the Ryan declaration as "unprecedented" and "outside the scope of her duties" citing State Department regulations whereby "consular officers are prohibited from providing legal advice in child custody matters (7FAM 143)." Noting its "impropriety," the Helms declaration deplores the State Department's involvement in an INS "immigration matter" and "her Bureau's apparent advocacy for the Castro regime's demands" that the United States return six year old Elian Gonzalez to the custody of his father in Cuba (USCPR, Vol.7, No.1). The Helms declaration accuses Ryan of using "the Gonzalez case to threaten an international crisis" over the return of abducted children "in order to justify the return of Elian Gonzalez to a rogue nation" and distorting the "real state of affairs in parental child abduction" cases in which it refers to "her own bureau's long record of failure to secure the return of U.S. children from around the world." In its January 27th filing, the Justice Department contended that the "United States would suffer harm from the standpoint of its international standing in protecting parental rights in cases involving American children wrongfully removed from this country." Citing the State Department position in the Elian Gonzalez case, the government brief quotes from Ryan's declaration stating, "[a] failure to enforce the INS decision would, conversely, be inconsistent with the principles we advocate on behalf of the United States and could have potentially lasting negative implications for left-behind parents in the United States and for U.S. citizen children taken to foreign countries." Dismissing these arguments, the Helms declaration points out that the U.S. already serves as a "model for other countries in these matters" and calling for reciprocal actions by other countries he says, "would be a welcome development if the actions of the United States regarding returns were reciprocated even remotely by other countries."

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GONZALEZ CASE NOT GOVERNED BY TREATIES – Helms sorts the Ryan declaration into three misstated arguments including a second where it is said "the Gonzalez case is governed by United States obligations under two treaties, the Vienna Convention on Consular Affairs and the Hague Convention on the Civil Aspects of International Child abduction." Of the Vienna Convention Articles 5 and 37 Helms states, Ms. Ryan "creates the improper perception that Article 5 imposes upon the State Department the obligation to facilitate the return of Elian Gonzalez." About the obligations under Article 37, Helms says, "[a]gain, her assertions attempt to create an aura of legal responsibility to facilitate the return of Elian, yet the Vienna Convention simply imposes upon the United States a duty to inform the Cuban Interests Section in Washington, D.C. about developments regarding Elian's guardianship." Since "Cuba is not a party to the Hague Convention" and under U.S. law the "United States has no enforceable obligation to Cuba grounded in the Hague Convention," the Helms declaration charges Ryan with attempting "to engineer an international legal obligation for the United States where none exists." While Helms acknowledges that "even if Cuba was a Party to the Convention," there are no diplomatic relations with Cuba and the Castro regime is "listed regularly as a state sponsor of terrorism by the Department of State." Under Article 13 of the Hague Convention, "denial of return" is permitted where there is a risk for the child of "physical or psychological harm" particularly since Cuba systematically violates the "fundamental civil and political rights of its citizens." More significantly, however, is the fact that Elian was not an abducted child. Helms accuses Ryan of making "false comparisons that are irrelevant to the Elian Gonzalez case and completely ignore the circumstances of his arrival in the United States. Elian is not in the United States as a result of a custody dispute, rather his is a refugee from a Communist dictatorship."

CLINTON ADMINISTRATION POLICY TOWARD ELIAN – Describing the Clinton administration's Elian policy as lacking "internal consistency," the Helms declaration points to Ryan's argument "for treating this case as a standard abduction case, yet does not insist on the matter being decided by a Florida court as would be standard practice in a custody dispute." The "international child custody treaty obligations, real and imagined," according to the Helms declaration, come "exclusively" within the jurisdiction of the Florida state court system as was directed by the INS statement of December 1, 1999 (USCPR, Vol.7, No.1). Although Elian was not considered to have been abducted, the Attorney General "is doing her utmost to prevent the Florida courts from hearing this case," says Helms in his counter declaration against the State Department.

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United States Senate
Committee on Foreign Relations
Washington, DC 20510-6225

DECLARATION OF SENATOR JESSE HELMS

I, Jesse Helms, hereby declare as follows:

1. I am the senior United States Senator from North Carolina, and the Chairman of the Committee on Foreign Relations of the United States Senate. The Committee on Foreign Relations maintains oversight over all programs of the United States Department of State, including consular affairs, and is an equal partner in the treaty-making process as set out in Article II, section 2 of the Constitution. I make this declaration to counter the declaration before you of Ms. Mary Ryan, the Assistant Secretary of State for Consular Affairs.
2. Ms. Mary Ryan, the Assistant Secretary for Consular Affairs, has written an unprecedented declaration with regard to the Elian Gonzalez case that appears to be outside the scope of her duties in the Department of State. In her declaration, Ms. Ryan, with justifiable pride, underlines her decades of consular experience. Yet, under State Department regulations, consular officers are prohibited from providing legal advice in child custody matters (7 FAM 142.3). In fact, State Department regulations require that "at all times, consular officers must attempt to maintain impartiality, regardless of the perceived relative merits of the case, and should avoid attempting to influence either parent in a child custody dispute." (7 FAM 143). Despite this basic guideline, Ms. Ryan has provided an extraordinary legal opinion drafted for a single purpose: to influence the outcome of this case. In addition to noting the impropriety of her involving the Consular Affairs Bureau of the State Department in an immigration matter, properly in the purview of the Immigration and Naturalization Service, and her Bureau's apparent advocacy for the Castro regime's demands, I believe Ms. Ryan raises many issues that are simply not relevant to the resolution of this proceeding.
3. Ms. Ryan's efforts to use the Gonzalez case to threaten an international crisis in return of abducted children in order to justify the return of Elian Gonzalez to a rogue nation distorts the real state of affairs in parental child abduction. As I understand her declaration, Ms. Ryan makes three principal arguments: 1) if Elian Gonzalez is not returned it will lead other countries to refuse to return children; 2) the United States has international treaty obligations to return Elian Gonzalez; and 3) the United States has provided passports on a case-by-case basis to children carrying an American passport to travel with their parents to Iraq and Libya which should serve as a basis for requiring the return of Elian.
4. On the first point, regarding the effect of this case on other international abduction cases, it would be a welcome development if the actions of the United States regarding returns were reciprocated even remotely by other countries. Ms. Ryan fails to detail her own bureau's long record of failure to secure the return of U.S. children from around the world – particularly in the Middle East countries she cites, but even in countries that are allies of the United States and have specific treaty obligations requiring the return of children. In testimony to the Senate Foreign Relations Committee and the House International Relations Committee numerous parents described the inability of the Department of State to assist in the return of children and the failure of courts in countries like Germany, Austria, and Sweden to require the return of, or even visitation with, the children in accordance with their treaty obligations. I and other members of Congress have attempted to highlight these issues, and will continue to do so irrespective of this pending immigration matter. Despite these continuing affronts to American parents seeking the return of their children kidnaped from the United States or wrongfully kept abroad, state courts in the United States have continued to require the return abroad of children kidnaped to the United States. The United States is a model for other countries in these matters. The Elian Gonzalez case will only be cited by those who are not.
5. Her second argument, that the Gonzalez case is governed by United States obligations under two treaties, the Vienna Convention on Consular Affairs and the Hague Convention on the Civil Aspects of International Child Abduction, similarly missates the obligations of the United States. In fact, neither of these treaties applies to the Gonzalez case. The Vienna Convention on Consular Relations is a broad treaty setting out reciprocal rights of access to be afforded consular officers of all countries when they are stationed abroad at a diplomatic or consular post. The Vienna Convention does not confer privileges or immunities upon State Department officials working in the consular office of the State Department in Washington, D.C.. In fact, she states in her declaration that her duty is "to protect and provide consular services to United States citizens abroad." If the question were whether a consular officer from the Cuban Interests Section of the Swiss Embassy should be able to visit Elian Gonzalez, the Vienna Convention would be relevant. However, within the territory of the United States it is the Attorney General who has jurisdiction over immigration matters. In fact, Article 5, cited by Ms. Ryan, would apply in this case to the consular function of the Cuban Interests Section, not the State Department, and permits for the safeguarding of the interests of minors "within the limits imposed by the laws and regulations of the receiving State". Ms. Ryan both omits this crucial limitation set out in Article 5, and creates the improper perception that Article 5 imposes upon the State Department the obligation to facilitate the return of Elian Gonzalez. She also cites the general obligations of Article 37 of the Vienna Convention regarding the duty to inform the competent consular post of developments concerning its citizens. Again, her assertions attempt to create an aura of legal responsibility to facilitate the return of Elian, yet the Vienna Convention simply imposes upon the United States a duty to inform the Cuban Interests Section in Washington D.C. about developments regarding Elian's guardianship. Since it would be difficult to find anyone in Cuba, let alone the Cuban Diplomats posted in the United States, who

have not been fully informed of U.S. official actions regarding Elian Gonzalez, the only purpose for referencing this article must be to confuse the issues.

6. To justify her desire to return Elian to Cuba, Ms. Ryan also cites the Hague Convention on the Civil Aspects of International Abduction, of which the United States is a Party, and of which Cuba is not. Under United States law, because Cuba is not a party to the Hague Convention the United States has no enforceable obligation to Cuba grounded in the Hague Convention. That alone should end the discussion, however, again, Ms. Ryan attempts to engineer an international legal obligation for the United States where none exists. In fact, under normal conditions, and to countries with which the United States has diplomatic relations, there is a strong record of returning children to the country from which they were abducted. According to the statistics of the National Center for Missing and Exploited Children (NCMEC), the United States has a 89 percent rate of return (down from 90 percent during the years 1995 - 1998) of children to the country from which they were abducted. Of course, even with bona fide Hague Convention partners there are legitimate reasons for failing to return some children, and Article 13 of the Hague Convention permits the denial of a return if "there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation." United States courts, unlike many other judicial bodies of Parties to the Hague Convention, have generally read this exception narrowly. However, even if Cuba was a Party to the Convention, the fact the United States has no formal diplomatic relations with Cuba, and the fact that Cuba is listed regularly as a state sponsor of terrorism by the Department of State, would have to be weighed by a court deciding the Gonzalez case. In addition, the Department of State's own Human Rights Report for 1999 states regarding Cuba: "The Government's human rights record remained poor. It continued systematically to violate fundamental civil and political rights of its citizens.... The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country. The Government used internal and external exile against such persons, and political prisoners were offered the choice of exile or continued imprisonment. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. The Government infringed on citizens' rights to privacy. The Government denied citizens the freedoms of speech, press, assembly, and association. The Government severely restricted worker rights, including the right to form independent unions. The Government employs forced labor, including that by children.... Education is free and is grounded in Marxist ideology. State organizations and schools are charged with the 'integral formation of children and youth....'" (Emphasis Added). Ms. Ryan fails to give passing mention to these considerations, which are at the heart of the controversy over returning Elian Gonzalez, and even suggests that his case is "straightforward" and should be treated similarly to the way the United States would handle a case involving any modern democracy.

7. On the third point, citing precedents of issuance of passports to U.S. children whose parents are Libyan or Iraqi nationals, Ms. Ryan again makes false comparisons that are irrelevant to the Elian Gonzalez case and completely ignore the circumstances of his arrival in the United States. Elian is not in the United States as a result of a custody dispute, rather he is a refugee from a Communist dictatorship. Elian is not a dual national child seeking a passport for travel purposes, rather he is seeking asylum in the United States as a refugee. Indeed, his mother gave her life for this purpose. In the first place, Ms. Ryan's comments on U.S. passport practice concerning Americans residing in Iraq and Libya sends a clear message: Americans should be unconcerned about the Department's efforts to return a refugee child to a rogue nation. In the second place, the passport situation of Americans living in Iraq or Libya has nothing to do with Elian Gonzalez: he is not an American; Americans in Iraq or Libya are very often dual citizens bearing Libyan (or third country's) documentation in addition to American documentation; and Americans living in Iraq or Libya, who are permitted to travel internationally, are unlikely to be at odds with the dictators who rule those countries. The Department's point of view on Elian's case, though, is relevant to the situations in Iraq and Libya for another reason – not because of what it tells us about American passport policy, but rather because of what it portends for those who might flee those countries and seek asylum here. Ms. Ryan's position on the Gonzalez case leaves no doubt that an Iraqi or Libyan mother who fails to survive an effort to free her child from an oppressive dictatorship can expect energetic State Department efforts to return the child to her oppressor.

8. The Administration's own policy toward Elian Gonzalez lacks internal consistency. Ms. Ryan's declaration highlights the untenable position of this Administration: the Attorney General is attempting to block even the ability of the state court to decide what is in the best interest of Elian Gonzalez. Ms. Ryan argues for treating this case as a standard abduction case, yet does not insist on the matter being decided by a Florida court as would be standard practice in a custody dispute. Ms. Ryan references the exceptions for retaining a child in the United States and underscores the humanitarian dimension of child custody matters, but evades the important explanation of why the Convention on Refugees would not bar the return of Elian Gonzalez to Cuba, consistent with the principle of "non-refoulement". Ms. Ryan invokes international child custody treaty obligations, real and imagined, whose enforcement in our country would rest almost exclusively within the jurisdiction of our state court systems, yet simultaneously, the Attorney General is doing her utmost to prevent the Florida courts from hearing this case. Such inconsistency underlines the lack of State Department jurisdiction in this matter, and certainly appears to be leading to a denial of due process of law to Elian. It is most certainly a rebuke to the supreme sacrifice made by his mother. With their conduct in this case, Ms. Ryan and the rest of the Administration are writing a shameful page in our history.

I declare that the foregoing is true and correct. Executed in Washington,
D.C. on February 22, 2000.

JESSE HELMS

DOMINICAN NUN SUBMITS AFFIDAVIT IN ELIAN GONZALEZ CASE

Jeanne O'Laughlin, the 54 year-old Dominican nun and president of Barry University in Miami, who was asked by INS commissioner Dorothy Meissner to host a meeting for the two Cuban grandmothers of Elian Gonzalez on January 25th to meet their grandson, has submitted a sworn affidavit to the U.S. District Court in Miami. Believing Elian should be returned to his father in Cuba, O'Laughlin, to the consternation of the Castro regime, changed

her position after witnessing the meeting. O'Laughlin describes how the Cuban government officials accompanying the grandmothers "demanded" to see the plans of her home and forbade any contact between the grandmothers and their family members caring for Elian in Miami. The following are revealing excerpts from the six page affidavit submitted to the court by Jeanne O'Laughlin on February 24th:

6. The two grandmothers visited with Elian in an upstairs room. After their meeting with Elian, the grandmothers spoke upstairs privately with Odel Marichal, a member of the Cuban National Assembly and of the Cuban National Council of Churches and Joan Campbell. The grandmothers left the meeting looking frightened and different from their previous appearance. I believe that something was said to them by Mr. Marical [sic] that intimidated and frightened them.

8. Most disturbing was the Cuban official's insistence that the family members not meet or even be permitted to see one another...This seemed unnatural and reinforced my belief that the grandmothers could not act under their own free will.

9. ...It seems apparent that if the Cuban government utilizes these types of pressure tactics and exerts complete influence over Elian's grandmothers, that Elian's father too is acting under the Cuban government's strict instructions.

11. ...At this time I am even more convinced that only a court can sort out the truths surrounding this case. I also believe that Elian will not remain with his father but will become a ward of the state if he is returned to Cuba.

INS OFFICIAL CHARGED WITH SPYING FOR CUBA

Operation False Blue Cuban Spy Case

"Mariano Faget, age 54, place of birth Havana, Cuba" was arrested on February 17th "for the federal violation of the Espionage Act (Communicating National Defense Information to an Unauthorized Person) and making false statements," according to the Justice Department in the affidavit submitted by the FBI accompanying the criminal complaint (Case No. 00-2273-STB) filed in U.S. District Court in Miami. Faget, the Section Chief for Adjudications in the Miami Field Office of the Immigration and Naturalization Service (INS), held a "SECRET" security clearance at the INS and dealt with sensitive political asylum cases. Under investigation for a year in "Operation False Blue," Faget, met and communicated with representatives of the Cuban Interests Section from Washington identified by the FBI as "Cuban Intelligence Officers." Faget failed to report such contacts to the INS just as the Cubans, who were required to report their contacts with U.S. government officials to the State Department, failed to do so. In February 1998 in association with a Cuban-born New York businessman with ties to China, Faget, "was made an officer (Vice President and Secretary)" of a corporate entity registered in South Florida whose purpose is "to facilitate and engage in future business transactions with Cuba." The affidavit states further that Faget, who was set to retire next month, had not sought permission from the INS to engage in outside business activities. Faget was caught in the sting operation passing classified information on to the businessman about one of the Cubans known to them. The businessman and one of the Cuban officials have been publicly identified as Pedro Font and Jose Imperatori, respectively.

CUBAN DIPLOMAT LINKED TO INS SPY ORDERED EXPELLED

In a direct reference to the arrest in Miami of Mariano Faget, a senior INS officer charged with spying for Cuba, State Department spokesman James Rubin acknowledged at a press briefing on February 23rd that the Cuban government representative being expelled was linked to the INS spy case. "The FBI has made clear and provided evidence that was the basis for our decision to declare him persona non grata for engaging in activities incompatible with his diplomatic status," said Rubin. The unnamed Cuban diplomat turned out to be Second Secretary Jose Imperatori posted at the Cuban Interests Section in Washington with whom

Faget had met unofficially during the year-long FBI investigation into his activities code-named "Operation False Blue." Giving him 7 days to leave the country, Imperatori was declared persona non grata on Saturday, February 19th, just two days following the arrest of Faget. Fidel Castro's Communist-led government defied the State Department order to expel their diplomat for alleged spying and vowed he would remain in the United States. Ricardo Alarcon, the president of Cuba's National Assembly for the People's Power stated, "he will remain. We have not pulled him back and we are not going to pull him back." Rubin said, "We expect that the Cuban government will abide by standard diplomatic practice as

outlined in the Vienna Convention and that the diplomat in question will depart the United States by the deadline. It would be highly unusual for a state to refuse to remove a diplomat under these circumstances." In fact, the refusal to do so is unprecedented. As it turned out, Imperatori, who had vowed to conduct a hunger strike and remain in the United States to clear himself of all charges actually had to be collected by the FBI on Saturday night February 26th and escorted out of the country to Canada from where he was expected to return to Cuba. In January, Imperatori, a consular affairs officer, was present at Miami's Tamiami Airport during the visit of Elian's grandmothers. Official State Department statements relating to the Cuban expulsion are reprinted below.

STATE DEPARTMENT STATEMENT

U.S. Department of State
Office of the Spokesman
Press Statement

Statement By James B. Foley, Deputy Spokesman

February 19, 2000

Cuban Diplomat

The acting head of the Cuban Interests Section of the Embassy of Switzerland told the State Department on February 19, 2000 that his government will not voluntarily withdraw the diplomat linked by the FBI to the recent arrest in Miami of INS official Mariano Faget.

In light of the Cuban government's refusal, we have informed the Government of Cuba that this diplomat is now declared persona non grata and is ordered to depart United States territory no later than 1:30 PM EST, Saturday, February 26, 2000.

Should this diplomat fail to depart the United States by that time, he will no longer enjoy the privileges and immunities conferred by the Vienna Convention on Diplomatic Relations and become subject to the laws of the United States.

STATE DEPARTMENT STATEMENT

U.S. Department of State
Office of the Spokesman
Press Statement

Press Statement by James P. Rubin, Spokesman

February 26, 2000

Departed Cuban Diplomat

At 8:45 PM EST today, the Cuban diplomat we declared persona non grata on February 19 was escorted by the Federal Bureau of Investigation to Washington National Airport, from where he departed the United States. The diplomat in question no longer enjoys the privileges and immunities conferred by the Vienna Convention on Diplomatic Relations. He has been expelled from the United States for not voluntarily departing by the appointed time.

We do not have any further comments on this case.

VENEZUELA AND CUBA SIGN LETTER OF INTENT TO RESTART OIL REFINERY

Petroleos de Venezuela SA (PDVSA) has signed a "letter of intent" with Cubapetroleo (CUPET) this month to invest in the long idled Soviet-built oil refinery located on Cuba's south-central coast at the port city of Cienfuegos, Bloomberg has reported from Caracas. This action furthers the go-ahead of the joint venture project formally announced by Hugo Chavez, Venezuela's democratically elected leftist president and close ally of Cuba's Communist dictator, Fidel Castro, while in Havana during the November Ibero-American Summit (USCPR, Vol.6, No.11). The undisclosed investment amount was said last year to be \$5 million for what were then described as "minor changes" to the 70,000-to-76,000 barrels per day refinery. A complete refurbishment of the 1991 complex was thought to be too expensive when the plan to invest \$200 million was rejected last year by PDVSA. Venezuelan Energy and Mines Minister Ali Rodriguez has called Cuba "an important market for us" as Venezuela seeks to expand throughout Latin America with greater sales of its crude oil and petroleum products to the region. The Cienfuegos joint venture agreement would include a contract for crude oil to be supplied to the refinery and the sale of more products such as lubricants within Cuba. The terms of the oil supply agreement have not been disclosed. PDVSA has stated that it already provides Cuba with most of its 7.5 million metric tons of oil needed to keep the island operational. This is particularly significant in view of Russia's announced end to subsidized oil-for-sugar swaps with Cuba last year (USCPR, Vol.6, No.5). Statements made by Venezuelan authorities and PDVSA executives with regard to the proposed joint venture have suggested that most of the Cienfuegos refinery production would remain for use in Cuba. Strategically, the Cienfuegos joint venture could help to serve two of Chavez's political purposes simultaneously now that the former insurgent has gained greater control of the Venezuelan government. The Cienfuegos deal could mask the gratuitous supply of expensive crude oil the Castro regime needs while using and upgrading the refinery. More importantly, on the domestic front for Chavez, is his effort to break Venezuela's largest oil worker union, Fedepetrol, now that the nation's constitution has been favorably rewritten in his view and PDVSA's chief executives have been replaced by his handpicked appointments. Under Chavez's leadership, Venezuela has played a decisive role in OPEC's last unified decision to reduce world oil output contributing substantially to higher benchmark crude prices not seen in nearly a decade.

CURRENCIES & COMMODITIES

1 Euro = 0.9625 US Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 20.21 Cuban Peso

Rates as of February 28, 2000.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 5.17
Year ago nearby = 6.34
Future (May '00) = 5.00
High = 5.03
Low = 4.91

Cash/Spot price as of February 26, 2000.
Source: NYBOT.

CRUDE OIL (\$per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 30.10-30.15
Year ago (Feb. 26) = 12.27
Future (Apr. '00) = 30.13

Cash/Spot price as of February 28, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 10,060
Year ago (Feb. 26) = 4,855

(\$ per metric ton)
Official Price: February 28, 2000.
Source: London Metal Exchange

Cobalt = 13.60 -14.40
Year ago (Feb. 25) = 18.50 - 20.00

(\$ per pound for 99.8%)
Price: February 28, 2000.
Source: Metal Bulletin (London).

INTERNATIONAL TRADE BRIEFS

CUBA SIGNS BILATERAL TRADE AGREEMENT ON CONDITIONS FOR CHINA TO JOIN WTO – Having concluded a bilateral trade agreement in December (USCPR, Vol.6, No.12) helping to pave the way to join the 135 member World Trade Organization, the two Communist nations, China and Cuba, formalized their agreement with a signing ceremony in Beijing on Thursday, January 27th between trade ministers Shi Guangsheng and Ricardo Cabrisas Ruiz. China is required to negotiate separate bilateral trade agreements with other WTO members in the form of a Protocol of Accession before it can join. Cuba and China will have achieved specific concessions and commitments on tariff levels, agricultural market access, and trade in services. The trade regimes of applicants are reviewed for compliance with WTO obligations. Cuba is a founding member of the General Agreement on Tariffs and Trade (GATT). The WTO was launched on January 1, 1995 as agreed upon in the Uruguay Round of multilateral trade negotiations under GATT. (AP,"China Signs WTO Deal With Cuba," 1/27/00).

CUBA TO HOST THIRD WORLD SUMMIT MEETING IN APRIL – Known as the Group of 77 or G77, the original number of countries that joined together in 1964 to counter the economic clout of the western democracies, these developing countries whose membership now reaches 133 plan to hold their next meeting in Havana on April 10-14. The main Third World coalition represented at the United Nations is headed by Chief Arthur Mbanefo, Nigeria's UN ambassador. The meeting will seek to forge "a new economic platform for the South" and address the challenge of globalization for the Third World. Mbanefo said he expected 60 heads of state to attend. (RL,"Havana G-77 summit aims to forge economic platform," 2/7/00).

CUBA LOOKING TO JOIN NEW LOME CONVENTION – Acceptance that would grant the Communist ruled island of Fidel Castro's dictatorship greater worldwide legitimacy, full membership in the 71-member African, Caribbean and Pacific (ACP) group countries would also confer aid and trade benefits linked to the European Union. Comprised of former European colonies and territories, the ACP member nations that have been negotiating the renewal of the previous 25 year LOME IV Convention expected to be renewed for a further 20 years, have unanimously agreed to accept Cuba's membership. In a statement released during two days of talks in Brussels, the ACP countries said they "fully supported" Cuba's request for membership. At stake is European market access and a five year aid package to be shared among the 71 ACP countries amounting to \$13.4 billion. (FT,"Cuba haste to join Lome group," 2/11/00, p.8)

CUBA'S OBSERVER STATUS MAY NOT AUTOMATICALLY CONVERT TO FULL LOME MEMBERSHIP -- According to remarks made by Fraser Cameron, political counsellor for the European Commission Delegation in Washington, D.C., Cuba's support by the ACP countries "does not mean that Cuba will automatically join the new agreement." Speaking at AmCham Cuba's luncheon held at the National Press Club on February 24th, Cameron pointed out that it was "also worth mentioning the observer status granted to Cuba in CARICOM (Caribbean community) and CARIFORUM, two organizations which have close relations with the EU in the context of the Lome convention," that its membership would be viewed in light of "strict provisions on human rights and the rule of law." (AmCham Cuba, Remarks by Fraser Cameron, Washington, D.C., 2/24/00).

OFFICIAL SAYS CUBA PREPARED TO SIGN NEW LOME AGREEMENT – Describing the EU's standard of substantial progress in human rights, good governance and political freedom as interference in Cuba's internal affairs, Vice Foreign Minister Jorge Bolanos told Reuters while in Brazil that "there is no reason to discriminate against Cuba." Invoking Cuba's "sovereignty" and "self-determination" Bolanos said Havana was prepared to sign a new Lome agreement. Commenting on Cuba's application, however, Fraser Cameron said it was "doubtful" Cuba will be admitted under current standards. (RL,"Cuba says human rights no block to trade pact," 2/11/00).

DOMESTIC BRIEFS

BACARDI WINS IN COURT OF APPEALS OVER HAVANA CLUB TRADE MARK –

The U.S. Court of Appeals for the Second Circuit (Docket No.99-7582) on February 4th unanimously affirmed a decision by the New York District Court (USCPR, Vol.6, Nos.4,5&6) over trademark rights to the Havana Club brand rum. The challenge to Bacardi was brought by Paris-based Pernod Ricard through its joint venture with the Cuban government. The decision dismissed the federal trademark, trade-name, and false-advertising claims brought by Pernod Ricard.

Bacardi said in a statement their rights "to reintroduce consumers to the genuine Havana Club rum" had been vindicated. An appeal in the U.S. Supreme Court may be brought.

MACK TO ALBRIGHT: ALLOW SWIFT JUSTICE TO AMERICAN VICTIMS OF STATE-SPONSORED TERRORISM –

While Senator Connie Mack issued a statement on February 17th that he was "pleased to hear Secretary Albright's commitment to assist American victims of terrorism," it appears the State Department is no closer to endorsing the use of frozen foreign funds to compensate families of victims of state-sponsored terrorism and the Clinton administration is not at all prepared to support the *Justice for Victims of Terrorism Act* introduced last year by Senators Mack (R-FL) and Lautenberg (D-NJ). American families of victims of terrorism worldwide have pursued a cause of action created under the *Anti-Terrorism Act of 1996* (USCPR, Vol.5, No.11) but have been thwarted from collecting court awarded judgments when President Clinton invoked the section 117 national security waiver on October 1998. February 24th marked the fourth anniversary of the Brothers-to-the-Rescue shootdown.

CUBAN SPY RING MEMBERS SENTENCED TO PRISON –

Of the twelve-member spy ring uncovered by the FBI in Miami in 1998 (USCPR, Vol.5, No.9), three have been sentenced, five go on trial in May, and four remain at large. Initially ten were charged for acting as "clandestine agents for the Government of Cuba." Their crimes involved some seemingly innocent activities such as counting planes at Homestead Air Force Base, tracking troop movements at Ft. Bragg, North Carolina, monitoring boat traffic on the Miami River, and infiltrating Cuban-American exile organizations. Others have been charged with threatening U.S. national security by seeking to infiltrate the Miami-based Southern Command. The alleged ring leader, Gerardo Hernandez, charged in May of 1999 was indicted for conspiracy to commit murder in connection with the February 1996 destruction of two U.S. civilian planes in international airspace. Cuba's Fidel Castro has openly admitted sending spies to the Untied States (USCPR, Vol.5, No.10). (AP,"Spies Get 7 Years in Prison," 2/24/00).

PRESIDENT CLINTON RENEWS NATIONAL EMERGENCY AGAINST CUBA --

Signifying the fourth anniversary of the Brothers-to-the-Rescue shootdown in international airspace, President Clinton renewed the national emergency declared with respect to Cuba on March 1, 1996. The Clinton proclamation 6867 in part states "the Government of Cuba has demonstrated a ready and reckless willingness to use excessive force, including deadly force, in the ostensible enforcement of its sovereignty" and grants the Secretary of Transportation the authority to "make rules and regulations" governing the movement of vessels that "may create unsafe conditions and threaten a disturbance of international relations." (See related stories: USCPR, Vol.3, Nos.3&5; Vol.4, No.6; Vol.5, No.12).

STATE DEPARTMENT ISSUES 1999 HUMAN RIGHTS REPORT ON CUBA –

In its assessment of Cuba, the State Department's annual human rights report issued on February 25th is critical of the Castro regime's treatment of dissidents saying the government's "record remained poor. It continued systematically to violate fundamental civil and political rights of its citizens." According to the report, Fidel Castro "exercises control over all aspects of Cuban life through the Communist Party and its affiliated mass organizations, the government bureaucracy, and the state security apparatus." The 1999 report can be found on the Internet at http://www.state.gov/www/global/human_rights/1999_hrp_report/cuba.html.

NOTABLE QUOTES

"The diplomat in question no longer enjoys the privileges and immunities conferred by the Vienna Convention on Diplomatic relations. He has been expelled from the United States for not voluntarily departing by the appointed time." State Department Spokesman, **James Rubin**. (TWT,"Cuban diplomat ousted by FBI," 2/27/00, p.C1).

"I am addressing you to submit my resignation, as of this moment, to my position and functions in our beloved Interests Section and to the preogatives therein. I have decided to stay in America, assuming all the necessary risks and consequences, to struggle against the slanders that hurt my honor, and that of the Interests Section in Washington and my own homeland." Cuban Diplomat **Jose Imperatori**'s statement in his resignation letter to Fernando Remirez de Estenoz the head of the Cuban Interests Section in Washington, DC. (WP,"Cuban Diplomat Forcibly Expelled," 2/27/00, p.A1).

"I declare myself in a hunger strike until I have been absolutely cleared of the accusations brought against me." Former Cuban diplomat **Jose Imperatori** makes a statement to the press prior to his deportation at 8:45 PM on February 26th.. (AP,"Cubans Hold Rally for Expelled Envoy," 2/27/00).

"This is unprecedented. When you ask a country to remove a diplomat, the custom is to remove him." **Andy Koss** is a State Department spokesman specializing in Latin American affairs. (TWT, "Cuban diplomat ousted by FBI," 2/27/00, p.C1).

"This is a matter between the United States and Cuba that was discussed in Washington. All we are doing is facilitating the transfer of Mr. Imperatori to Havana. He will be leaving shortly. Cuban diplomats regularly use this route (through Canada) to go back and forth to Havana. To the best of my knowledge, I am not aware that Mr. Imperatori has made any request to stay in Canada." Canadian foreign affairs spokesman **Patrick Hebert** speaking at a press conference in Ottawa. (RL,"Canada says facilitating transfer of Cuban diplomat," 2/27/00).

"He has been accepted to Canada and is legally here, but he does not have diplomatic status in Canada and therefore has to abide by the conditions of his transit visa. It was done in cooperation with (Canadian) Foreign Affairs to help resolve the contentious issue." Canadian Foreign Affairs Department spokesman, **Michael O'Shaughnessy**. (RL,"Canada says Cuban diplomat cannot stay," 2/28/00).

"It is a surprise frankly that they [Cuba] would take this action. It clearly is contrary to practice, custom, convention and courtesy but they have to answer to that. We pointed out to them that this is not the way to conduct [foreign] affairs because we were simply acting to help the two countries out of a very difficult situation." Canadian Foreign Affairs Minister, **Lloyd Axworthy**. (RL,"Canada Orders Cuban Diplomat to Leave," 2/29/00).

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Ralph J. Galliano, Editor

JUDGE MOORE RULES IN U.S. DISTRICT COURT TO UPHOLD INS DECISION TO DENY ELIAN GONZALEZ HEARING FOR POLITICAL ASYLUM

WASHINGTON – In the swirl of a bitter international custody battle that has raged since December 5th when Cuban dictator Fidel Castro gave President Clinton a 72-hour ultimatum (USCPR, Vol.6, No.12) demanding the return of Elian Gonzalez, the six-year old boy whose mother took to the open sea with her son and 11 others and lost her life fleeing Communist Cuba, a Miami federal court judge has issued a pivotal decision. Twelve days after hearing three hours of arguments in the lawsuit brought by Elian's great-uncle, Lazaro Gonzalez, to compel the Immigration and Naturalization Service (INS) to hold a political asylum hearing, District Court Judge K. Michael Moore handed down a ruling on Tuesday, March 21st. While Linda Osberg-Braun, a former INS lawyer and an attorney for Elian's great-uncle, had argued that "any alien that is within the United States is entitled to apply for asylum and INS is obligated to hear that claim," U.S. Deputy Solicitor-General Edwin Kneedler, countered that "Elian Gonzalez has a legal representative and that legal representative is his father." Writing for the March monthly policy paper of the America's Future Foundation, Roger Noriega, a member of the professional staff at the Senate Foreign Relations Committee, took a cynical view of the unfolding drama. "This should have been a straight-forward asylum case. Instead, the Elian affair magically morphs between custody battle and immigration case. To defeat Elian's quest for asylum, this administration has encouraged the public misperception that children cannot apply for asylum without parental consent and that the INS has the authority to assign parental custody and parental rights. Both assertions," wrote Noriega, "are absolutely false as matters of long standing policy and law." Noriega cites Section 208 of the INS Act and the INS *Guidelines for Children's Asylum Claims* (December 10, 1998) as justification for having the INS grant Elian Gonzalez an asylum hearing. In his 50-page decision (Case No.00-206-CIV-MOORE), Judge Moore ruled that only U.S. Attorney General Janet Reno could grant asylum and upheld the January 5th INS determination (USCPR, Vol.7, No.1) by Commissioner Dorothy Meissner stating that Elian Gonzalez was "too young to make legal decisions for himself" and that Elian's father in Cuba, Juan Gonzalez, had "the sole legal authority to speak on behalf of his son, Elian, regarding Elian's immigration status in the United States." Reno stated the day after Moore's decision that she understood "the very strong emotions that have surrounded this case from the very beginning, but I have every confidence that the [Cuban-American] community will accept the Court's decision and will support the process that will reunite Elian and his father."

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SHORT-CIRCUITING THE LEGAL PROCESS – In the immediate aftermath of Judge Moore's decision, the Justice Department moved rapidly to "reunite" Elian with his father in Cuba although the Miami family's request for an appeal at the 11th Circuit in Atlanta had been granted. On March 23rd, the INS pressured the Miami family by calling for an expedited appeals process to which it agreed and then further demanded Lazaro Gonzalez sign an agreement that the boy be given up if he loses the federal court appeal, to which he has refused. With the White House under persistent pressure from the Castro regime, the Justice Department seeing an appeals process dragging on for months and, Elian's family fearing loss of temporary custody, Members of Congress weighed in with letters (reprinted below) to the attorney general and to the president. Key members of the Senate requested a "commitment" that both the Department of Justice and INS "will take no action to return Elian Gonzalez to Cuba until he has had the opportunity to exercise all of the legal options, including appeals, available in both federal and state court." In a March 29th letter to the president initiated by Speaker of the House Hastert, Republican leaders in Congress demanded the Clinton administration abide by its "original position that the Florida family court should decide what is in the best interest of Elian," and that at a minimum, "the proceedings before the federal courts should be allowed to run their course." In an attachment detailing the "Gonzalez Case: Procedural History," the point is made (#8) that while Judge Moore dismissed the case, the Court "left in tact the State Court Order granting Lazaro Gonzalez temporary custody of Elian" and prohibiting his removal from the State Court's jurisdiction. At a White House press conference on March 29th, President Clinton reiterated earlier statements saying, "I have done my best not to overly politicize this, and I don't think we should. There is a legal process here; we ought to let it play out."

GREGORY CRAIG: PRESIDENT CLINTON'S FIX-IT MAN– On the day before the March 9th hearing in Judge Moore's Miami courtroom, Gregory Craig announced he would be representing Juan Miguel Gonzalez, Elian's father in Cuba. Craig, according to a story in the *Ft. Lauderdale Sun Sentinel*, is no ordinary lawyer having been a member of John Hinckley's defense team, the would-be assassin of President Reagan in 1981, having worked for Senator Ted Kennedy, and having assisted President Clinton during the House-Senate impeachment after the Monica Lewinsky scandal. Of the politically charged Washington lawyer, Francis Boyle, a University of Illinois law professor told the *Sentinel*, "This guy is right next to Clinton. All of a sudden he gets on an airplane and flies down to Cuba. That's a sign to me that this is political damage control going on. Craig is a fix-it man. That's what we lawyers would call him."

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STATEMENT BY ATTORNEY GENERAL JANET RENO

Department of Justice

FOR IMMEDIATE RELEASE

Tuesday, March 21, 2000
Contact: (202) 616-2777 TDD: (202) 514-1888

Statement by Attorney General Janet Reno on Judge Moore's Decision in the Elian Gonzalez Case March 21, 2000

Washington, D.C. -- U.S. District Court Judge K. Michael Moore today dismissed a lawsuit by the relatives of Elian Gonzalez, which challenged the INS' decision to reunite Elian Gonzalez with his father, Juan Miguel Gonzalez. Attorney General Janet Reno issued the following statement: We are pleased that the court has sustained our judgement that Elian should be reunited with his father. The court's decision reaffirms our position that only Elian's father can speak for his son on federal immigration matters. The court also recognized the importance of family reunification and protecting the bond between a son and his sole surviving parent. This is a country where the rule of law is respected and upheld. A federal court has considered this case and has sustained our decision, a decision that was based on the facts and the law. It has been four months since Elian was separated from his father and lost his mother. It is time for this little boy, who has been through so much, to move on with his life at his father's side. I understand the very strong emotions that have surrounded this case from the very beginning, but I have every confidence that the community will accept the Court's decision and will support the process that will reunite Elian and his father.

SENATE LETTER TO ATTORNEY GENERAL

United States Senate
Washington, D.C. 20510

March 24, 2000
The Honorable Janet Reno
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear General Reno:

We are writing to request that you make a commitment that both the Department of Justice and the Immigration and Naturalization Service will take no action to return Elian Gonzalez to Cuba until he has had the opportunity to exercise all of the legal options, including appeals, available in both federal and state court.

The recent decision of Judge Moore to dismiss the federal court case brought on behalf of Elian is only the first step in a complicated series of legal procedures. We must not forget that Elian's mother perished in her quest to bring Elian to the country of freedom. At a minimum, this child deserves the opportunity to exercise every legal option available to him, and no action should be taken that would preempt these rights. There is no justification in short-circuiting the legal process in this case. By taking no action until judicial review is completed in its entirety, you will reinforce that the rule of law is cardinal in the United States.

As chief law enforcement officer of the United States, we know you share our profound respect for the rule of law and the principles this country was founded upon. We must do all we can to protect and promote Americans' rights to pursue their legal options and to preserve the integrity and faith in our judicial system.

Sincerely,

Connie Mack (R-FL)	Bob Graham (D-FL)	Jesse Helms (R-NC)
Trent Lott (R-MS)	Robert Torricelli (D-NJ)	Bob Smith (R-NH)
Jim Bunning (R-KY)	Larry Craig (R-ID)	Paul Coverdell (R-GA)

HOUSE REPUBLICAN LEADERSHIP LETTER TO PRESIDENT CLINTON

*Office of the Speaker
United States House of Representatives
Washington, D.C. 20515*

March 29, 2000
The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

It is our understanding that the Department of Justice may soon attempt to forcibly remove Elian Gonzalez from his Miami home and return him to communist Cuba. As this is a matter of urgency, we request that you immediately instruct Attorney General Reno to not take such action.

We continue to demand that you instruct the Attorney General to abide by your Administration's original position that the Florida family court should decide what is in the best interest of Elian. At a minimum, the proceedings before the federal courts should be allowed to run their course. The judicial process is the best way for determining what is in the best interest of this child, just as the courts are called upon thousands of times each day to make the same determination for other children. Nevertheless, the Department is threatening this removal action while Elian's case is pending before the courts, attempting to short-circuit the appeals process undermining fundamental procedural rights protected by our Constitution.

The Department of Justice, above all agencies within the executive branch, should respect the rule of law. While the United States District Court in Miami has ruled in favor of the Department, this decision is now before the federal appellate courts. In fact, in an unusual move, the 11th Circuit Court of Appeals has agreed to review Elian's case on an expedited schedule. It is critically necessary for Attorney General Reno to allow this important matter to receive full judicial review.

We have attached to this letter a chronology of judicial decisions and Justice Department actions in this case. These facts demonstrate the Department's unwillingness to defer to the judgments of the courts in deciding what is best for Elian. This practice must end.

We appreciate your prompt attention to this time sensitive issue.
Respectively yours,

Dick Armey (R-TX)
Majority Leader

J. Dennis Hastert (R-IL)
Speaker of the House

Tom DeLay (R-TX)
Majority Whip

J.C. Watts (R-OK)
Republican Conference Chairman

Addendum attached

Gonzalez Case: Procedural History

- 1) On December 1, 1999, after legally paroling Elian Gonzalez into the United States and placing him in the care of his great uncle, Lazaro Gonzalez, the Immigration and Naturalization Service (INS), pursuant to law and established policy and procedure, declared that the issue of the legal custody of Elian Gonzalez must be decided by the Florida Family Court.
- 2) Previously, on December 10, 1998, INS had issued new guidelines in order for children to be able to file claims for political asylum in the U.S. The new INS guidelines stated that asylum procedures for children must recognize that children under the age of 18 may experience persecution differently from adults. The guidelines also established more child-sensitive procedures to help INS asylum officers interact more meaningfully with children. Based on INS guidelines and existing law and procedure, Elian's attorneys filed a petition for political asylum for Elian. The petition was returned by the INS to Elian without an interview or consideration of the merits of said petition.
- 3) Pursuant to established law, policy and procedure, as well as to the above-referenced INS declaration of December, 1999, Lazaro Gonzalez, Elian's great uncle, obtained an order on January 10, 2000 from the Florida Circuit Court for the Eleventh Judicial Circuit, granting him temporary custody of Elian Gonzalez and prohibiting the removal of Elian from Miami-Dade Court until the issue of custody was permanently resolved by the Florida Family Court.
- 4) After the state court ruling of January 10, 2000 granting Lazaro Gonzalez temporary custody of Elian, a second petition for political asylum for Elian was filed on his behalf by his great uncle Lazaro Gonzalez. INS refused to accept the second petition. INS has consistently espoused the rationale that "only the father can speak for Elian," even though INS' own guidelines do not impose this requirement, and as noted above, INS guidelines recognize that petitions for asylum from children may be appropriate.
- 5) Despite the INS declaration of December 1, 1999, recognizing that the Florida Family Court must decide the issue of Elian's custody, and despite the well-established principle of American jurisprudence that custody disputes are clearly within the realm of the state courts, as well as the requirement of the 10th Amendment to the United States Constitution that the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the states, Attorney General Reno stated, in a letter sent on January 12, 2000 to Elian's attorneys, that she refuse[d] to abide by the state court order, and the INS' custody decision, "may be challenged, if at all, only in Federal court". She further stated that "we are prepared to litigate in that forum" (federal court).
- 6) Accordingly, Lazaro Gonzalez, on behalf of Elian, filed an action in the United States Court for the Southern District of Florida seeking to force the INS to follow its own guidelines and grant Elian a hearing for political asylum.
- 7) The Court set a hearing for March 9, 2000 on the issue of whether it had jurisdiction to hear the lawsuit filed on behalf of Elian by Lazaro Gonzalez.
- 8) Subsequent to the hearing the Court ruled, on March 16, 2000, that it did have jurisdiction, that the plaintiffs have legal standing to sue on Elian's behalf and, without holding either a trial or even a hearing on a motion for summary judgment, the Court ruled against Elian on the merits of the complaint. The Federal Court left intact the State Court Order granting Lazaro Gonzalez temporary custody of Elian, however, and supported "the state court's conclusion that Lazaro is a proper next friend in the instant case".
- 9) Immediately, Elian's lawyers filed a notice of intent to appeal the case as authorized by law, to the 11th Circuit Court of Appeals in Atlanta.
- 10) Acting as both judge and party in the pending legal case, the Justice Department demanded, on March 23, 2000, in a written ultimatum to Elian's attorneys, that they radically shorten the time allowed them by law in order to file their appellate arguments, and that they submit to various other conditions sought to be imposed arbitrarily by the Justice Department.
- 11) Elian's attorneys proceeded to ask the Appellate Court to expedite the procedure in this case, and the Court, on March 27th, issued an expedited timetable for the presentation of legal documents, and scheduled oral arguments for May 8, 2000.
- 12) On March 27, the Justice Department in effect rejected the Appellate Court's timetable by stating that it would revoke Elian's parole in the United States, with the possible intention of sending Elian back to Castro within days.

In summary, the Justice Department, which declared through the INS on December 1, 1999, that, as required by law, Elian's custody would have to be decided by Florida Family Court, refused to obey a Family Court order that stands to this day granting temporary custody of Elian to his great-uncle and prohibiting Elian from being removed from the area of jurisdiction of the state court; instead on litigating the matter only in the federal courts, thus forcing Elian's lawyers to file suit in federal court; refused to respect the time-frame set by law for the federal appeal, and refused as well to obey the time-frame set by the federal appellate court itself when the Court agreed to expedite Elian's appeal and scheduled oral arguments for May 8, 2000.

CUBA'S SPYMASTER: FERNANDO GARCIA BIELSA'S MISSION

Fernando Garcia Bielsa, Cuba's premier spymaster, arrived in Washington on Monday, March 6th to assume his intelligence duties at the Cuban Interests Section. Under White House pressure, the State Department overcame initial opposition by the FBI and Senate Foreign Relations Committee Chairman Jesse Helms to grant Bielsa his visa last November. Although they denied it, the Cubans had delayed visas for some of State's people being posted to Havana in retaliation to opposition coming from Washington. Writing to Secretary of State Madeleine Albright on September 21, 1999, Helms described Garcia Bielsa as "a notorious Cuban intelligence operative" who was "known for his support of terrorism and espionage" (USCPR, Vol.6, No.9). Through the Cuban Communist Party Central Committee, the 'Americas Department' (DA), whose main target is the subversion of the United States and with which Garcia Bielsa has been associated

unify, fund, and direct guerrilla liberation in Nicaragua, El Puerto Rico. In particular, the organizations known as the Macheteros (1976) are considered government's General (DGI) of which Garcia Bielsa is

Under diplomatic cover, expected to direct so-called Castro, anti-American supporters with Washington offices, who at all levels covering a wide return of Elian Gonzalez to Cuba of the Americas (SOA) to the the IMF and the World Bank.

Garcia Bielsa has following over the years among those who support the cause of Puerto Rican separationism and those who subscribe to liberation theology in Latin America, priorities of Cuban foreign policy. Recognized for their dedicated missionary work "in 27 countries around the world, principally in Africa, Asia and Latin America," the New York-based Catholic Maryknoll Society has been at the forefront of the campaign to shutdown the SOA which trains Latin American military and police officers in counter insurgency. Maryknoll priest Stephen De Mott was given special recognition on November 20, 1999 during a protest of the SOA located at Ft. Benning, Georgia. "The campaign to close the School of the Americas is a campaign on behalf of justice, compassion and nonviolence," said De Mott. "And that is what Maryknoll is all about. It is one of many ways in which we join with the poor in Latin America and throughout the world in their struggle to put an end to poverty and oppression and build a better life for their children. This is the cause of the Gospel; this is the cause of Christ." Preaching the social gospel and claiming the SOA is the training ground for Latin American dictators and assassins, the 10-year campaign drew an estimated 12,000 people from across the U.S., Peru, Mexico, Nicaragua, Puerto Rico and Canada. SOA Watch founder and co-director Roy Bourgeois, a Maryknoll priest said, "We will keep coming back in greater numbers until this school is shut down." The Maryknolls have a long history of backing subversive movements in Latin America in the name of liberation theology; the very same groups backed and supported by the Cuban DGI.

The annual SOA protest now has become more of a symbol against the direction of U.S. foreign policy in general than about specific human rights abuses since the SOA began to stress

solidarity networks...who oppose U.S. foreign policy at all levels covering a wide range of issues from the return of Elian Gonzalez to Cuba to the closing of the School of the Americas to the economic globalization of the IMF and the World Bank.

since the 1970s, was able to groups of national Salvador, Guatemala, and Puerto Rican terrorist FALN (1974) and Los creatures of the Cuban Intelligence Directorate an integral part.

Garcia Bielsa, is solidarity networks of pro-across the country, many oppose U.S. foreign policy range of issues from the to the closing of the School economic globalization of

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human rights and ethics in Army classroom curriculums at Ft. Benning. The Maryknolls, through Bourgeois, have begun to associate the SOA with alleged human rights abuses in Colombia's war on drugs against the cartels and Marxist guerrillas. In Congress, the campaign to shut down the SOA is spearheaded by Rep. Joseph Moakley (D-MA) who has introduced bills to close (H.R.732) and defund the SOA (H.Amdt.368 to H.R. 2606). Moakley, who has traveled to Cuba, is Ranking Member of the Rules Committee and stands to become chairman once again if the Democrats win the House majority in the upcoming November elections.

Beside the Maryknolls, the Bielsa solidarity network in the United States includes the Los Angeles-based Office of the Americas (OOA) which played host to Bielsa in June of 1998. The OOA supports the Maryknoll campaign against the School of the Americas. Hollywood actor Martin Sheen, star of NBC's hit primetime series West Wing, who also serves on the OOA board of directors, was among the November 1999 participants at the joint Maryknoll-Jesuit SOA protest at Ft. Benning. The OOA also links up with the National Lawyers Guild (NLG) which sent a delegation of lawyers to Cuba backing Elian's return to his father in Havana. On March 3rd they met with Cuba's National Assembly president, Ricardo Alarcon, who is the "communist government's lead man on U.S. relations" according to a NLG press release. The New York-based NLG drafted a legal memo dated January 24th for Rep. Jose Serrano (D-NY) regarding the proposed legislation granting citizenship to Elian Gonzalez. NLG maintains a Puerto Rico subcommittee and a Cuba subcommittee through which it has forwarded messages lobbying Secretary of State Albright, Cuba Desk coordinator Charles Shapiro, and Attorney General Janet Reno to return Elian to his father in Cuba on behalf of Pastors for Peace.

In a surprise move last August, President Clinton announced the clemency of 16 jailed Puerto Rican terrorists – 12 FALN and four Los Macheteros – dedicated to the use of violence to achieve the national independence for Puerto Rico. Clinton faced harsh criticism suggesting the clemency decision was intended to help his wife Hillary Rodham Clinton garner the Puerto Rican vote in her New York race for the U.S. Senate. The president invoked executive privilege when Congress requested important information leading up to the clemency decision.

Los Macheteros are notorious for their 1983 robbery of a Wells Fargo office in West Hartford, Connecticut that netted the Cuban controlled terrorist group \$7.2 million, a third of which is reported to have found its way into Cuban hands. A book written by defector and former Cuban intelligence officer, Jorge Masetti, entitled *El Furor y El Delirio* (The Fury and the Delirium) attests to the link between the DGI and the Macheteros just prior to the Wells Fargo robbery, according to a recent CNN report. A two year FBI investigation found the Macheteros meeting with four principal Cuban intelligence agents in Mexico City and occasionally in Havana. According to a confidential briefing reported by the *Hartford Courant* on November 7th, the FBI concluded, "Numerous court-authorized interceptions of conversations between the Macheteros leaders have determined that the Cubans support and direct the Macheteros at a firsthand level." Diplomatic considerations at the time played a role in the four Cubans not being named unindicted co-conspirators in the Wells Fargo robbery case. Garcia Bielsa is believed to have been one of the four Cuban DGI agents that the Macheteros met with regularly, justifying the FBI's staunch opposition to his Washington assignment and the State Department's granting of his visa at the behest of the White House.

Cuba maintains a two-track foreign policy with regard to U.S. relations referred to as Plan Alfa – normalization, and Plan Bravo – destabilization. The final days of the Clinton administration may be the Castro regime's last best chance for normalization while the New York Senate candidacy of Hillary Rodham Clinton, a financial supporter of the NLG and national liberation groups in Central America, may present perhaps the most cohesive opportunity yet to provide high profile domestic leadership for the solidarity network by an elected member of the U.S. Senate.

RUSSIA TO SEND 440,000 METRIC TONS OF OIL TO CUBA UNDER LOURDES DEAL DURING FIRST QUARTER

Unlike the oil-for-sugar deal (USCPR, Vol.6, No.5), the oil-for-Lourdes deal between Cuba and Russia does not specify the quantity of Russian oil deliveries to Cuba nor the export agents who will make the deliveries. In an intergovernmental agreement signed in 1995, Moscow is able to pay Cuba in oil rather than in cash for the continued operation of Lourdes, the signals intelligence (SIGINT) facility southwest of Havana and 25 miles northwest of Jose Marti International Airport. The October 1995 Lourdes agreement called for the continued use of the site through the year 2000. However, a 1994 one year agreement for the continued operation of the facility required that Russia provide Cuba with \$200 million worth of fuel, timber, and spare parts for civilian and military use. The open-ended nature of the 1995 oil-for-Lourdes agreement between Russia and Cuba may have been a direct reaction to newly introduced legislation in 1995 called the Cuban Liberty and Democratic Solidarity Bill. This legislation required the president of the United States to withhold from any U.S.-Russian aid package an amount equal to the assistance and credits Russia provided to Cuba in return for the operation of the Lourdes intelligence facility. The bill, popularly known as Helms-Burton, contained similar language in final passage in March of 1996. Section 106(d) of the Act allows the president to waive the provision for national security purposes (USCPR, Vol.3, No.5).

"The strategic significance of the Lourdes facility has grown dramatically since the secret order from Russian Federation President [Boris Yeltsin] of 7 February 1996 demanding that the Russian intelligence community step up the theft of American and other Western economic and trade secrets. It currently represents a very formidable and ominous threat to U.S. national security as well as the American economy and infrastructure," according to Stanislav Lunev a former colonel in Russian military intelligence (GRU). The strategically located Lourdes base is the largest Russian SIGINT site abroad. Defense Intelligence Agency (DIA) Congressional testimony in 1996 specifies that Lourdes is operated by the GRU and the Federal Agency for Government Communications (FAPSI) which "evolved in the early 1990s from the former KGB's SIGINT service." The Russian Foreign Intelligence Service (SVR) "also has a communications center at the facility for its agent network in North and South America," according to DIA. U.S. unencrypted voice and data telephone communication relayed by satellite is vulnerable to Russian intercept. Russia obtains 75% of its strategic military information from Lourdes according to a 1993 statement made by Cuban Defense Minister Raul Castro.

Russia's Fuel and Energy Ministry is expected to have shipped 440,000 metric tons of crude oil to Cuba in the first quarter of this year in payment for Lourdes. Spot crude oil averages (\$27.5675) taken at the end of each month from December 1999 to March 2000 would value that volume of crude at \$88.5 million.

CURRENCIES & COMMODITIES

1 Euro = 0.9558 US Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 20.07 Cuban Peso

Rates as of March 30, 2000.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 6.23
Year ago nearby = 5.91
Future (May '00) = 5.85
High = 5.94
Low = 4.91

Cash/Spot price as of March 31, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 26.85-26.95
Year ago (Mar. 31) = 16.76
Future (May '00) = 26.90

Cash/Spot price as of March 31, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 10,180
Year ago (Mar. 30) = 4,840

(\$ per metric ton)
Official Price: March 30, 2000.
Source: London Metal Exchange

Cobalt = 15.80 -16.80
Year ago (Mar. 29) = 17.00 - 18.00

(\$ per pound for 99.8%)
Price: March 30, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

ALABAMA PORT OFFICIAL SEEKS CUBAN MARKETS – James Lyons, executive director for the State Docks, seeks trade with Cuba to make up for the short fall in recent years at the Port of Mobile which moves tons of forest products through its docks. Due to the collapse of the Asian market and new competition from Europe, Chile, and Indonesia, business is down 15% over the past two years. Lyons believes the Cuban market, just 700 miles away, can help to fill the gap. (JOC,"Alabama official has Cuban trade on his wish list," 3/13/00, p.19). **LEISURE CANADA ANNOUNCES \$10.6 MILLION IN PRIVATE PLACEMENT** – Leisure Canada Incorporated (LCI) of Vancouver announced a private placement of special warrants for \$10.6 million. The proceeds will be used "to fund LCI's portion of the construction costs of the first hotel on the 5.5 square kilometer Jibacoa site in Cuba." According to Peter MacLeod, president and COO, "This financing further secures Leisure Canada's position as a leading resort developer in Cuba." Leisure Canada's planned developments include "11 first-class luxury hotels, two 18-hole championship golf courses, and timeshare opportunities." Ground breaking for the first hotel is expected in March. (BW,"Leisure Canada Arranges International Private Placement," 3/13/00). **PERNOD RICARD UNDECIDED OVER APPEAL TO SUPREME COURT** – Paris-based drinks and liquor producer, Pernod Ricard, has until May 5th to decide whether to appeal the Second Circuit Court's unanimous decision in favor of Bacardi-Martini USA over trademark rights to the Havana Club brand rum (USCPR, Vol.7, No.2), according to Thierry Jacquillat Pernod's managing director. Pernod Ricard challenged Bacardi in U.S. District Court in early 1996 following the passage in Congress of Section 211 (USCPR, Vol.6, No.4) to afford greater trademark protection to uncompensated confiscated property, in this case involving Cuba. (RL,"Pernod faces May 5 deadline in US Havana Club case," 3/23/00). **AMERICAN REFINERS VISIT HERSHEY SUGAR MILL IN CUBA** -- Wayne Smith, a former head of the U.S. Interest Section in Havana and senior fellow at the Center for International Policy in Washington organized a trip to the Camilo Cienfuegos Central outside Havana for U.S. sugar refiners. The delegation of sixteen made the five day visit from March 22nd through March 26th to the mill and also met with Cuba's ministers of foreign trade and sugar. The mill formerly known as Hershey was confiscated by the Castro regime without compensation. Hershey has been certified by the National Association of Sugar Mill Owners of Cuba as 100% owned by Leonor Lobo de Gonzalez (USCPR, Vol.6, No5). Among the refinery participants were Tate & Lyle, Domino, California & Hawaii, American Cane Refiners Association, Savannah Foods, and Imperial Holly. Florida refiners U.S. Sugar and Florida Crystals did not take part. (AP,"U.S. Sugar Refiners Tour Cuba," 3/24/00). **CUBA APPLIES TO JOIN POST-LOME CONVENTION ACCORD** -- Granted observer status to the Lome Convention in June 1998 (Vol.5, No.9), Cuba formally applied to Brussels in early March for unconditional acceptance to the new EU-ACP (African, Caribbean and Pacific) trade and aid accord. EU acceptance of Cuba in the new ACP-EU Partnership Agreement must be unanimous when it meets in early June in order for Cuba to become an official member. Cuban Vice President Carlos Lage met with Portuguese Foreign Minister Jaime Gama, on March 27th in Lisbon to discuss Cuba's application. Concerns among some European governments remain over Cuba's willingness to accept "the political dimension" of the new agreement which calls for "respect for human rights, democratic principles and the rule of law." New procedures have been drawn up for cases of violations of human rights that allow for "greater flexibility" in the consultation process with the offending country. The duration of the new agreement is for 20 years with revision every five years. According to the *Financial Times*, countries which have substantial "trade and investment links" already with the Communist ruled island such as Spain, France, and Italy "openly endorse Cuban membership" while Sweden, the Netherlands, and Britain have serious reservations about Cuba's membership given its resistance to the adherence of the agreement's political dimension. Germany holds reservations but believes Cuba should be admitted (USCPR, Vol.7, No.2). Cuba adopted the euro in July of 1999 (USCPR, Vol.5, No.11). (FT,"Cuba seeks to join trade and aid pact," 3/24/00, p.8).

DOMESTIC BRIEFS

INS OFFICIAL CHARGED WITH ESPIONAGE INDICTED -- Mariano Faget, the Cuban born INS supervisor arrested on February 17th for the federal violation of the Espionage Act (USCPR, Vol.7, No.2) was arraigned on Monday, March 6, 2000 and jailed without bond. Faget is charged with revealing classified information, lying about his contacts with Cuban officials, and failing to submit an outside employment form showing his association with a company called America-Cuba. Faget plead not guilty and proclaimed his innocence. Federal officials had been investigating Faget for nearly a year before his arrest. Trial for Faget is scheduled for April 24th. The U.S. Attorney has invoked the Classified Information Act which requires government documents to filed under seal. The public is expected to be barred from the hearings. If convicted, Faget could face up to 35 years in prison and \$1.25 million in fines. The arrest of Faget led to the expulsion from the United States of Cuban diplomat, Jose Imperatori (USCPR, Vol.7, No.2). (AP,"Cuban-Born INS Official Indicted," 3/4/00; AP,"Accused Cuba Spy Pleads Innocent," 3/6/00).

STATE DEPARTMENT REQUESTS UPDATE OF CASTRO PSYCHOLOGICAL PROFILE – When a foreign leader's behavior is seen as having changed and when that behavior is perceived to pose a potential risk to U.S. national security interests, the CIA is asked to update the leader's profile. The State Department is reported to have confirmed it has requested the Central Intelligence Agency to update Cuban leader Fidel Castro's psychological profile. Castro's lengthy rambling speeches have now turned into long rambling letters written to Canadian Prime Minister Chretien over the Imperatori affair and to U.S. Rep. Jim McDermott (D-WA) over the Seattle police crackdown on street riots. Castro's obsession with the Elian Gonzalez case is a troubling example. Recently Castro went on Cuban television to complain that the U.S. Interests Section in Havana had not given him the latest immigration figures and stumbled on the air with the math. Brian Latell, the CIA's former top Cuba analyst has put forth the proposition that the aging dictator, who will be 74 in August, is beginning to exhibit signs of 'geriatric over-exertion' which could manifest itself in "some destabilizing new campaign to replenish revolutionary morality." (Latell, "The U.S. and Cuba: Future Security Issues," Atlantic Council, 5/4/99; FT,"Wordsmith Castro gets in tangle over numbers," 3/9/00).

SECRETARY OF STATE ALBRIGHT CRITICIZES CUBAN HUMAN RIGHTS ABUSES – At the opening of the annual six-week session of the UN Human Rights Commission, the 53-member forum in Geneva, Secretary of State Madeleine Albright assailed the human rights practices of China, Iran, Iraq, Myanmar, the Sudan and, Cuba. She spoke of the Castro regime as continuing to "suppress dissent, deny free speech, outlaw free assembly and harass human rights advocates and others who seek independence of action and thought." Cuban ambassador, Carlos Amat, ridiculed Albright after she had left the hall comparing her to Snow White's evil stepmother. "It would appear the secretary of state came to this commission to kill or destroy all the efforts we are making to uphold the credibility of this commission," Amat said. Albright urged nations support this year's Czech-Polish resolution which is expected to be similar to the one that passed last year (USCPR, Vol.6, No.4) by a vote of 21 to 20 with 12 abstentions. In a speech to university students on March 26th, Cuban dictator Fidel Castro lashed out at critics of Cuba's human rights policy and warned the Czech Republic that Cuba would launch a public protest against the Czech embassy in Havana if Prague went forward with the resolution censuring Cuba. In his five-hour speech, Castro declared, "Let them prove that a single person was tortured here and that anyone in the (ruling Communist) Party or government knew about it and allowed it to happen." Castro is especially sensitive at this time to criticism of human rights because it awaits the EU vote on Cuba's application to join the post-Lome trade accord. (AP,"Cuba Ambassador Criticizes Albright," 3/23/00; RL,"Cuba's Castro lashes Czechs over rights criticism," 3/26/00).

NOTABLE QUOTES

"Castro is an anachronism. This has to end. He has to go. He's a total outlaw." Senator **Robert G. Torricelli** of New Jersey speaking at a diplomatic breakfast forum in Washington. (TWT,"Straight talk breakfast," 3/2/00).

"I don't want to say civil society is the magic pill, but it's a good element in starting to prepare Cuba [after Castro] for the future...You're going to lose some battles. But if you are willing to run the risk [of Cuban government manipulation] and you can run through their interference, that's what building civil society is all about." **Michael Kozak** is the former principal officer of the U.S. Interest Section in Havana. (MH,"After Castro, Cuba may be in chaos," 3/6/00)

"These [members of the Cuban Communist Party's ruling Polit Bureau] are people ready to rule after Castro is gone. They may succeed or fail, but they will certainly continue the current system of government." Remarks by Harvard professor, **Jorge Dominguez**, at the annual Latin American Studies Association meeting held in Miami on Friday, March 17, 2000. (MH,"Despite image, Cuba is evolving, scholars say," 3/18/00).

"For socialism to be successful, it is essential for socialist state companies to be efficient. Today more than ever, I am convinced that a socialist state company can be more efficient than the best capitalist one." Excerpt from letter written in January by **Carlos Lage** the Cuban vice president to Cuban company directors. (FT,"Cuba's revolution in a class of its own," 3/20/00, p.12).

"I think it's no accident, as the communists like to say, Mr. Castro gave the speech the evening of the Academy Awards here in the United States. I'm not sure what category he would be up for. He spoke for five hours. I don't think there's a supporting actor category in the Cuban cinematography industry. Nevertheless, he made some very intemperate remarks we believe that reveal more about him than they do about the real issues in this case. This is a serious matter involving Elian Gonzalez, and the United States Government is trying to find a fair, prompt and orderly solution to the issue. The Department of Justice has followed a deliberate process, consistent with our laws and procedures, and the United States will not be intimidated or pressured into taking actions that are inconsistent with these principles. So any threats or innuendoes expressed by the government of Cuba are, in fact, irrelevant to the disposition of this case." State Department Spokesman, **James B. Foley** responds to questions at the daily press briefing on Monday, March 27, 2000

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Ralph J. Galliano, Editor

CIRCUIT JUDGES RULE ELIAN MUST REMAIN IN U.S. PENDING APPEAL -- INS SEIZES ELIAN IN PREDAWN RAID WITHOUT COURT ORDER

WASHINGTON – In the United States Court of Appeals for the Eleventh Circuit, judges Edmondson, Dubina and Wilson on April 19th granted Elian Gonzalez an injunction and enjoined "all persons acting for, on behalf of, or in concert with Plaintiff, Elian Gonzalez...from aiding or assisting, or attempting to aid or assist, in the removal of Plaintiff from the United States" pending appeal. The Court specifically denied the INS its request to enter "an order directing Lazaro Gonzalez to present Plaintiff to the INS, as directed by the INS, for transfer of care to Plaintiff's father" (see footnote #16 below) in return for the INS's consent to the injunction. Instead, the Court granted the injunction but refused to rule on the custody issue. While specifically declining to grant custody of Elian to his father, the Court implicitly embraced the status quo whereby Elian would remain with his uncle Lazaro Gonzalez with whom the INS had previously placed the boy following his rescue at sea. Although the Court also refused the request that it "order mediation in this case," it did "encourage the parties to avail themselves voluntarily of this Court's mediation services" (see footnote #17 below) further suggesting that the Court's intent was to maintain the status quo. The Order of the Court implicitly calling for the status quo, to preserve Elian's day in court, was read by the State Department [Fact Sheet: Decisions and Rulings in the Elian Gonzalez Case –4/24/00]"as leaving the government with *court approval* (emphasis added) to act on the basis of the March 21 federal court decision" despite the fact that the question was on appeal in the Eleventh Circuit. In his March 21st decision (USCPR, Vol.7, No.3), District Court Judge Moore ruled not on the custody issue but on the asylum issue stating that only the Attorney General could grant asylum. This interpretation led Attorney General Reno to state, "[t]he order today [April 19] from the Court of Appeals says that Elian should not be removed from the country, and we will abide by that order." Going one step further in her interpretation, however, the Attorney General concluded, "[b]ut it does not disagree with my determination that the boy should be reunited with his father in the United States as soon as possible." Similarly, President Clinton remarked on April 20th that "a federal court affirmed [on March 21st] that the father should have custody." A series of significant events converged on April 13th: A Florida family court dismissed Lazaro Gonzalez's request for permanent custody; the Justice Department revoked Elian's parole into Lazaro's care; and, Lazaro filed for and received an emergency injunction that led to the April 19th Appeals Court Order for a permanent injunction that Elian remain in the United States pending appeal.

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INS SEIZURE WITHOUT COURT ORDER RAISES CONSTITUTIONAL QUESTIONS -- Contrary to claims by the State Department of existing "court approval" granting the Clinton administration the authority to mount a heavily armed pre-dawn raid to seize Elian on Easter Saturday, April 22nd, against Lazaro Gonzalez's Miami home where Elian was being nurtured and cared for, the absence of such a court order raises serious constitutional questions. District Judge Moore's March 21st opinion is not tantamount to a "court order" authorizing the raid which belies the fact that it was necessary while the case was on appeal. "They should have gotten a court order, charged Harvard law professor, Alan Dershowitz in a *Fox News* interview on April 24th. "They should have sought to hold the family in contempt. And if the family refused to comply with the court order, then they could have issued contempt citations and arrested the family. But I have a reason why they didn't go for a court order. They didn't go for a court order because they knew they couldn't get one." The Fourth Amendment to the Constitution states that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..." Harvard law professor, Laurence Tribe, writing in the *New York Times* on April 25th raises the question, "Where did the attorney general derive the legal authority to invade that Miami home in order to seize the child?" President Clinton, in his remarks (reprinted below), five hours after the raid was approved said, "there was no alternative but to enforce the decision of the INS and a federal court that Juan Miguel Gonzalez should have custody of his son." On Friday evening, April 21st, lawyers and intermediaries negotiating with Attorney General Reno on behalf of Lazaro Gonzalez have stated that an agreement had been reached and signed by the parties (reprinted below). During the early morning hours, the Clinton administration's position abruptly shifted from an already agreed upon location in South Florida where the families "would take up temporary residence" to a location outside of Washington, D.C. As Lazaro Gonzalez was considering the change of venue, community leaders negotiating with the attorney general were told time had run out and the raid was ordered. Tribe argues, "no judge or neutral magistrate had issued the type of warrant or other authority needed for the executive branch to break into the home to seize the child." The INS issued a "Warrant for the Arrest of Alien" (see below) because Elian allegedly was "within the country in violation of immigration laws" which apparently justified his seizure. On this basis, U.S. Magistrate Judge Richard Dube issued a "Search Warrant" (see below) for the premises of Lazaro Gonzalez, the INS ostensibly having established "probable cause" that Elian Gonzalez was "concealed" there, and "seize[d]" him. Tribe cites that the Fourth Amendment and "also well-established constitutional principles of family privacy require that the disinterested judiciary test the correctness of the executive branch's claimed right to enter and seize." In the absence of a legitimate court order, the Clinton administration appears to have distorted the rule of law for political purposes.

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FOOTNOTES TO PERMANENT INJUNCTION PENDING APPEAL – April 19, 2000

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**
No. 00-11424-D
D.C. Docket No. 00-206-CV-KMM
Appeal from the United States District Court
For the Southern District of Florida
Before Edmondson, Dubina and Wilson, Circuit Judges.

1. Several applications for asylum were actually submitted on Plaintiff's behalf. One was signed by Plaintiff himself. The others were signed by Plaintiff's great uncle and temporary custodian (selected by the INS), Lazaro Gonzalez.
2. Plaintiff is a minor; Plaintiff's suit was brought by and through Lazaro Gonzalez as next friend. See generally Fed. R. Civ.P.17(c).
3. This Court, on 27 March 2000, expedited Plaintiff's appeal and scheduled oral argument for the week of 8 May 2000.
4. A party must ordinarily first move in the district court for an injunction pending appeal. In this case, Plaintiff came directly to the appellate court. A motion for an injunction pending appeal may be made directly to the court of appeals when a party shows that moving first in the district court would be impracticable. See Fed. R. App. P. 8(a)(2). In this case, we are satisfied that Plaintiff has sufficiently shown that it would have been impracticable to move first in the district court; the time-sensitive nature of the proceedings and the possibility that we could have lost jurisdiction in the absence of an injunction support our exercise of discretion in this case. See also Michael v. INS, 48 F. 3d 657, 663 (2d Cir. 1995).

On 13 April 2000, a single-judge emergency order, enjoining Plaintiff's removal from the United States, was issued until a three-judge panel had considered fully Plaintiff's motion for injunction pending appeal. We now have considered fully Plaintiff's motion, and the single-judge emergency order has served its purpose. The single-judge order, accordingly, is replaced by this Order.

5. Multiple Defendants are in this case. But we refer to Defendants collectively as the "INS."
6. The INS also asserts that, under the equitable doctrine of "unclean hands," Plaintiff is unentitled to seek the equitable remedy of an injunction pending appeal. The INS urges that Lazaro Gonzalez's alleged failure to comply with an INS order, directing that he surrender Elian Gonzalez to the INS at a Miami airport, renders Plaintiff's hands unclean. Whether Lazaro Gonzalez failed to comply with a lawful order of the INS and whether such failure would justify invocation of the unclean hands doctrine in some cases are issues that we need not decide today. Lazaro Gonzalez is not the plaintiff in this case; Plaintiff is Elian Gonzalez.

However unclean Lazaro Gonzalez's hands may be, the INS has suggested no misconduct on the part of Plaintiff, Elian Gonzalez, that would justify application of the unclean hands doctrine in this case to him.

7. Although the INS determined that Plaintiff was incompetent to make immigration decisions, it bears repeating that the INS made this determination without having met with Plaintiff or having any evaluations done on his capacity.
8. Congress specifically and expressly excluded three groups of aliens from the meaning of "[a]ny alien." See 8 U.S.C. § 1158(a)(2). School-age children are not among the excluded groups, however. See id.
9. To some people, the idea that a six-year-old child may file for asylum in the United States, contrary to the express wishes of his parents, may seem a strange or even foolish policy. But this Court does not make immigration policy, and we cannot review the wisdom of statutes duly enacted by Congress. If Congress intended – as evidenced by the plain meaning of section 1158 – that a school-age child (such as Plaintiff) be able to file personally an application for asylum, this Court and the INS are bound to honor the policy-decision made by Congress.
10. See 8 C.F.R. § 103.2(a)(2) ("An applicant or petitioner must sign his or her application or petition. However, a parent or legal guardian may sign for a person who is less than 14 years old.") (emphasis added); 8 C.F.R. § 236.3(h) ("When a juvenile alien is apprehended, he or she must be given a [Notice of Rights and Disposition Form]. If the juvenile is less than 14 years of age or unable to understand the notice, the notice shall be read and explained to the juvenile in a language he or she understands. In the event a juvenile who has requested a hearing pursuant to the notice subsequently decides to accept voluntary departure or is allowed to withdraw his or her application for admission, a new [form] shall be given to and signed by the juvenile.")
11. See 8 C.F.R. § 236.3(f) ("If a juvenile seeks...any form of relief from removal, where it appears that the grant of such relief may effectively terminate some interest inherent in the parent-child relationship and/or the juvenile's rights and interests are adverse with those of the parent, and the parent is presently residing in the United States, the parent shall be given notice of the juvenile's

- application for relief"); Polovchak v. Meese, 774 F.2d 731 (7th Cir. 1985); cf. Johns v. Dept. of Justice, 624 F.2d 522 (5th Cir. 1980).
12. The Guidelines provide asylum officers with information about how to talk to and interview a young child about his asylum application. The Guidelines repeatedly stress that the kind of questions which should be asked and the kind of answers which should be expected varies according to the age of the applicant and that special care should be taken when interviewing young children. The Guidelines also say that "Asylum Officers should not assume that a child cannot have an asylum claim independent of the parents," and that "[w]hen a parent or parents do not appear to have an approvable claim, an Asylum Officer should routinely make an inquiry into the child's case even though the child may be listed merely as a derivative on a parent's application and may not have filed a separate [] asylum application." See Guidelines at 15. The Guidelines also say that "the age, relative maturity, ability to recall events, and psychological make-up of the child will affect the quality of the answers an Asylum Officer is able to elicit from that child. While the burden of proof remains on the child to establish his or her claim for asylum, an Asylum Officer must take these and other factors into account when assessing the credibility of a claim and must also attempt to gather as much objective evidence as possible to evaluate the child's claim." See Guidelines at 17. Above all, the INS Guidelines say that "[w]hen...it appears that the will of the parents and that of the child are in conflict, the adjudicator 'will have to come to a decision as to the well-foundedness of the minor's fear on the basis of all the known circumstances, which may call for a liberal application of the benefit of the doubt.'" See Guidelines at 20 (citations omitted).
- An additional point of interest is that the INS Asylum Officer Corps Training Guidelines for Children's Asylum Claims (INS January 1999) discuss the three age-based developmental stages of children (0-5, 6-12, 13-18 years old) and provide guidance for asylum officers in dealing with children in each category. Notably, the training guidelines provide an example of a statement from a six-year-old child and provide information which can be used to assess statements by children of that age. See id. at 10-18.
13. The INS Guidelines cite to a number of studies and articles dealing with the ability of children to testify as witnesses in judicial proceedings. See Guidelines at 13 n.21. At the least, this reference supports the inference that the INS envisioned that the kind of competency required for a minor to apply for asylum is competency to testify. see Maryland v. Craig, 497 U.S. 836 (1990), not legal competency to contract and so on, which is a much different standard.
- Caselaw supports the inference that complete legal competency has not been the determinative circumstance for whether a minor may apply for asylum. See Polovchak v. Meese, 774 F.2d 731 (7th Cir. 1985)(allowing a 12-year-old minor to apply for asylum).
14. We do not now suggest that the stated intentions of a six-year-old child are dispositive or even entitled to substantial weight in deciding whether the child ultimately receives a grant of asylum. Still, a colorable argument exists that a school-age child's expressed wishes about where he wants to live can trigger the requirement that Plaintiff's claim for asylum be given full and fair consideration. This conclusion may be particularly true where, as here, Plaintiff has indicated to mental health professionals that he does not want to return to Cuba, and where those mental health professionals have said that he understands what he is saying. These statements might ultimately not be of great weight in determining Plaintiff's application for asylum, but we are not sure that they can be summarily dismissed as having no weight at all.
15. Plaintiff's application was complete. To date, none of Plaintiff's applications were returned by the INS for being incomplete. According to its own regulations, the INS "shall adjudicate the claim of each asylum applicant whose application is complete within the meaning of §208.3(c)(3)." 8 C.F.R. § 208.9(a) (emphasis added).
16. The INS, in its response to Plaintiff's motion, said it would consent to an injunction requiring the INS to bar Plaintiff's departure from the United States if this Court also entered an order directing Lazaro Gonzalez to present Plaintiff to the INS, as directed by the INS, for transfer of care to Plaintiff's father. We decline to proceed in that manner.
- To decide Plaintiff's motion and to preserve his right to a day in court, we need only address the issue of Plaintiff's removal from the country. We need not decide where or in whose custody Plaintiff should remain while this appeal is pending. This Order only prevents Plaintiff's removal from this country.
17. Plaintiff, in his reply brief, requested that this Court order mediation in this case. Although we may direct the parties to participate in mediation, see Fed. R. App. P. 33, we choose not to do so at this time. Nevertheless, we encourage the parties to avail themselves voluntarily of this Court's mediation services.

INS ISSUES ARREST WARRANT FOR ELIAN GONZLAEZ

U.S. Department of Justice
Immigration and Naturalization Service

Warrant for the Arrest of Alien

File No. A77 013 761
Date: April 21, 2000

To any officer of the Immigration and Naturalization Service delegated authority pursuant to section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:

Gonzalez, Elian

An alien who entered the United States at or near Port Everglades Florida on November 25, 1999 is within the country in violation of the immigration laws and is therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By the virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody

For proceedings in accordance with the applicable provisions of the immigration laws and regulations.

James T. Spearman, Jr. [Signature of authorized INS official]
Deputy Assistant District Director Investigations

**U.S MAGISTRATE JUDGE ISSUES WARRANT TO SEARCH FOR AND SEIZE
THE 'CONCEALED' ELIAN GONZALEZ**

United States District Court
SOUTHERN DISTRICT OF FLORIDA

In the Matter of the Search of

RESIDENCE OF LAZARO GONZALEZ LOCATED AT
2319 N.W. 2ND STREET, MIAMI, MIAMI-DADE
COUNTY, FLORIDA

SEARCH WARRANT

Case Number:

TO: S/A Mary A. Rodriguez, U.S. Immig. & Natz. Service and any Authorized Officer of the United States

Affidavit(s) having been made before me by S/A Mary A. Rodriguez who has reason to believe that on the premises known as THE RESIDENCE OF LAZARO GONZALEZ, LOCATED AT 2319 N.W. 2ND STREET, MIAMI, MIAMI-DADE COUNTY, FLORIDA

In the Southern District of Florida there is now concealed a certain person or property, namely THE PERSON OF ELIAN GONZALEZ, DATE OF BIRTH DECEMBER 6, 1993, A NATIVE AND CITIZEN OF CUBA.

I am satisfied that the affidavit(s) and any record testimony establish probable cause to believe that the person or property so described is now concealed on the person or premises above-described and establish grounds for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to search on or before 5-1-0 (not to exceed 10 days) the person or place named above for the person or property specified, serving this warrant and making the search (at any time in the day or night as I find reasonable cause has been established) and if the person or property be found there to seize same, leave a copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to U.S. MAGISTRATE JUDGE DUBE as required by law.

21 Ap20 7:20 P.M.
U.S. MAGISTRATE JUDGE

at MIAMI, FLORIDA
RICHARD L. DUBE [Signature of Judicial Officer]

SIGNED NEGOTIATED AGREEMENT FAXED TO JUSTICE DEPARTMENT

The Honorable Janet Reno
Attorney General of the United States

April 21, 2000

We propose a process to include the following:

Juan Miguel's family and our family would take up temporary residence in a mutually agreed, neutral site in Miami-Dade County, Florida (the "Site") on a date to be agreed.

The members of the Gonzalez family would be accompanied at the Site by one or more neutral facilitators (the "Facilitator") mutually agreed to. The Facilitator's role would be to be present at the Site to help the family members get together and do what is in the best interest of the child. The Facilitator would report periodically to you as Attorney General and to all members of the Gonzalez family. We request that you consider the findings and observations of the Facilitator in reaching any decision concerning Elain.

No one other than the members of the Gonzalez family and the Facilitator, including specifically the parties' attorneys and any United States or Cuban government officials (except for U.S. Marshals), would be present at the Site. The location of the Site would remain confidential to assure the privacy of the parties.

We understand that you have transferred temporary custody of Elain to his father. Elain and all members of the Gonzalez family would remain in residence at the Site until the resolution of all pending legal proceedings.

The United States Marshal Service would provide security to the Site and ensure that no unauthorized persons enter the Site and that Elain is not removed from the Site except as his best interests may require.

The foregoing will in no way affect any legal proceedings or be used by any party against the other in any legal proceedings.

The foregoing constitutes an outline, and additional details would need to be resolved. We stand ready to discuss with you any suggestions that you may have which you believe are in the best interest of the child.

Sincerely,

Lazaro Gonzalez Marisleysis Gonzalez Delfin Gonzalez [signatures]
We further request that a spiritual advisor be allowed to be on the premises – [handwritten]

The White House
Office of the Press Secretary
April 22, 2000

REMARKS BY THE PRESIDENT ON ELIAN GONZALEZ

The South Lawn
10:28 A.M. EDT

THE PRESIDENT: Good morning. As all of you know, this morning six-year-old Elian Gonzalez was reunited with his father, Juan Miguel Gonzalez.

The Department of Justice, under the leadership of Attorney General Reno, went to great lengths to negotiate a voluntary transfer. Even yesterday, the Attorney General worked very hard on this late into the night, showing great restraint, patience, and compassion. When all efforts failed, there was no alternative but to enforce the decision of the INS and a federal court that Juan Miguel Gonzalez should have custody of his son. The law has been upheld, and that was the right thing to do.

I am well aware that this has been a difficult time for all the parties involved. But let's remember, as I said from the outset, the most important thing was to treat this in a lawful manner according to the established process. This was, in the end, about a little boy who lost his mother and has not seen his father in more than five months. I hope, with time and support, Elian and his father will have the opportunity to be a strong family again. Thank you very much.

Q: Mr. President, what was your role, and did you give the go-ahead for the operation?

THE PRESIDENT: Well, I talked to the Attorney General extensively, especially in the last several days, and I supported the decisions that were made. I think – we talked last evening last, and then I talked to Mr. Podesta [the President's Chief of Staff] two or three times through the night, and I believe that it was the right thing to do.

She made the decision, she managed this, but I fully support what she did. And it was clear to me from our long conversations that we were in agreement about this. She had a special feeling because she was from Miami, she wanted to resolve this in the most patient way possible to minimize the damage to the people and the community that she loves so much. But she felt strongly, and I felt strongly, that the law had to be upheld and that Elian had to be reunited with his father. And every conceivable alternative was tried for quite a long time.

So, I think she did the right thing and I'm very pleased with the way she handled it.

CUBA FORECASTS 1999/2000 SUGAR HARVEST

Sugar Minister, Ulises Rosales del Toro predicted Cuba's 1999/2000 harvest would achieve its official target of 4 million metric tons (mt.) by early-to-mid-May when the harvest is scheduled to end. In late April, del Toro stated the harvest had already reached 3.78 million mt., according to the Cuban news agency Prensa Latina. Since hitting bottom with the 1997/1998 harvest at 3.2 million mt. (50-year low), Cuba's sugar production has been climbing gradually with reported production reaching 3.8 million mt. for the 1998/1999 harvest. Still, a 4 million mt. harvest today would only be about half of the 7-to-8 million mt. harvests of yesteryear when in the late 1980s Cuba received massive subsidies in the years before the implosion of the Soviet system and demise of the USSR (December 1991). In fact, the 1992/1993 harvest plummeted nearly 3 million mt. to 4.3 million mt. from the previous year's level of 7 million mt. from which the Cuban sugar industry has never recovered.

Last year, Rosales del Toro claimed 100 of the 156 sugar mills were operating during the harvest. This year, Sugar Ministry spokesman, Jose Alvarez, says 112 mills are grinding, 40 percent of which have met their target while 30 percent have met 90 percent of their target. If the 4 million mt. target is met, it will be the first time in three years. Rosales del Toro attributes the projected improvement in this year's harvest to two factors: efficiency and lower costs. However, Cuba's socialist economic system notwithstanding, one sugar expert attributes the production trough to deteriorating conditions in cultivation, fertilizer, and irrigation. The cash poor industry, has been unable to obtain adequate credit at reasonable rates to finance the much needed fertilizer, fuel, and spare parts.

In comparison, the South Florida sugar industry comprised of six mills (Atlantic Sugar Association, Okeelanta Corporation, Osceola Farms, Clewiston, Bryant, and the Glades Sugar Co-op of Florida) produced 1.965 million mt. of sugar during the 1999/2000 harvest. With only five percent of the number of mills that Cuba operates, six South Florida mills have produced nearly 50 percent of the amount of sugar Cuba has forecast for its 1999/2000 harvest.

In large part, lingering low world sugar prices continue to hamper Cuba's sugar industry. Although year ago nearby prices were more than two-cents per pound less, CSCE July sugar at 6.41 cents per pound is still half of what it was a decade ago when prices at 12 and 13 cents per pound were not uncommon.

CURRENCIES & COMMODITIES

1 Euro = 0.9106 US Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 19.1216 Cuban Peso

Rates as of April 28, 2000.
Source: Bloomberg

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 6.70
Year ago nearby = 4.72
Future (July '00) = 6.41
High = 6.44
Low = 6.30

Cash/Spot price as of April 27, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 25.40-25.45
Year ago (Apr. 28) = 17.81
Future (June '00) = 25.42

Cash/Spot price as of April 27, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 9,930
Year ago (Mar. 30) = 4,700

(\$ per metric ton)
Official Price: April 28, 2000.
Source: London Metal Exchange

Cobalt = 16.70 - 17.25
Year ago (Apr. 29) = 15.30 - 16.30

(\$ per pound for 99.8%)
Price: April 27, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

G77 HAVANA SUMMIT ATTACKS GLOBALIZATION OF WORLD ECONOMY – Third World leaders meeting in Havana from April 10-14 called for the democratization of the WTO and the destruction of the IMF. Opening the summit, Cuban Foreign Minister Perez Roque declared, "Globalization of the world economy cannot continue." Fidel Castro, in closing the summit, described the Seattle WTO meeting (USCPR, Vol.6, No.10) as a failure caused by the "opposition to neoliberal policies." Castro criticized America's Foreign Trade Act and its "Super-301" provision as "a real display of discrimination." Delegates to the G77 summit shared many of the same views as the anti-IMF/World Bank protesters who marched on Washington, D.C. (April 16-17) espousing a continuation of the Seattle agenda. Sponsors of the so-called Mobilization for Global Justice campaign combined numerous leftist pro-Castro organizations such as Global Exchange and the National Lawyers Guild. Endorsers were peppered with self-proclaimed socialist and communist groups including the Young Communist League USA linked to the Communist Party USA and to Cuba. (RL, "Cuba enrolls Third World in 'rebellion of Seattle,'" 4/10/00).

TEN PERCENT OF ALL VISITORS TO CUBA IN 1999 FROM U.S. -- Cuban Tourism Minister Ibrahim Ferradaz announced at a news conference that the island drew 1.6 million tourists in 1999 up from 1.4 million in 1998. Included in those figures are the number of U.S. visitors totaling 160,000 last year – 60,000-to-70,000 Americans and 100,000 Cuban-Americans with no overlap in the figures, according to Ferradaz. Under U.S. embargo regulations, Americans are not permitted to travel to Cuba for pleasure. Restrictions allow family visits and licensed travel for academic, cultural, some business, and journalism purposes. (AP, "Cuba Draws 160K US Visitors in 1999," 4/13/00).

INTERNATIONAL TRADE COMMISSION TO REVIEW IMPACT OF U.S. TRADE EMBARGO ON CUBA -- At the behest of Ranking Member Charles Rangel (D-NY), the retiring House Ways and Means Committee Chairman, Bill Archer, has asked the International Trade Commission (ITC) to assess the embargo's "historical impact of U.S. sanctions on both the U.S. and Cuban economies." In addition, the ITC stated it would attempt to gauge the embargo's impact on "U.S. exports, imports, employment, consumers and investment." ITC Chairman Lynn Bragg (1998) served as legislative director for Senator Malcolm Wallop (R-WY) from 1981-1991. Since his retirement, Wallop has been a strong advocate of trade with Cuba and the Castro regime. The ITC is expected to hold a public hearing on Cuban trade in September and submit its report to Ways and Means by February 2001. Archer's successor either will be Phil Crane (R-IL) or Rangel if the Democrats win a majority in the House in November. Should Republicans retain their majority, the chairmanship of the committee likely will be contested in the Republican Conference by Bill Thomas (R-CA). Crane, a staunch free trader with seniority and chair of the Trade Subcommittee, is anti-embargo while Thomas is pro-embargo. (BLP, "US Agency to Review Impact of US Embargo of Cuba," 4/15/00).

DEFIANT CUBA WITHDRAWS FROM EU PACT CONSIDERATION – First canceling a scheduled visit by a Portuguese EU delegation and later formally withdrawing its application altogether, Cuba defiantly rejected its condemnation by several EU states at the 56th Session of the United Nations Human Rights Commission in Geneva, Switzerland on April 18th. Prepared to vote on Cuba's admission to the post-Lome ACP-EU Partnership Agreement for trade and aid (USCPR, Vol.7, No.3) providing \$12.28 billion over the next five years to 71 former European colonies in Africa, the Caribbean, and the Pacific, Cuba refused to be scrutinized for its human rights practices as a requirement of admission this June when unanimous support by the 15 EU nations is needed. Among the 21 nations voting to censure Communist Cuba for human rights violations were EU members France, Germany, Italy, Luxembourg, Portugal, Britain, and Spain. In a letter to the ACP nations, Cuban Foreign Minister Felipe Perez Roque stated, "we have noticed that the EU would try, in effect, to make Cuba's membership of the ACP-EU convention conditional on political, economic and social changes in Cuba, which our country refuses because it constitutes a clear interference in our internal affairs." (AP, "Cuba Cancels Visit by EU Delegation," 4/22/00; TWT, "Cuba yanks bid to join EU pact," 4/29/00, p.A4).

DOMESTIC BRIEFS

PRESIDENT REPORTS TELECOMMUNICATIONS PAYMENTS MADE TO CUBA --

On March 27th, President Clinton submitted his eighth semi-annual telecommunications report to Congress as required by statute. As in the previous report (USCPR, Vol.6, No.10), only two of the original eight licensed American telecom companies showed payments made to Cuba pursuant to the Treasury Department's specific licenses. As reported earlier (USCPR, Vol.5, No.10), the original eight licensees became six as a result of mergers and more recently Global One, formerly a joint venture with Deutsch Telecom and France Telecom has reverted back to Sprint. This current report covers the period July 1 through December 31, 1999 and shows payments totaling \$11,377,229 made by Sprint Communications and \$246,922 made by Telefonica Larga Distancia de Puerto Rico. According to the report, "The other licensees accrued payments as appropriate but did not transfer any funds as a result of writs of garnishment filed against them pending the outcome of ongoing litigation." **JUDGE FINES CUBA \$38 MILLION IN TELECOMMUNICATIONS CASE** – Cuba, which cutoff direct telephone service to the United States on February 25, 1999 in retaliation for U.S. District Court Judge King's ruling that telecommunications payments to Cuba could be garnished (USCPR, Vol.6, Nos.2,3) to compensate the families of the murdered Brothers to the Rescue pilots on February 24, 1996, restored direct Cuba – U.S. telephone calls on April 12, 2000. A federal appeals court overturned King's garnishment ruling (USCPR, Vol.6, No.8) in August 1999 determining that ETECSA, the Cuban telephone company, was independent of the Cuban government. Judge King ruled in June 1999 (USCPR, Vol.6, No.6) that the families could seek to identify Cuban assets held in the U.S. to help them to collect on the \$187.6 million judgment. In pursuit of \$150 million held at CHASE Manhattan Bank, Radio Cuba/EMTEL Cuba defended the pre-1994 CHASE funds. But with Cuba's withdrawal in March from the ongoing court proceedings and their failure to provide discovery on such issues that they may have falsely described ETECSA, Judge King held the defendants in contempt and fined the government of Cuba \$38 million adding to the \$187.6 million judgment handed down in December 1997. **SENATE FOREIGN RELATIONS COMMITTEE PASSES RESOLUTION CONDEMNING CUBA'S HUMAN RIGHTS RECORD** – Introduced by Senator Torricelli (D-NJ) and cosponsored by Senators Helms (R-NC), Graham (D-FL), Mack (R-FL), and Reid (D-NV), S.Res.289 calls for the U.S. Senate to support the human rights resolution being considered by the annual meeting of the 56th Session of the United Nations Human Rights Commission (UNHRC) in Geneva, Switzerland. The resolution, introduced this year by the Czech Republic and Poland once again (USCPR, Vol.6, No.4), condemns the human rights practices of the government of Cuba. The Senate Foreign Relations Committee on April 13th unanimously passed the resolution condemning Cuba. The 53 nation UNHRC condemned Cuba by a margin of 21-18 with 14 abstentions compared to 21-20-12 last year. In his statement following the vote, Senate Foreign Relations Committee Chairman Jesse Helms said, "It is bitterly ironic that the Clinton administration is rushing to send Elian Gonzalez back to a country that has just been singled out by the UN for its systematic violation of human rights." **DAIAZ-BALART THANKS ALL GOVERNMENTS THAT VOTED IN GENEVA FOR HUMAN RIGHTS IN CUBA** -- Congressman Lincoln Diaz-Balart (R-FL) expressed his gratitude to the 21 governments that voted to support human rights in Cuba especially President Havel of the Czech Republic and Prime Minister Jerzy Buzek of Poland "for their courageous stands and leadership on this critical issue." Fidel Castro mobilized a government-organized protest march in Havana of more than 100,000 people to protest the Czech Republic's support of the resolution. **STATE DEPARTMENT RESPONDS TO UN HUMAN RIGHTS RESOLUTION ON CUBA** – In a joint statement issued on April 18, 2000 by Assistant Secretary of State for Democracy Harold Koh and U.S. Ambassador to the UN Commission on Human Rights Nancy Rubin, the State Department hailed the vote condemning Cuba saying, "Today's vote is not merely an indictment of the human rights situation in Cuba, it also expresses solidarity with the people of Cuba, a cornerstone of U.S. foreign policy."

NOTABLE QUOTES

"I cannot contradict those who support the overwhelmingly logical proposition that, when one parent dies a child should live with the surviving biological parent. I would only ask them to remember that Elian will not return to a normal country, and to understand he will not return to his father. He will return to the Revolution." **Jorge Masetti**, a former agent of Cuba's Americas Department, comments about Elian's future. (WP,"A Son of the Revolution," 4/5/00, p.A19).

"The battle is won in legal and political terms." Cuban dictator, **Fidel Castro**, speaks at Jose Marti International Airport as he bids farewell to Elian's father, Juan Miguel Gonzalez, as he departs for the United States at the urging of the Clinton administration to seek custody of his son. (RL,"Analysis – 'Comandante' Castro relishes battle for Elian," 4/10/00).

"I don't believe, given the appellate court's ruling, that it's appropriate for the U.S. Marshall to come in now. I hope that they will determine that there will be a custody hearing, just like with any other child." **Jeb Bush**, Florida governor, appears as a morning guest on Ft. Lauderdale radio station Y-100 and speaks against raiding the home of Elian's Miami relatives. (MH,"Bush appeals for calm," 4/15/00).

- "I personally wouldn't send anyone to Cuba under the present conditions there. You must remember that everything that's come out of the mouth of Elian's father has been the voice of Castro – there is only one voice in Cuba. That's not to say that the father might not want to stay there, but we don't know. Everything that is said must be approved." **Andy Garcia**, Hollywood actor and refugee from Castro's Cuba, comments on the matter of Elian's father, Juan Miguel Gonzalez, and his freedom to speak for himself. (WSJ,"Janet's Law," 4/18/00, p.A18).

"The court order does not preclude me from placing Elian in his father's care while he is in the United States." Attorney General **Janet Reno** responds to reporters in Oklahoma City accompanied by President Clinton while commemorating the fifth anniversary of the fatal terrorist bombing of the Murrah Federal Building and following the seventh anniversary of the Waco incident. (RL,"Nothing in Ruling Prevents Elian's Transfer," 4/19/00).

"Calling U.S. law enforcement 'storm troopers' is extreme and unwarranted. It is time for all of us to take a deep breath and allow Elian and his father to spend time together outside of the media and political spotlight. I am relieved that Elian has been reunited with his father. As I have said, this little boy should not be exploited for political purposes. As a mother and as a child advocate for more than 30 years, I believe it is in Elian's best interest to be with his father. Saturday's action was accomplished rapidly and without injury, and I hope that the appropriate, ongoing legal process will now conclude as quickly as possible." **Hillary Rodham Clinton**, First Lady and Democratic candidate for U.S. Senate from New York, comments, during her campaign against New York Mayor Rudolph Giuliani, on the predawn raid that seized Elian Gonzalez from the home of his Miami relatives. (BLP,"Hillary Clinton on Miami Raid to Claim Elain: Political Comment," 4/24/00).

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**Institute for U.S. Cuba Relations
Washington, D.C. USA**

Ralph J. Galliano, Editor

FARM GROUP AND AGRIBUSINESS SUPPORT FOR SALES OF FOOD AND MEDICINE TO CUBA GAINS MOMENTUM IN CONGRESS

WASHINGTON – Following last year's nearly successful foray to capture the food and medicine market in terrorist states (USCPR, Vol.6,No.10), farm groups, agribusiness, pharmaceutical, and biotech corporations are heartened with the growing tide of support both in the House and in the Senate for lifting unilateral food and medicine sanctions against so-called "rouge" states such as Iran, Libya, Sudan, North Korea, and Cuba. This momentum is not without White House encouragement and support, however, as throughout the Clinton administration, and more so during President Clinton's second term, the Departments of Commerce and Treasury have granted licenses for sales, travel, and expositions of American products to Cuba. More notably, the nominal humanitarian mission of more than 40 people to Cuba led by Illinois Governor George Ryan last October also coincided with the anticipated passage in Congress of the Ashcroft amendment allowing for the sale of food and medicine to embargoed terrorist states such as Cuba. Fernando Remirez de Estenoz, the chief of the Cuban Interests Section in Washington, was permitted by the State Department to venture beyond the 25-mile travel limit no less than five times in order to lobby Illinois farmers and businessmen prior to Ryan's visit. Peter Nathan's PWN Exhibicon International L.L.C. was granted a license by the Treasury Department's Office of Foreign Assets Control (OFAC) last year (USCPR, Vol.6,No.8) to hold "the first U.S. sanctioned and Cuban Government approved U.S. Healthcare Exhibition in Havana." Fearing that foreign competitors, which already trade with the Castro regime, will gain market share in Cuba if American companies don't trade with the Communist-run island, nearly 100 U.S. companies flocked to the Havana expo in January (USCPR, Vol.7,No.1) including 3M, Archer Daniels Midland (ADM), Baxter, Eastman Kodak, Eli Lilly, Hewlett Packard, Kimberly-Clark, Monsanto, Procter & Gamble, and G.D. Searle. The principal sponsor, ADM, in an April 12th letter to Nathan wrote, "Our Company deemed participating in the exhibition a success. We were able to introduce people to ADM and show our products to thousands of Cubans who otherwise may not know about us. You and your organization were instrumental in delivering the audience promised which was beneficial in establishing contacts to conduct business there in the future." Nearly 8,000 of the island's elite medical bureaucrats from the Ministry of Public Health and MediCuba, consorted with sales and marketing executives from the U.S. corporations. It was reported that even the U.S. Departments of State, Commerce, and Treasury shared "a big booth at the show to encourage future trade." As a result of the exhibit's widely hailed success, PWN is planning a "U.S. Food and Agribusiness" event in Cuba in December 2000; a "Health for All," event at the 10th Cuban International Health Exposition in Havana from April 23 – 27, 2001; and, a "2nd U.S. Healthcare Exhibition" in Havana on January 2, 2002.

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NETHERCUTT RIDER CHALLENGES REPUBLICAN LEADERSHIP -

Considered an endangered Republican for reneging on a pledge to abide by self-imposed term limits when he defeated Democratic Speaker of the House Tom Foley in 1994, conservative Rep. George Nethercutt (WA-5), a three-term Member of Congress from the agricultural easternmost part of Washington State, is fighting for his political life. Nethercutt, over his brief tenure, has championed the interests of the farmers in his district by supporting the *1996 Freedom to Farm Act*, helping to craft the repeal of sanctions against Pakistan -- the single largest buyer of winter wheat benefiting his district's wheat farmers, and supporting the Ashcroft amendment last year allowing for the sale of food and medicine to embargoed terrorist states. This year is no exception. Nethercutt attached a rider that lifts sanctions on food and medicine to "rogue" states and prohibits sanctions in the future to the must-pass spending *FY 2001 Agriculture Appropriations* bill (H.R. 4461). Nethercutt's rider was approved on May 4th by voice vote in the House Agriculture Appropriations subcommittee. "Overturning this failed policy is the number one issue for the American agriculture community today," said Nethercutt who claimed that thirty-five agriculture associations sent a collective fax to committee members this morning supporting his amendment. On May 10th, Nethercutt continued to advance his cause when the full committee rejected an amendment by Majority Whip DeLay (R-TX) to strike the Nethercutt language in a recorded vote of 24-to-35 (reprinted below). In opposition to the Nethercutt language, DeLay made reference to his district's "rice growers" saying, "When I pick between support of freedom and making a buck, I'm going to pick freedom." Similar sanctions language offered by Nethercutt in 1999 met with defeat in the full committee by a vote of 24-to-28. In Nethercutt's view, "I do not think it is philosophically consistent to oppose commercial sales of food and medicine to Cuba and yet support other more lucrative market opportunities around the world. Cuba will not be able to threaten the United States with wheat they buy from American farmers." With the Nethercutt language in the House attached to the \$14.4 billion FY2001 Agricultural appropriations bill, it is likely to be challenged in Rules Committee as non-germane and struck altogether if supporters don't agree to a "Cuba carve-out," which they rejected last year leading to defeat of the entire anti-sanctions measure. Rep. Jo Ann Emerson (R-MO), who voted against the DeLay measure, would agree to such a move in support of American farmers and consider it a victory, whereas the farm and agribusiness lobby continues to take a hard line seeing the issue as an all or nothing matter. Nethercutt, on the other hand, is threatening to defeat the rule. In a May 10th letter (reprinted below) to House International Relations Committee Chairman Benjamin Gilman, Senate Foreign Relations Committee Chairman Jesse Helms considers these sanctions measures "well outside the scope of any appropriations" legislation belonging "as part of an authorization bill." Said Helms, "I continue to oppose passage of any measure that will soften sanctions on the brutal regime of Fidel Castro."

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**House Appropriations Committee
106th Congress
Vote Record – May 10, 2000**

Opposed DeLay amendment to strike the Nethercutt language in the Agricultural Appropriations Bill, 2001 (35)
(Democrats in *Italics*; Republicans in **Bold**)

Aderholt, Robert (AL)

Cramer, Bud (AL)

Dicks, Norm (WA)

Emerson, Jo Ann (MO)

Hinchey, Maurice (NY)

Kaptur, Marcy (OH)

Kolbe, Jim (AZ)

Obey, Dave (WI)

Pelosi, Nancy (CA)

Royal-Allard, Lucille (CA)

Sununu, John (NH)

Walsh, Jim (NY)

Boyd, Allen (FL)

DeLaura, Rosa (CT)

Dixon, Julian (CA)

Farr, Sam (CA)

Istook, Ernest (OK)

Kilpatrick, Carolyn (MI)

Latham, Tom (IA)

Olver, John (MA)

Peterson, John (PA)

Sabo, Martin (MN)

Tiahrt, Todd (KS)

Wamp, Zach (TN)

Callahan, Sonny (AL)

Dickey, Jay (AR)

Edwards, Chet (TX)

Goode, Virgil (VA)

Jackson, Jesse (IL)

Knollenberg, Joe (MI)

Nethercutt, George (WA)

Pastor, Ed (AZ)

Price, David (NC)

Serrano, Jose (NY)

Visclosky, Peter (IN)

Supported DeLay Amendment (24)

Bonilla, Henry (TX)

Forbes, Mike (NY)

Hobson, Dave (OH)

Lewis, Jerry (CA)

Mollohan, Alan (WV)

Packard, Ron (CA)

Rogers, Hal (KY)

Wicker, Roger (MS)

Cunningham, Duke (CA)

Frelinghuysen, Rodney (NJ)

Hoyer, Steny (MD)

Lowey, Nita (NY)

Murtha, John (PA)

Porter, John (IL)

Skeen, Joe (NM)

Wolf, Frank (VA)

DeLay, Tom (TX)

Granger, Kay (TX)

Kingston, Jack (GA)

Miller, Dan (FL)

Northup, Anne (KY)

Regula, Ralph (OH)

Taylor, Charles (NC)

Young, Bill (FL)

Not Voting (3): *Clyburn, James (SC)*

Meek, Carrie (FL)

Moran, Jim (VA)

HELMS' LETTER TO GILMAN

United States Senate

COMMITTEE ON FOREIGN RELATIONS

Washington, D.C. 20510

May 10, 2000

The Honorable Benjamin A. Gilman

Chairman, Committee on International Relations

U.S. House of Representatives

2170 Rayburn

Washington, D.C. 20515

Dear Mr. Chairman:

It is my understanding that the House of Representatives may be considering significant changes in the application of U.S. sanctions against terrorist states, including Cuba.

As you know, the Foreign Relations Committee has reported S. 2382, the "Technical Assistance, Trade Promotion, and Anti-Corruption Act of 2000," which includes provisions on trade sanctions reform. Although I agreed to include these "sanctions reform" measures as part of a larger authorization bill, I continue to oppose passage of any measure that will soften sanctions on the brutal regime of Fidel Castro. Castro's crackdown on dissidents in the last 12 months, which earned the rebuke of the UN Human Rights Commission just last month, underscores why the U.S. must not make unilateral concessions to the Cuban dictatorship.

Furthermore, I wish to reiterate my insistence that any "sanctions reform" measure must be considered only as part of an authorization bill. Such policy reforms fall well outside the scope of any appropriations measures.

I am confident that you share my views on these matters, and I look forward to working with you as Congress considers this issue.

Sincerely,
Jesse Helms

ROS-LEHTINEN MOVES LOURDES BILL THROUGH MARKUP

Rep. Ileana Ros-Lehtinen (R-FL), who introduced the *Russian-American Trust and Cooperation Act of 2000* (H.R.4118) in the House on March 29th, helped to move the legislation rapidly through markup in the full committee at International Relations on Thursday afternoon May 4th. The bill prohibits the "rescheduling or forgiveness of any outstanding bilateral debt owed to the United States by the Government of the Russian Federation until the President certifies to the Congress that the Government of the Russian Federation has ceased all its operations at, removed all personnel from, and permanently closed the intelligence facility at Lourdes, Cuba." Ros-Lehtinen agreed to a compromise amendment prompted by the Democrats on the committee led by ranking member Sam Gejdenson of Connecticut. Not unlike its position on the *Helms-Burton Act of 1996*, the Clinton administration generally opposes this legislation and also insists on a waiver. The amendment, agreed to by voice vote, permits a presidential waiver as long as the waiver is "necessary to the national interests of the United States" and that Russia is "substantially in compliance with multilateral and bilateral nonproliferation and arms limitation agreements." The waiver that contains reporting requirements applies only to bilateral debt rescheduling, however, not to debt forgiveness. Russia negotiated a debt deal on February 11th with the London Club of commercial creditors and is seeking a similar debt deal with the Paris Club of creditor nations over the inherited Soviet debt. In a statement to her colleagues that Thursday afternoon, Ros-Lehtinen pointed out, "Eight years of talks; eight years of providing the Russian Federation with billions of dollars in U.S. aid of one sort or another; eight years of rescheduling the Russian debt at different intervals, and Lourdes remains a serious problem." The Ros-Lehtinen bill differs from the Lourdes language in the Helms-Burton Act in that it deals with Russian debt rescheduling and forgiveness rather than U.S. aid to Russia. But combined with the specific Helms-Burton language and the *Freedom Support Act of 1992* tied to the continued Russian presence at Lourdes, the Ros-Lehtinen legislation would add meaningfully to the Cuba-related national security provisions particularly with a new president in the White House. The ensuing political battle over the May 4th markup, reports the Jamestown Foundation (9 May 2000) which closely monitors Russian reform, "appears to be shaping up in a fashion similar to that which took place surrounding the Iran Nonproliferation Act. That bill was also aimed at punishing Russia for its cooperation with a third country – in this case, Iran – which Washington deemed a security threat." AP reported on February 5, 1999 that Russian Foreign Ministry spokesman Vladimir Rakhmanin "was quoted by the Itar-Tass news agency as saying 'we do not recognize the extraterritorial nature of American laws, be that Cuba, Iran, or Syria'." The U.S. Senate will have a companion bill to the House markup language (reprinted below) which is expected to garner strong bipartisan support over the continued use of the Lourdes signals intelligence (SIGINT) just outside Havana (USCPR, Vol.7,No.3).

Russian-American Trust and Cooperation Act of 2000

Union Calendar No.

106th CONGRESS
2d Session
H. R. 4118
[Report No. 106-]

To prohibit the rescheduling or forgiveness of any outstanding bilateral debt owed to the United States by the Government of the Russian Federation until the President certifies to the Congress that the Government of the Russian Federation has ceased all its operations at, removed all personnel from, and permanently closed the intelligence facility at Lourdes, Cuba.

IN THE HOUSE OF REPRESENTATIVES

March 29, 2000

Ms. ROS-LEHTINEN (for herself, Mr. DIAZ-BALART, Mr. DELAY, Mr. BURTON of Indiana, Mr. HYDE, Mr. ROHRABACHER, Mr. SMITH of New Jersey, Mr. CHABOT, Mr. BURR of North Carolina, Mr. MCCOLLUM, Mr. BARTLETT of Maryland, and Mr. JONES of North Carolina) introduced the following bill; which was referred to the Committee on International Relations

May , 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To prohibit the rescheduling or forgiveness of any outstanding bilateral debt owed to the United States by the Government of the Russian Federation until the President certifies to the Congress that the Government of the Russian Federation has ceased all its operations at, removed all personnel from, and permanently closed the intelligence facility at Lourdes, Cuba .

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Russian-American Trust and Cooperation Act of 2000".

SEC. 2. FINDINGS.

The Congress makes the following findings:

- (1) The Government of the Russian Federation maintains an agreement with the Government of Cuba which allows Russia to operate an intelligence facility at Lourdes, Cuba .
- (2) The Secretary of Defense has formally expressed concerns to the Congress regarding the espionage complex at Lourdes, Cuba , and its use as a base for intelligence activities directed against the United States.
- (3) The Secretary of Defense, referring to a 1998 Defense Intelligence Agency assessment, has reported that the Russian Federation leases the Lourdes facility for an estimated \$100,000,000 to \$300,000,000 a year.
- (4) It has been reported that the Lourdes facility is the largest such complex operated by the Russian Federation and its intelligence service outside the region of the former Soviet Union.
- (5) The Lourdes facility is reported to cover a 28 square-mile area with over 1,500 Russian engineers, technicians, and military personnel working at the base.
- (6) Experts familiar with the Lourdes facility have reportedly confirmed that the base has multiple groups of tracking dishes and its own satellite system, with some groups used to intercept telephone calls, faxes, and computer communications, in general, and with other groups used to cover targeted telephones and devices.
- (7) News sources have reported that the predecessor regime to the Government of the Russian Federation had obtained sensitive information about United States military operations during Operation Desert Storm through the Lourdes facility.
- (8) Academic studies assessing the threat the Lourdes espionage station poses to the United States cite official United States sources affirming that the Lourdes facility is being used to collect personal information about United States citizens in the private and government sectors, and offers the means to engage in cyberwarfare against the United States.
- (9) It has been reported that the operational significance of the Lourdes facility has grown dramatically since February 7, 1996, when then Russian President, Boris Yeltsin, issued an order demanding that the Russian intelligence community increase its gathering of United States and other Western economic and trade secrets.
- (10) It has been reported that the Government of the Russian Federation is estimated to have spent in excess of \$3,000,000,000 in the operation and modernization of the Lourdes facility.
- (11) Former United States Government officials have been quoted confirming reports about the Russian Federation's expansion and upgrade of the Lourdes facility.
- (12) It was reported in December 1999 that a high-ranking Russian military delegation headed by Deputy Chief of the General Staff Colonel-General Valentin Korabelnikov visited Cuba to discuss the continuing Russian operation of the Lourdes facility.

SEC. 3. PROHIBITION ON BILATERAL DEBT RESCHEDULING AND FORGIVENESS FOR THE RUSSIAN FEDERATION.

(a) PROHIBITION. -- Notwithstanding any other provision of law, the President--

- (1) shall not reschedule or forgive any outstanding bilateral debt owed to the United States by the Government of the Russian Federation, and
- (2) shall instruct the United States representative to the Paris Club of official creditors to use the voice and vote of the United States to oppose rescheduling or forgiveness of any outstanding bilateral debt owed by the Government of the Russian Federation,

until the President certifies to the Congress that the Government of the Russian Federation has ceased all its operations at, removed all personnel from, and permanently closed the intelligence facility at Lourdes, Cuba .

(b) WAIVER. --

- (1) **IN GENERAL.** -- The President may waive the application of subsection (a)(1) with respect to rescheduling of outstanding bilateral debt if, not less than 10 days before the waiver is to take effect, the President determines and certifies in writing to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that --
 - (A) such waiver is necessary to the national interests of the United States; and
 - (B) the Government of the Russian Federation is substantially in compliance with multilateral and bilateral nonproliferation and arms limitation agreements.
- (2) **ADDITIONAL REQUIREMENT.** -- If the President waives the application of subsection (a)(1) pursuant to paragraph (1), the President shall include in the written certification under paragraph (1) a detailed description of the facts that support the determination to waive the application of subsection (a)(1).
- (3) **SUBMISSION IN CLASSIFIED FORM.** -- If the President considers it appropriate, the written certification under paragraph (1), or appropriate parts thereof, may be submitted in classified form.

(c) PERIODIC REPORTS. -- The President shall, every 180 days after the transmission of the written certification under subsection (b)(1), prepare and transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report that contains a description of the extent to which the requirements of subparagraphs (A) and (B) of subsection (b)(1) are being met.

SEC. 4. REPORT ON THE CLOSING OF THE INTELLIGENCE FACILITY AT LOURDES, CUBA .

Not later than 30 days after the date of the enactment of this Act, and every 120 days thereafter until the President makes a certification under section 3, the President shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report (with a classified annex detailing--

- (1) the actions taken by the Government of the Russian Federation to terminate its presence and activities at the intelligence facility at Lourdes, Cuba ; and
- (2) the efforts by each appropriate Federal department or agency to verify the actions described in paragraph (1).

APPEALS COURT HEARS ARGUMENTS IN ELIAN GONZALEZ CASE

The United States Court of Appeals for the Eleventh Circuit heard oral arguments before judges J.L. Edmondson (presiding), Joel F. Dubina and Charles F. Wilson on Thursday, May 11th in Atlanta, Georgia on the question of whether six-year-old Elian Gonzalez was entitled to an asylum hearing (USCPR, Vol.7, No.4) from the Immigration and Naturalization Service (INS). Kendall Coffey presented oral arguments for Elian's Miami family represented by the child's great uncle, Lazaro Gonzalez; Edwin Kneedler, Assistant U.S. Attorney, argued for the government; and, Gregory Craig, attorney for Elian's father, intervened on behalf of Juan Gonzalez. At the opening, Coffey presented his case and was questioned by Judge Wilson who asked whether Elian even had the capacity to file an asylum application. Coffey referred to the INS guidelines. Wilson declared, "but he didn't even have the ability to sign his last name on that asylum petition." In questioning Kneedler, Judge Edmondson raised two points that he saw as problems having to do with the issues of "sole surviving parent" and the apparent "conflict of interest" between a father and the child's right to apply for asylum while Judge Dubina stated that the INS "never interviewed the child." In response, Kneedler cited "pages 19 and 20" of the INS guidelines which make reference to "the handbook of the United Nations [High] Commissioner for Refugees" (UNHCR) where "a child under the age of 16 may be assumed not to be mature enough to apply for political asylum." Raising a hypothetical, Dubina supposes "Elian's mother had survived" and wonders what scenario would play out then. "[I]t probably would not have been necessary to invoke the asylum process, because there is a special statute in the Cuban Adjustment Act and parol[e] policies that build on that that would have allowed them to stay," responded Kneedler. Anticipating Coffey's rebuttal, Edmondson offered a critical insight, "I see this case legally as being chiefly about the separation of powers...[h]owever I might personally feel about what would be best for Elian Gonzalez is not supposed to determine the outcome of this case." Coffey stuck to the script and appeared, in closing, unprepared to "shape" his rebuttal, in the words of Judge Edmondson so as to address this Constitutional issue for the Court. The Court's decision is expected sometime in June.

DIAZ-BALART CALLS FOR INSPECTOR GENERAL TO INVESTIGATE FORCED REMOVAL OF ELIAN GONZALEZ

Representative Lincoln Diaz-Balart (R-FL), in a letter addressed to Robert Ashbaugh, Acting Inspector General at the Department of Justice, requested an investigation by the Office of Inspector General (IG) regarding "the raid that forcibly removed Elian Gonzalez from the home of Lazaro Gonzalez on April 22, 2000 in Miami, Florida." Under the purview of the Department of Justice, the IG's office has a mandate to investigate waste, fraud, and abuse within the U.S. government as specified by the Inspector General Act of 1978. In his letter, Diaz-Balart writes, "Less than seventy-two hours after the 11th [sic] District Court of Appeals encouraged mediation to resolve Elian's custody dispute and ordered that Elian not be removed from the United States, Attorney General Janet Reno sent armed federal agents to raid the Gonzalez home to violently transfer custody of the six-year-old while negotiations were in progress." (See USCPR, Vol.7, No.4). Diaz-Balart raised questions about the 'search warrant' and the 'arrest warrant' purportedly used to seize an "illegal alien." Charging that "Elian's legal status in the U.S. was never revoked," the South Florida Congressman cites an INS letter dated April 14, 2000 informing "Lazaro Gonzalez that 'parole care' of Elian had been transferred to INS, to later be transferred to his father." The May 16th letter questioning the legality of Attorney General Reno's actions and requesting an IG investigation is signed by Reps. Dan Burton (R-IN), Cliff Sterns (R-FL), Helen Chenoweth-Hage (R-ID), Todd Tiahrt (R-KS), Ileana Ros-Lehtinen (R-FL), Roscoe Bartlett (R-MD), John Doolittle (R-CA), Dave Weldon (R-FL), Richard Pombo (R-CA), John Shadegg (R-AZ), John Duncan, Jr. (R-TN), Dana Rohrabacher (R-CA), Thomas Tancredo (R-CO), John Hostettler (R-IN), and Bill McCollum (R-FL).

CURRENCY & COMMODITY BRIEFS

EURO – July 1, 2000 will mark one year that Cuba has used the euro for trade and credit transactions with the European Union, its largest trading partner. Cuba's National Bank has set January 1, 2002 for the use of euro currency transactions which will be used primarily in the tourist industry where Europeans make up a large part of the island's holiday and business travelers. In December, (USCPR, Vol.6, No.12) the euro slipped through the dollar barrier falling to \$0.9986 against the dollar since its inception on December 31, 1998 at \$1.1669. The hammering of the euro has seen it fall below 90 cents to \$0.8961 in early May, a 23 percent drop since its introduction. Cuba had hoped use of the euro would serve as a strong rival to the dominant U.S. dollar. The euro settled at \$0.9361 on May 31st. (NYT, 5/4/00; FT, 5/31/00). **RAW SUGAR** – Cuba's ruling Communist Party's daily newspaper *Granma* carried a government statement on Wednesday, May 31st saying the 1999/2000 sugar harvest (USCPR, Vol.7, No.4) had concluded with a total of 4.058 million metric tons (mt.) compared to its 1998/1999 crop of 3.78 million metric tons. Under Sugar Minister Ulises Rosales del Toro, Cuba is pursuing a strategy of diversification to produce different types of sugar cane and a wider array of by-products such as alcohols, animal feed, cane fiber board, and inputs for its bio-tech industry. July sugar moved sharply higher from April's close of 6.41 to May's close of 7.68 on speculation the world surplus is expected to shrink due to lower production levels in Brazil. (RL, 5/31/00). **CRUDE OIL** – With crude oil nearly double from year ago prices, increased interest in Cuba's Gulf of Mexico blocks is expected when it makes a presentation at the World Petroleum Congress in Calgary this June. Production increases continue to consist of heavy oil from "fractured reservoirs near Havana" on the island's northern basin while Sherritt expects the new pipeline from the Varadero vicinity to the supertanker port of Matanzas to be completed by mid-year 2000. Cuba reports it produced 2.136 million metric tons of crude in 1999 and projects 2.8 million during 2000. (OGJ, 4/3/00; RL, 5/19/00). **NICKEL & COBALT** – Nickel prices on the London Metal Exchange, having breached the \$10,000 per metric ton level in February, slid backward in recent months falling below the \$10,000/mt. level in April. Demand for stainless steel, nickel's main end market, continues to be high while the decline in inventories is expected to sustain high level prices in the \$8,000 to \$10,000 range throughout the year. Cobalt prices remain fairly steady with positive growth forecast for Japanese demand as heard at the Cobalt Development Institute conference in Tokyo. The expected increase in annual nickel/cobalt production will benefit Cuba's state-run economy. (MB, 5/31/00).

CURRENCIES & COMMODITIES

1 Euro = 0.9361 US Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 19.6581 Cuban Peso

Rates as of May 31, 2000.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 8.06
Year ago nearby = 5.00
Future (July '00) = 7.68
High = 7.78
Low = 6.30

Cash/Spot price as of May 30, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 29.00-29.05
Year ago (May 28) = 16.84
Future (July '00) = 29.01

Cash/Spot price as of May 31, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 10,430
Year ago (May 28) = 4,700

(\$ per metric ton)
Official Price: May 26, 2000.
Source: London Metal Exchange

Cobalt = 16.00 -17.00
Year ago (May 31) = 15.80 - 17.00

(\$ per pound for 99.8%)
Price: May 29, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

LEISURE CANADA APPOINTS NEW VP TO OVERSEE CUBA PROJECT – Vancouver-based Leisure Canada Inc. (LCI) has announced the appointment of Guillermo (Mito) Martis as senior vice president for development and construction (USCPR, Vol.7, No.3). Martis assumes the Cuba duties of Peter MacLeod, president and chief operating officer, who returned to Canada earlier this year to assume his new position (USCPR, Vol.7, No.1). MacLeod is expected to work closely with Martis during his Cuba assignment. "The company is about to commence construction of its first Hotel in Jibacoa and Mito's Caribbean experience makes him an excellent candidate for the job," said MacLeod. "He will also lend his expertise to the implementation of our time-share project. I am extremely pleased to have him working for us in Cuba." Simon Cooper, also with extensive Cuba experience, serves on LCI's board of directors (USCPR, Vol.6, No.3). Cooper is president of Marriott Lodging Canada and vice president of Marriott Lodging International. (PR, "Leisure Canada appoints new vp to Cuba," 5/03/00).

CUBA HALTS NEW FOREIGN INVESTMENT IN RESIDENTIAL PROPERTY – Cuba's Foreign Investment Ministry announced a freeze on the construction of new privately owned residential property in an overall review of "the whole real estate policy," according to a senior official. Since the declaration of Cuba's 1995 foreign investment law, 17 joint ventures, involving holiday and business homes for foreigners between mostly European investors (Spain, France and Italy) and Cuban government partners, have been approved by the ministry. Foreign developers have noticed that the Cuban state partners involved in these joint ventures have been buying the unsold units to be rented but not sold to foreigners after profitable sales of existing units were reported. The 1995 law was viewed internationally as an attempt by the Castro regime to show the world that it respected private property. This in light of the massive confiscations of private property without compensation following the Castro Communist revolution in the early 1960s. (FT, "Cuba halts holiday home investment by foreigners," 5/5/00, p.8).

DEADLINE DRAWS NEAR ON EU VOTE TO INCLUDE CUBA IN TRADE AND AID PACT – Cuba's withdrawal from the ACP-EU Partnership Agreement for trade and aid (USCPR, Vol.7, No.4) has prompted its ACP (African-Caribbean-Pacific) allies of developing countries to send a 71-member delegation to examine the Castro regime's reasons for withdrawal. It is believed Cuba withdrew from consideration because it was unable to meet the EU's human rights and rule of law criteria for admission in the new LOME Convention (USCPR, Vol.7, No.2). The EU will vote on membership incorporating the former European colonies into this newly negotiated trade and aid pact on June 8th in Fiji. (RL, "Trade pact members to send mission to Cuba," 5/10/00).

CUBA APPOINTS NEW FOREIGN TRADE MINISTER – Cuba's Council of State announced the appointment of Raul de la Nuez Ramirez as Foreign Trade Minister replacing Ricardo Cabrisas who after two decades in the post will move to a newly created slot in Fidel Castro's Communist-run government. According to the government statement, Cabrisas will now attend to "important tasks" involving foreign commercial and economic organizations. The veteran government official presided over Cuba's so-called "special period," following the collapse of the Soviet Union (1989 – 1991) ending decades of subsidies, to go on to build extensive foreign trade ties with Canada and Europe. His successor, Nuez Ramirez, spent the last five years working in Canada heading the mining joint venture for Cuba with Sherritt International to refine Cuban nickel and cobalt. These joint venture Sherritt subsidiary companies, which include Cobalt Refinery Co. Inc., International Cobalt Co. Inc., Moa Nickel S.A. and La Compania General de Niquel, have been listed as "Blocked Persons and Specially Designated Nationals by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) (USCPR, Vol.2, No.5 & Vol.3, No.1) effectively precluding U.S. corporations from conducting business with them. Sherritt, currently in litigation, spun off its Cuba investments in 1995 creating Sherritt International in order to avoid anticipated U.S. sanctions (USCPR, Vol.2, No.10). Sherritt's investments in Cuba include petroleum exploration, power generation, nickel and cobalt mining, agriculture, tourism, and a 37.5% stake in Cuba's nationalized telephone company. (RL, "Cuba names mining exec as foreign trade minister," 5/19/00).

DOMESTIC BRIEFS

STATE DEPARTMENT ISSUES 1999 GLOBAL TERRORISM REPORT – Cuba and six other countries, Iran, Iraq, Libya, North Korea, Sudan, and Syria have been redesignated as state sponsors of terrorism in a report issued by the State Department dated April 2000. In the report released on May 1st, *Patterns of Global Terrorism 1999*, the same seven states which have been listed since 1993 fall into two categories of activities: "harboring of past terrorists" and "continuing their linkages to designated Foreign Terrorist Organizations." According to Ambassador Mike Sheehan, the State Department's Counter-Terrorism Coordinator, "Cuba falls in both of these categories." Responding to a related question, Sheehan said of Cuba that there were, "[t]wo in the ETA and two Colombian organizations, the FARC and the ELN." Encouraging "all state sponsors to terminate all links to terrorism," the U.S. government will drop countries from the annual list (USCPR, Vol.6, No.4) if they meet the criteria "notwithstanding other differences we may have with a country's other policies and actions."

ROS-LEHTINEN REQUESTS UPDATE ON TRAVEL AUTHORIZATION POLICY FOR CUBAN OFFICIALS – In a May 22nd letter to Secretary of State Madeleine Albright, Rep. Ileana Ros-Lehtinen (R-FL) requests an "explanation of the travel authorization policy for Cuban officials" in light of "an increase in the movement of Castro officials beyond the established perimeter for activities which, arguably, run contrary to U.S. national security interests." Ros-Lehtinen, who requests a staff update from the Office of Cuban Affairs, refers to an April 1997 "agreement" with the Department of State to provide her and Senator Helms with information concerning travel within the U.S. but outside of the 25-mile limit that Cuban officials are not allowed to travel, without formal authorization, from the Cuban United Nations Mission in New York and the Cuban Interests Section in Washington. The Cuban-American Congresswoman cites U.S. government officials who are "denied access to areas and individuals they request meetings with in Cuba, or have had their requests ignored by Castro authorities."

HELMS CALLS FOR INVESTIGATION OF ORIOLES HIRING PRACTICES – Senate Foreign Relations Committee Chairman Jesse Helms, in a letter to Attorney General Janet Reno, charged the Baltimore Orioles with employing discriminatory hiring practices against Cuban defectors. In his May 25th missive to Reno, Helms writes, "Last week members of the Baltimore Orioles management team stated that they have a policy – based upon an agreement with Fidel Castro's regime – that the Orioles will not sign players who defect from Cuba." In a clear case of 'baseball diplomacy' last year (USCPR, Vol.6, No.3), the Clinton administration approved an exhibition game between the Baltimore Orioles and the Cuban All-Star team in Havana. Helms asked for an "immediate review of the hiring practices of the Orioles through the Office of the Special Counsel for Immigration Related Unfair Employment Practices."

INS OFFICIAL CONVICTED IN CUBA SPY CASE – The spy case dubbed "Operation False Blue" has ended with the conviction in a Miami court room of Mariano Faget, a Cuban-American exile and high ranking INS official of 34 years. Faget had a "Secret" clearance and access to government files containing information about Cuban defectors and dissidents, intelligence highly valued by the Castro regime. The case drew international attention when Jose Imperatori, Second Secretary posted at the Cuban Interests Section in Washington, was ordered expelled following the February 17th arrest of Faget (USCPR, Vol.7, No.2). Planning to retire soon, Faget had lied by not revealing outside business interests involving Cuba along with unauthorized meetings with Imperatori. Faget was arraigned on March 6th (USCPR, Vol.7, No.3). According to news reports, FBI agents continue to review classified documents dealing with the case to determine whether any other information may have been leaked. Faget, who was found guilty Tuesday, May 30th by a jury on four counts, including violation of the federal Espionage Act, will be sentenced on August 18th.

NOTABLE QUOTES

"Will a Cuban boy's reunion with his father in America, ultimately lead to better relations between the two nations? It's highly unlikely, given the gulf between American democracy and Cuban socialism. Few Americans of any political stripe would let Cuba off the hook on its human-rights record. And just one day after Elian Gonzalez rejoined his father...Fidel Castro himself predicted relations would not improve." **Philip Peters**, a State Department official during the Reagan and Bush administrations, is vice president of the Lexington Institute in Arlington, Virginia. (JOC,"It's time to re-examine US stance on Cuba," 5/8/00, p.6).

"With the continuing national hoopla over one Cuban boy, less attention has been paid to recent developments in Washington that could also signify a shift in U.S. Cuba relations. At my behest, the House Ways and Means Committee chaired by Rep. Bill Archer asked the International Trade Commission to study the 40-year U.S. embargo on most trade with Cuba. This unprecedented technical analysis, due out next February, may well reveal the economic benefits to the United States of unrestricted commerce with our Caribbean neighbor." (See USCRP, Vol.7, No.4) Rep. **Charles Rangel**, the ranking member on the Ways and Means Committee, is slated to become chairman of the powerful House committee should Democrats capture control in the November elections. (TWT,"End the Cuba embargo: Even Republicans show signs of relenting," 5/10/00, p.A19).

"Trade with Cuba goes through a government filter, or a government-owned entity or a government-sponsored entity. So in essence you trade in dollars, and Cuba pays workers in pesos, for example, and the dollars end up supporting the Castro regime one way or another, and I'm not for that." Texas Governor and Republican presidential candidate **George W. Bush** appears in Everett, Washington at a Boeing aircraft assembly plant to discuss trade. (ST,"Bush at Boeing, backs China trade," 5/18/00, p.A1).

"The United States is a special and important power in international politics but national interest should govern American behavior. Our national interest should include the promotion of free trade and markets...[on Cuba, she feels Texas Governor George W. Bush] sees no reason to change policy...eventually the Castro regime will crack and fail, but that will not be hastened by our changing policies." **Condoleezza Rice**, the special assistant for Soviet and Eastern European Affairs at the National Security Council in the Bush White House, is currently a senior foreign policy advisor for the George W. Bush presidential campaign. (BLP, "Condoleezza Rice is Behind Bush Foreign Policy: Paul Alexander," 5/19/00).

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Source Guide - the following abbreviations should serve as a partial guide to sources contained in the *U.S. Cuba Policy Report*: AP – Associated Press; BLP – Bloomberg LP; BG – The Boston Globe; CR – Congressional Record; FA – Foreign Affairs Magazine; FP – Financial Post; FT – Financial Times; JOC – Journal of Commerce; LAT – Los Angeles Times; MH – The Miami Herald; MB – Metal Bulletin; NPR – National Public Radio; NYT – The New York Times; OGJ – Oil & Gas Journal; PR – Press Release; RL – Reuters Limited; ST – The Seattle Times; TWT – The Washington Times; WSJ – The Wall Street Journal; WP – The Washington Post; ZNA – ZENIT News Agency.

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Ralph J. Galliano, Editor

STATE DEPARTMENT URGED TO ENFORCE TITLE IV OF HELMS-BURTON AGAINST SPANISH HOTEL COMPANY SOL MELIA TRAFFICKING IN CUBA

WASHINGTON — In a no nonsense letter to Secretary of State Madeleine Albright, Senators Helms (R-NC) and Torricelli (D-NJ) along with Reps. Burton (R-IN), Gilman (R-NY), Diaz-Balart (R-FL), and Ros-Lehtinen (R-FL) have urged the State Department to enforce Title IV sanctions against Spanish hotel company Sol Melia for knowingly trafficking in confiscated property in Cuba the claim to which is owned by American nationals. "In light of recent developments in a notorious property case in Cuba, we again write [USCPR, Vol.6, No.9] to urge the Department of State to enforce the U.S. law to discourage exploitation of stolen property by the Cuban regime and its unscrupulous partners," write the members in their letter of June 20th (reprinted below). Albright, however, has managed to thwart the ongoing efforts of both Senator Jesse Helms, chairman of the Foreign Relations Committee and Congressman Benjamin Gilman, chairman of the House International Relations Committee in their repeated requests for enforcement and information regarding the Sol Melia investigation although the Spanish hotel company received a State Department advisory letter on July 30, 1999 informing them that their joint venture with the Cuban government may involve previously expropriated American owned property (USCPR, Vol.6, No.8). Albright's response to a question for the record from Chairman Helms indicated she refused to submit documents to the Foreign Relations Committee regarding the case. "Because this case is still under review by the Department, we are not in a position to release documents or publicly discuss the status of the investigation," wrote Albright on April 12th. The Helms letter cites "two recent examples of this non-enforcement policy" including that of Acting Assistant Secretary Peter Romero's recusal in July 1999 "from further involvement in Title IV proceedings," which he failed to put in writing; it seems no one bothered to inform Congress either. Sol Melia's dilatory actions in this matter are characterized in the Helms letter as a "subterfuge." In a management contract with Gaviota that is said to expire over the next year, Sol Melia has a great deal to lose if Title IV sanctions are applied given its substantial U.S. presence with hotel properties such as Sol Miami Beach, Sol Orlando, and access to U.S. capital markets. In addition, Sol Melia maintains its headquarters for its Latin American operations at 1000 Brickell Avenue in Miami although there is a cancellation clause in its lease that reads, "In the event Federal Law prohibits tenant from doing business in U.S. as a result of its business in Cuba." Clearly, the enforcement of Helms-Burton's Title IV provision against Sol Melia would be quite disruptive. Informed sources indicate that the State Department has given Sol Melia until the end of summer to sort matters out or it will issue the 45-day letter as a follow-up to the advisory letter. Sol Melia, which would represent the first European company sanctioned under Helms-Burton, gives the Clinton administration pause.

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PATTEN REVISITS TITLE IV WAIVER – Christopher Patten, a member of the European Commission, continues the EU's pursuit of his predecessor, Sir Leon Brittan, for securing the elusive presidential waiver authority from the U.S. Congress over Title IV of Helms-Burton, similar to the codified Title III waiver which the president has exercised now on seven occasions (USCPR, Vol.6, No.8) and no doubt will exercise for an eighth consecutive time before he leaves office in January 2001. Not surprisingly, these Title III waivers have encouraged largely Canadian and European companies to continue to traffic in American owned confiscated property in Cuba by circumventing Helms-Burton restrictions. As a result, President Clinton's Title III waiver action has had unintended consequences by sending the message that foreign companies, rather than choosing to do business either with the United States or Cuba, have chosen to do business with both countries with impunity. Patten writes in a letter to Chairman Helms (reprinted below) dated 10 May 2000, "As you know the Title IV waiver is the key to the full implementation of the Understanding [USCPR, Vol.5, No.5] and this in turn is a precondition for achieving effective Transatlantic co-operation [USCPR, Vol.3, No.11] on issues like property rights and investment protection around the world." Helms' response (reprinted below) to Patten's overture is quite emphatic stating, "I cannot agree to this." Helms describes the Understanding as having no teeth "to enforce" the principle of protection of property rights (USCPR, Vol.5, Nos.6,7,&8), a contention with which David Wallace the chairman of the Joint Corporate Committee on Cuban Claims agrees. Helms cites his counterpart in the U. S. House of Representatives, Chairman Benjamin Gilman (USCPR, Vol.6, Nos.1&6), who "corresponded repeatedly with your predecessor to try to salvage the 'Understanding' by clarifying and toughening its provisions." In remarks prepared for delivery at the June 23, 2000 "Transatlantic Legislators' Dialogue" involving Members of the U.S. Congress and Members of the European Parliament held in Washington, Chairman Gilman stated, "I was an early supporter here in Congress of the LIBERTAD, or Helms-Burton legislation. I continue to believe that the law was an appropriate response to the Castro regime's policy of selling property illegally confiscated from U.S. citizens to a new generation of foreign investors in Cuba. I also believe that the legislation is in full accord with international law." Under continuing pressure from Congress, there is a reasonable expectation that sooner or later a European company like Sol Melia, with investment in Cuba involving confiscated property the claim to which is owned by American nationals, will be cited and sanctioned under Title IV of Helms-Burton and unnerve both the EU and the Castro regime.

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THE RIGHT HONOURABLE
CHRISTOPHER PATTEN, CH
MEMBER OF THE EUROPEAN COMMISSION
RUE DE LA LOI 200, 1049 BRUXELLES
WETSTRAAT 200, 1049 BRUSSEL
TEL 298 12 00

10 May 2000

D/00/10143

The Honourable Jesse Helms
Chairman
Committee on Foreign Relations
United States Senate
Washington, DC 20510-6225
Dear Mr. Chairman,

I very much welcomed our meeting of last November when we discussed how we can best promote our common agenda on the issues surrounding the Understanding reached between the European Union and the USA in May 1998.

My purpose in writing to you now is to bring to your attention some recent developments on this side of the Atlantic. At our November meeting, I hoped to impress on you the attachment I have to fundamental rights including the protection of property rights and to the principles that underpin these. I referred to these principles in a speech I made recently (and which I attach) to the European Parliament when I said that our human rights policy in Cuba had as an aim that eventually Cuba should respect the "principles of the market, the sanctity of contract and the rule of law". You will no doubt also be aware that at the recent meeting of the UN Commission on Human Rights in Geneva, the EU Member States supported the resolution on Cuba, which called for wide ranging reform in Cuba and the safeguard of fundamental human rights and the institution of the rule of law.

I am convinced that concerted efforts by the EU and the US are the best way by far to promote, world-wide, the fundamental values on which our societies are built and through them, the economic interests of our companies and citizens. Working together, I believe we can have a real impact. However, co-operation between the EU and the US in this and other spheres is not helped by the continuing differences over the Helms-Burton waiver. As you know the Title IV waiver is the key to the full implementation of the Understanding and this in turn is a precondition for achieving effective Transatlantic co-operation on issues like property rights and investment protection around the world. We both hold a common appreciation of the importance of the protection of private property as an essential element of the rule of law. I would strongly urge you to look to this in order to move forward with the Title IV waiver and thus to full implementation of the May 18, 1998 Understanding.

Best wishes.

Yours ever,

Chris Patten

United States Senate

Committee on Foreign Relations
Washington, D.C. 20510-6225

June 6, 2000

The Right Honorable
Christopher Patten
Member of the European Commission
Rue de la Loi 200, 1049 Bruxelles
Dear Mr. Patten:

Thank you for your letter regarding Cuba and the protection of property rights. I was pleased to note that European governments supported the U.N. resolution on human rights in Cuba. Indeed, I wrote to each head of government expressing my appreciation for their standing with the Cuban people.

Regarding your reiterated proposal that European governments will protect confiscated property (in accordance with the May 1998 E.U.-U.S. "Understanding") in exchange for Congress granting the President the authority to "waive" Title IV of the Libertad Act: I cannot agree to this. By signing the May 1998 "Understanding," your predecessor acknowledged the validity of the principle behind Title IV – that foreign companies have no right to traffic in confiscated property in third countries. Unfortunately, the "Understanding" has no "teeth" to enforce this principle.

My counterpart in the U.S. House of Representatives, Chairman Benjamin Gilman, corresponded repeatedly with your predecessor to try to salvage the "Understanding" by clarifying and toughening its provisions. However, his good faith efforts produced no progress. Moreover, the U.S. Department of State has failed to apply Title IV, despite clear evidence of violations by at least one European hotel firm.

The E.U.'s refusal to clarify the "Understanding" and the U.S. government's failure to enforce existing U.S. law have served to undermine any confidence that the requested "waiver authority" would not be abused. As I stated at the outset of these U.S.-E.U. discussions, I will never trade the concrete provisions of U.S. law for vague assurances. Instead, I will continue to insist that the Libertad Act be vigorously enforced against European countries that are trafficking in stolen property in Cuba.

In any event, I do hope we can work together for common interests in the future.

Sincerely,
Jesse Helms

Congress of the United States

Washington, D.C. 20515

June 20, 2000

The Honorable Madeleine Albright
 U.S. Secretary of State
 Department of State
 2201 "C" Street, N.W.
 Washington, D.C. 20520

Dear Madam Secretary:

In light of recent developments in a notorious property case in Cuba, we again write to urge the Department of State to enforce the U.S. law to discourage exploitation of stolen property by the Cuban regime and its unscrupulous partners.

As you are well aware, Title IV of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the "LIBERTAD Act"), 22 U.S.C. 6091, denies U.S. visas to and excludes from U.S. territory persons exploiting confiscated U.S. property in Cuba. When properly enforced, the law produced some positive results: several foreign traffickers have divested their unlawful Cuban holdings or compensated the U.S. owners for using their property.

Regrettably, these sanctions have been applied only against three (non-European) companies in over four years – with no such decision in more than two years. In July 1999, Department officials briefed staff members of the Senate Foreign Relations Committee and the House International Relations Committee regarding 24 cases of suspected "trafficking" in stolen U.S. property in Cuba. Several of these cases had been pending for four years without any Title IV determinations by the State Department. We have made the case to you on a number of occasions that this inaction suggests a conscious decision by the Clinton Administration not to apply the law.

Two recent examples of this non-enforcement policy have come to light. The State Department's own guidelines for applying this law, published on June 17, 1996, in the Code of Federal Regulations, state that the Secretary of State has delegated to the "Assistant Secretary of State for Inter-American Affairs: authority for making Title IV determinations.

We have written Acting Assistant Secretary Peter Romero in the past inviting him to fulfill this responsibility. In response to our most recent letter, your Department wrote on October 29, 1999, that rather than apply the law, Mr. Romero "recused himself in July [1999]... from further involvement in Title IV proceedings..." That was news to those of us in Congress who have been pressing Mr. Romero for action.

We were further surprised by your response on April 12 to a written question in which you reported that Mr. Romero did not bother to put his recusal *in writing*, but that the Deputy Secretary of State, the Under Secretary of State for Political Affairs, or you now "may exercise" his Title IV authority.

Madam Secretary, in the absence of a formal revision of the delegation of authority, the authority for making Title IV decisions would logically flow to the Acting Assistant Secretary's deputy, not up to his superiors.

Moreover, in the absence of a written recusal, how do any of his superiors know that they have assumed a legal obligation to enforce this law? Quite frankly, Madam Secretary, this is an appalling state of affairs that tends to confirm the opinion that the Department is not serious about enforcing U.S. law.

In a second example of non-enforcement, representatives of the U.S. company, Central Santa Lucia, L.C. (CSLLC), have worked for over three years with Department officials to build an air-tight case against a Spanish hotel firm trafficking in their property in Holguin Province in Cuba. They have presented photographs of existing hotels and fresh construction on their land, they have recorded their property boundaries on U.S. military maps, and they have presented documents proving their ownership since 1857. This is not a questionable case where property boundaries are unclear or disputed, but rather one in which the area of trafficking is nestled virtually in the center of a vast property whose U.S. ownership is well-defined. These U.S. claimants have satisfied every request that the Department has made of them, proving that (1) they are U.S. citizens with a legitimate claim to the property, and (2) foreign companies are engaged in trafficking on their property. And yet, the Department refused to apply the law.

On November 1, 1996, CSLLC duly notified the worldwide Spanish-based hotel chain, Grupo Sol Melia, of its liability for trafficking, under the LIBERTAD Act. Several recent photographs previously submitted to the Department by CSLLC clearly evidence acts of trafficking since enactment of the law (as required by Title IV of the LIBERTAD Act) by Sol Melia. These acts include construction of a new hotel joint venture with a Cuban state corporation, the *Sol Rio de Oro*, on one of the aforementioned illegally confiscated beachfront properties of these U.S. citizens. Sol Melia is also currently operating at least two other comparable hotels on this illegally confiscated property, the *Club Sol Rio de Luna* and the *Sol Rio de Mares*.

After finally receiving a Title IV trafficking advisory letter from the State Department on July 30, 1999, Sol Melia's Washington attorneys were afforded various opportunities over nearly four months to raise factual or legal issues or counter the mounting evidence of its unlawful trafficking on CSLLC's property. After failing in their attempts to rebut the presumption of trafficking maintained by the State Department's Office of the Legal Adviser, Sol Melia's attorney's then spent another four months assuring the State Department that they were in the process of negotiating with CSLLC, in order to obtain its consent and authorization to manage the *Sol Rio de Oro*.

However, CSLLC's [attorney] has notified the State Department that, aside from a few preliminary, superficial telephone calls and correspondence since last December, Sol Melia's attorneys have failed to commence any meaningful negotiations with CSLLC for its consent and authorization. Instead, Sol Melia's efforts have apparently merely been focused on avoiding the State Department's issuance of the definitive 45-day determination letter, which is mandated by the Title IV guidelines.

Madam Secretary, Sol Melia must not be permitted by the State Department to prevail in this subterfuge, whereby its investments continue to prop up the Castro regime, exploit Cuba's people, labor and natural resources, and profit from the unauthorized use of stolen property.

In light of all of the following, it is long overdue for the Department to issue the determination letter in the Sol Melia case. At the very least, we ask that the Department provide our respective Committees, (1) a list of the additional information that the Department needs to support a final "trafficking" determination in this Sol Melia case, (2) the specific steps that the Department intends to take in this case and a timetable for taking such steps, (3) a formal statement by which Mr. Romero recuses himself from Title IV decisions, and (4) a new delegation of authority or other clarification by you of the Department official responsible for implementing Title IV while Mr. Romero is recused from doing so.

Thank you very much for your assistance in this matter. We look forward to hearing from you.

Sincerely,

Jesse Helms (R-NC)
Dan Burton (R-IN)Benjamin Gilman (R-NY)
Lincoln Diaz-Balart (R-FL)Ileana Ros-Lehtinen (R-FL)
Robert Torricelli (D-NJ)

U.S. SUPREME COURT REFUSES TO BLOCK ELIAN'S RETURN TO CUBA AND DENIES APPEAL

The United States Court of Appeals for the Eleventh Circuit, having received written motions and heard oral arguments (USCPR, Vol.7, No.5) to overturn the decision of District Court Judge Moore's March 21st ruling upholding the INS decision to deny 6-year-old Elian Gonzalez a hearing for political asylum (USCPR, Vol.7, No.3), handed down its decision on June 1st affirming the "judgment of the district court." Speaking for the three-judge panel, Circuit Judge Edmondson stated that "the case is mainly about the separation of powers under our constitutional system of government: a statute enacted by Congress, the permissible scope of executive discretion under the statute, and the limits on judicial review of the exercise of that executive discretion." Edmondson, a conservative jurist and strict constructionist who was appointed by President Ronald Reagan, concluded, "As policymakers, it is the duty of the Congress and of the executive branch to exercise political will...The judicial power is a limited power," clearly suggesting that an executive other than President Clinton, perhaps, would have taken a different political path. Attorney General Janet Reno stated following the Circuit Court's decision, "We are pleased that the Court has upheld our decision that only Juan Miguel Gonzalez can speak for his son Elian on federal immigration matters." In her June 1st statement, Reno heralded the "authority of the INS to make this determination." Elian's Miami family represented by the child's great uncle, Lazaro Gonzalez, proceeded in an uphill battle to keep him in the United States by filing on Thursday, June 15th with the full 11th Circuit Court of Appeals in Atlanta, which ultimately refused to reconsider its denial of political asylum. Once again, speaking for the Court, Edmondson wrote on June 23rd, "Our decision of 1 June hung largely on two ideas: (1) that the policy adopted by the INS in this case – a policy developed in what we called 'informal adjudication' – was due 'some deference'...and (2) that the level of deference due the INS policy was strengthened – becoming 'considerable' – when we also took into account the *foreign policy implications* (emphasis added) of the administrative decisions dealing with immigration." Finally, in denying rehearing, Judge Edmondson stressed that "All injunctions in this case dissolve on Wednesday, 28 June 2000, at 4:00 in the afternoon (Atlanta time)" (USCPR, Vol.7, No.4). Lazaro Gonzalez was left with few options but to appeal directly to the U.S. Supreme Court asking for a stay of the injunction to prevent Elian's immediate return to Cuba and to have the Court consider an appeal for an asylum hearing. Kendall Coffey, attorney for the Miami family, told the USCPR that he believed "the Supreme Court has an institutional interest in issues of disagreement" citing differences with the 11th Circuit in "recurring decisions around the country at the 2nd, 3rd, 4th, 5th, 7th, and D.C. Circuit Courts of Appeals" which "seem clearly committed to our position that an alien has a constitutional right to due process in seeking asylum." The Supreme Court in a brief decision refused to hear the case on appeal, however, and the boy departed Washington, D.C. Dulles International Airport with his father just hours after the injunction expired. Elian Gonzalez arrived in Havana, Cuba just before 8:00 p.m. est. to an uncertain future following 7 months of legal battles after he was rescued at sea on Thanksgiving Day November 25, 1999 (USCPR, Vol.6, No.12).

U.S. SUPREME COURT ORDER

(ORDER LIST: 530 U.S.)

WEDNESDAY, JUNE 28, 2000
CERTIORARI DENIED

99-2079 GONZALEZ, LAZARO V. RENO, ATTY. GEN., ET AL.,
(99A1076)

The application for stay presented to Justice Kennedy
and by him referred to the Court is denied. The petition
for a writ of certiorari is denied.

ELIAN AND THE LOUISIANA PRISON STANDOFF: AN ASSESSMENT

Six days after Elian Gonzalez was rescued off the coast of Florida, the INS issued a statement dated December 1, 1999 having placed the then-5-year-old Cuban boy with relatives in Miami and deferred to the Florida family court any dispute in custody arising from family disagreements (USCPR, Vol.7, No.1). On Sunday, December 5th, Cuban dictator Fidel Castro demanded that Elian be returned to Cuba within 72 hours (USCPR, Vol.7, No.12) or the "struggle" for the boy would be "a battle of national and world opinion, and that the battle would not cease until that child returns." Castro threatened that the United States would "pay the terrible cost of keeping this child." By December 8th it was apparent that the National Security Agency had become involved in the Elian Gonzalez case. In the meantime on December 13th, five Cuban detainees held in St. Martin Parish jail in Louisiana took the warden and five female inmates hostage demanding their release. The Cubans were among the 125,000 that arrived in Florida during the Mariel boatlift in 1980, 1,750 of which have been kept incarcerated in U.S. prisons under the auspices of the INS. Castro, who before the St. Martin Parish incident had consistently refused to accept the deportation of undesirable Marielitos, in an unprecedented move agreed to do so and a deal was reached. On December 19th, a State Department spokeswoman asking not to be identified read the following statement: "We're gratified that the situation has been resolved in a peaceful manner. The detainees turned themselves in without harming the hostages and in accordance with their request, we contacted the government of Cuba which has agreed to take these individuals back." Terms of the agreement have not been disclosed. In a seemingly unrelated prison incident at the State Penitentiary in Angola, Louisiana, a prison guard and an inmate were killed on December 28th in a standoff said to be inspired by the St. Martinville incident. On January 5, 2000 the INS issued a determination that marked the Clinton administration's course reversal in the Elian case (USCPR, Vol.7, No. 1) and alluded to by Judge Edmondson on June 23rd when he referred to "foreign policy implications" when the 11th Circuit Court of Appeals refused a rehearing. (CNN, "Inmates going back to Cuba, State Department says," 12/19/99).

DIAZ-BALART AND ROS-LEHTINEN NEGOTIATE TERMS FOR FOOD AND MEDICINE SALES TO CUBA

Faced with either having the stalled *FY 2001 Agriculture Appropriations* bill (H.R.4461) held up indefinitely or removing the Nethercutt provision altogether (USCPR, Vol.7, No.5), the endangered Republican Congressman sought to avoid a repeat of last year's defeat (USCPR, Vol.6, No. 10) and negotiate an agreement that benefits farmers in his eastern Washington State district by lifting the restrictions for the sales of food and medicine to terrorist designated states such as Iran and Cuba. Declared Rep. George Nethercutt following over five hours of negotiations that ended in an agreement at 2:00 a.m. Wednesday, June 27th, "This agreement is the culmination of three years of work to lift unilateral sanctions" and it "accomplishes exactly what I set out to do – upon enactment, American farmers will have access to all five unilaterally sanctioned markets." With the invaluable assistance of fellow Reps. Benjamin Gilman (R-NY), Dan Burton (R-IN), and Bob Menendez (D-NJ), Lincoln Diaz-Balart (R-FL) and Ileana Ros-Lehtinen (R-FL) ensured severe restrictions on the sales of food and medicine to Iran and Cuba including: denial to any U.S. government credits or subsidies; no reciprocal trade with Cuba; and, the prohibition of U.S. tourism to Castro's Cuba. Said Diaz-Balart, "Closing off Clinton's tourism option for Castro is our most important achievement in years. We are extremely pleased." Ros-Lehtinen added, "This agreement is much better for us than current law. No credits for Castro, and no tourism either." Under the agreement, both private sector and government credits and subsidies are prohibited; only cash sales or third country financing will be permitted. Initial reaction from the Cuba is "a timid step forward." President Clinton, at a White House press conference on Wednesday, June 28th, called the Cuba restrictions a "mistake."

VENEZUELA CALCULATES RISK OF CUBAN OIL DEALS

The country's state-owned oil and refining company, Petroleos de Venezuela, S.A. (PDVSA) and its marketing subsidiary Deltaven, appear to be walking a tightrope between President Hugo Chavez's loyalty to Cuban dictator Fidel Castro's revolution and the protection of the leading South American oil producer's market share in the United States, which alternately vies with Canada and Saudi Arabia as the leading exporter of oil to the U.S. Chavez, who since taking office has reversed PDVSA's strategy of enlarging its market share to instead cutting production resulting in higher worldwide oil prices, has carved out a prominent leadership position within the OPEC oil cartel.

According to El Nacional, Venezuela's Office of Energy and Mining has executed a "memorandum of understanding" between the two countries that describes the development of seven business units in Cuba. PDVSA is said to be interested in the Cuban petroleum market from oil exploration activities to refining and the sale of gasoline, lubricants, and petrochemicals. The view at PDVSA is that the Soviet-built Cienfuegos refinery, while requiring a large investment, would offer Venezuela a foothold in the Cuban market (USCPR, Vol.7, No.2). Deltaven, which markets petroleum products under the PDV brand, includes: lubricants, gasoline, diesel, aviation fuel, marine fuel, fuel oil for electric and industrial plants, and paving asphalt. A partnership between Deltaven and Cubaluc would be expected to lead to the construction of a second lubricant production facility in Havana utilizing property confiscated from Esso Standard Oil's Cuba division now Exxon-Mobile. At risk also would be Venezuelan ships currently catering to the Caribbean market – especially Curacao and Trinidad. Under U.S. law, any ships docking in Cuba are forbidden from docking in U.S. ports for up to six months. Section 1706 of the *Cuban Democracy Act of 1992*, known as the Mack amendment, sanctions "vessels engaging in trade" with Cuba unless issued a license by the Treasury's Office of Foreign Assets Control.

PDVSA is moving deliberately by seeking legal advice to reduce its risk should its business dealings with the Castro regime come to fruition. Although, through its CITGO service stations (USCPR, Vol.6, No.6), PDVSA risks its massive petroleum distribution network in the United States should litigation ensue. The proposed solution, PDVSA is advised, is the creation of foreign umbrella companies in Holland, Spain or Canada under which Cuban-Venezuelan joint ventures may be concluded, not unlike the Pernod Ricard deal where Havana Club International and Havana Club Holding were created (USCPR, Vol.6, No.4) to circumvent Helms-Burton. This course of action also seeks protective cover from countries with so-called claw-back laws.

CURRENCIES & COMMODITIES

1 Euro = 0.9436 Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 19.8156 Cuban Peso

Rates as of June 28 2000.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 9.04
Year ago nearby = 5.95
Future (July '00) = 8.47
High = 8.83
Low = 6.30

Cash/Spot price as of June 27, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)

Cash/Spot (fob) = 32.05-32.10
Year ago (June 28) = 18.23
Future (August '00) = 32.06

Cash/Spot price as of June 27, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 8,090
Year ago (June 25) = 5,490

(\$ per metric ton)
Official Price: June 27, 2000.
Source: London Metal Exchange

Cobalt = 15.00 -16.00
Year ago (June 28) = 21.00 - 22.00

(\$ per pound for 99.8%)
Price: June 29, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

U.S. CHAMBER OF COMMERCE SEEKS TO FACILITATE COMPENSATION FOR CONFISCATED PROPERTY – In its second trip to Cuba (5/30-6/2/00) over the last twelve months (USCPR, Vol.6, No.7), the U.S. Chamber of Commerce continues to seek a lifting of the U.S. embargo. This latest Chamber delegation visit since last July was led by Craig Johnstone, Senior Vice President for International Economic and National Security Affairs. According to informed sources, the nature of any compensation would take the form of the ITT-STET deal (USCPR, Vol.4, No.8) under which Helms-Burton traffickers in confiscated American owned property in Cuba would compensate owners for use of the property. Return of property to U.S. certified claimants or direct compensation by the Cuban government is not part of the socialist paradigm envisioned by the Castro regime in any settlement scheme. (NYT, "Cuba May Be Ready to Talk About Expropriation Claims," 6/3/00, pA4).

PERNOD RICARD APPEALS HAVANA CLUB CASE AGAINST BACARDI TO U.S. SUPREME COURT – Paris-based Pernod Ricard, the French drinks and liquor producer, has decided to go forward with its appeal against Bacardi (USCPR, Vol.7, No.3) after losing two legal rounds, one in the New York District Court (USCPR, Vol.6, Nos.4,5,&6) and another in the Second Circuit Court of Appeals on February 4th involving a dispute over trademark rights for use of the Havana Club brand rum (USCPR, Vol.7, No.2). Pernod Ricard, under its Cuban joint venture, Havana Club International and Havana Club Holding, filed its petition before the U.S. Supreme Court which will decide in October whether to hear the case. Under a U.S. law known as Section 211, in December 1998 Congress acted to protect uncompensated confiscated property. (Business Wire, "Havana Club Seeks Review by Supreme Court of the United States," 6/5/00).

EU FILES COMPLAINT AGAINST U.S. AT WTO OVER SECTION 211 – The European Union decided on June 9th to initiate a complaint against the United States at the World Trade Organization's (WTO) Dispute Settlement Body over Section 211 (USCPR, Vol.6, No.4), the American law which has offered protection to Bacardi's use of the Havana Club trademark in the United States. The EU's challenge on behalf of Pernod Ricard asks that a panel be formed to determine whether Section 211 is consistent with U.S. obligations under Trade-Related Aspects of Intellectual Property Rights (TRIPs). The WTO dispute settlement panel will meet in July to begin its investigation. (BLP, "Havana Club Rum Dispute Means Trouble for a Dog Named Bacardi," 6/1/00; WTD, 6/12/00).

EUROPEAN UNION SIGNS TRADE AND AID PACT EXCLUDING CUBA – As expected, the 15 nation European Union signed a 20-year agreement with 77 signatories to the so-called Cotonou Agreement, the successor trade and aid pact to the 25-year-old Lome Convention (USCPR, Vol.7, No.5), from which Cuba removed itself because it was unable to meet the criteria set forth by the EU for full membership provided countries respected the "basic principles of good governance." The EU is expected to provide \$18.72 billion in financial aid to the ACP countries over a seven year period. Cuba excluded itself from the African, Caribbean, and Pacific countries group when it realized it could not stand the test of the EU's human rights and rule of law criteria. Rene Mujijie, Cuba's ambassador to Belgium and the ACP called the "conditions" to membership "unacceptable." Philip Lowe, EU director general for development, told Reuters that the "political element is important in this agreement but we do not intend to interfere in the internal affairs of states." (RL, "EU and ACP trade partners sign new deal," 6/23/00; BLP, "EU Signs Trade, Aid Pact With Developing Countries, BBC Reports," 6/24/00; RL, "Interview-EU links shared values to help for ACP partners," 6/24/00).

SUCHLICKI ISSUES PAPER – U.S. EMBARGO OF CUBA – Jaime Suchlicki, professor of history and international studies at the University of Miami has released a paper (June 2000) entitled: "The U.S. Embargo of Cuba" which explores arguments for and against lifting the nearly 40-year-old economic embargo and travel ban against Cuba's Castro regime. Copies are available through the Institute for Cuban & Cuban-American Studies, which is part of the School of International Studies at the University of Miami, by contacting Professor Suchlicki at email address: iccas@miami.edu or writing to: P.O. Box 248123, Coral Gables, FL 33124-3010.

DOMESTIC BRIEFS

"ROGUE STATES" NOW CALLED "STATES OF CONCERN" SAYS SECRETARY OF STATE ALBRIGHT – Secretary of State Madeleine Albright chose to make a profound foreign policy statement in an informal manner over a public radio station during an interview rather than to hold a formal State Department press conference specifying the poignantly significant shift in U.S. policy with regard to the treatment of terrorist nations. Albright chose the National Public Radio Diane Rehm Show on Monday June 19th to offhandedly remark that North Korea was not a "rogue state" and its communist leader, Kim Jong Il was not a "rogue leader," this on the day the Clinton administration moved to ease sanctions on North Korea. The term "rogue state" has been applied to 7 countries including: Iran, Iraq, Libya, North Korea, Sudan, Syria, and Cuba. Just after noon, State Department spokesman, Richard Boucher, declared the new lexicon "a more general phrase" that refers to "a certain evolution" within each of these countries and thus should be treated differently than in the past. Boucher recognized the Clinton administration's gradual change in policy toward certain countries on the list of state sponsored terrorist states and agreed that "henceforth" there will only be "states of concern." Cuba, listed as a state sponsor of terrorism (USCPR, Vol.7, No.5), according to the State Department's annual report, continues to harbor past terrorists and to maintain links to designated foreign terrorist organizations.

DODD ATTEMPTS TO CODIFY CREATION OF NATIONAL BIPARTISAN COMMISSION -- In an unsuccessful attempt to resurrect the National Bipartisan Commission on Cuba proposed in September of 1998 by a bipartisan group of former members of the U.S. Senate and cabinet officials (USCPR, Vol.5, No.10), Senator Chris Dodd (D-CT) introduced an amendment (No.3267) to the 2001 defense authorization bill (S.2549) which was defeated by a vote of 59 to 41 on Tuesday, June 20th. The commission concept, patterned after the 1980s Kissinger Commission on Central America, was the admitted brainchild of the Council on Foreign Relations (CFR) Independent Task Force for U.S. – Cuban Relations (USCPR, Vol.5, No.12) but was rejected by the Clinton administration (USCPR, Vol.6, No.1) when Secretary of State Albright declared, "we do not support establishing such a commission at this time." The Dodd proposal, originally supported by John Warner (R-VA) the chairman of the Senate Armed Services Committee, was believed to be an impediment to the passage of the defense authorization bill. In addition, Senators Torricelli (D-NJ), Graham (D-FL), and Mack (R-FL) urged the amendment's defeat arguing it would be better to consider after the presidential election in November. While the defeat of the Dodd amendment was not unexpected, it added to the pressure by anti-embargo forces in Congress as they moved to open trade with communist Cuba. Dodd proposed "the establishment of a bipartisan twelve member commission to review U.S. policy and to make recommendation[s] as to the changes that are necessary to bring that policy into the 21st Century."

DAIAZ-BALART, ROS-LEHTINEN, AND MENENDEZ BACK CUBAN INTERNAL OPPOSITION – Reps. Diaz-Balart (R-FL), Ros-Lehtinen (R-FL), and Menendez (D-NJ) are backing legislation to support the internal opposition to the Castro regime in Cuba and to "strengthen independent nongovernmental opposition organizations." Introduced by Congressman Lincoln Diaz-Balart, the bipartisan *Cuban Internal Opposition Assistance Act of 2000*, H.R.4537, had 81 cosponsors by June 28th including Democrats Tom Lantos (CA), James Traficant (OH), Luis Gutierrez (IL), Patrick Kennedy (RI), and Bob Menendez (NJ). "Those who say they support human rights and democracy in Cuba, should join us in our efforts to strengthen and nurture human rights activists and political dissidents, as the United States did in Poland, the Czech Republic and other former communist bloc countries," urged Menendez, a first generation Cuban-American born in the United States who serves as the Democratic caucus vice chairman and was a prime supporter of the Helms-Burton law.

NOTABLE QUOTES

"While the rest of the socialist world (save North Korea) has hedged its bets by making some sort of peace with capitalism, Fidel remains firmly in the opposition – a dogmatic dissident who rejects the 'neoliberal' doctrine of competition, deregulation and privatization as the path to growth. In central Europe, economic reform came to symbolize a reassertion of national sovereignty after decades of externally imposed communism. But in Cuba, where the revolution was homegrown, socialism and nationalism have become thoroughly fused. Thus, adopting IMF and World Bank prescriptions, a la Poland or Argentina, is seen as tantamount to ceding national sovereignty to the empire to the north." Julia Sweig of the Council on Foreign Relations writes in the Second Quarter 2000 edition of *The Milkin Institute Review* located in Santa Monica, California. (TMIR, "Hanging on: The Cuban Economy at the End of History," 2ndQ 2000, p.15).

"China and Cuba offer the perfect example of how, if we are to transform communist states, we must use different tactics for different countries. America should work to encourage states such as China that are already undertaking changes that promise to foster democratic principles; and we should quarantine regimes that steadfastly refuse to take even incremental steps toward political and economic reform, such as Cuba." Rep. Tom DeLay (R-TX) who compares U.S. trade policy with China and Cuba, is the House Majority Whip. (WP, "Trading with Communists: Reward Progress, Punish Dictators," 6/18/00, p.B3).

"Castro wants the American embargo lifted because he is desperate for hard currency. After the Soviet Union collapsed and Moscow's subsidies ended, Castro turned to European and Canadian investors to keep his Communist system afloat. Now he wants American investors to do the same. We must not allow that to happen. Unfortunately, some in Washington are all too willing to give Castro what he wants. At least they should stop pretending that they are doing this to promote Cuban democracy and American values." Jesse Helms, a Republican from North Carolina, is chairman of the Senate Foreign Relations Committee. (WP, "On Trade, Cuba is Not China," 6/24/00, p.A27).

"I did not inherit a position, nor am I a king, therefore, I do not need to prepare a successor. In any case, it would never be to prevent the trauma of a chaotic transition. There will be no trauma, nor will there be a need for any kind of a transition. The transition from one social system to another has been taking place for over 40 years. This is not about replacing one man with another." Fidel Castro responds to questions by Federico Mayor the former director general of UNESCO. (GI, June 23, 2000).

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Source Guide - the following abbreviations should serve as a partial guide to sources contained in the *U.S. Cuba Policy Report*: AP – Associated Press; BLP – Bloomberg LP; BG – The Boston Globe; CR – Congressional Record; FA – Foreign Affairs Magazine; FP – Financial Post; FT – Financial Times; GI – Gramma International; JOC – Journal of Commerce; LAT – Los Angeles Times; MH – The Miami Herald; MB – Metal Bulletin; NPR – National Public Radio; NYT – The New York Times; OGJ – Oil & Gas Journal; PR – Press Release; RL – Reuters Limited; ST – The Seattle Times; TWT – The Washington Times; WSJ – The Wall Street Journal; WP – The Washington Post; ZNA – ZENIT News Agency.

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U.S. ☆ CUBA

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Ralph J. Galliano, Editor

HOUSE GOP AMENDMENTS TO SPENDING BILL COUNTER NETHERCUTT COMPROMISE ON FOOD AND MEDICINE SALES & CUBA TRAVEL BAN

WASHINGTON – As part of the *FY 2001 Treasury-Postal Service Appropriations* bill (H.R. 4871), Republican amendments introduced by Reps. Mark Sanford (SC) and Jerry Moran (KS), if enacted into law, can cut OFAC funding to enforce the travel ban and the private sale of food and medicine to Cuba only for the period covering the upcoming fiscal year beginning October 1, 2000 through September 30, 2001. Nonetheless, these amendments and their passage by convincing margins came as a surprise to the House Republican leadership who believed, following the Nethercutt compromise (USCPR, Vol.7,No.6) in June, that any further Cuba related legislation in the 106th Congress had been put to rest. However, on Thursday evening, July 20th, the House approved a floor amendment (H.AMDT. 1031) by Congressman Jerry Moran to lift trade sanctions on food and medicine to Cuba by cutting funding to the Treasury Department's Office of Foreign Assets Control (OFAC) by a vote of 301 to 116. "Finally after 38 years, we were successful in bringing the issue of sanctions against Cuba to a vote on the House floor," Moran said. "During my four years in Washington, sanctions reform has been a high priority. This is the first time those of us who oppose unilateral sanctions have been able to get a vote on this issue and the success we have had improves the chances that farmers and ranchers can make ends meet. I also hope this hastens the day that democracy returns to Cuba." An amendment (H.AMDT. 1029) introduced by Congressman Mark Sanford to cut OFAC funding to enforce the travel ban also passed with a bipartisan vote of 232 to 186. "We have had the same policy towards Cuba for 40 years and it hasn't worked," Sanford said. "I think that allowing Americans to flood Cuba with our democratic ideals will be a key step in bringing down Castro's regime." On the same evening, the Senate approved an amendment from Byron Dorgan (D-ND) the Ranking Member on the Treasury Subcommittee to lift the unilateral food and medicine trade embargoes against Cuba and five other designated "terrorist" countries by a vote of 79 to 13. This language was similar to Senator Ashcroft's (R-MO) amendment that opponents failed to table last year by a vote of 28 to 70 (USCPR, Vol.6,No8). The Nethercutt compromise, which is opposed by the White House, ensures severe restrictions on the sale of food and medicine to Iran and Cuba including: denial of any U.S. government credits or subsidies; no reciprocal trade with Cuba such as sugar, for example; and, prohibition of U.S. tourism to Castro's Cuba. Restricted travel to Cuba, the sale of medicine, and humanitarian food shipments are currently permitted under U.S. law by OFAC and Commerce Department licenses.

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REPUBLICAN LEADERSHIP COMMITTED TO EMBARGO – House and Senate GOP leaders, recognizing that the Sanford and Moran amendments run counter to the Nethercutt compromise, are determined to strip the Cuba language from any conference report having crafted a substitute Treasury-Postal Service Appropriations bill, added it to the Legislative Branch spending bill (H.R. 4516), and then reported it out of committee on July 26th preventing it from coming up in the Senate. The House and Senate Managers both signed off on the move including Senators Robert F. Bennett (R-UT), Ted Stevens (R-AK), Larry Craig (R-ID), and Thad Cochran (R-MS). Informed sources indicate that Majority Whip Tom DeLay (R-TX), who also serves on the House Appropriations Committee, maneuvered the bill through the process which included passage of the rule to bring up the bill on the floor and then pulled it back, leaving it for action until after the August recess when Congress returns for a short session. Although the conference report cannot be amended on the floor, Sen. Dorgan, the Ranking Member on Treasury Appropriations, and Rep. Steny Hoyer (D-MD), the Ranking Member on Legislative Branch and Treasury and Postal Service Appropriations, will oppose the new package and seek to have the Cuba language included for consideration after Labor Day. Meanwhile, Rep. George Nethercutt (R-WA) is said to favor the language in the Dorgan amendment over his own compromise language on Cuba. House Speaker Dennis Hastert (R-IL), House Majority Whip Tom DeLay (R-TX), Senate Majority Leader Trent Lott (R-MS), and Senate Republican Conference Chairman Connie Mack (R-FL) are unwavering in maintaining the trade embargo on Cuba. Rep. Ileana Ros-Lehtinen speaks out against human rights abuses in Cuba and anti-embargo moves on the House floor while Rep. Lincoln Diaz-Balart (R-FL) continues to be an effective member of the House Rules Committee working closely with the leadership to ward off a barrage of efforts to weaken or lift the embargo altogether such as the amendment (H.AMDT. 1023) offered by Rep. Charles Rangel (D-NY) on the evening of July 20th which was soundly defeated 241 to 174. Apparently, the House has no desire to lift the entire trade embargo against the Castro regime. "Yesterday we won a battle by overwhelmingly defeating the amendment...that sought to lift the entire U.S. embargo against the Cuban dictatorship," said Diaz-Balart. "We lost a skirmish, concerning travel and agricultural sales, but this is not the first little battle that we have lost and the legislative process is by no means over. A skirmish does not constitute an entire war." The battle will be joined in September when the Nethercutt compromise is to be considered. Republican presidential nominee George W. Bush opposes Congressional moves to weaken the Cuban trade embargo.

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V7N7

REPUBLICAN PARTY PLATFORM --THE CUBA PLANK

Republican National Committee Chairman Jim Nicholson lauded his party's Platform document, <http://www.rnc.org/2000/2000platformcontents>, at the site of the GOP's 2000 national convention in Philadelphia set to nominate two-term Texas Governor George W. Bush as the Party's presidential nominee. At a press conference on Monday, July 31st, Nicholson touted the Platform "document's tough stand on defense and foreign policy issues." Reprinted below, the Cuba plank embodies the principles of the *Helms-Burton Act of 1996*, which an unsupportive President Clinton reluctantly signed into law only after Cuban MiG-29s shot down two unarmed civilian planes over international air space (USCPR, Vol.3, No.3) killing all on board. Nicholson described the Platform document as "positive" with an "optimistic tone" reflective of the "positive mood of our nominee and our Party." The Cuba plank cites the Castro regime for hosting "a sophisticated Russian espionage facility that intercepts U.S. government and private communications" and also espouses the Republican Party's support of a "continued effort to promote freedom and democracy" via Radio and TV Marti broadcasts to the "captive island." Alluding to the legislation in Congress supporting the financing of the sale of food and medicine to Cuba, a designated terrorist state by the State Department (USCPR, Vol.7, No.5), this plank unequivocally states, "Under no circumstances should Republicans support any subsidy of Castro's Cuba or any other terrorist state." Governor Bush opposes these moves in Congress as does the Republican leadership. While Dick Cheney, Gov. Bush's vice presidential choice, is known for his opposition to unilateral sanctions, he stated in an interview on Sunday, July 30th when asked by Tim Russert of NBC's *Meet the Press* about sanctions, "I'd keep them in place for now until we can find a better policy." If elected, Gov. Bush, a strong supporter of free trade, would revive the Free Trade Area of the Americas (FTAA), according to Bush's top foreign policy adviser Condoleezza Rice, by seeking 'fast track' negotiating authority from Congress. The hemisphere's leaders are scheduled to meet in Quebec in April 2001 where only Cuba's Fidel Castro has not been invited. "George W. Bush has made it very clear that our economic and political relations will change when the regime there frees all prisoners of conscience, legalizes political activity and free expression, and commits to open democratic elections," said Roger Noriega of the Senate Foreign Relations Committee majority staff on June 16th at the Inter-American Dialogue's annual Sol Linowitz Forum. The Cuba plank is specific on this position.

REPUBLICAN PLATFORM 2000 Renewing America's Purpose. Together.

Neighborhood of the Americas

In Cuba, Fidel Castro continues to impose communist economic controls and absolute political repression of 11 million Cubans. His regime harasses and jails dissidents, restricts economic activity, and forces Cubans into the sea in a desperate bid for freedom. He gives refuge to fugitives from American justice, hosts a sophisticated Russian espionage facility that intercepts U.S. government and private communications, and has ordered his air force to shoot down two unarmed U.S. civilian airplanes thereby killing American citizens.

U.S. policy toward Cuba should be based upon sound, clear principles. Our economic and political relations will change when the Cuban regime frees all prisoners of conscience, legalizes peaceful protest, allows opposition political activity, permits free expression, and commits to democratic elections. This policy will be strengthened by active American support for Cuban dissidents. Under no circumstances should Republicans support any subsidy of Castro's Cuba or any other terrorist state.

Republicans also support a continued effort to promote freedom and democracy by communicating objective and uncensored news and information to the Cuban people via U.S. broadcasts to the captive island. Finally, Republicans believe that the United States should adhere to the principles established by the 1966 Cuban Adjustment Act, which recognizes the rights of Cuban refugees fleeing communist tyranny.

USAID CONDUCTS EVALUATION OF CUBA PROGRAM

PricewaterhouseCoopers (PwC) has completed an evaluation for USAID of its Cuba program authorized under Section 109 of the Helms-Burton Act (USCPR, Vol.5, No.9). According to the Executive Summary, reprinted below, the evaluation was conducted over a four month period by a three-member team which "interviewed nearly 100 individuals from grantee organizations, U.S. Government agencies, think tanks, and academia." Since the program began in 1996 through April 2000, USAID has provided grants in the amount of \$6,419,275 to 15 organizations and three universities in the U.S. compared to overall USAID expenditures of \$500 million per year in 72 countries supporting "democracy and good governance." Averaged over a five year period that amounts to just over \$1.2 million per year for USAID's Cuba program. A review of this program can be found at <http://www.usaid.gov/countries/cu/updcub.htm>.

PwC describes the pro-democracy activities funded by the program as an "exceptional" case because the U.S. does not maintain diplomatic relations with Cuba, U.S. law prohibits assistance to Cuba, and

the government of Cuba "works to thwart the USAID Cuba Program." Despite these so-called "obstacles," the team evaluation "believes that the USAID Cuba Program and its grantees have demonstrated the potential to contribute to a peaceful transition to democracy in Cuba."

Critics of the program fall into two categories: 1) those who believe the Congressional funding for Section 109 is paltry and insufficient to support a democratic transition in Cuba; and, 2) those who believe it has become a political boondoggle with few tangible accomplishments. However, PwC calls the program "satisfactory and effective" while recommending "an increase in staff at USAID headquarters and in Havana, the adoption of a research agenda to guide planning and to inform Program activities, expanded information sharing and cooperation among grantees, and improved measurement of Program performance." The PwC report can be found in its entirety at http://www.usaid.gov/countries/cu/program_report/.

EXECUTIVE SUMMARY

The United States Agency for International Development (USAID) hired PricewaterhouseCoopers LLP (PwC) in February 2000 to conduct an evaluation of the USAID Cuba Program. The Program originated in October of 1995 when President Clinton announced a series of measures to encourage a peaceful transition to democracy in Cuba. From 1996 to April 2000, USAID awarded \$6,419,275 to 15 non-governmental organizations (NGOs) and three universities in the United States to increase the free flow of accurate information on democracy and human rights to, from, and within Cuba. The Program has supported activities in six areas: 1) building solidarity with Cuba's human rights activists, 2) planning for transition, 3) giving voice to Cuba's independent journalists, 4) defending the rights of Cuban workers, 5) helping develop independent Cuban NGOs, and 6) providing direct outreach to the Cuban people. Over the course of four months, a three-member PwC evaluation team reviewed Cuba Program grantee files and interviewed nearly 100 individuals from grantee organizations, U.S. Government agencies, think tanks, and academia.

USAID expends approximately \$500 million per year on 72 country and regional programs that support democracy and good governance. The vast majority of USAID-funded democracy programs are carried out collaboratively with the governments in the countries where activities take place. The USAID Cuba Program is one of a few exceptional cases for several reasons: the Government of Cuba prohibits pro-democracy activity within Cuba and works to thwart the USAID Cuba Program; the United States and Cuba do not maintain diplomatic relations; and U.S. law prohibits assistance to the Government of Cuba and its dependencies. As a result of these obstacles, Program grantees have encountered difficulty in their efforts to identify Cuban partners and to promote the free flow of information to, from, and within Cuba.

Despite these difficulties, the evaluation team believes that the USAID Cuba Program and its grantees have demonstrated the potential to contribute to a peaceful transition to democracy in Cuba. While the Program is only a small part of the U.S. Government's approach to Cuba, USAID's encouragement of democratic change in Cuba provides sustenance and information to important actors on the island, within the international community, and to several U.S. civil society organizations that are helping people within Cuba today.

The evaluation team believes USAID's administration of the Cuba Program to be satisfactory and effective, particularly in recognition of the fact that it takes place in such a difficult political context and is subjected to constant crosscutting pressures. The Program would benefit from an increase in staff at USAID headquarters and in Havana, the adoption of a research agenda to guide planning and to inform Program activities, expanded information sharing and cooperation among grantees, and improved measurement of Program performance.

ELEVENTH CIRCUIT DISMISSES APPEAL AGAINST SHERRITT

CONSOLIDATED DEVELOPMENT CORP APPEALS FOR REHEARING EN BANC

On July 5th, the Eleventh Circuit Court of Appeals in Atlanta affirmed the decision of the Miami district court in *Consolidated Development v. Sherritt, Inc.* (DC Docket No.: 96-01820 CIV-DLG) and dismissed the case that had been filed on July 2, 1996 (USCPR, Vol.3, No.7) against "the Republic of Cuba, four Cuban corporations, and two Canadian corporations and their affiliates." It also affirmed the district court's denial of Dr. Alberto Diaz Masvidal, president of Consolidated, to intervene. The case, which has been opposed by the Clinton administration from the outset (USCPR, Vol.4 No.3), involves Consolidated's expropriated oil properties and rights in Cuba, payment for which it maintains is made to Sherritt in nickel and cobalt ore that, in turn, finds its way into the United States through Sherritt's fertilizer business. A three judge panel headed by Judge Edmondson, who presided over the Elian Gonzalez appeal, concluded that under the act of state doctrine "the district court lacked personal jurisdiction over the Canadian corporations and their affiliates." The decision defines the act of state doctrine as operating to "prohibit a United States court from judging the validity of an act of a foreign sovereign taken within its own territory." In upholding the lower court's decision, Edmondson rejected Consolidated's assertion to the "two exceptions to the act of state doctrine: the Second Hickenlooper Amendment, 22 U.S.C. § 2370(e)(2), and the so-called 'commercial activity' exception to the doctrine." In addition, the court found that Sherritt's contacts with the United States were insubstantial "to warrant the exercise of personal jurisdiction," and that due process "requires that the Canadian defendants have sufficient regular and systematic business contacts with the United

States to justify the exercise of general personal jurisdiction over them." In part, the court's opinion makes reference to the Treasury Department's list of "Blocked Persons and Specially Designated Nationals," under the embargo as proof of lack of personal jurisdiction. In fact, it was within this very process that the Clinton administration, although not a party to the case, invoked executive privilege in response to a subpoena for documents (USCPR, Vol.4, No.3).

In a petition for "rehearing En Banc and for a panel review" filed on July 26th at the U.S. Court of Appeals in Atlanta, Consolidated contends, "A court has no right to dismiss a case without considering the merits of the allegations according to the Hickenlooper Amendment and the Public Policy of the U.S. towards the Republic of Cuba, Codified as 22 U.S.C., Chapter 69 and 69A, Sections 6001 through 6091 [Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996]" also known as the Helms-Burton Act. Consolidated argues that "[r]aising funds in the U.S. for investment in Cuba was illegal under the U.S. embargo and Law" as was the transferring of "funds to Cuba without a license from the Office of Foreign Assets Control (OFAC)."

Sherritt International filed a motion on July 21st requesting corrections of the court's opinion involving "four factual errors." Sherritt which is represented by the Miami law firm of Aragon, Burlington, Weil & Crockett is expected to respond to Consolidated's petition for a rehearing. Attorney for Consolidated, Nicholas J. Gutierrez, Jr. who is with the Miami firm of Rafferty, Gutierrez & Sanchez-Aballi, told the USCPR that his client was prepared to take this case all the way to the U.S. Supreme Court if necessary.

LOURDES AND RESCHEDULING THE RUSSIAN DEBT

The White House and the Congress remain in opposition over legislation prohibiting the president from rescheduling Russia's Soviet era debt, notwithstanding the national security waiver that was granted to the president in full committee markup at International Relations in May (USCPR, Vol.7, No.5). The measure (H.R. 4118) passed the House easily on July 19th by a vote of 275-to-146 carrying 61 Democrats in support of the bill that calls for Russia to abandon its Lourdes operation, the signals intelligence (SIGINT) complex near Havana. House International Relations Committee chairman Ben Gilman (R-NY) emphatically stated, "This is about espionage. If we are to have a new relationship with Russia and if the Russian government seeks the support of our nation such as debt relief, then it's time they heard from our government about those actions that we do not appreciate. Supporting the Castro regime and spying on American citizens and our companies are not appreciated." Senate Foreign Relations Committee Chairmen, Helms and Senate Armed Services Committee Chairman, Warner along with Majority Leader Lott in a stern warning to the president objected to the administration's position in a July 18th letter reprinted below. The Clinton administration policy statement on this issue is also presented below.

UNITED STATES SENATE

COMMITTEE ON FOREIGN RELATIONS
Washington, D.C. 20510-6225

July 18, 2000
The President
The White House
Washington, D.C. 20520
Dear Mr. President:

In May, the Administration concluded negotiations on a debt rescheduling proposal for Russia and forwarded the package to Congress for consideration. Although Members voiced strong objections to your request, the Administration chose to proceed with the rescheduling of substantial debt, including that owed from the World War II era. We now understand that the Administration may be considering yet another request from President Putin to reschedule debt falling due.

It is our view that the principle and interest owed to the United States should be manageable within Russia's current available resources and budget. Instead of fulfilling these financial obligations, the Russian government has chosen to spend limited resources on prosecution of a vicious and debilitating war against Chechnya and offered substantial financial support to Slobodan Milosevic's criminal regime.

Debt relief is not an entitlement or a political gift. The Russian government has made the choice to prop up Milosevic and wage war against the civilians in Chechnya, rather than repay U.S. debt. We do not believe the United States should subsidize or support this Russian decision. Therefore, please be advised we strongly oppose any further debt rescheduling, reduction, or relief for the government of Russia absent significant changes in Russian spending priorities.

Sincerely,

Jesse Helms (R-NC) Trent Lott (R-MS) Mitch McConnell (R-KY) John W. Warner (R-VA) Connie Mack (R-FL)

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

July 19, 2000 (House)
H.R. 4118 - Russian-American Trust and Cooperation Act of 2000
(Rep. Ros-Lehtinen (R) Fl and 11 cosponsors)

The Administration strongly opposes H.R. 4118, which states that it would prohibit the President from: (1) rescheduling or forgiving any outstanding bilateral Russian debt owed to the United States; and (2) supporting rescheduling or forgiveness of Russian debt in the Paris Club, unless the President certifies that Russia has ceased operating an intelligence facility in Lourdes, Cuba. The Administration believes that H.R. 4118 is not in the U.S. national security interest.

The security of the American people is the first priority in our relationship with Russia. We share congressional concerns about the Lourdes facility and its intelligence collection activities. However, this legislation is not likely to be an effective lever on Russian actions. The United States, like Russia, maintains a number of signals intelligence facilities around the world. One important function of such facilities for both countries is to collect information to verify arms control agreements. Successive Administrations have steadfastly resisted attempts to define national technical means of verification or to circumscribe the location and use of such systems. Such a hindrance would run counter to fundamental U.S. national security interests, and in particular, to the ability to conduct arms verification. Legislation like this bill may re[bound adversely to the United States by inviting Russia and other countries to pursue similar charges against U.S. facilities they characterize as threatening. Additional explanation or information relating to facilities such as Lourdes can be provided in classified briefings.

A stable, democratic Russia also contributes to our national security in many important ways, including reducing the risk of proliferation of weapons of mass destruction. Russia's transition to a market-based economy is equally important to other U.S. interests in that it helps create a stable democratic Russia that respects private property, enforces the rule of law, and integrates Russia into global economic institutions. A reasonable and considered approach to Russia's indebtedness advances Russia's economic stability. Furthermore, debt rescheduling is an important tool to protect U.S. financial interests by maximizing the prospects of repayment. The flexibility to use this tool would be sharply limited by this legislation. Finally, the bill raises constitutional concerns by purporting to direct the President or his subordinates to take particular positions in international organizations.

CUBAN SUGAR AND THE U.S. MARKET

Recent moves in Congress to lift the trade embargo have led to speculation that granting Cuban sugar market access under the U.S. Tariff Rate Quota (TRQ) is only a matter of time. One look at the USDA fiscal year 2000 raw sugar TRQ, however, shows a great disparity with the favorable treatment once granted Cuban sugar prior to the revolution in 1959 and the prevailing conditions in the U.S. market today. Cuba's allocation in 1959 far exceeded today's sugar quota in its entirety by nearly 3-to-1 and accounted for three-quarters of the full quota. Suggestions of granting Cuba a 500,000 metric ton allocation would appear highly impractical particularly as Mexico comes on line under NAFTA provisions.

Fiscal Year 2000

<u>Country</u>	<u>Allocation</u>	<u>Country</u>	<u>Allocation</u>
Argentina	45,283	Madagascar	7,258
Australia	87,408	Malawi	10,531
Barbados	7,372	Mauritius	12,637
Belize	11,584	Mexico	25,000
Bolivia	8,425	Mozambique	13,690
Brazil	152,700	Nicaragua	22,115
Colombia	25,274	Panama	30,540
Congo	7,258	Papua NG	7,258
Cote d' Ivoire	7,258	Paraguay	7,258
Costa Rica	15,797	Peru	43,177
Dom. Rep.	185,346	Philippines	142,169
Ecuador	11,584	South Africa	24,211
El Salvador	27,381	St. Kitts & Nevis	7,258
Fiji	9,478	Swaziland	16,850
Gabon	7,258	Taiwan	12,637
Guatemala	50,549	Thailand	14,743
Guyana	12,637	Trin-Tabago	7,372
Haiti	7,258	Uruguay	7,258
Honduras	10,531	Zimbabwe	<u>12,637</u>
India	8,425	Total	1,135,000
Jamaica	11,584		

Source: USTR Press Release November 2, 1999. Based on metric tons.

Calendar Year 1959

<u>Country</u>	<u>Allocation</u>	<u>Country</u>	<u>Allocation</u>
Belgium	165	Mexico	58,794
British Guiana	76	Netherlands	2,385
Canada	572	Nicaragua	12,725
China	3,288	Panama	3,288
Costa Rica	3,280	Peru	86,662
Cuba	2,917,044	Philippines	889,050
Dom. Rep.	73,897	UK	<u>468</u>
Haiti	6,388	Total	4,058,985
Hong Kong	3		

Source: Farn's Manual of Sugar Companies-35th Edition 1960. Rounded conversion from short tons to metric tons.

CURRENCIES & COMMODITIES

1 Euro = 0.9267 Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 19.4607 Cuban Peso

Rates as of July 31, 2000.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 11.04
Year ago nearby = 5.98
Future (Oct. '00) = 10.40
High = 10.84
Low = 10.35

Cash/Spot price as of July 31, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 27.40-27.45
Year ago (July 30) = 20.53
Future (Sept. '00) = 27.43

Cash/Spot price as of July 31, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 7,500
Year ago (July 30) = 5,870
(\$ per metric ton)
Official Price: July 31, 2000.
Source: London Metal Exchange

Cobalt = 12.90 -13.70
Year ago (July 29) = 18.20 - 20.20
(\$ per pound for 99.8%)
Price: July 31, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

1999 CUBA HANDBOOK OF TRADE STATISTICS AVAILABLE -- The Central Intelligence Agency's (CIA) annual Cuba handbook of trade statistics is now available online at http://www.odci.gov/cia/di/products/cuba_hbk99/index.html. Hardcopy volumes of the handbook, which were once made available (USCPR, Vol.6, Nos.2&3), are no longer available for purchase but must be downloaded via the Internet. Acrobat Reader is required to view the data. The *Cuba Handbook of Trade Statistics* is an annual publication of the CIA which presents trade statistics provided by Havana's trading partners and Cuban export data. Statistics cover trade for the period 1993-1998 showing Russia, the Netherlands (primarily nickel for reexport), Canada, and Spain as Cuba's largest dollar value export nations for 1998. Leading importers for 1998 were Spain, Venezuela, Canada, France and Mexico.

SHERRITT-DEUTSCHE BANK RIFT REVEALS CUBA INFRASTRUCTURE AND INVESTMENT WEAKNESS -- While Deutsche Bank AG is suing Sherritt International through its subsidiary Deutsche Bank Canada for allegedly violating the terms of a \$460 million debenture sale in 1996, Sherritt claims the Canadian subsidiary of Europe's largest bank just made a bad investment. The problem, according to Sherritt's chairman Ian Delaney, involves Deutsche Bank's purchase of convertible debentures and the selling short of Sherritt stock in a bet the Canadian mining company's share price would fall. Sherritt had planned to invest the 1996 proceeds from the 10-year, 6 percent convertible debentures in Cuba but instead announced on May 25th that it would begin to pay a C\$0.10 dividend on its common shares on June 15th. Deutsche Bank claims Sherritt's action oppresses the value of its debentures. Sherritt's curtailed Cuban investments (USCPR, Vol.6, Nos.4,8&10) can be traced back to Delaney's statement at the company's May 27, 1999 annual meeting held in Toronto (USCPR, Vol.6, No.6) where he said, "there's a limit to the rate at which you can invest in Cuba that's limited by their infrastructure." Accordingly, Sherritt has expanded its investments beyond Cuba to include Australia, Spain, and Italy. Limited infrastructure has become a euphemism for a low-growth state-controlled command economy where aggressive investment succumbs to the bureaucratic inertia and goes unrewarded. (RL,"Sherritt dismisses Deutsche Bank's dividend claims," 7/18/00; BLP,"Sherritt Says Deutsche Bank Suit Tries to Mask Trading Strategy," 7/18/00).

U.S. BLOCKS EU REQUEST FOR WTO PANEL OVER SECTION 211-- The European Union's (EU) complaint lodged against the United States at the World Trade Organization (WTO) for the creation of a Dispute Settlement Body (DSB) over a trademark dispute was initially blocked on July 27th and will likely be brought up a second time on August 4th at which time a panel will be required. The dispute involves the rights over the trademark "Havana Club" and the U.S. law, Section 211, contained in the Omnibus Supplemental Appropriations bill of 1998 intended to protect uncompensated confiscated property (USCPR, Vol.6, No.4). The issue over the rum trademark, which is claimed by a French-Cuban joint venture involving Groupe Pernod Ricard and Bacardi-Martini USA, has already been decided in U.S. courts at the district and appeals level (USCPR, Vol.7, No.2). Bacardi vice president for corporate communications, Jorge Rodriguez-Marquez, told the USCPR at the time that the fight was about "the protection of trademarks" and had "nothing to do with the ...WTO." The Paris-based drinks maker, Pernod Ricard, has also asked the U.S. Supreme Court to hear the case (USCPR, Vol.7, No.6). The Castro regime supports the EU's actions on behalf of the Pernod Ricard-Cuban joint venture at the WTO and has threatened U.S. brands registered in Cuba for use after the embargo is lifted. At stake are the rights to sell the Havana Club rum products in the lucrative U.S. marketplace said to be worth \$1.5 billion. (RL,"EU escalates dispute with U.S. over Cuban rum," 7/3/00; WSJ,"Cuban Rum Trademark Ignites Another U.S.-EU Trade Dispute," 7/5/00, p.A18; BLP,"EU Seeks WTO Probe in Row With US Over Havana Club Rum," 7/26/00).

DOMESTIC BRIEFS

PRESIDENT CLINTON ISSUES NINTH TITLE III SUSPENSION OF LIBERTAD ACT

-- In a July 18th White House press release from Camp David, Maryland, it was announced President Clinton had notified the Congress on July 14th of his decision to suspend Title III of the Helms-Burton Act (LIBERTAD). This suspension of the right of action or the right of an owner to sue a trafficker in uncompensated confiscated property in Cuba is the ninth consecutive waiver (USCPR, Vol.7, No.1) by President Clinton since he signed the Act into law on March 12, 1996 (USCPR, Vol.3, No.7). The first waiver (USCPR, Vol.3, No.3) was announced on July 16, 1996 although the effective date of Title III was not waived and was set as August 1, 1996. Although this current six-month waiver lasts through January 31, 2001, the outgoing president is required by law to announce whether he will declare a waiver at least 15 days before the last day of the waiver period or January 16th, just four days before the scheduled inauguration on January 20, 2001 for a new president of the United States.

SENATOR COVERDELL DIES AT AGE 61 -- Elected in 1992, the highly respected U.S. senator from Georgia, Paul Coverdell, who was admired on both sides of the isle, died unexpectedly on July 18th as a result of a stroke. Coverdell was a member of the Senate leadership holding the position of Secretary of the Republican Conference Committee and was a trusted lieutenant to Senate Majority Leader Trent Lott (R-MS). Coverdell ardently supported passage of the Helms-Burton legislation in 1995-96 (USCPR, Vol.2, No.1) and served on the Foreign Relations Committee as chairman of the Western Hemisphere, Peace Corps, Narcotics & Terrorism Subcommittee where he exhibited an uncommon passion and deep commitment to fighting the war on drugs and supporting America's allies in Bolivia, Colombia, Mexico, Panama, and Peru. Believing in the linkage of drug trafficking and terrorism, Coverdell helped to pass the *Western Hemisphere Drug Elimination Act of 1998* and the *Drug Kingpin Extradition Act of 1999*. Speaking at a 1999 Russell Symposium held at the University of Georgia, Coverdell said, "I have come to believe that international narcotics have become the most serious threat to national security in our hemisphere." Among his many achievements, he led the Senate in gathering early support for Texas Governor George Bush's bid for the Republican presidential nomination and was a close friend of former President George Bush for whom he had served as head of the Peace Corps redefining its mission to focus on Eastern Europe. Coverdell's loss may make it difficult for Republicans to hold their now 54-to-46 four seat margin, especially with the appointment of former Georgia Governor Zell Miller (D) to fill the seat. A special election will be held in November.

CLINTON ADMINISTRATION UNDER PRESSURE AS VICTIMS SEEK ACCESS TO ASSETS OF TERRORIST STATES -- In light of pending legislation, the Clinton administration has made a settlement offer of \$50 million to the families of the three American citizens killed aboard two Brothers-to-the-Rescue flights on February 24, 1996 by Cuban MiG jets in international waters over the Florida Straits (USCPR, Vol.3, No.3) in what was considered an act of terrorism by the Castro regime. Although the families rejected the offer, this would be the second time President Clinton will have approved the transfer of blocked assets from Cuba's frozen accounts (USCPR, Vol.4, No.1), when on October 2, 1996 in an unprecedented move and without Congressional approval, Clinton authorized the payment of \$300,000 to each of four families involved. The families are reportedly seeking punitive damages from the Cuban government and continue to negotiate with the administration. In addition to a \$38 million fine against the Cuban government for contempt in April (USCPR, Vol.7, No.4), Federal District Judge King had handed down a \$187 million judgment in December 1997, \$49,927,911 in compensatory damages and \$137.7 million in punitive damages (USCPR, Vol.6, No.2). Justice for Victims of Terrorism bills are pending in the House (H.R.3485) and in the Senate (S.1796) that the White House opposes.

NOTABLE QUOTES

"Whoever is the next president of the United States should know that here is, and here will be, Cuba with its ideas, its example and the unconquerable rebellion of its people...It doesn't matter at all to us who is the next head of government of the superpower which has imposed its system of hegemonic and dominant power on the world. None of the candidates inspires any confidence." Message from **Fidel Castro** read at first post-Elian return rally in Manzanillo, Cuba marking new stage in Castro's battle against the United States. (RL,"Castro Sends Defiant Message to Next U.S. Leader," 7/1/00).

"Judged by the interest the United States has in this hemisphere in the early 21st century, Cuba should be among the most important security concerns, second only to Mexico -- and I understand that Colombia is in this hemisphere when I say this." **Richard Nuccio**, Cuba adviser to President Clinton from 1995 to 1996, speaking at the Brookings Institution in Washington, D.C. (RL,"Cuba poses big threat to U.S., says policy expert," 7/13/00).

"There is no reason to give Castro an easy out [by lifting the embargo]. He lost his \$18-million-a-day patron when the Soviet Union collapsed and is looking for a way to ease economic difficulties without reforming." **Condoleezza Rice** is a foreign policy adviser to Republican presidential candidate George W. Bush. (RL,"Bush would revive free trade in the Americas - aide," 7/20/00).

"...Castro is probably also urging Chavez to proceed cautiously, to avoid grievously antagonizing the United States or Venezuela's neighbors. Castro remembers too well the painful losses of other adoring allies in Latin America in the past; Salvador Allende, overthrown by the Chilean military in 1973, and the Ortega brothers in Nicaragua who overconfidently scheduled elections (which Castro deplored) and lost. Castro hopes that Chavez will rule for at least the dozen more years the new constitution would permit and that Venezuelan petroleum and other largess will bolster Cuba's struggling economy." **Brian Latell** is a former Latin American specialist at the CIA who teaches at Georgetown University's School of Foreign Service. (WP,"A Disguised Dictatorship?", 7/28/00, p.A25).

"I've generally supported continuing those sanctions. The thing that's been of most concern for me in Cuba has been the secondary boycott provisions where we've gone against the Canadians, for example, and said anybody in Canada doing business in Cuba is going to be sanctioned by the U.S. We've always argued against secondary boycotts when that was a proposition that was imposed on the Israelis and I think that's an inappropriate policy." Excerpt transcribed from interview with Republican vice presidential choice, **Dick Cheney**, on NBC's *Meet the Press* with Tim Russert. (NBC-MTP, Sunday, July 30, 2000).

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Source Guide - the following abbreviations should serve as a partial guide to sources contained in the *U.S. Cuba Policy Report*: AP – Associated Press; BLP – Bloomberg LP; BG – The Boston Globe; CR – Congressional Record; FA – Foreign Affairs Magazine; FP – Financial Post; FT – Financial Times; GI – Granma International; JOC – Journal of Commerce; LAT – Los Angeles Times; MH – The Miami Herald; MB – Metal Bulletin; NPR – National Public Radio; NYT – The New York Times; OGJ – Oil & Gas Journal; PR – Press Release; RL – Reuters Limited; ST – The Seattle Times; TWT – The Washington Times; WSJ – The Wall Street Journal; WP – The Washington Post; ZNA – ZENIT News Agency.

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CAMPAIGN 2000: LIEBERMAN'S CUBA RECORD HELPS GORE IN KEY ELECTORAL STATE OF FLORIDA

WASHINGTON – Going into Labor Day, considered the official start of the U.S. presidential campaign, Democrats and Republicans alike are searching for the key that will unlock the treasured 270 electoral votes needed to win the White House in November. Considered solidly Republican in the 1980s, Florida, long an important southern state in the race for the presidency, was narrowly carried by incumbent president George Bush in 1992 in a 41% to 39% finish, only to lose nationwide. In a hotly contested race in 1994, Jeb Bush, brother of Texas governor George W. Bush, lost a close race for governor in Florida to Lawton Chiles by 51% to 49%, giving the incumbent Democrat a second term in Tallahassee. Courting the Cuban-American vote, Democratic Party strategists skillfully targeted Florida in 1996 helping President Clinton to win reelection by carrying the Sunshine State 48% to 43% against former Senate Majority Leader Bob Dole. At the same time, voters returned Republican Connie Mack to the Senate by a wide margin over Hugh E. Rodham, the first lady's brother. Clinton became the first Democrat to carry Miami-Dade County since Jimmy Carter in 1976, a clear gain for the Democratic Party in a Republican stronghold of Cuban-American voters and a key electoral state. Only in 1998 did Republicans recover their statewide edge when Floridians elected Jeb Bush as governor, 55% to 45%, while reelecting Democratic Senator Bob Graham. This year, the Democrats have ceded only Governor George W. Bush's home state with 32 electoral votes to the Bush-Cheney camp; but Florida, the fourth largest state with 25 electoral votes following California (54), Texas (32), and New York (33), once considered squarely in the Republican column, is now competitive while Democrats hold leads in California and New York. Strategically, the Bush campaign has been on the offensive deep into Democratic territory against the Clinton-Gore administration. Since their harmonious national convention in Philadelphia highlighting openness, inclusiveness, and diversity, Republicans have ridden the once fatal third-rail of American politics, Medicare and Social Security, into double-digit polling numbers against Vice President Al Gore. Until, that is, the Democrat's successful convention in Los Angeles and the nomination of Connecticut Senator Joseph I. Lieberman, the first Jewish candidate for vice president. The choice of Lieberman served as an ideological "Third Way" anchor for Gore while the vice president moved decidedly leftward during the convention in order to solidify the Democratic Party's liberal delegate support base. Lieberman has both energized the Jewish vote on south Florida's Gold Coast that helped Clinton to carry the state in 1996 and provided a solidly anti-Castro record for normally Republican Cuban-American voters.

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CONSISTENTLY ANTI-CASTRO – Now in his second term, the economic and social liberal has been "consistently anti-Castro since his election in 1988 against Lowell Weicker," says Dan Gerstein a Lieberman press spokesman. Compared to Weicker, who was decidedly to the left of his own Republican Party receiving high marks from organized labor and Common Cause, Lieberman, a former Connecticut state senator and state attorney general, favored such measures as the death penalty, a moment of silence in school, opposed the gas tax, and opposed the Castro regime. Then-Associate Political Editor, John Gizzi, of *Human Events*, the National Conservative Weekly, reported in August of 1988 that Weicker "wanted a friendlier approach to Fidel Castro, whom he met in 1980" during a trip to Cuba. The extensive in-depth article on Weicker quoted him as saying "I saw what [Fidel Castro's] done with my own eyes. They [sic] deliver a quality of life to those people that they have never known before. By Caribbean and South American standards, it's Park Avenue." As much as the late chairman and founder of the Miami-based Cuban American National Foundation (CANF), Jorge L. Mas Canosa, saw in Weicker an enemy of freedom for Cuba, he saw in Lieberman an ally, and according to CANF's Washington representative, Jose Cardenas, wholeheartedly supported the Connecticut Democrat's candidacy. Mas Canosa, a member of President Reagan's Commission on Broadcasting to Cuba, experienced first hand Weicker's opposition to the Reagan administration's Radio Marti legislation. Inasmuch as America's Cuba policy has relied upon bipartisanship over the years, support for like-minded anti-Castro Democrats like Dante Fascell (FL), Robert Torricelli (NJ), Bob Menendez (NJ) Chuck Robb (VA), Joe Lieberman (CT), and Patrick Kennedy (RI), for example, has not been an unusual political position for CANF and the Cuban-American community to take. In addition to Radio and TV Marti, Lieberman has been a genuine ally of the Cuban exile community during his last twelve years in the United States Senate showing his consistent support for human rights and the cause of freedom in Cuba including the strengthening of U.S. embargo legislation such as the *Cuban Democracy Act of 1992* and the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996*, popularly known as Helms-Burton. Perhaps a running mate other than Joe Lieberman would not elicit the kind of support the Democrats are seeking in Florida.

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V7N8

A GORE VICTORY IN FLORIDA DEPENDS ON LIEBERMAN -- At the end of the day, running mates make little difference in the outcome of presidential campaigns. Without Lieberman on the Democratic ticket, Florida probably would not be in play placing it the win column for the Republicans and George W. Bush, especially with the statewide support of his brother Jeb, who now serves as governor. "Throughout my career in the Senate, I have been a strong supporter of our policy toward Cuba, and I remain a strong supporter because I believe it is right," Lieberman recently stated on the Senate floor (reprinted below). Although Gore is on record as having supported bipartisan legislation in the House and Senate to grant permanent resident status for Elian Gonzalez and his family (USCPR, Vol.6No.12 & Vol.7,No.1), the vice president carries heavy baggage in the Cuban-American community over President Clinton's handling of the Elian case. Gore campaign spokesman Dagoberto Vega told the USCPR that "Gore will not normalize relations with Cuba until it is democratic," however. "He supports the people of Cuba and their desire to be free of the oppressive Castro dictatorship. As president, he will maintain pressure on the Cuban government while supporting the Cuban people to forge a multilateral effort to press for democratic change in Cuba." With a position roughly equivalent to the current Clinton administration policy, Cuban-Americans also can expect a continuation of the Helms-Burton Title III waivers prohibiting the right of action against international traffickers in confiscated American owned property in Cuba (USCPR, Vol.7,No.7). Bush's running mate, Dick Cheney, who opposes unilateral sanctions but tacitly supports the Cuba embargo, has hinted at a similar position on waivers (USCPR, Vol.7,No.7); but Governor Bush has not expressed a concise view concerning presidential waivers or property rights, although he favors maintaining the current sanctions on the Castro regime (USCPR, Vol.7,Nos.5,7). With Gore-Lieberman campaigning hard throughout the Sunshine State, Miami-Dade County Cuban-Americans could decide the fate of Florida's 25 electoral votes come November and propel Al Gore into the White House.

The following statement was made on June 20, 2000 by Senator Joseph I. Lieberman (D-CT) on the floor of the U.S. Senate during the debate over the passage of the Dodd amendment [No. 3245] to the National Defense Authorization Act for Fiscal Year 2001 (USCPR, Vol.7, No.6) the purpose of which was to (Sec. XX) Establish a National Bipartisan Commission on Cuba to Evaluate United States Policy with respect to Cuba. (Congressional Record pp. S 5403-5304). Sen. Lieberman was subsequently nominated at the Democratic National Convention in Los Angeles (August 14-17) to be Vice President Al Gore's running mate in the Democratic Party's bid to retain the White House on November 7th.

Mr. LIEBERMAN. MR. President, I rise to oppose this amendment to create a Commission on Cuba. I do so with some personal reluctance because of my deep affection and respect for my colleague from Connecticut who is the sponsor of the amendment and who I know is acting with the best of intentions. We simply have come to a different conclusion on this question.

Some might say: What can be the harm of a commission to study Cuban-American relations? I oppose the idea of a commission because I believe the current state of America's policy toward Cuba is right.

It has been sustained now over four decades. It began and has continued as a bipartisan policy which originates from Castro's communist takeover of that country in 1959, and his attempts to spread communism to other parts of the hemisphere and to the world.

Although I think our policy has helped prevent Castro's communism from expanding to the Americas thanks to the strong leadership of ourselves on other countries, his regime continues to subject the Cuban people to a form of government that deprives them of their basic and inalienable human rights. He is now one of the last of less than a handful of old style communist leaders, and his regime's human rights record remains abysmal.

Throughout my career in the Senate, I have been a strong supporter of our policy toward Cuba,

and I remain a strong supporter because I believe it is right. It is based on principle, and Castro has done nothing to justify a change in that policy. In fact, every time we give him an opportunity so show he has changed, he refuses to take that opportunity.

I quote from the State Department's most recent Annual Human Rights Report for Cuba, issued in 1999: "Cuba is a totalitarian state controlled by President Fidel Castro....The Government continued to control all significant means of production and remained the predominant employer...The Government's human rights record remained poor. It continued systematically to violate civil and political rights of its citizens...The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country...The government denied citizens the freedoms of speech, press assembly, and association...The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials."

Mr. President, this regime has done nothing to justify a change in our policy toward it. For that reason, I will vote against this amendment. I thank the Chair and yield the floor.

PRESIDENTIAL ELECTION RESULTS -- Although President George Bush narrowly carried the state of Florida in 1992 against Bill Clinton 41% to 39%, Republicans lost Miami-Dade County in 1992 and 1996. "Miami-Dade County, which has the largest concentration of Cuban-American voters nationwide, is a swing county," observes Florida political analyst Jay O'Callaghan. He points out that in 1996 Bob Dole carried the Hispanic vote by 60% to 35% only to lose the county to Clinton 38% to 57%. According to O'Callaghan, in his losing 1994 race for governor Jeb Bush tallied 48% of the vote in Miami-Dade County while in 1998 he carried it by 55% and ultimately won the state by the same margin. In both elections, he received about 85% of the Hispanic vote in the county.

STATE OF FLORIDA

Year	Candidates	Votes Cast	% Cast	Voter Turnout	%	Registration		%
						Statewide	Miami-Dade	
1984	Mondale Reagan	1,448,816 2,730,350	35 65	4,179,166	75	5,574,472	713,614	17
1988	Dukakis Bush	1,656,701 2,618,885	39 61	4,275,586	71	6,047,347	696,325	16
1992	Clinton Bush Perot	2,071,651 2,171,781 1,052,481	39 41 20	5,295,913	81	6,541,825	677,968	13
1996	Clinton Dole Perot	2,545,690 2,242,951 483,741	48 43 9	5,272,402	65	8,108,271	853,276	16
2000*	Gore Bush	----- -----	--- ---	-----	---	8,417,862	847,359	10

* Voter registration figures through August 15, 2000

Cuban-Americans constitute a significant portion of the Hispanic voting age population in Miami-Dade County. As of August 15th, registered Hispanics made up 58% of Republicans, 18% of Democrats, and 24% of Independents. The GOP makes up 45% of the registered voters in the county and Democrats 38%. Contrary to popular opinion, however, there is no evidence of any meaningful or lasting Hispanic shift in county registration over the Elian Gonzalez affair. From 1990 to 1998, registered Democrats noticeably shifted statewide by 7% only to register as independents while GOP registration remained static. Clearly, the importance of Miami-Dade County is not whether George W. Bush receives a majority of the Cuban-American vote, but whether the margin is sufficient to carry the county and perhaps the state's 25 electoral votes. The Florida GOP's base of support lies among Cuban-Americans in Miami-Dade County to whom Lieberman's Cuba commitment and voting record are solidly attractive.

MIAMI-DADE COUNTY

Year	Candidates	Votes Cast	% Cast	Voter Turnout	%	Registration		%
						Miami-Dade	Hispanic	
1984	Mondale Reagan	223,793 324,216	41 59	548,009	77	713,614	164,014	23
1988	Dukakis Bush	216,847 270,672	44 56	487,519	70	696,325	185,211	26
1992	Clinton Bush Perot	236,687 221,046 50,227	47 43 10	507,960	75	677,968	200,654	30
1996	Clinton Dole Perot	317,378 209,643 24,722	57 38 5	551,743	65	853,276	333,788	39
2000*	Gore Bush	----- -----	--- ---	-----	---	847,359	373,821	44

DEMOCRATIC PARTY PLATFORM –THE CUBA PLANK

Platforms are intended more for the party faithful than as a blueprint to specific legislation that a president will pursue with Congress following the election. When it comes to Cuba policy, the Democratic Party's philosophy appears to be the less said the better. Compared to the Republican Party's Cuba plank (USCPR, Vol.7, No7), the Democratic Party's Cuba plank (reprinted below) fits neatly into a "democracy" framework completely ignoring any mention of the island's "maximum leader" bringing to mind the old adage: if you can't say anything good about someone, don't say anything at all. "We aim to rededicate ourselves to the defense of democracy in the Americas at a moment when it is being brought into question in Peru and absent on the island of Cuba," states the Cuba plank of the Democratic platform which can be found at: www.democrats.org/hq/resources/platform/platform.html. Absent also is any reference to TV Marti while mentioning Radio Marti, the U.S. government's broadcast arm to Cuba. Granted, the Clinton-Gore administration's track record on Cuba is quite clear and is reaffirmed more by the Gore-Lieberman ticket than by the Democratic Party's platform plank on Cuba, such as it is.

Promoting Democracy, Human Rights, Rule of Law, and Civil Society. American values and freedoms are a beacon unto nations, and we should use the power of our ideals to foster democracy, human rights, rule of law, and civil society throughout the world. The Democratic Party believes that America must continue to work closely with other nations, as well as non-governmental organizations to promote these goals. We aim to rededicate ourselves to the defense of democracy in the Americas at a moment when it is being brought into question in Peru and absent on the island of Cuba. We will continue to work with Haiti to deepen the roots of democracy that we helped replant. We will continue to press for human rights, the rule of law, and political freedom. We will continue to support the spread of democracy

across Africa, Asia, and the Middle East and the development of judiciary, legal systems, media and civil society organizations.

To accomplish this, we need the right tools. Al Gore and the Democratic Party support continued funding for the National Endowment for Democracy, Radio Liberty, Radio Free Europe, Radio Free Asia, Radio Marti, and other efforts to promote democracy and the free flow of ideas. We will build on our successful Reinventing Government program, led by Al Gore, to strongly support international educational exchanges. The students who come to America to study here -- at the best academic institutions in the world -- learn about our democratic values and institutions, our entrepreneurial skills, and our culture. They learn that Americans are noble dreamers remaining ever inclusive.

BUSH OUTLINES LATIN AMERICAN TRADE POLICY

Democracy and Free Trade

Texas Governor George W. Bush chose Florida International University (FIU) as the venue for his policy pronouncement on Latin America. With his emphasis on democracy and free trade, Bush pledged to establish "a renewed commitment to democracy and freedom" in the Western Hemisphere. "We seek, not just good neighbors, but strong partners. We seek, not just progress, but shared prosperity," said Bush. "With persistence and courage, we shaped the last century into an American century. With leadership and commitment, this can be the century of the Americas." Bush described "democracy" as the first goal in the hemisphere and "free trade" in the Americas as the second goal. Reminiscent of President Reagan's clarion call in 1989 for Mr. Gorbachev to "tear down this [Berlin] wall," Bush declared, "Mr. Castro, let your people live in freedom."

The following is an excerpt of Texas Governor George W. Bush's address at Florida International University on Friday, August 25, 2000 setting forth a vision for the Western Hemisphere placing Latin America at the forefront of his foreign policy agenda.

Listening to our neighbors -- treating them with dignity -- is what I mean by respect. But respect is not unconditional. It must be earned. We will respect those who respect the rights of their citizens. In our hemisphere, there is one clear example where this does not happen. The leadership of Cuba has not even begun the journey to that goal. So I challenge the Castro regime to surprise the world and adopt the ways of democracy. Until it frees political prisoners, and holds free elections and allows free speech, I will

keep the sanctions in place. I will support the forces of democracy, and revive the voice of Radio and TV Marti.

Our inspiration is Jose Marti himself -- "Man loves liberty," he said, "even if he does not know that he loves it. He is driven by it and flees from where it does not exist. La libertad no es negociable." Freedom is not negotiable.

Mr. Castro, let your people live in freedom.

SENATORS PROMISE CASTRO TO PUSH U.S. EXPORTS TO CUBA

Senators Max Baucus (D-MT), Daniel Akaka (D-HI), and Pat Roberts (R-KS) met with Cuban revolutionary leader Fidel Castro for 10 hours on Sunday, July 16th during their brief visit to Cuba (July 14-16) following meetings with foreign ambassadors and Cuban government officials including a three hour meeting with a group of dissidents. The 10 hour dinner meeting with Castro began at 4:00 PM Saturday afternoon and lasted until 2:00 AM early Sunday morning. One observer noted that while Castro spoke at length, he was an intent listener. According to informed sources, the marathon session achieved a fair exchange of ideas over U.S. Cuba policy. "I left those meetings more convinced than ever that it is time to end our Cold War policy towards Cuba. We should have normal trade relations with Cuba," Baucus reported to his colleagues in a floor statement on July 26th. The lawyer and four term U.S. Senator from Montana supports measures such as the private sale of food and medicine to Cuba "which dismantle the embargo brick by brick." A strong advocate of trade with Cuba, Baucus has worked to normalize trade relations with China and Vietnam over the past 10 years. In May of this year, Baucus introduced (S.2617) legislation to "repeal all of the Cuba - specific statutes that create the embargo." Upon returning from Havana, Baucus introduced a bill (S.2896) to normalize trade relations with the communist controlled-island. In their July 28th letter (reprinted below) to "President Castro," the three senators called for the rapid expansion of Cuba's private sector to which they acknowledged Castro and his ministers "expressed [their] opposition." Working with like minded senators, they write, "we have encouraged President Clinton's administration to interpret the current embargo regulations as liberally as possible, using all the discretion he has available to him under US law." Baucus and Roberts sit on the Agriculture Committee while Akaka is a member of the Energy Committee.

UNITED STATES SENATE
Washington, D.C.

July 28, 2000

The Honorable Fidel Castro Ruz
President of the Council of State
Havana
Republic of Cuba

Dear President Castro:

Since returning to Washington from our recent visit to Havana, we have reflected further on US-Cuban relations. We are writing today to share our thoughts with you.

In even a brief trip to Havana, two things are immediately apparent. First is the tremendous vitality of the Cuban people. They exhibit a great capacity to organize the resources they have available when they are given the opportunity to do so. Second is the poor state of the Cuban economy. As you told us during dinner, Cuba suffered a severe economic shock when Soviet aid ceased abruptly and without warning. The recovery is slow and difficult.

The most hopeful sign of recovery we saw was the Havana farmers' market we visited. It demonstrated that the Cuban people would respond quickly to the opportunities an open economy would provide. Although you and your Ministers expressed your opposition to rapidly expanding the Cuban private sector, we are firmly convinced that this is not only advisable, it is inevitable.

Along with a[n]more open domestic economy should come a more open society. We were extremely impressed by our meeting with Cubans who disagree with some of your policies. They were courageous and thoughtful. They provided a penetrating analysis of Cuba's economy, political system and social structure. When you met with us, you told us about your nationwide series of roundtables to educate the Cuban people about US-Cuban relations. We believe that you should include the full range of opinion in those roundtables, so that the people can truly judge for themselves. That would require, naturally, providing freedom to prisoners of conscience.

Having been to Havana, we are more convinced than ever that the economic embargo has outlived its purpose. We should end it immediately. We are working with like-minded Senators to do that.

To make progress towards that goal, we have encouraged President Clinton's administration to interpret the current embargo regulations as liberally as possible, using all the discretion he has available to him under US law. For instance, in the area of sales of agricultural products, US law currently permits sales to non-governmental Cuban entities. The term "non-governmental entity" should be defined as broadly as possibly by the United States government, so that exports can proceed rapidly. At the same time, the Cuban government should increase the number of private Cuban importers.

Minister Rodriguez indicated to us that the Cuban government was eager to purchase US agricultural products, and that US embargo regulations stood in the way of sales. We believe that we can find a way to begin legal sales of US agricultural products to Cuba very quickly.

We also see great value in increasing educational exchange opportunities between the United States and Cuba. It would be particularly beneficial to expand student exchanges, including programs at the elementary, secondary and undergraduate levels. We hope to see Cuban students participating in US programs commensurate with the number of US students participating in Cuban programs.

Normal trade and economic relations are in the interest of both of our countries. We hope that our efforts to bring them about will soon reach fruition.

[Sincerely,]

Max Baucus (D-MT)

Pat Roberts (R-KS)

Daniel Akaka (D-HI)

OPEC VENEZUELA AND CUBA

At a press briefing on Monday, July 31st the day after the presidential elections in Venezuela where sitting president Hugo Chavez won a decisive victory in the first elections to be held under the new constitution, State Department spokesman Philip Reeker said that he didn't "have any particular worries" over Chavez's close friendship with Cuba's Fidel Castro. In his celebratory speech on Sunday evening once the election results were clear, Chavez turned his attention to the Venezuelan economy which since 1977 has lost its Standard & Poors "AAA" rating slipping five notches below investment grade to a "B" rating. Chavez's comment that the first phase of his "political revolution" was over and "now the revolution truly begins" prompted economist Emeterio Gomez to ask whether "we're headed toward communism or capitalism?" PDVSA, Venezuela's state owned oil and refining company has signed a "letter of intent" with Cubapetroleo (CUPET) to invest in the Soviet-built Cienfuegos refinery (USCPR, Vol.7, No.2) and to provide a supply of crude oil to Cuba. More recently, a "memorandum of understanding" was executed between the two countries to develop seven business units in Cuba (USCPR, Vol.7, No.6). Venezuela, which holds the world's fifth-largest reserves of natural gas, is also considering a pipeline that "would be a route to export gas from the east of Venezuela via Grenada across all the islands to Cuba, and from there to Florida and even Mexico and Central America," Chavez said before departing on his 10-nation tour-de-force seeking support for the upcoming September 27th OPEC heads-of-state summit in Caracas -- the first such summit since 1975. Under Chavez, Venezuela has been largely responsible for encouraging OPEC's cut in output leading to the increase in worldwide crude oil prices which rose sharply after the second round of cuts in March of 1999. The January 29, 1999 spot price for crude in New York was \$12.75 per barrel (USCPR, Vol.7, No.1) while prices had more than doubled by January 31, 2000 with March delivery set at \$27.64 per barrel. At the ministerial meeting in Vienna on September 22, 1999, Venezuela proposed a "price band mechanism" allowing for automatic increases or cuts in output if prices rose too high or fell too low, but the proposal failed to win the support of other OPEC members. Saudi Arabia, the largest producer among OPEC members, expressed opposition to the idea and Peter Beglin of the Paris-based Cambridge Energy Research Associates decried the proposal as "the thinking of people who have no understanding whatsoever of how the modern globalised economy works." Venezuela's energy and mines minister, Ali Rodriguez, holds the rotating OPEC presidency ending at the conclusion of the planned OPEC summit in Caracas. Understandably, Chavez was compelled to shore up flagging OPEC support for his summit among members of the Arab-dominated oil cartel. Crude spot prices for October delivery ranged from \$33.10 to \$33.15 per barrel on August 31st (USCPR, Vol.7, No.8). Ironically, the Economic Commission for Latin America (ECLAC) reported in August that oil-starved Cuba exported 250,000 metric tons of petroleum in 1999.

CURRENCIES & COMMODITIES

1 Euro = 0.896 Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 18.816 Cuban Peso

Rates as of August 31, 2000.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 10.87
Year ago nearby = 6.82
Future (Oct. '00) = 10.56
High = 11.15
Low = 5.60

Cash/Spot price as of August 31, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)

Cash/Spot (fob) = 33.10-33.15
Year ago (Aug. 31) = 22.11
Future (Oct. '00) = 33.12

Cash/Spot price as of August 31, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 8,690
Year ago (Aug. 31) = 6,750

(\$ per metric ton)
Official Price: August 31, 2000.
Source: London Metal Exchange

Cobalt = 15.05 - 15.75
Year ago (Aug. 26) = 18.60 - 19.50

(\$ per pound for 99.8%)
Price: August 31, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

MISSION ATTEMPTS TO RESURRECT CUBA'S MEMBERSHIP IN ACP-EU TRADE PACT

The successor to the Lome IV Convention called the Cotonou Agreement or the ACP-EU trade agreement was signed in June by the participating nations except for Cuba which withdrew in April (USCPR, Vol.7, No.6). A delegation led by Central African Republic Prime Minister Anicet Georges Dologuele and ACP chairman visited Cuba from August 3 -5 to discuss its full membership in the pact. Foreign minister, Felipe Perez Roque suggested that Cuba, an observer nation, would be able join without having to sign the accord. Membership requires strict adherence to provisions on human rights and the rule of law. Cuban membership would call for modifications to the ACP founding statutes Dologuele told Reuters. It is not clear whether such changes would comply with EU requirements in order for Cuba to be eligible for a part of the \$12.5 billion financial aid and trade considerations granted the 71 nations under the agreement over the next five years. (RL, "Cuba seeks full ACP membership despite EU dispute," 8/3/00; FT, "ACP mission arrives in Cuba," 8/4/00, p.10).

LEISURE CANADA EXTENDS EXPIRY DATE FOR PRIVATE PLACEMENT

-- The "leading developer of luxury resorts in Cuba," Leisure Canada Inc. (LCI) announced on August 15th the extension of the "expiry date of 1,250,000 warrants and 147,058 Broker's warrants, which were granted during its 1999 private placement, to July 2001." Vancouver, British Columbia-based Leisure Canada announced the private placement of C\$10.6 million earlier this year (USCPR, Vol.7, No.3). Leisure Canada (LCN) shares trade on the Canadian Venture Exchange (CDNX), a result of the merger between the Vancouver and Alberta stock exchanges in late 1999. The resort developer's small cap stock lists a capitalization of C\$38,060,165 and trades in a range of C\$1.46 to C\$1.64 per share with 25,373,443 shares outstanding, according to the Canadian Venture Exchange. KPMG LLP audits Leisure Canada and Merrill Lynch Canada Inc., the Canadian brokerage arm of the Wall Street investment house, trades Leisure Canada shares. (PR, "LCI Continues to Move Forward in Cuba," 8/15/00).

LEISURE CANADA'S EXPERTISE LIES IN CUBAN TOURISM

-- Leisure Canada has attracted experienced resort developers such as Guillermo Martis and Simon Cooper. Martis' 20 years of experience in design and construction, 12 of which have been in the Caribbean resort industry, is an asset to LCI as Martis heads development and construction for LCI's Cuba resorts . Simon Cooper, senior vice president of Marriott Lodging International and president of Marriott Lodging Canada serves on Leisure Canada's board of directors (USCPR, Vol.6, No.3). As the former president of Delta Hotels and Resorts before joining Marriott, Cooper was instrumental in the operations of hotels in Cuba. LCI, which incorporated in early 1986, entered the Cuban tourist industry in the early 1990s. LCI culminated three years of negotiations with the Cuban government after it "received approval and authorization from the executive Committee of the Council of Ministers" in November of 1999 when it announced the start of construction (USCPR, Vol.7, Nos.1&5) for its flagship resort hotel Jibacoa located between Havana and the Varadero beach resort. LCI formed a joint venture between subsidiary Wilton Properties and the Cuban government's Gran Caribe Grupo. "Development of these properties will include construction of 11 luxury hotels, two 18-hole championship golf courses, a marina and related facilities," according to Leisure Canada's announcement. It's strategic partners include British-based Forte Hotel Group and PGA Golf Management of Ireland. Leisure Canada claims the exclusive rights to "the village concept for Cuba," and "to the PGA brand in Cuba." (PR, "LCI Continues to Move Forward in Cuba," 8/15/00).

GERMANY EXTENDS EXPORT GUARANTEES TO CUBA

-- In a statement released by Economics Minister Werner Mueller, the leftist government of Germany's Gerhard Schroder has set aside \$25 million in export guarantees for sales to Cuba during the second half of the year 2000. (BLP, "German 1st-Half Export Guarantees Surge 70%," 8/31/00).

DOMESTIC BRIEFS

INS AGENTS IN ELIAN RAID HONORED -- "You not only did the right thing, you did it extraordinarily well," said INS commissioner Doris Meissner at a ceremony for agents who participated in "Operation Reunion" the controversial snatching of six year old Elian Gonzalez in the pre-dawn hours of April 22nd at the home of his Miami relatives in the city's Little Havana section. (USCPR, Vol.7, No.4). The 114 federal agents were honored in a ceremony taking place at the agency's Glynn, Georgia training center. (TWT, "Snatching Elian has its reward," 8/10/00).

STATE DEPARTMENT LODGES FORMAL PROTEST OVER CUBA'S MIGRATION POLICY -- Secretary of State Madeleine Albright ordered the State Department to lodge a formal protest with the Cuban Interests Section in Washington for not abiding by the 1994 and 1995 migration accords. Albright's August 28th statement accused the government of Cuba of denying exit visas to Cubans holding U.S. visas. Specifically, Albright charged the Cuban government of "increasingly obstructing the safe, legal, and orderly migration of individuals" from the Communist-controlled island. The agreements, following the 1994 rafter crises unleashed by the Castro regime, committed the U.S. to process a minimum of 20,000 Cuban migrants annually. The diplomatic note included a list of 117 "individuals who have been denied exit permits without reasonable cause during the past 75 days alone," stated Albright.

U.S. INTERESTS SECTION IN HAVANA RECEIVES FOREIGN MINISTRY RESPONSE --

Two days after receiving Washington's formal protest, Cuba's foreign ministry characterized Secretary Albright's criticism over its migration policy as "false" and "malicious." Since the Elian affair, an apparent victory for the Castro regime, Cuba has consistently attacked U.S. migration policy particularly the 1966 Cuban Adjustment Act for encouraging Cubans to risk their lives in shark infested waters by taking to the sea to reach the United States. "The State Department's text is an attempt, lacking all seriousness, to try and falsify the facts and hide the irresponsible conduct of its government which openly and systematically violates migration accords with Cuba," the 15 page missive charged. State Department spokesman Richard Boucher described the Cuban government's response as "a diplomatic note that contains the same tired, old rhetoric of victimization that they have used since the '60s."

RESTART OF BILATERAL MIGRATION TALKS EXPECTED -- U.S.-Cuba migration talks, an offshoot of the 1994-95 accords, have taken place alternately in Washington and Havana every six months since the agreements were signed. Cuba cancelled the talks previously scheduled for June which Albright cited as one of the objections to Cuban behavior in migration matters. Besides "arbitrary and routine denials of exit permits," Albright cited other obstacles raised by the Cuban government such as not having met military service requirements, whether one is a member of the medical profession, or whether one is a relation of a dissident or defector, and a unilateral fee structure imposed by the Cubans. In the response received by the State Department, the Cubans agreed to restart the migration talks. Since the accords, over 100,000 Cubans who have received U.S. entry visas have arrived in the United States including: FY95 -- 25,838, FY96 -- 20,006, FY97 -- 2,0048, FY 98 -- 20,787, FY99 -- 24,149, and FY00 -- 20566 through August 21st.

U.S. CUSTOMS SERVICE SEIZES VESSEL IN OPERATION JOURNEY -- In an international drug operation, U.S. Customs seized the Maltese-flagged freighter, Suerte I, off the coast of Houston in a two year multinational initiative against Colombian drug smugglers which encompassed Venezuelan jungle raids and the arrest of 43 people including Luis Antonio Navia, a Cuban national. Navia, sent to Florida for prosecution, holds U.S. residence status. (NYT, "Reputed Head of Drug Ring taken to U.S. After Arrest," 8/27/00, p.7).

USDA--CUBA POTENTIAL BUYER OF \$300 - \$500 MILLION IN FARM GOODS -- Gerald Bange, head of the World Agricultural Outlook Board at the U.S. Department of Agriculture announced at a press conference on Wednesday, August 30th that total U.S. farm exports were expected to rise to \$51.5 billion in FY 2001, which starts on October 1st. "We could see the Cuba market climb to maybe \$300 million to \$500 million over a year or two, and maybe even more over the long term," Bange told reporters. He admitted, however, that such levels of Cuban purchases of U.S. farm products was entirely dependent on access to financing, especially U.S. export credits. While Cuban government officials say their government has the money to pay cash for purchases, they suggest at least 30-day payment terms which invariably leads to 60-day terms and then 90-day terms, wholly unacceptable to the Republican leadership in Congress and unpalatable to the American public. (RL, "Cuba a potential buyer of \$300 - \$500 mln of US food-USDA," 8/30/00).

NOTABLE QUOTES

"A Bush administration would be prepared to break the [1994-1995] migration pact. There'll be a re-evaluation of Clinton's repatriation policy." In Philadelphia, the site of the National Republican Convention, Rep. **Lincoln Diaz-Balart** (R-FL) comments on the Cuba plank in the Republican Party platform (USCPR, Vol.7, No.7) which calls for compliance of the 1966 Cuban Adjustment Act and "recognizes the rights of Cuban refugees fleeing communist tyranny." (RL,"Cuba embargo sows division in Republican ranks," 8/1/00).

"It's election time in our imperialist neighbour. Now we know the presidential candidates for the U.S. government -- our interfering, overbearing and arrogant adversary...Mr. Bush, in the spirit of a sincere adversary, I advise you...don't run the risk of becoming the 10th president who spends his time contemplating with sterile and unnecessary bitterness a revolution in Cuba that does not bend its knees or give up, and cannot be destroyed." Analysis of U.S. elections by **Fidel Castro** in a speech made in the eastern Cuban province of Pinar del Rio on Saturday, August 5th. (RL,"Castro mocks boring U.S. candidates, defies Bush," 8/5/00).

"Trade with Cuba is with the Cuban government or an entity controlled by the Cuban government. It only enhances Fidel Castro's power...I'm going to keep sanctions on [Cuba] if I'm the president." Texas Governor and Republican presidential candidate **George W. Bush** appears on the Spanish language television network Univision. (PRN,"CANF Applauds Governor Bush's Strong Stance on Freedom for Cuba," 8/11/00).

"We know we can trust George W. Bush's instincts and his dedication. He has been very solid and consistent in his commitment to a principled foreign policy on Cuba." **Dennis Hays**, Executive Vice President of the Cuban American National Foundation comments on Univision's televised interview with Texas Governor George W. Bush. Hays is a former State Department Coordinator for the Office of Cuban Affairs in Washington and the recent U.S. Ambassador to Surinam. (PRN,"CANF Applauds Governor Bush's Strong Stance on Freedom for Cuba," 8/11/00).

"I want to see the end of the Castro regime under the Gore-Lieberman administration. My position is very clear: zero opening toward Castro." Vice President **Al Gore**, the Democratic presidential nominee accompanied by Connecticut Senator Joseph I. Lieberman, comments to the press during a campaign stop at Kings Point, a mostly Jewish senior citizens center in Broward County Florida. (ENH,"Gore give his all for Florida," 8/24/00).

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Source Guide - the following abbreviations should serve as a partial guide to sources contained in the *U.S. Cuba Policy Report*: AP – Associated Press; BLP – Bloomberg LP; BG – The Boston Globe; CR – Congressional Record; ENH – El Nuevo Herald; FA – Foreign Affairs Magazine; FP – Financial Post; FT – Financial Times; GI – Gramma International; JOC – Journal of Commerce; LAT – Los Angeles Times; MH – The Miami Herald; MB – Metal Bulletin; NPR – National Public Radio; NYT – The New York Times; OGJ – Oil & Gas Journal; PR – Press Release; RL – Reuters Limited; ST – The Seattle Times; WSJ – The Wall Street Journal; TWT – The Washington Times; WP – The Washington Post; WTD -- Washington Trade Daily; ZNA – ZENIT News Agency.

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Ralph J. Galliano, Editor

CAMPAIGN 2000: HOUSE AND SENATE RACES TO SHAPE CUBA LEGISLATION IN NEXT CONGRESS

WASHINGTON – House Speaker Tip O'Neill, Democrat from Massachusetts, used to like to say, "all politics is local." Campaign 2000 is no exception. Issues such as Cuba, Fidel Castro, and the trade embargo that resonate through the congressional districts of south Florida could likely have an impact on House-Senate control and perhaps even the race for president. The sanctions reform package making its way through the House and Senate during these final days of the Second Session of the 106th Congress, specifically the language for the unrestricted sale of food and medicine to Cuba otherwise known as the Nethercutt compromise (USCPR, Vol.7,No.6), creates a dilemma for the Republican leadership. Rep. Roy Blunt (R-MO), the House Chief Deputy Whip announced on Wednesday, September 27th that a deal had been brokered (version BLUNT.032) between the two farm state Republicans George Nethercutt (R-WA) and Jo Ann Emerson (R-MO) and Cuban-American Reps. Lincoln Diaz-Balart (R-FL) and Ileana Ros-Lehtinen (R-FL). As viewed by opponents of trade with the Castro regime, any dilution of the June compromise (see related story) could place at risk the high voter turnout among Cuban-Americans which is required for Texas Governor George W. Bush to carry the hotly contested state of Florida and gain its crucial 25 electoral votes needed to win the presidency in November (USCPR, Vol.7,No.8). Passage of a liberal sanctions reform package leading to a further opening with Castro's Communist Cuba, as the Senate wants, could dampen enthusiasm and cause Cuban-American voters to stay at home on election day. Republicans need to carry somewhere between 60% and 85% of the largely Cuban-American Hispanic vote in Miami-Dade County in order to remain competitive in the state of Florida (USCPR, Vol.7,No.8). Turnout could be affected by the fact that the two staunchest anti-Castro Republican Members of Congress, Reps. Ileana Ros-Lehtinen and Lincoln Diaz-Balart, face no opposition in their home districts of Miami. On the other hand without passage of the Nethercutt compromise, the reelection efforts of conservative farm state Republicans like Rep. George Nethercutt (WA) and Senator John Ashcroft (MO), both in tight races, could be severely damaged thereby placing continued GOP control of the House and Senate in serious jeopardy. Going into Campaign 2000, Republicans hold only a slim four seat majority in both the House and the Senate. In the House, the count stands at 222 Republicans, 210 Democrats, 2 Independents, and 1 vacancy. In the Senate, the count, as a result of the untimely death of Senator Paul Coverdell (R-GA), now stands at 54 - 46 -- Republicans to Democrats. All 435 seats are up for election in the House and one-third of the 100 Senate seats are up with 19 of the 33 seats currently held by Republicans.

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A DEMOCRATIC CONTROLLED CONGRESS -- The face of the 107th Congress will be dramatically different for anti-Castro and pro-freedom forces on Capitol Hill if Republicans lose control of either or both legislative bodies come November 7th. The sea change will be reflected in the new leadership and committee chairmen. Any such shift will also advance the course and pace of legislation introduced by pro-engagement forces led in the House by Reps. Jose Serrano (NY) and Charles Rangel (NY) and in the Senate by Christopher Dodd (CT). While Senate Majority Leader Trent Lott (R-MS) has generally held fast in light of growing bipartisan support to lift the 40-year-old trade embargo on the Castro regime, Senator Tom Daschle (D-SD) would become Majority Leader. Senators Daschle and Byron Dorgan (D-ND) both traveled to Cuba earlier this year and have been active in efforts to lift restrictions from the sale of food and medicine to the Cuban government. Senate committee chairmanships would be visibly altered should Democrats succeed in recapturing control of the Senate which they lost in the 1994 mid-term elections. Senators Tom Harkin (IA), Robert Byrd (WV), and Joe Biden (DE) would each become chairman of the powerful and influential Agriculture, Appropriations, and Foreign Relations committees, respectively, displacing Senators Richard Lugar (IN), Ted Stevens (AK), and Jesse Helms (NC). Helms, of course, as chairman of the Senate Committee on Foreign Relations authored and guided to passage the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996* (USCPR, Vol.2,No.1 & Vol.3,No.1), popularly known as the Helms-Burton Act (USCPR, Vol.3,No.3), which provides for the support of the Cuban people, the transition to a democratic Cuba, and the resolution of American owned confiscated property the claim to which is owned by United States citizens. Dodd, who has pushed for the creation of a Bipartisan Commission on Cuba (USCPR, Vol.5,Nos.10,12 & Vol.7,No.6), would head the Western Hemisphere Subcommittee in the Senate. Most at risk with its razor thin majority is the Republican leadership in the House comprised of Speaker of the House J. Dennis Hastert (R-IL), Majority Leader Dick Armey, and Majority Whip Tom DeLay (TX). Anti-Castro Cubans would lose a stalwart in Rep. Tom DeLay, who in his leadership capacity has been instrumental in preventing the trade opening from becoming law in the 106th Congress (USCPR, Vol.6,No.10). If Democrats regain control of the House, Richard Gephardt (MO) would likely become the next Speaker of the House and David Bonier (MI) -- a staunch opponent of the embargo would be in line to become House Majority Leader. In House committees, pro-freedom forces would lose such strong supporters as Reps. Bill Young (FL), Ben Gilman (NY), and David Dreier (CA) who serve as chairmen of the Appropriations, International Relations, and Rules committees, respectively, being replaced by Reps. David Obey (WI), Sam Gejdenson (CT), and Joe Moakley (MA). Clearly, the most significant shift would occur on the House Ways & Means Committee, the most powerful committee in Congress, where Rep. Charles Rangel is in line to become chairman. Rep. Jose Serrano, who led the fight in the House to return Elian Gonzalez to Cuba (USCPR, Vol.6,No.12 & Vol.7,No.1) stands to become chairman of the powerful Appropriations Subcommittee on Commerce, State, Justice & the Judiciary. Perhaps the champion of a free and democratic Cuba among Democrats in the House is the able and articulate Robert Menendez (NJ) currently the Democratic Caucus Vice Chairman who would be in line to head the Western Hemisphere Subcommittee in the House.

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V7N9

CHAIRMAN'S MESSAGE TO STATE DEPARTMENT: ENFORCE TITLE IV

As the end of the Clinton-Gore administration nears its final months, President Clinton will have succeeded diplomatically in keeping the enforcement of the dreaded Title IV - Helms-Burton Act of 1996 at bay, at least as far as any European companies are concerned, thereby averting a threatened trade war. Only Sherritt International, the Canadian mining and resource company, is said to remain on the Title IV sanctions list having received letters of determination from the State Department causing its executives and their families to be denied visas to enter the United States (USCPR, Vol.3,No.7). The State Department's standard of enforcement for deciding who will be excluded when found trafficking in U.S. confiscated property in Cuba is based on "convincing evidence" (USCPR, Vol.3,No.4). Citing the guidelines issued by the State Department (USCPR, Vol.3,No.6), Senator Jesse Helms, who chairs the Committee on Foreign Relations, believes that "facts" and "circumstances" exist to show that the Spanish Hotel firm, Sol Melia, is engaged in trafficking in confiscated property the claim to which is owned by an American citizen. Largely at the prodding of Congress (USCPR, Vol.6,No.9&Vol.7,No.6), Sol Melia was sent an "advisory" letter dated July 30, 1999 informing them that their joint venture with the government of Cuba may involve expropriated property (USCPR, Vol.6,No.8). In writing to Secretary of State Madeleine Albright, Helms asks, "Is it not clear, Madam Secretary, that Mr. Shapiro [Cuba desk coordinator] is acting under instructions to avert a showdown with the European countries over the enforcement of the Libertad Act?" Helms formally requests "that the State Department send the required Title IV 'notification letter' to Grupo Sol Melia without further delay." Helms's September 1st letter to Albright is reprinted below.

HELMS LETTER TO ALBRIGHT: SOL MELIA TRAFFICKING

September 1, 2000
The Honorable Madeleine Albright
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520
Dear Madam Secretary:

I feel obliged to contact you again about enforcement of Title IV of Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114). Frankly, I am puzzled.

On July 30, 1999, the Department of State notified formally the Spanish hotel firm Grupo Sol Melia (GSM) that it was the subject of an investigation under Title IV. (The Department explained to me that this letter to GSM was *not* the 45-day "notification" letter but merely an "informational" communication that the Department invented to keep from pulling the trigger under Title IV.)

More than one year later, the State Department has yet to sanction GSM.

According to Paragraph 5 of the "Guidelines Implementing Title IV of the Cuban Liberty and Democratic Solidarity Act" (*Federal Register*, June 17, 1996), "Determinations ...under Title IV *will* be made when facts or circumstances exist that will lead the Department *reasonably to conclude* that a person has engaged in confiscation or trafficking..."

Those guidelines, Madam Secretary, describe in great detail a series of steps that *WILL* be taken once this determination is made e.g., Paragraph 6(a) states, "An alien who may be the subject of a determination under Title IV *will* be sent a notification...that he/she *will* be denied a visa...45 days after the date of the notification letter..."

After months of denials and delays, in July 2000, GSM began what appears at best to be half-hearted negotiations with the *rightful U.S. owners* to secure permission to use their stolen land. According to the U.S. claimants' attorney, Charles Shapiro, the State Department's Coordinator for Cuban Affairs, has attended two of these "negotiating sessions" and gave GSM attorneys "until the end of summer" to work out a deal with the U.S. claimant.

I find it unbelievable that, despite GSM's tacit admission that it is liable for immediate sanction under Title IV, the State Department has failed to enforce the law and, in fact, has given the company even more time to flout U.S. law.

Madam Secretary, isn't it clear that the State Department official never would have attended these negotiating sessions or specified to GSM attorneys a "deadline" to reach a settlement unless he had information leading him "reasonably to conclude that (GSM) has engaged in confiscation or trafficking..."? (Since the Department has concluded that GSM is trafficking in property in Cuba owned by a U.S. national, no U.S. official has the authority to delay the application of the Title IV sanctions -- "until the end of summer" or for any other season that happens to suit him.)

Is it not clear, Madam Secretary, that Mr. Shapiro is acting under instructions to avert a showdown with the European countries over enforcement of the Libertad Act? That goal can be reached without breaking U.S. law: even after the required "notification letter" is sent to GSM, that firm will have another 45 days to settle with the U.S. claimants and thereby avoid the sanctions.

I bring this matter to your attention because you, of course, are ultimately responsible for complying with the law. As such, I formally request that the State Department send the required Title IV "notification letter" to Grupo Sol Melia without further delay.

Sincerely,
Jesse Helms

LAWMAKERS TO CLINTON ADMINISTRATION: NO VISA FOR CASTRO

"There are reports that Fidel Castro wants to visit New York next week to attend a United Nations conference. To underscore the outrage at the mistreatment of U.S. citizens, the United States should notify Mr. Castro that he should not pack his bags yet," wrote Jesse Helms, the chairman of the Senate Committee on Foreign Relations in his September 1st letter to Secretary of State Madeleine Albright. Despite opposition to granting Fidel Castro a visa to attend the opening of the 55th Session of the UN General Assembly, the Cuban Communist dictator arrived at the three-day (Sept. 6-8) Millennium Summit in New York on September 5th, but not before Helms sought to expose the recent mistreatment of American citizens at the hands of Cuban authorities. Specifically, Helms highlighted the August 14th incidents in which Douglas W. Schimmel was arrested and "charged with 'rebellion' for meeting with dissidents and independent journalists and for donating books to libraries." The 70-year old Schimmel was imprisoned for 20 days for fulfilling the Clinton administration's "people-to-people" policy (USCPR, Vol.6, Nos.1&8) to reach out to the Cuban people as was Elizabeth Riachi whose American passport was confiscated while she and her three children were detained overnight and initially not permitted to leave the island. Riachi, a Detroit public school teacher arrived in Cuba to bury her husband. Lincoln Diaz-Balart, a Cuban-American Member of Congress from Miami reiterated his ongoing request to deny Castro a visa to enter the United States and called for his arrest upon entry. In a September 1st letter to President Clinton, Diaz-Balart contends that "the law requires that you instruct your Attorney General to take all necessary steps to arrest, prosecute and try Fidel Castro for crimes against humanity." Nonetheless, Castro addressed the United Nations and met with heads of state including Hugo Chavez of Venezuela, Tran Duc Luong of Vietnam, Jiang Zemin of China, and Vladimir Putin of Russia. Before returning to Havana, Castro spoke for four hours during an evening of solidarity at Harlem's Riverside Church on the evening of Friday September 8th where he enticed his audience with the triumph of his now historic handshake with President Clinton. Helms' letter to Albright is reprinted below.

HELMS LETTER TO ALBRIGHT -- PEOPLE-TO-PEOPLE CONTACT

UNITED STATES SENATE
Committee on Foreign Relations
Washington, DC

September 1, 2000
The Honorable Madeleine Albright
U.S. Secretary of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Madam Secretary:

We have been reminded recently how Fidel Castro regards the "people-to-people" contact that some still naively suggest will change his brutal regime. While Cuban intelligence officers are granted U.S. visas and allowed to wander about the United States lobbying against U.S. policy, *private American citizens are harassed and jailed in Cuba*.

I offer just two recent examples: Mr. Douglas W. Schimmel, a retired Chicago businessman and member of Amnesty International, was jailed on August 14th and held in the notorious Villa Marista headquarters of the Cuban secret police until being deported yesterday. Mr. Schimmel was charged with "rebellion" for meeting with dissidents and independent journalists and for donating books, among them *Sinbad the Sailor* and *Around the World in Eighty Days*, to independent libraries on the island.

Also on August 14th, Mrs. Elizabeth Riachi, a Detroit schoolteacher and Cuban-American exile, traveled to the island with her three children for the funeral of her husband. Upon arrival, Mrs. Riachi's U.S. passport was confiscated by Cuban officials claiming that she was a Cuban citizen and must travel with a Cuban passport. She and her three children were detained at the airport for 16 hours. When they were finally released, Mrs. Riachi was told that she would require permission from Cuban authorities to leave the island.

After a five-day visit with relatives, on August 20th, Mrs. Riachi and her children were not allowed to board their return flight because Cuban officials had taken her U.S. passport and because authorities claimed she did not have "an American visa."

On August 22nd, the family returned to the airport but were told that records showed that they had departed the day before. The next day, only after threatening to seek the aid of U.S. diplomats, Mrs. Riachi and her three children finally were allowed to leave Cuba.

Madam Secretary, these two cases underscore the thuggish indecency of the Cuban regime. I respectfully ask that you seek the immediate and thorough explanations for these incidents and apologies by Cuban officials to the Schimmel and Riachi families.

There are reports that Fidel Castro wants to visit New York next week to attend a United Nations conference. To underscore the outrage at the mistreatment of U.S. citizens, the United States should notify Mr. Castro that he should not pack his bags yet.

Madam Secretary, please give me your personal assurances that, as of this date neither Fidel Castro nor any other Cuban official will be granted a visa to enter the United States -- and that no Cuban diplomat posted here will receive permission to travel outside of Washington -- until the requisite explanations and apologies have been received. Many thanks.

Sincerely,
Jesse Helms

CLINTON SHAKES HANDS WITH CASTRO

"There was no handshake," assured Joe Lockhart; "A momentary exchange," explained P.J. Crowley; "A chance encounter," stated Madeleine Albright; "It just happened," responded Bill Clinton. While the White House struggled to downplay Castro's opportune handshake with President Clinton at an event held in conjunction with the UN's Millennium Summit in New York on Wednesday, September 6th, the occasion was, in fact, an historic one. Never before had a sitting American president met with, talked to, and shaken hands with Cuba's Fidel Castro, even if only momentarily. White House spokesman Joe Lockhart, who at first denied the two had indeed shaken hands, has also denied that a photograph exists of the moment when asked on September 28th by Bill Press a co-host of CNN's Crossfire program. The White House later retracted Lockhart's former statement but not the latter. National Security Council spokesman P.J. Crowley described the event as a luncheon hosted by Clinton held at the New York Metropolitan Museum of Art for participating heads of state. Apparently, Castro stood in a receiving line along with 160 others who had their photos taken. From a political perspective, "Was Castro thanking Clinton for helping return six-year-old Elian Gonzalez to a life of tyranny and oppression in Cuba?" queried Republican National Committee Chairman Jim Nicholson following the somewhat startling news. Perhaps the most poignant of all comments came from the vice chair of the Democratic Caucus, Congressman Bob Menendez of New Jersey, who born in the United States, is the son of Cuban exile parents. In a letter to President Clinton on September 8th, Menendez stated, "The pain your handshake has caused within the Cuban community is similar to the pain that would be caused to other communities whose people have been oppressed by dictators." Menendez's letter to Clinton is reprinted below.

MENENDEZ LETTER TO CLINTON

Congress of the United States
 House of Representatives
 Washington, DC

September 8, 2000
 The Honorable William J. Clinton
 The White House
 Washington, D.C. 20500
 Dear Mr. President:

I was very disappointed to hear of your recent handshake with Cuban dictator Fidel Castro at the UN Millennium Summit.

While I understand that Castro initiated the encounter, the symbolism of such a handshake causes much pain to Cubans who continue to suffer at the hands of his brutal regime, as they have for the past 40 years. Your encounter with the Cuban dictator coincides with the imprisonment of thousands of innocent Cubans, the absolute suppression of any dissent, and the continued grief felt by the survivors and families of the Brothers to the Rescue, who were murdered by Castro.

The pain your handshake has caused within the Cuban community is similar to the pain that would be caused to other communities whose people have been oppressed by dictators. Your handshake with Castro is no different than a handshake with Saddam Hussein.

I protest in the strongest possible terms the insensitivity of what may have seemed like a simple gesture, but was, in fact, an affront to those who have suffered so much.

Sincerely,
 Robert Menendez
 Member of Congress

NETHERCUTT PROPOSES TECHNICAL AMENDMENTS --

In a September 22nd letter to the House Republican leadership addressed to Rep. Lincoln Diaz-Balart, the point man in the negotiations to limit the sale of food and medicine to Cuba, Rep. George Nethercutt (R-WA) writes, "unless a number of minor changes are made to the package, farmers will not be able to realize the benefits of sanctions relief." At press time, the leadership appears to have agreed with most of Nethercutt's eight technical changes to the June compromise which had been negotiated by Reps. Ileana Ros-Lehtinen (R-FL) and Diaz-Balart (USCPR, Vol.7, No.6). The keys to the September compromise revolve around limiting the financing to third countries, end-use verification of agricultural commodities and, granting presidential waiver authority on national security and humanitarian grounds. The whole idea behind the legislative push in Congress for the unlicensed sale of food and medicine to Cuba is to generate new business for American farmers not to provide U.S. taxpayer subsidies to the Castro regime, one Congressional source told the USCPR. Although the Clinton administration has encouraged the effort by granting licenses to U.S. businessmen and farmers to travel to Cuba (USCPR, Vol.7, No.5), the White House has declined to comment on the results of the Nethercutt compromise thus far. While criticizing Cuban government treatment of Americans, Senator Helms points to the administration's actions in granting visas and approving liberal travel to farm states by Cuban officials. "Cuban intelligence officers are granted U.S. visas and allowed to wander about the United States lobbying against U.S. policy," charged Helms in a September 1st letter to Secretary of State Albright (see related story). In fact, the number of times from April 1999 to September 2000 that the State Department has approved travel by Cuban government officials stationed in Washington D.C. for "private meetings" with poultry companies, grain councils, rice councils, and farm groups is broken down as follows: Chicago (8); Seattle/Tacoma (7); Kansas City/St. Louis/St. Peters (8); Baton Rouge/New Orleans/Monroe (6); Mobile (5); Memphis (3); and Des Moines (2). The door was left ajar when President Clinton announced the easing of the sale of food to Cuba on January 5, 1999 (USCPR, Vol.6, No.1) and the momentum began to build with the introduction of the so-called Ashcroft amendment on June 24, 1999 (USCPR, Vol.6, No.8) and growing ever stronger by November (USCPR, Vol.6, No.11). While sentiment in Congress has clearly shifted over the past year toward permitting the sale of food and medicine to Cuba (USCPR, Vol.7, No.7), this Congress doesn't seem to have the will to make a major shift in U.S. policy as was evidenced by the defeat of H.AMDT. 1023 offered by Rep. Charles Rangel (D-NY) on July 20th to lift the entire embargo; it was soundly defeated on the House floor by a vote of 241-to-174 (USCPR, Vol.7, No.7). Much will depend on whether a House-Senate conference adopts the language reflected in the Nethercutt June compromise (USCPR, Vol.7, No.8) or has more restrictions lifted such as financing and travel as the Senate prefers. Absent such agreement, the Nethercutt language is likely to be thrown into an end-of-session omnibus bill or ignored altogether, leaving farm state Republicans such as Congressman George Nethercutt and Senator John Ashcroft at risk in their upcoming tight reelection bids.

NETHERCUTT LETTER TO DIAZ-BALART

Congress of the United States
House of Representatives
Washington, DC

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:

AGRICULTURE

INTERIOR

DEFENSE

September 22, 2000

Representative Lincoln Diaz-Balart

404 Cannon House Office Building

Washington, D.C. 20515

Dear Lincoln:

I am enclosing several technical amendments to the compromise sanctions package we negotiated which I will recommend be adopted by the Agriculture Appropriations Conference.

Over the course of the last several weeks, representatives of the agricultural community have explained convincingly that the language we agreed to requires numerous technical corrections. It is apparent that unless a number of minor changes are made to the package, farmers will not be able to realize the benefits of sanctions relief. These amendments are entirely within the notional framework of our agreed upon language and I would anticipate that you would find them acceptable in fulfilling the spirit of the compromise.

The substance of the package remains the same -- U.S. private financing to Cuba is prohibited and current restrictions on travel to Cuba are maintained. I believe that the adoption of these minor amendments will significantly improve the tone of a House-Senate conference. With only two weeks remaining before the scheduled adjournment, I am sure that you will agree that it is in the interest of both bodies to find some accommodation on this issue.

Sincerely,

George R. Nethercutt, Jr.

cc.

Speaker Dennis Hastert

Majority Leader Richard Armey

Majority Whip Tom DeLay
Chairman C.W. Bill Young

Chairman Joe Skeen
Representative Roy Blunt

Representative Ileana Ros-Lehtinen
Representative Jo Ann Emerson

CARACAS PACT: PREFERENTIAL OIL SUPPLY AGREEMENT FOR CUBA

Venezuelan President Hugo Chavez, who at the recent UN Millennium Summit held in New York from September 6 - 8 chaired a round table discussion on Security Council reform attended by Cuba's Fidel Castro and Iraq's deputy prime minister Tareq Aziz, declared, "That's enough of the blockade against Iraq. That's enough of the blockade against Cuba." On September 22nd, *The Financial Times* (FT) reported on a draft agreement outlining a preferential oil supply agreement between Venezuela and Central America and the Caribbean including Cuba. Chavez, who took office in February 1999 (USCPR, Vol.5,Nos.11,12 & Vol.6,No.3), wasted no time to come to the aid of energy starved Cuba led by his friend and ally Fidel Castro when consideration for the annual renewal of the San Jose Pact was reviewed by Mexico and Venezuela in early 1999 (USCPR, Vol.6,No.6). This Program of Energy Cooperation for the Countries of Central America and the Caribbean, the San Jose Pact which was begun in 1980, has not previously included Cuba. When Mexico resisted Cuba's inclusion, Venezuelan Energy Minister Ali Rodriguez announced the decision to renew the San Jose Pact, which provides 160,000 barrels of oil per day to its beneficiaries exclusive of Cuba (USCPR, Vol.6,No.7). According to Venezuela's ambassador to Havana, Julio Montes, the finalized Caracas Pact, which is intended to complement but not replace the two-decade-old San Jose Pact that provided oil to 11 Central American and Caribbean countries, is expected to be signed in October. The Caracas Pact would not only provide oil at preferential market prices but would permit recipients to repay either in hard currency or inkind with goods and services. The basic difference between the provisions of the San Jose Pact and the proposed Caracas Pact would be the amount of oil provided and the manner of repayment. The San Jose Pact calls for the sale of goods to Mexico and Venezuela at reduced prices. While the San Jose Pact provides 160,000 barrels per day, the final Caracas pact is expected to provide 80,000 barrels per day. Besides the Cuban state oil company, Cupet, and Venezuela's PDVSA, Montes suggested the Caracas Pact could eventually involve Repsol of Spain and Petrobras of Brazil. Petrobras is currently drilling on an offshore block off the north central coast of Cuba. Future participation by Petrobras in the Caracas Pact would depend on the success of its Cuba drilling operations. The FT reports that Cuba is currently purchasing 30,000 barrels per day of Venezuelan crude oil through international traders. At the distress of U.S. officials, Chavez launched a tour-de-force seeking support for his September 27th OPEC Summit meeting in Caracas by visiting OPEC members including Iraq (USCPR, Vol.7,No.8) in August.

CURRENCIES & COMMODITIES

1 Euro = 0.882 Dollar

1 US Dollar = 21.00 Cuban Peso

1 Euro = 18.525 Cuban Peso

Rates as of September 29, 2000.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 10.01

Year ago nearby = 6.99

Future (Mar. '01) = 9.45

High = 10.81

Low = 5.95

Cash/Spot price as of September 29, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$per bbl.)

Light Sweet (WTI)

Cash/Spot (fob) = 30.80-30.85

Year ago (Sept. 29) = 24.69

Future (Nov. '00) = 30.84

Cash/Spot price as of September 29, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 8,645

Year ago (Sept. 28) = 6,845

(\$ per metric ton)
Official Price: September 28, 2000.
Source: London Metal Exchange

Cobalt = 15.95 -16.20

Year ago (Sept. 30) = 16.30 - 17.30

(\$ per pound for 99.8%)
Price: September 28, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

INTERNATIONAL TRADE COMMISSION HOLDS HEARINGS TO REVIEW IMPACT OF CUBAN EMBARGO -- The six member U.S. International Trade Commission (USITC), an independent government agency, held two days of public hearings (September 18 - 19, 2000) at the request of Congress to investigate "The Economic Impact of U.S. Sanctions with Respect to Cuba." House Ways & Means Committee Chairman Bill Archer (R-TX) called upon the commission last March (USCPR, Vol.7, No.4) at the behest of ranking Democrat Charles Rangel of New York who stands to become committee chairman next year if Democrats retake control of the House in November. Within its jurisdiction under section 332(g) of the Tariff Act of 1930, 19 U.S.C. § 1332 (g), Ways & Means has requested a report of the USITC's findings no later than February 15, 2001, at which time it will have a new chairman given Archer's retirement from Congress. USITC members are: Thelma J. Askey, Lynn M. Bragg, Deanna T. Okun, Marcia E. Miller, Jennifer A. Hillman, and Stephen Koplan who serves as chairman. All commissioners are presidential appointees requiring Senate approval; the commission monitors the impact of trade on the U.S. economy.

USITC INVITES A PARADE OF WITNESSES TO TESTIFY AT HEARING -- The USITC must provide its overview of U.S. sanctions including an historical impact on both the U.S. and Cuban economies and to the extent possible it must analyze the embargo's effect on U.S. exports, imports, employment, consumers and investment. Witnesses came from Congress, the Cuban Interests Section, and affected industries and interest groups. Congressional appearances included Senator Max Baucus (D-MT), Reps. Charles Rangel (D-NY), Ileana Ros-Lehtinen (R-FL), and Lincoln Diaz-Balart (R-FL). Fernando Remirez de Estenoz, the principal officer of the Cuban Interests Section and highest ranking Cuban diplomat in the United States, also testified. Among the other witnesses testifying were: Richard Bell, president of Riceland Foods; Joe Green, Caterpillar director for Latin American Sales; Matthew T. McGrath, of counsel for the Florida Citrus Mutual; Nicolas J. Gutierrez, Jr., secretary and general counsel for the National Association of Sugar Mill Owners of Cuba; Paula Stern of the Stern Group and a former chairwoman of the USITC; Wayne Smith, senior fellow at the Center for International Policy; Frank J. Gaffney, Jr., president of the Center for Security Policy; Brian Latell, professor at Georgetown University's School of Foreign Service; John S. Kavulich, II, president of the U.S. Cuba Trade and Economic Council; Thomas E. Cox, director of the U.S. Cuba Business Council; Dennis K. Hays, executive vice president of the Cuban American National Foundation; Jaime Suchlicki, director and professor at the University of Miami; and, Constantine C. Menges, senior fellow at the Hudson Institute.

KEY WITNESSES CHARACTERIZE CUBA AS A HOSTILE AND UNRELIABLE TRADING PARTNER -- Senator Max Baucus (D-MT) was the first witness to testify at the USITC hearing voicing his opposition to unilateral sanctions and calling his bills to lift the Cuban embargo "identical" to those of Rep. Rangel's as introduced in the House (USCPR, Vol.7, No.8). Baucus admitted that lifting the embargo will not immediately increase trade with the Communist-controlled island. Rep. Ros-Lehtinen called sanctions a necessary foreign policy tool and cited hostile actions against the United States by the Castro regime such as "espionage, drug trafficking, and close ties to terrorist groups" as justification for retaining sanctions. Ros-Lehtinen asserted that lifting the embargo could imperil U.S. jobs and hurt American economic interests. The Miami congresswoman said sanctions would help to protect U.S. taxpayers when Cuba doesn't pay its bills suggesting the economic costs of not trading with the Castro regime are almost non-existent. When asked about the amount of business his company could do when the embargo was lifted, Joe Green of Caterpillar said it would be limited until changes were made in the political and economic system in Cuba. Nick Gutierrez of the National Association of Sugar Mill Owners of Cuba pointed out that uncompensated confiscated American owned property was a major deterrent to future U.S. investment in Cuba. The commission was particularly interested in whether U.S. business was prepared to invest in Cuba in the absence of U.S. financing. Several witnesses suggested that government backed financing would be preferable in order to enhance U.S. trade relations with Cuba. Ignacio Sanchez of the Verner Liipfert law firm said the removal of sanctions would impact the Florida economy and attached a 1999 study to his testimony on the economic threat to the state assuming a resumption of economic relations under the Castro regime. Witnesses such as Wayne Smith, Paula Stern, Phillip Peters, John Kavulich, and Kirby Jones testified in favor of lifting the embargo.

DOMESTIC BRIEFS

STATE DEPARTMENT RELEASES 2000 ANNUAL REPORT TO CONGRESS ON RELIGIOUS FREEDOM - CUBA -- In compliance with P.L. 105-292, the State Department through its Bureau of Democracy, Human Rights and Labor, delivered its Second Annual Report on International Religious Freedom to Congress on September 5th with Secretary of State Madeleine Albright emphasizing the "central role" that "religious freedom plays in the foreign policy of the United States."

Albright described the report as "an indispensable tool" for anyone interested in religious freedom. The report states at the outset that "there was no change in the status of respect for religious freedom during the period covered by this report; the Pope's January 1998 visit did not lead to the level of change expected by many persons." (USCPR, Vol.5, No.2) According to the report, "The Ministry of Interior continued to monitor religious activities, and to use surveillance, infiltration, and harassment against religious groups." The number of Catholic priests, deacons, and nuns in the country is "less than half the total prior to 1960" and "only slightly higher than before the Papal visit." The Cuban government routinely leaves applications to enter the island pending or does not extend the visa requests of priests who are then forced to leave the Communist-controlled dictatorship as was the case with Father Patrick Sullivan in April 1998 just following the papal visit. (USCPR, Vol.5, No.4). The report is available on the Internet at: http://www.state.gov/www/global/human_rights/ by clicking "reports" on the sidebar.

STATE DEPARTMENT DENIES VISA TO ALARCON -- A State Department official told the USCPR that Ricardo Alarcon, head of the Cuban National Assembly had been granted a visa to attend the so-called UN Millennium Summit or the opening of the 55th Session of the UN General Assembly convening on September 6th but denied a visa to attend the International Parliamentary Union in New York that preceded the Summit at the end of August. It is U.S. policy to permit heads of state and high ranking officials to attend meetings of international organizations such as the United Nations. According to the official, the denial of Alarcon's other visa request on September 11th was based on President Clinton's people-to-people policy announced in January of 1999 (USCPR, Vol.6, Nos.1&8) that ostensibly encourages contact with the Cuban people. Alarcon had requested permission to attend the opening of the annual convention of the Congressional Black Caucus in Washington at which time he intended to announce that the Castro regime had reserved 250 spaces for black students in Cuba's Iberoamerican Medical School in Havana.

PRESIDENT REPORTS TELECOMMUNICATIONS PAYMENTS TO CUBA -- As required by law, Bill Clinton submitted his ninth and final semiannual telcom report to Congress as president on September 19th detailing payments made to Cuba by American telecommunications companies. The report covers the period January 1 through June 30, 2000 and shows a total amount paid to Cuba of \$34,735,815 made by AT&T, Sprint, WorldCom, WilTel, and Telefonica Larga Distancia of Puerto Rico. For accounting purposes, payments for AT&T Puerto Rico are being disbursed by AT&T. Due to litigation which is still pending, the previous reporting periods showed only \$3,578,213 (USCPR, Vol.6, No.10) and \$11,377,229 (USCPR, Vol.7, No.4). Since reporting began on September 23, 1996 (USCPR, Vol.3, No.10), \$302,900,472 has been paid to Cuba for telecommunications services.

HELMS HOLDS HEARING ON DEFLECTION OF CUBAN DOCTORS -- Labeling the hearing held on September 20th as "Fidel Castro: Kidnapper (Part I)," Senate Foreign Relations Committee Chairman Jesse Helms (R-NC) said in his opening statement that the committee "begins a series of hearings to remind anyone with a short memory who Fidel Castro really is." The two witnesses, Leonel Cordova and Noris Pena, are Cuban doctors who defected in May while on a medical mission in Zimbabwe. They were kidnapped by Zimbabwean police and Cuban diplomats "under orders from Castro to force the two doctors back to Havana," charged Helms. "We consider that only cutting the umbilical cord that sustains [Fidel Castro's] empire, and by this we mean suspending any external aid," the two doctors said in their testimony to the committee referring to the proposed lifting of the trade embargo for the sale of food and medicine to the Castro regime. The defectors characterized the Cuban health care system as discriminatory and as a politically and financially motivated scam that deprives the Cuban people of descent medical attention while benefiting the elite of the Castro regime along with its global propaganda machine. The doctors attributed the creation of the Iberoamerican Medical School in Havana, where thousands of foreigners are studying, to the profits generated by joint ventures with foreign pharmaceutical companies attracted by Cuba's highly developed biotech industry.

NOTABLE QUOTES

The following quotations are taken from statements and testimony presented at the U.S. International Trade Commission (USITC) hearing held on September 19 - 20, 2000 in Washington, D.C. and requested by Congress to investigate "The Economic Impact of U.S. Sanctions with Respect to Cuba."

"The establishment of the blockade by the United States has implied for Cuba the loss of preferential prices in terms of sugar exports, the lack of financing means, the substantial increase of transportation costs because of the relocation of its trade, the immobilization of substantial resources, the overprices that it should have to pay to acquire products, the deactivation of facilities and equipment because the lack of raw materials and spare parts, and the reduction of incomes from tourism." (USITC, Presentation by **Fernando Remirez de Estenoz**, First Deputy Minister of Foreign Affairs and Chief of the Cuban Interests Section in Washington, D.C., 9/19/00).

"No unilateral embargo in history has had much success. If a country can trade with all others in the world save one, then its inability to trade with that single exception, even though it be the economically powerful United States, is not likely to prove crucial." (USITC, Summary of Remarks by **Wayne S. Smith**, senior fellow Center for International Policy, 9/19/00).

"Prior to the imposition of U.S. economic sanctions in 1962, Cuba was the largest export market for U.S. rice. At times, it accounted for nearly one-half of all U.S. rice exports. Cuba's purchases at that time were primarily high quality long grain rice produced in the southern United States in the central coastal region along the Gulf of Mexico." (USITC, Statement by **Richard Bell** of Riceland Foods on behalf of the USA Rice Federation, 9/19/00).

"The U.S. embargo should be held as a carrot to be lifted when Cuba changes its current system and develops a democratic society. The embargo is not an anachronism but a legitimate instrument of U.S. policy for achieving the goal of a free Cuba." (USITC, Testimony by **Jaime Suchlicki**, professor of history and international studies at the University of Miami, 9/19/00).

"At Caterpillar we recognize no one has a monopoly on wisdom. But, we also know that engagement can be a positive force for change when pursued at all levels -- political, diplomatic, economic, charitable, religious, educational and cultural. As a next step, we would hope the U.S. would end travel restrictions to Cuba so to promote more people-to-people and humanitarian contacts. Such a change would also allow companies like Caterpillar to meet and start training the Cuban people who will eventually service and sell the American products we produce. While there are no guarantees in foreign policy, we think this change would be a prudent step in the right direction." (USITC, Testimony by **J.M. (Joe) Green** the Caterpillar Manager for Latin American Sales, 9/20/00).

"It nearly goes without saying that the original cause of the imposition of these sanctions remains completely unresolved. To wit, the massive illegal, forcible and uncompensated confiscation of all of the properties of the 5,911 U.S. citizens and companies in Cuba, at the commencement of Castro's revolution. Today, there are hundreds of thousands more naturalized U.S. citizens, who also have legitimate claims to their confiscated properties in Cuba." (USITC, Pre-Hearing Brief by **Nicolas J. Gutierrez, Jr.** secretary and general counsel for the National Association of Sugar Mill Owners of Cuba, 9/20/00).

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Source Guide - the following abbreviations should serve as a partial guide to sources contained in the *U.S. Cuba Policy Report*: AP - Associated Press; BLP - Bloomberg LP; BG - The Boston Globe; CR - Congressional Record; ENH -- El Nuevo Herald; FA - Foreign Affairs Magazine; FP - Financial Post; FT - Financial Times; GI - Granma International; JOC - Journal of Commerce; LAT - Los Angeles Times; MH - The Miami Herald; MB - Metal Bulletin; NPR - National Public Radio; NYT - The New York Times; OGJ - Oil & Gas Journal; PR - Press Release; RL - Reuters Limited; ST - The Seattle Times; WSJ - The Wall Street Journal; TWT - The Washington Times; WP - The Washington Post; WTD -- Washington Trade Daily; ZNA - ZENIT News Agency.

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U.S. ☆ CUBA

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Washington, D.C. USA**

Ralph J. Galliano, Editor

PRESIDENT CLINTON SIGNS AGRICULTURAL APPROPRIATIONS BILL ALLOWING CASH SALES OF FOOD AND MEDICINE TO CUBA

WASHINGTON – President Clinton signed the \$78.5 billion agricultural spending bill that for the first time in nearly 40 years provides for the lifting of the embargo on the sale of food and medicine to Cuba. The Nethercutt language (USCPR, Vol.7, No.9), or what became Title IX of the *Trade Sanctions Reform and Export Enhancement Act of 2000* contained in the Conference Report (106-948) of the agricultural appropriations spending bill (H.R. 4461), effectively permits the sale to Cuba of food, feed, fiber, fertilizer, seeds, and livestock ranging from cattle to fish to insects, as long as the payment is "cash in advance." Since 1992, and with certain restrictions, the Castro regime has been allowed to buy medicine and medical supplies on a cash basis from the U.S. amounting to \$2 million annually. Section 908 of the new law prohibits U.S. government or private financing for the purchase of food requiring the government of Cuba to obtain third country financing. This restriction does not appear to apply to the sale of medicines or medical devices. A presidential waiver, for the prohibition of U.S. foreign assistance, export assistance, and credit or guarantees can be applied to the sale of food and medicine for Iran, Libya, North Korea, and Sudan, excludes Cuba. In Section 906, sales to countries such as Cuba, deemed by the State Department to be sponsors of terrorism, continue to require "one-year licenses issued by the United States Government for contracts entered into during the one-year period of the license and shipped within the 12-month period beginning on the date of the signing of the contracts." Section 909 prohibits imports from Cuba including products of "Cuban origin," or products that have been "located in or transported from or through Cuba," or products that were "made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba." Section 910, which prohibits travel relating to tourist activities, is intended to insure that the Clinton administration doesn't liberalize travel to Cuba in order to spur the sale of food to the Communist-controlled island's tourist industry, thereby helping to prop-up the Castro regime. Following the signing of the bipartisan agricultural appropriations bill on October 28th, the president at a White House press conference described the Cuba sanctions language as purporting "to allow the export of American products to Cuba, yet it makes it virtually impossible for family farmers to arrange the financing that enables such sales to take place. Moreover, the legislation is designed to impose new restrictions on our efforts to foster people-to-people contacts and bring reform in Cuba." While the sale of goods to Cuba from Argentina, Canada, China, France, Mexico, Spain and other countries involves heavy foreign subsidies, it is arguable whether the American people are prepared to follow suit.

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CUBA'S REACTION TO PASSAGE OF LEGISLATION EASING FOOD AND MEDICINE SALES – As the Russian foreign ministry welcomed the passage in the U.S. Senate on October 18th of the lifting of the embargo on the sale of food and medicine to Cuba for the first time since 1962 as a beginning, Fidel Castro led thousands in a protest march across from the U.S. Interests Section in Havana. The crowds chanted "down with the blockade" and "long live the revolution" as the Cuban dictator called the agricultural bill an "insult" and "insufficient" because of the lack of U.S. government backed financing. *Gramma*, the Communist Party daily in an editorial on Monday, October 16th, stated, "our country will not buy a single cent of food or medicine from the United States." Even in the U.S. agriculture community, proponents of the measure characterized the new law permitting the sale of American food and medicine to the Cuban government as a start. Jack Laurie, vice president of the American Farm Bureau Federation, said at a conference held in Washington on October 25th, "I would hope the Cubans would rethink their strong position." Keynote speaker, at the meeting organized by Wayne Smith of the Center for International Policy, Laurie concluded, "I'm convinced if Cuba were to receive U.S. export assistance they would become a reliable trading partner." Laurie will be leading a Michigan farm delegation to Cuba in November to promote dry edible beans. Gustavo Machin, an ardent lobbyist for the Cuban government who wants to lift the embargo, also spoke at the conference. Critical of the legislation, he intoned, "when you read the language, you realize there is no room for real trade. For a practical matter, for Cuba, it is restrictive and discriminatory." The First Secretary from the Cuban Interests Section in Washington said, "Cubans don't want to pay cash because that's not the way international business is conducted." Citing France, where Cuba's wheat purchases are subsidized by the French government, Machin revealed he would like to have the same relationship with the United States. President Clinton seems to agree with the Cuban government and advocates the financing of sales of American food and medicine to the island remarking in the White House Rose Garden on October 6th, "it looks like it eases the embargo on food and medicine, but it probably doesn't very much because it doesn't provide any financing credits which we give to other poor countries." Title IX of *the Trade Sanctions Reform and Export Enhancement Act of 2000* is reprinted below.

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V7N10

TITLE IX – TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT

67-139

106TH CONGRESS
Report
HOUSE OF REPRESENTATIVES

2d Session

106-948

MAKING APPROPRIATIONS FOR AGRICULTURE RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES PROGRAMS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2001 AND FOR OTHER PURPOSES

TITLE IX—TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT

SEC. 901. SHORT TITLE.

This title may be cited as the 'Trade Sanctions Reform and Export Enhancement Act of 2000'.

SEC. 902. DEFINITIONS.

In this title:

(1) **AGRICULTURAL COMMODITY**- The term 'agricultural commodity' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) **AGRICULTURAL PROGRAM**- The term 'agricultural program' means—

(A) any program administered under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

(B) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) any program administered under the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(D) the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) any commercial export sale of agricultural commodities; or

(F) any export financing (including credits or credit guarantees) provided by the United States Government for agricultural commodities.

(3) **JOINT RESOLUTION**- The term 'joint resolution' means—

(A) in the case of section 903(a)(1), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section 903(a)(1) is received by Congress, the matter after the resolving clause of which is as follows: 'That Congress approves the report of the President pursuant to section 903(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000, transmitted on XXXXXXXX', with the blank completed with the appropriate date; and

(B) in the case of section 906(1), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section 906(2) is received by Congress, the matter after the resolving clause of which is as follows: 'That Congress approves the report of the President pursuant to section 906(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000, transmitted on XXXXXXXX', with the blank completed with the appropriate date.

(4) **MEDICAL DEVICE**- The term 'medical device' has the meaning given the term 'device' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(5) **MEDICINE**- The term 'medicine' has the meaning given the term 'drug' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(6) **UNILATERAL AGRICULTURAL SANCTION**- The term 'unilateral agricultural sanction' means any prohibition, restriction, or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to—

(A) a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures; or

(B) a mandatory decision of the United Nations Security Council.

(7) **UNILATERAL MEDICAL SANCTION**- The term 'unilateral medical sanction' means any prohibition, restriction, or condition on exports of, or the provision of assistance consisting of, medicine or a medical device with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to—

(A) a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures; or

(B) a mandatory decision of the United Nations Security Council.

SEC. 903. RESTRICTION.

(a) **NEW SANCTIONS**- Except as provided in sections 904 and 905 and notwithstanding any other provision of law, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity, unless—

(1) not later than 60 days before the sanction is proposed to be imposed, the President submits a report to Congress that—

(A) describes the activity proposed to be prohibited, restricted, or conditioned; and

(B) describes the actions by the foreign country or foreign entity that justify the sanction; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(b) **EXISTING SANCTIONS**- The President shall terminate any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act.

SEC. 904. EXCEPTIONS.

Section 903 shall not affect any authority or requirement to impose (or continue to impose) a sanction referred to in section 903—

(1) against a foreign country or foreign entity—

(A) pursuant to a declaration of war against the country or entity;

(B) pursuant to specific statutory authorization for the use of the Armed Forces of the United States against the country or entity;

(C) against which the Armed Forces of the United States are involved in hostilities; or

(D) where imminent involvement by the Armed Forces of the United States in hostilities against the country or entity is clearly indicated by the circumstances; or

(2) to the extent that the sanction would prohibit, restrict, or condition the provision or use of any agricultural commodity, medicine, or medical device that is—

(A) controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778);

(B) controlled on any control list established under the Export Administration Act of 1979 or any successor statute (50 U.S.C. App. 2401 et seq.); or

(C) used to facilitate the development or production of a chemical or biological weapon or weapon of mass destruction.

SEC. 905. TERMINATION OF SANCTIONS.

Any unilateral agricultural sanction or unilateral medical sanction that is imposed pursuant to the procedures described in section 903(a) shall terminate not later than 2 years after the date on which the sanction became effective unless—

(1) not later than 60 days before the date of termination of the sanction, the President submits to Congress a report containing—

(A) the recommendation of the President for the continuation of the sanction for an additional period of not to exceed 2 years; and

(B) the request of the President for approval by Congress of the recommendation; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

SEC. 906. STATE SPONSORS OF INTERNATIONAL TERRORISM.

U.S. Cuba Policy Report - Vol.7, No.10

(a) REQUIREMENT-

(1) **IN GENERAL-** Notwithstanding any other provision of this title (other than section 904), the export of agricultural commodities, medicine, or medical devices to Cuba or to the government of a country that has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. app. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)), or to any other entity in such a country, shall only be made pursuant to one-year licenses issued by the United States Government for contracts entered into during the one-year period of the license and shipped within the 12-month period beginning on the date of the signing of the contract, except that the requirements of such one-year licenses shall be no more restrictive than license exceptions administered by the Department of Commerce or general licenses administered by the Department of the Treasury, except that procedures shall be in place to deny licenses for exports to any entity within such country promoting international terrorism.

(2) **EXCEPTION-** Paragraph (1) shall not apply with respect to the export of agricultural commodities, medicine, or medical devices to the Government of Syria or to the Government of North Korea.

(b) **QUARTERLY REPORTS-** The applicable department or agency of the Federal Government shall submit to the appropriate congressional committees on a quarterly basis a report on any activities undertaken under subsection (a)(1) during the preceding calendar quarter.

(c) **BIENNIAL REPORTS-** Not later than two years after the date of enactment of this Act, and every two years thereafter, the applicable department or agency of the Federal Government shall submit a report to the appropriate congressional committees on the operation of the licensing system under this section for the preceding two-year period, including--

- (1) the number and types of licenses applied for;
- (2) the number and types of licenses approved;
- (3) the average amount of time elapsed from the date of filing of a license application until the date of its approval;
- (4) the extent to which the licensing procedures were effectively implemented; and
- (5) a description of comments received from interested parties about the extent to which the licensing procedures were effective, after the applicable department or agency holds a public 30-day comment period.

SEC. 907. CONGRESSIONAL PROCEDURES.

(a) **REFERRAL OF REPORT-** A report described in section 903(a)(1) or 905(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(b) **REFERRAL OF JOINT RESOLUTION-**

(1) **IN GENERAL-** A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations, and a joint resolution introduced in the House of Representatives shall be referred to the Committee on International Relations.

(2) **REPORTING DATE-** A joint resolution referred to in paragraph (1) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

SEC. 908. PROHIBITION ON UNITED STATES ASSISTANCE AND FINANCING.

(a) PROHIBITION ON UNITED STATES ASSISTANCE-

(1) **IN GENERAL-** Notwithstanding any other provision of law, no United States Government assistance, including United States foreign assistance, United States export assistance, and any United States credit or guarantees shall be available for exports to Cuba or for commercial exports to Iran, Libya, North Korea, or Sudan.

(2) **RULE OF CONSTRUCTION-** Nothing in paragraph (1) shall be construed to alter, modify, or otherwise affect the provisions of section 109 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6039) or any other provision of law relating to Cuba in effect on the day before the date of the enactment of this Act.

(3) **WAIVER-** The President may waive the application of paragraph (1) with respect to Iran, Libya, North Korea, and Sudan to the degree the President determines that it is in the national security interest of the United States to do so, or for humanitarian reasons.

(b) PROHIBITION ON FINANCING OF AGRICULTURAL SALES TO CUBA-

(1) **IN GENERAL-** No United States person may provide payment or financing terms for sales of agricultural commodities or products to Cuba or any person in Cuba, except in accordance with the following terms (notwithstanding part 515 of title 31, Code of Federal Regulations, or any other provision of law):

- (A) Payment of cash in advance.
- (B) Financing by third country financial institutions (excluding United States persons or Government of Cuba entities), except that such financing may be confirmed or advised by a United States financial institution.

Nothing in this paragraph authorizes payment terms or trade financing involving a debit or credit to an account of a person located in Cuba or of the Government of Cuba maintained on the books of a United States depository institution.

(2) **PENALTIES-** Any private person or entity that violates paragraph (1) shall be subject to the penalties provided in the Trading With the Enemy Act for violations under that Act.

(3) **ADMINISTRATION AND ENFORCEMENT-** The President shall issue such regulations as are necessary to carry out this section, except that the President, in lieu of issuing new regulations, may apply any regulations in effect on the date of the enactment of this Act, pursuant to the Trading With the Enemy Act, with respect to the conduct prohibited in paragraph (1).

(4) **DEFINITIONS-** In this subsection--

- (A) the term 'financing' includes any loan or extension of credit;
- (B) the term 'United States depository institution' means any entity (including its foreign branches or subsidiaries) organized under the laws of any jurisdiction within the United States, or any agency, office or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (including a bank, savings bank, savings association, credit union, trust company, or United States bank holding company); and
- (C) the term 'United States person' means the Federal Government, any State or local government, or any private person or entity of the United States.

SEC. 909. PROHIBITION ON ADDITIONAL IMPORTS FROM CUBA.

Nothing in this title shall be construed to alter, modify, or otherwise affect the provisions of section 515.204 of title 31, Code of Federal Regulations, relating to the prohibition on the entry into the United States of merchandise that (1) is of Cuban origin, (2) is or has been located in or transparted from or through Cuba, or (3) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

SEC. 910. REQUIREMENTS RELATING TO CERTAIN TRAVEL-RELATED TRANSACTIONS WITH CUBA.

(a) **AUTHORIZATION OF TRAVEL RELATING TO COMMERCIAL SALE OF AGRICULTURAL COMMODITIES-** The Secretary of the Treasury shall promulgate regulations under which the travel-related transactions listed in paragraph (c) of section 515.560 of title 31, Code of Federal Regulations, may be authorized on a case-by-case basis by a specific license for travel to, from, or within Cuba for the commercial export sale of agricultural commodities pursuant to the provisions of this title.

(b) PROHIBITION ON TRAVEL RELATING TO TOURIST ACTIVITIES-

(1) **IN GENERAL-** Notwithstanding any other provision of law or regulation, the Secretary of the Treasury, or any other Federal official, may not authorize the travel-related transactions listed in paragraph (c) of section 515.560 of title 31, Code of Federal Regulations, either by a general license or on a case-by-case basis by a specific license for travel to, from, or within Cuba for tourist activities.

(2) **DEFINITION-** In this subsection, the term 'tourist activities' means any activity with respect to travel to, from, or within Cuba that is not expressly authorized in subsection (a) of this section, in any of paragraphs (1) through (12) of section 515.560 of title 31, Code of Federal Regulations, or in any section referred to in any of such paragraphs (1) through (12) (as such sections were in effect on June 1, 2000).

SEC. 911. EFFECTIVE DATE.

(a) **IN GENERAL-** Except as provided in subsection (b), this title shall take effect on the date of enactment of this Act, and shall apply thereafter in any fiscal year.

(b) **EXISTING SANCTIONS-** In the case of any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act, this title shall take effect 120 days after the date of enactment of this Act, and shall apply thereafter in any fiscal year.

MACK NEGOTIATES WITH WHITE HOUSE AND SEES KEY BILL BECOME LAW

Senators Connie Mack (R-FL) and Frank Lautenberg (D-NJ), in lengthy negotiations over the August Congressional recess with Deputy Secretary of the Treasury Stuart Eizenstat and White House Budget Director Jack Lew, saw their *Justice for Victims of Terrorism Act* (USCPR, Vol.6, No.11) folded into H.R. 3244, the *Victims of Trafficking and Violence Protection Act of 2000*, to become law. Mack, along with his colleagues, has been fighting to help the families of the Brothers-to-the-Rescue pilots shot down on February 24, 1996 by Cuban fighter pilots over international waters to collect on court judgments (USCPR, Vol.6 No.2). The families have attempted unsuccessfully in recent years to recover damages under the 1996 *Anti-Terrorism and Effective Death Penalty Act* permitting lawsuits by U.S. nationals who were victims of state sponsored terrorism. In 1998 President Clinton first supported then waived another provision, Section 117, in an effort to help the families to collect (USCPR, Vol.5, No.11) from the frozen assets of terrorist nations held in the United States. At an October 27, 1999 Judiciary Committee hearing, Mack testified to promote his legislation, S.1796, introduced the day before. Finally on October 5th, Mack's bill was reported out in Conference (106-939) and as a result of negotiations was signed by Clinton on October 28th. According to a statement released by the White House, the compromise achieves two important goals: "providing compensation for the victims of terrorism and protecting the President's ability to act on behalf of the nation on important foreign policy and national security issues." In the case of judgments against Cuba, the families will receive \$58 million in compensatory damages foregoing punitive damages. The *Justice for Victims of Terrorism Act* language is reprinted below.

JUSTICE FOR VICTIMS OF TERRORISM ACT

67-108

106TH CONGRESS
Report
HOUSE OF REPRESENTATIVES

2d Session

106-939

VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000

SECTION I. SHORT TITLE.

This Act may be cited as the 'Victims of Trafficking and Violence Protection Act of 2000'.

SEC. 2002. PAYMENT OF CERTAIN ANTI-TERRORISM JUDGMENTS.

(a) PAYMENTS-

- (1) **IN GENERAL-** Subject to subsections (b) and (c), the Secretary of the Treasury shall pay each person described in paragraph (2), at the person's election-
 - (A) 110 percent of compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest under section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected on June 2, 2000), subject to final appellate review of that order; or
 - (B) 100 percent of the compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest, as provided in section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected June 2, 2000), subject to final appellate review of that order.

Payments under this subsection shall be made promptly upon request.

- (2) **PERSONS COVERED-** A person described in this paragraph is a person who--

- (A)(i) as of July 20, 2000, held a final judgment for a claim or claims brought under section 1605(a)(7) of title 28, United States Code, against Iran or Cuba, or the right to payment of an amount awarded as a judicial sanction with respect to such claim or claims; or
- (ii) filed a suit under such section 1605(a)(7) on February 17, 1999, June 7, 1999, January 28, 2000, March 15, 2000, or July 27, 2000;
- (B) relinquishes all claims and rights to compensatory damages and amounts awarded as judicial sanctions under such judgments;
- (C) in the case of payment under paragraph (1)(A), relinquishes all rights and claims to punitive damages awarded in connection with such claim or claims; and
- (D) in the case of payment under paragraph (1)(B), relinquishes all rights to execute against or attach property that is at issue in claims against the United States before an international tribunal, that is the subject of awards rendered by such tribunal, or that is subject to section 1610(f)(1)(A) of title 28, United States Code.

(b) FUNDING OF AMOUNTS-

- (1) **JUDGMENTS AGAINST CUBA-** For purposes of funding the payments under subsection (a) in the case of judgments and sanctions entered against the Government of Cuba or Cuban entities, the President shall vest and liquidate up to and not exceeding the amount of property of the Government of Cuba and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, or regulation issued thereunder. For the purposes of paying amounts for judicial sanctions, payment shall be made from funds or accounts subject to sanctions as of April 18, 2000, or from blocked assets of the Government of Cuba.

(2) **JUDGMENTS AGAINST IRAN-** For purposes of funding payments under subsection (a) in the case of judgments against Iran, the Secretary of the Treasury shall make such payments from amounts paid and liquidated from--

- (A) rental proceeds accrued on the date of enactment of this Act from Iranian diplomatic and consular property located in the United States; and
- (B) funds not otherwise made available in an amount not to exceed the total of the amount in the Iran Foreign Military Sales Program account within the Foreign Military Sales Fund on the date of enactment of this Act.

(c) **SUBROGATION-** Upon payment under subsection (a) with respect to payments in connection with a Foreign Military Sales Program account, the United States shall be fully subrogated, to the extent of the payments, to all rights of the person paid under that subsection against the debtor foreign state. The President shall pursue these subrogated rights as claims or offsets of the United States in appropriate ways, including any negotiation process which precedes the normalization of relations between the foreign state designated as a state sponsor of terrorism and the United States, except that no funds shall be paid to Iran, or released to Iran, from property blocked under the International Emergency Economic Powers Act or from the Foreign Military Sales Fund, until such subrogated claims have been dealt with to the satisfaction of the United States.

(d) **SENSE OF CONGRESS-** It is the sense of Congress that the President should not normalize relations between the United States and Iran until the claims subrogated have been dealt with to the satisfaction of the United States.

(e) **REAFFIRMATION OF AUTHORITY-** Congress reaffirms the President's statutory authority to manage and, where appropriate and consistent with the national interest, vest foreign assets located in the United States for the purposes, among other things, of assisting and, where appropriate, making payments to victims of terrorism.

(f) **AMENDMENTS-** (1) Section 1610(f) of title 28, United States Code, is amended--

- (A) in paragraphs (2)(A) and (2)(B)(ii), by striking 'shall' each place it appears and inserting 'should make every effort to'; and
- (B) by adding at the end the following new paragraph:

'(3) **WAIVER-** The President may waive any provision of paragraph (1) in the interest of national security.'

(2) Subsections (b) and (d) of section 117 of the Treasury Department Appropriations Act, 1999 (as contained in section 101(h) of Public Law 105-277) are repealed.

SEC. 2003. AID FOR VICTIMS OF TERRORISM.

(a) **MEETING THE NEEDS OF VICTIMS OF TERRORISM OUTSIDE THE UNITED STATES-**

(1) **IN GENERAL-** Section 1404B(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(a)) is amended as follows:

(a) **VICTIMS OF ACTS OF TERRORISM OUTSIDE UNITED STATES-**

(1) **IN GENERAL-** The Director may make supplemental grants as provided in 1402(d)(5) to States, victim service organizations, and public agencies (including Federal, State, or local governments) and nongovernmental organizations that provide assistance to victims of crime, which shall be used to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, and ongoing assistance, including during any investigation or prosecution, to victims of terrorist acts or mass violence occurring outside the United States who are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(2) **VICTIM DEFINED-** In this subsection, the term 'victim'--

- '(A) means a person who is a national of the United States or an officer or employee of the United States Government who is injured or killed as a result of a terrorist act or mass violence occurring outside the United States; and
- '(B) in the case of a person described in subparagraph (A) who is less than 18 years of age, incompetent, incapacitated, or deceased, includes a family member or legal guardian of that person.

(3) **RULE OF CONSTRUCTION-** Nothing in this subsection shall be construed to allow the Director to make grants to any foreign power (as defined by section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a)) or to any domestic or foreign organization operated for the purpose of engaging in any significant political or lobbying activities.'

(2) **APPLICABILITY-** The amendment made by this subsection shall apply to any terrorist act or mass violence occurring on or after December 21, 1988, with respect to which an investigation or prosecution was ongoing after April 24, 1996.

(3) **ADMINISTRATIVE PROVISION-** Not later than 90 days after the date of enactment of this Act, the Director shall establish guidelines under section 1407(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(a)) to specify the categories of organizations and agencies to which the Director may make grants under this subsection.

(4) **TECHNICAL AMENDMENT-** Section 1404B(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(b)) is amended by striking '1404(d)(4)(B)' and inserting '1402(d)(5)'.

(b) **AMENDMENTS TO EMERGENCY RESERVE FUND-**

(1) **CAP INCREASE-** Section 1402(d)(5)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(A)) is amended by striking '\$50,000,000' and inserting '\$100,000,000'.

(2) **TRANSFER-** Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended by striking 'in excess of \$500,000' and all that follows through 'than \$500,000' and inserting 'shall be available for deposit into the emergency reserve fund referred to in subsection (d)(5) at the discretion of the Director. Any remaining unobligated sums'.

(c) **COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM-**

(1) **IN GENERAL-** The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404B the following:

'SEC. 1404C. COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM.

(a) **DEFINITIONS-** In this section:

(1) **INTERNATIONAL TERRORISM-** The term 'international terrorism' has the meaning given the term in section 2331 of title 18, United States Code.

(2) **NATIONAL OF THE UNITED STATES-** The term 'national of the United States' has the meaning given the term in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(3) **VICTIM-**

'(A) **IN GENERAL-** The term 'victim' means a person who--

- '(i) suffered direct physical or emotional injury or death as a result of international terrorism occurring on or after December 21, 1988 with respect to which an investigation or prosecution was ongoing after April 24, 1996; and
- '(ii) as of the date on which the international terrorism occurred, was a national of the United States or an officer or employee of the United States Government.

'(B) **INCOMPETENT, INCAPACITATED, OR DECEASED VICTIMS-** In the case of a victim who is less than 18 years of age, incompetent, incapacitated, or deceased, a family member or legal guardian of the victim may receive the compensation under this section on behalf of the victim.

'(C) **EXCEPTION-** Notwithstanding any other provision of this section, in no event shall an individual who is criminally culpable for the terrorist act or mass violence receive any compensation under this section, either directly or on behalf of a victim.

'(b) **AWARD OF COMPENSATION-** The Director may use the emergency reserve referred to in section 1402(d)(5)(A) to carry out a program to compensate victims of acts of international terrorism that occur outside the United States for expenses associated with that victimization.

'(c) **ANNUAL REPORT-** The Director shall annually submit to Congress a report on the status and activities of the program under this section, which report shall include--

'(1) an explanation of the procedures for filing and processing of applications for compensation;

'(2) a description of the procedures and policies instituted to promote public awareness about the program;

'(3) a complete statistical analysis of the victims assisted under the program, including--

'(A) the number of applications for compensation submitted;

'(B) the number of applications approved and the amount of each award;

'(C) the number of applications denied and the reasons for the denial;

'(D) the average length of time to process an application for compensation; and

'(E) the number of applications for compensation pending and the estimated future liability of the program; and

'(4) an analysis of future program needs and suggested program improvements.'

'(2) **CONFORMING AMENDMENT-** Section 1402(d)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(B)) is amended by inserting ', to provide compensation to victims of international terrorism under the program under section 1404C,' after 'section 1404B'.

'(d) **AMENDMENTS TO VICTIMS OF CRIME FUND-** Section 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is amended by adding at the end the following: 'Notwithstanding section 1402(d)(5), all sums deposited in the Fund in any fiscal year that are not made available for obligation by Congress in the subsequent fiscal year shall remain in the Fund for obligation in future fiscal years, without fiscal year limitation.'

CASTRO AND CHAVEZ PEN CARACAS-HAVANA OIL DEAL

The signing of the Caracas Energy Cooperation Accord (CECA) will stand as the most significant turn of events for Cuba since the massive Soviet oil-for-sugar swap subsidies ended in 1991. Venezuela's terms for the five year renewable oil deal call for participating countries to receive a total of 80,000 barrels per day (b/d) and for Cuba to receive separately 106,000 b/d preferentially priced from \$15-to-\$30 per barrel at a rate of 2% interest to be paid over a 15 year period. On October 22nd, *El Nacional* reported the Venezuelan ambassador to Havana, Julio Montes, as saying in an interview that financing in the range of 5%-to-25% of invoice is planned through the creation of an OPEC bank. In addition, Cuba will receive a 2-year grace period while the other Caribbean and Central American countries will receive one year. The agreement calls for the transfer to Cuba of Venezuela's patented Orimulsion heavy oil technology and provides Cuba with 38.69 million barrels or 5.3 million metric tons (mt) of crude oil annually. Along with its own production of 2.2 million mt, CECA would serve to fulfill Cuba's annual petroleum requirement of 7.5 million mt. At current prices, \$32.70/bbl, 5.3 million mt of crude for December delivery would be valued at \$1.265 billion.

Cuba also will be permitted to pay for the oil in goods and services by: setting up pharmaceutical joint ventures with Venezuela; providing medical doctors; providing cement to construct housing; providing sugar technology; and providing educational scholarships for Venezuelan students in Cuba. Under the agreement, Cuba is expected to send 450 doctors and 3,000 sports and physical education trainers to be housed and fed by the Venezuelan government. The bilateral agreement with Cuba was signed on Monday, October 30th in the presidential palace, Miraflores, at the tail-end of Castro's historic five day visit. Far from a normal business deal, these favorable barter arrangements amount to a virtual Cuban colonization of Venezuelan society in the guise of subsidized support. It remains to be seen whether the liberal terms of the CECA eventually displace the 20-year old Mexican-Venezuelan San Jose Pact (USCPR, Vol.6, No.6) with its already generous terms. Chavez separately signed bilateral accords on October 19th at the Club Militar with the leaders of 10 of the 11 nations that take part in the San Jose Pact: Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, and Panama, while Barbados is studying the agreement. Chavez, closely allied with Fidel Castro (USCPR, Vol.5, No.11), further recommended that Venezuela's state owned oil monopoly, PDVSA, associate with Cuba's state oil company Cubapetroleo to explore for oil in a manner similar to Brazil's Petrobras. Talks are underway for Russia and Venezuela to swap oil for delivery to their respective markets in return for PDVSA's investment in the 76,000 b/d Soviet-built Cienfuegos oil refinery. In this scheme, Venezuela and Russia would provide the technology while the Spanish company, Repsol, would provide the financing. Given that Venezuela played a pivotal role in cutting OPEC production quotas which led to a tripling of crude oil prices over the past two years, average U.S. purchases of 1.484 million b/d amount to nearly half of Venezuela's oil production and could be seen as indirectly subsidizing the Caracas-Havana deal.

CURRENCIES & COMMODITIES

1 Euro = 0.8414 Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 17.669 Cuban Peso

Rates as of October 31, 2000.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 10.15
Year ago nearby = 6.88
Future (Mar. '01) = 9.81
High = 11.40
Low = 5.95

Cash/Spot price as of October 31, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$per bbl.)

Light Sweet (WTI)
Cash/Spot (fob) = 32.65-32.70
Year ago (Oct. 29) = 21.75
Future (Dec. '00) = 32.70

Cash/Spot price as of October 31, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 7,390
Year ago (Oct. 31) = 7,890
(\$ per metric ton)
Official Price: October 31, 2000.
Source: London Metal Exchange

Cobalt = 16.00 -16.80
Year ago (Oct. 25) = 14.75 - 15.70
(\$ per pound for 99.8%)
Price: October 25, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

WTO PANEL CREATED AS PERNOD RICARD VOWS TO REPEAL SECTION 211 FOLLOWING SETBACK AT SUPREME COURT

The U.S. Supreme Court's October 2000 Term decision not to hear arguments on Pernod Ricard's appeal in *Havana Club v. Bacardi* prompted the French distiller to call for the repeal of Section 211 (USCPR, Vol.5, No.10), which in their view stifles its use of the Havana Club trademark in the United States despite the embargo against Cuba. Following the Supreme Court October 2nd announcement, Mark Orr, vice president for North American affairs with Pernod Ricard said, "Today's decision does not reflect on the substance of the case. The decision underscores why early repeal of Section 211 is needed to ensure that internationally agreed intellectual property protections are enforced in the U.S. and worldwide." The WTO, of which Cuba is a founding member, established a panel to hear the European Union's challenge of Section 211 banning the enforcement of trademarks involving uncompensated confiscated property. The settlement dispute panel was created on September 26th following the failure of the EU's attempt to set up a panel on July 27th (USCPR, Vol.7, No.7) when the U.S. blocked its request. Upon impanelment, Orr exclaimed, "We are optimistic that the WTO panel will rule against Section 211, leading to the eventual repeal of this discriminatory special interest provision by the U.S. Congress."

The U.S., which takes the position that Section 211 protects property owners, considers the Cuban-French joint venture, Havana Club Holding, a specially designated national (USCPR, Vol.6, No.4) utilizing uncompensated confiscated property for pecuniary gain.

CUBANS CALL OFF TRIP TO U.S. SPONSORED BY CHAMBER OF COMMERCE

Following two visits to Cuba by U.S. Chamber of Commerce delegations in July 1999 (USCPR, Vol.6, No.7) and June 2000 (USCPR, Vol.7, No.6), the Cuban government has called off the planned 10-day October 2000 visit to the United States of independent farmers and restaurateurs sponsored by the U.S. Chamber. One of the Chamber's goals is "to determine what role, if any, the U.S. Chamber of Commerce can play to spur the growth of enterprise in Cuba," said Thomas Donohue the Chamber's President and CEO who headed the first trip to Cuba. After that trip, Donohue acknowledged that "more than any other factor, the lack of independent, private enterprise has held Cuba back. We now have an opportunity to help Cuba move to the right side of history, even if Castro won't." Senior Vice President for International, Economic and National Security Affairs, L. Craig Johnstone, who led the Chamber's second trip to Cuba, received the go-slow message which was transmitted to him by the incoming president of the Cuban Chamber of Commerce that promotes business activities for the Communist-controlled island's state companies. It appears the Cuban small restaurant owners may make the trip before the end of the year while the independent farmers may be permitted to visit in the Spring of 2001 when they will be better able to tour farms and agricultural businesses in the United States. It is believed the Cuban government canceled the October visit, in part, because of the pending food and medicine legislation in the U.S. Congress. The Chamber has been at the forefront of the anti-embargo movement since creating a coalition on January 13, 1998 (USCPR, Vol.5, No.1).

CASTRO IMPOSES RETALIATORY TAX ON TELEPHONE CALLS

In retaliation for the passage of legislation in the U.S. Congress called the *Justice for Victims of Terrorism Act* (USCPR, Vol.6, No.11) introduced by Senators Connie Mack (R-FL) and Frank Lautenberg (D-NJ), Cuba's Fidel Castro signed a so-called decree-law on October 23rd unilaterally applying a 10 percent tax on all telephone calls between the United States and Cuba including those through third countries. The Clinton administration has opposed such victims of terrorism legislation (USCPR, Vol.5, No.11). The new Act, contained within the October 5th Conference Report to H.R. 3244 of the *Victims of Trafficking and Violence Protection Act 2000*, compensates the families of the volunteer pilots from the Brothers-to-the-Rescue organization who were killed in a shootdown by Cuban MiGs on February 24, 1996 over international waters (USCPR, Vol.3, No.3). The compensation, awarded to fulfill court judgments entered against the "Government of Cuba or Cuban entities," is derived from blocked assets belonging to the Cuban government and frozen by the United States following the imposition of the trade embargo in 1962. Castro's decree imposes the charge in addition to the specified contract rate agreed upon between the Cuban state telephone company, ETECSA, and U.S. telephone companies in 1994.

DOMESTIC BRIEFS

U.S. SUPREME COURT DECLINES TO HEAR BACARDI TRADEMARK CASE – The U. S. Supreme Court (Havana Club v. Bacardi, Case No. 99-1957) declined to hear arguments in Pernod Ricard's petition of its ongoing dispute with Bacardi-Martini over the trademark rights to the Havana Club brand rum. Without comment, the Supreme Court on Monday, October 2nd let stand the lower court ruling of April 13, 1999 (USCPR, Vol.6,No.4) and the Second Circuit Court of Appeals decision of February 4, 2000 (USCPR, Vol.7,No.2). The French distiller through Havana Club Holding, S.A., its joint venture with the Cuban government, has asserted that Bacardi's use of the Havana Club brand in the United States constitutes "unfair competition" and has sought to enjoin Bacardi which entered into an agreement in 1997 with Jose Arechabala, S.A. (JASA), the brand's founder. To create greater trademark protection with respect to uncompensated confiscated property, U.S. Senators Bob Graham (D-FL) and Connie Mack (R-FL) inserted language into the Omnibus Appropriations for 1999 that has become known as "Section 211" (Reprinted in USCPR, Vol.6,No.4). There is a likelihood Pernod Ricard may venture upon yet another path in its attempt to repeal Section 211 by legislatively attempting to counter the U.S. law that protects uncompensated confiscated private property when the 107th Congress convenes in January 2001.

INS COMMISSIONER MEISSNER ANNOUNCES DEPARTURE – Doris Meissner, commissioner of the Immigration and Naturalization Service (INS), presided over a period of agency growth and tumult involving the 1994 Cuban rafter crisis (USCPR, Vol.2,No.2) and the high profile Elian Gonzalez case (USCPR, Vol.7,No.1). As a result of the rafter crisis, the Clinton administration changed the course of three decades of U.S. immigration policy toward Cuban refugees escaping the Castro regime instituting the interdiction at sea policy designated in the joint statement of May 2, 1995. With regard to the Elian Gonzalez case, the INS commissioner decided the boy belonged with his father and worked closely with Attorney General Janet Reno in the Justice Department's effort to return to Cuba the boy who had been rescued off the south Florida coast by two fishermen after his mother and relatives drowned at sea. Meissner's October 18th departure announcement made no mention of the 1999-2000 Elian Gonzalez case in which armed INS agents removed the young Cuban boy from the home of his Miami relatives on April 22nd in a predawn raid (USCPR, Vol.7,No.4). Elian and his father returned to Cuba following a June 28th Supreme Court rejection of the Miami family's final appeal in an attempt to keep the boy from going back to Communist-controlled Cuba (USCPR, Vol.7,No.6). Meissner, a Clinton administration political appointee, who served nearly eight years as INS commissioner will return to the Carnegie Endowment for International Peace in Washington.

CONGRESS AND THE STATE DEPARTMENT SET TO RESPOND TO CASTRO'S RETALIATORY TAX ON TELEPHONE CALLS – The decree signed on October 23rd by Cuba's Fidel Castro retaliating for the passage of the *Justice for Victims of Terrorism Act* seems to have come as somewhat of a surprise drawing sharp criticism from the American side. "We are examining our options," said Mark Thiessen, the spokesman for Senate Foreign Relations Committee Chairman Jesse Helms. The 10 percent tax on all telephone calls between the U.S. and Cuba was imposed by Castro in retaliation to the new law that based on court judgments compensates the victims of terrorism and their families. "Fidel Castro murdered American citizens and now he wants the Cuban American community to pay for the bullets. This is a death tax from Fidel Castro and it is the price of appeasing a terrorist regime," charged Thiessen. Nancy Seegerdahl, press spokeswoman for Senator Connie Mack (R-FL), the law's cosponsor said, "Castro's threat to limit and stifle speech once again reminds us who he is and why the world would be better off when we are rid of him." Former U.S. ambassador and coordinator for Cuban Affairs at the State Department, Dennis Hays said, "The fact that telephone rates to Cuba are already among the highest in the region makes no difference to Castro. It is incumbent upon the Clinton administration to reject this cynical maneuver." Hays is currently Executive Vice President of the Cuban American National Foundation based in Miami. The State Department is expected to craft a formal response in a matter of weeks as are the telephone companies which have thus far transferred \$302,900,472 (USCPR, Vol.7,No.9) to the Castro regime under provisions of the 1992 *Cuban Democracy Act*. (MH,"Block of Cuba phone charge sought," 10/25/00, p.10A).

NOTABLE QUOTES

"Timing is everything. Last week, the people of Serbia offered an inspiring reminder of how fragile even the most seemingly entrenched of dictatorships actually are when faced with a popular revolt backed by international efforts to deny the regime legitimacy. This week, the U.S. Congress is set to vote on an agricultural appropriations bill that threatens to impart new legitimacy to the totalitarian governments of Cuba, Iran, North Korea and Libya by authorizing the sale of American food products to those countries. If only because this breach in the sanctions regimes imposed by the United States on each of these nations will allow the latter to feed their people better – assuming, for the moment, that the food will actually wind up in the mouths of the population as a whole, rather than just the military and other members of the ruling elite – it will probably help to alleviate such pressure for systematic change as the dictators in Havana, Tehran, Pyongyang and Tripoli might currently feel." Frank J. Gaffney Jr. served as Acting Assistant Secretary of Defense for International Security Policy in the Reagan administration and is the president of the Center for Security Policy in Washington, D.C. (TWT, "Perils of dealing with dictators," 10/10/00).

"I don't believe we should pay any price, bear any burden. But I define our interests more broadly than some do. I believe America needs a renewed internationalism, not an old isolationism." Hillary Rodham Clinton, first lady and U.S. Senate candidate in New York, advocates renewed internationalism and defines standards for U.S. intervention in a speech before the Council on Foreign Relations in New York City on Tuesday, October 17th. (BLP, "Clinton defines U.S. intervention standard in policy speech, 10/17/00).

"Even in 1999, more people around the world won the right to choose their leaders than in 1989, when the Berlin Wall fell. But if new democracies don't deliver in countries like Nigeria, Indonesia and Ukraine, and old democracies fail in countries like Colombia, the pendulum that swung toward freedom could swing back. We have to win democracy's post-election contests, too, and that requires America's full attention and support. A second question is how to promote change in those nations that have been most hostile to the United States over the last decade, and how to manage change when it comes. That question applies to Iran and to Cuba. It applies to Iraq. It also applies to North Korea." Assistant to the President for National Security Affairs, Samuel R. Berger's remarks prepared for delivery at Georgetown University on October 19, 2000.

"I don't come to seek fuel, although Venezuela has plenty. I come to seek cooperation. I come to seek brotherhood." Fidel Castro speaks at a press conference for the signing of the joint Caracas Energy Cooperation Accord between Venezuela and Cuba on October 30th at the Miraflores presidential palace in Caracas. (BLP, "Venezuela Signs Deal to Supply Cuba with Crude Oil," 10/30/00).

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Source Guide - the following abbreviations should serve as a partial guide to sources contained in the *U.S. Cuba Policy Report*: AP – Associated Press; BLP – Bloomberg LP; BG – The Boston Globe; CR – Congressional Record; ENH -- El Nuevo Herald; FA – Foreign Affairs Magazine; FP – Financial Post; FT – Financial Times; GI – Gramma International; JOC – Journal of Commerce; LAT – Los Angeles Times; MH – The Miami Herald; MB – Metal Bulletin; NPR – National Public Radio; NYT – The New York Times; OGJ – Oil & Gas Journal; PR – Press Release; RL – Reuters Limited; ST – The Seattle Times; WSJ – The Wall Street Journal; TWT – The Washington Times; WP – The Washington Post; WTD – Washington Trade Daily; ZNA – ZENIT News Agency.

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**Institute for U.S. Cuba Relations
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Ralph J. Galliano, Editor

CAMPAIGN 2000: FLORIDA MAY DECIDE PRESIDENTIAL ELECTION MIAMI-DADE COUNTY CUBAN-AMERICAN VOTE PIVOTAL

WASHINGTON – Following the mandatory ballot recount required by Florida state law when election results fall within one-half-of-one-percent and in accordance with the extended recount ordered by the Florida Supreme Court, Florida Secretary of State Katherine Harris certified Texas Governor George W. Bush on Sunday, November 26th as the winner. This entitled Gov. Bush to receive the state's prized 25 electoral votes awarding him a total of 271, enough electoral votes to decide the 2000 presidential election contest over Vice President Al Gore. That statewide count was 2,912,790 for Bush and 2,912,253 for Gore – a virtual 50-50 tie -- for a margin of 537 votes favoring Bush. Keeping in mind that Bill Clinton, who carefully cultivated Cuban-Americans, was the first Democratic presidential nominee to carry Miami-Dade County ('92 -- 47% to 43% & '96 – 57% to 38%) since the 1976 election, the county tallied 289,574 (46%) for Bush and 328,867 for Gore (53%), for a margin of 39,293 favoring Gore. Based on a Miami-Dade Elections Board sample of 14 precincts that register 85% Hispanic voters (largely Cuban-American), Bush/Cheney received 72.8% and Gore/Lieberman 26.7% of the vote. However, these same precincts in the 1996 presidential election resulted in Clinton/Gore receiving 60.8% over Dole/Kemp with 39%. In the 1998 governor's race, Jeb Bush and Frank Brogan received 85% and Buddy MacKay and his running mate, Rick Dantzler, received 15% using the same 85% Hispanic precinct criteria. 1996 was the year incumbent President Bill Clinton signed the *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act*. Although he had opposed the so-called Helms-Burton legislation, politically, Clinton had no choice but to sign the bill into law during an election year, particularly after the downing by Castro's Cuban MiGs of the two Brothers-to-the-Rescue planes in the Florida Straits that killed four Cuban-Americans. At the same time, Senate Majority Leader Bob Dole, in the minds of the Cuban-American community, was too closely associated with Dwayne Andreas, head of the agriculture conglomerate Archer Daniels Midland (ADM), who had his sites set on busting the trade embargo and opening the Cuban market to American agri-business. That perception cost Dole dearly in Cuban-American votes cast. In the 2000 election, we can see from an analysis of the votes cast in these same sample Hispanic Miami-Dade precincts that the Gore/Lieberman ticket received 11.7% more support among those voters than did MacKay/Dantzler in 1998 but 34.1% less than Clinton/Gore in 1996. On the other hand, Bush/Cheney received 12.2% fewer votes for president and vice president from Hispanics than the Bush/Brogan ticket did for governor and lt. governor in 1998. Therefore, it's likely that having Lieberman on the ticket helped the Gore campaign in Florida more than the Elian Gonzalez affair hurt the Gore campaign within the Cuban-American community.

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LIEBERMAN'S INROADS INTO THE CUBAN-AMERICAN VOTE – The Gore campaign knew it needed Florida's 25 electoral votes to reach the 270 required to win the presidential election and hoped to peel off as much of the Republican-leaning Cuban-American vote as possible in Miami-Dade County. While Lieberman's strong anti-Castro record in Congress was well known among leaders familiar with Cuba policy, it was less well known among the rank-and-file voters of Miami's Little Havana. Both the Bush and Gore campaigns made countless trips to the state of Florida and especially to the Miami area. In an October 20th letter addressed to Francisco J. "Pepe" Hernandez, president of the Cuban American National Foundation (CANF), Lieberman wrote, "I enjoyed seeing you again on my most recent trip to Florida. Throughout my Senate career I have had the honor of working with you and the Cuban American National Foundation on several important causes...My voting record is clear, and my dedication to these goals is and will remain unwavering. As you know, I have long supported our current Cuba policy, and opposed all attempts to change it." Lieberman's personal relationship with Pepe Hernandez and Jorge Mas Canosa, the late CANF founder, dated back to Lieberman's 1988 U.S. Senate campaign when he defeated Castro-admirer Lowell Weicker (R-CT). Seeking a more public meeting with CANF, Lieberman, relying on their strong bond of friendship, actually placed Hernandez in somewhat of an untenable position since Mas Canosa's son and CANF chairman, Jorge Mas Santos, by this time had already endorsed George W. Bush for president. Lieberman's meeting with Pepe Hernandez, three other CANF directors, and 40 attendees took place on Monday, October 23rd at downtown Miami's Freedom Tower, the home of the Mas Canosa Foundation. Implicitly, it suggested that perhaps support for Bush among Cuban-Americans was not as solid as expected. On election evening, November 7th, the television networks through their Voter News Service (VNS) began to report that exit polling showed the Hispanic vote in Florida (11% of the population) split 50-50 between Bush and Gore. As it turned out, VNS had included a first-time Cuban-American/Hispanic/Not Hispanic question on their exit poll questionnaire which showed 2% identifying themselves as Cuban-American and 8% as other Hispanic. According to Lee C. Shapiro of VNS in New York, the Florida exit poll had a 13% margin of error, much higher than standard polling, and in tabulating the 1,818 responses did not isolate Cuban-American results in Miami-Dade County for which 44% of the registered voters are identified as Hispanics – largely Republican-registered Cuban-Americans. Although the Clinton-Gore administration built a strong base of support over the years within Miami-Dade County's Cuban-American community, Gore-Lieberman couldn't be expected to achieve the same high level of support but could diminish Bush's level of support among Cuban-Americans enough to tilt the state's results and capture Florida's 25 electoral votes to win the presidency (USCPR, Vol.7, No.8).

MYTH OF THE ELIAN EFFECT – More often than not one hears the assertion that the Elian affair caused Al Gore to lose votes in precincts of Miami's Little Havana and therefore the state of Florida. Gore is on record as having supported bipartisan legislation in the House and Senate to grant permanent resident status for Elian (USCPR, Vol.6, No.12 & Vol.7, No.1). Monitoring the ebb and flow of the county's voter registration numbers, an analysis of those figures shows there appears to have been no discernible negative impact against Gore in the November 7th election over the handling of the Elian affair by the Clinton administration. Among Democrats, Hispanics lost a net of 661 registered voters between the time Elian was seized (4/22/00) (USCPR, Vol.7, No.4) and the time he was returned to Cuba (6/28/00) with his father (USCPR, Vol.7, No.6). Voter registration figures posted at the beginning of the year (2/4/00) through election day show an increase of Hispanic Democratic voters by 6,745; independents increased by 12,846 voters; and, Republicans increased by 22,002 voters. Arguably, the extent of the heavily Republican Cuban-American vote cast in Miami-Dade County on November 7th ultimately may be described as decisive and certainly sufficient enough for Bush-Cheney 2000 to carry the state of Florida's 25 electoral votes and to assume the presidency on January 20, 2001.

SENATOR HAGEL SEEKS TO CLARIFY NEW TRAVEL PROVISIONS

In a bipartisan letter to President Clinton, Republican Chuck Hagel from Nebraska, a vociferous member of the Committee on Foreign Relations, has sought to clarify for the record the codification of the travel provision contained in Title IX of the *Trade Sanctions Reform and Export Enhancement Act* (USCPR, Vol.7, No.10). Hagel, a first term Senator elected in 1996, is the chairman of the International Economic Policy, Export & Trade Promotion Subcommittee, who from the beginning of his term has openly opposed the U.S. trade embargo against the Castro regime. In his November 3rd letter, Hagel makes certain to clarify the intent of the new travel restrictions written into the law maintaining the "current travel practices related to Cuba while expanding travel opportunities for Americans engaged in newly permitted trade in agricultural products. Nothing in the law should be read as making travel to Cuba any more restrictive than current practice." The Treasury Department's Office of Foreign Assets Control (OFAC) grants licenses for travel to Cuba that are the exception to the rule and therefore prohibited by law as specified under Section 515 – Cuban Assets Control Regulations (CACR) of Title 31 CFR. While seeking to maintain the travel status quo, Hagel encourages the Clinton administration to interpret licensable activities as being in the "national interest" including the executive expansion of "cultural connectivity with the Cuban people through the making of documentaries and music." Of greater significance, however, is the recommended executive expansion of telecommunications with Cuba to allow American companies "to work on efforts to bring the Internet to Cuba." With the exception of the Communist Party elite, the people of Cuba lack the ability to freely access the government controlled Internet on the island. This reference by Hagel appears to be the first time an effort has been made to openly absorb Internet activity into the licensing of telecommunications to Cuba as permitted under Section 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(e)) and as amended by the LIBERTAD Act of 1996 which strictly prohibits investment in domestic telecommunications services in Cuba by U.S. companies. Among the four Republicans signing this letter, two were defeated in the November 7th election – John Ashcroft and Slade Gorton. The letter is reprinted below.

LETTER TO CLINTON
UNITED STATES SENATE

Washington, DC

November 3, 2000
The President
Washington, D.C. 20500

Dear Mr. President:

As you know, the Agriculture Appropriations bill (H.R. 4461) contains an important reform of U.S. sanctions policy for agriculture and medical products. We are pleased that you supported this new policy by signing the legislation, October 28, 2000.

One section of the reform provision, inserted during negotiations between the House and Senate, affects the United States policy on travel to Cuba. While we did not draft this provision and would not have included it in a bill to reform humanitarian embargoes, we do have a perspective on its potential impact.

The clear intent of this provision is to write into law the current travel practices related to Cuba while expanding travel opportunities for Americans engaged in newly permitted trade in agricultural products. Nothing in the law should be read as making travel to Cuba any more restrictive than current practice.

Specifically, nothing in this section would prevent the Administration from continuing to issue travel licenses for any projects (including commercial projects) that are found to be in the "national interest" licenses to executives of an American company to enable them to travel to Cuba for the purpose of negotiating an agreement to bring a Cuban-developed meningitis B vaccine to the United States for further development. The executives of the company involved in the project hope the ultimate outcome of their travel to Cuba will be the saving of tens of thousands of lives worldwide, particularly infants and children for whom there is currently no vaccine. Other "national interest" travel licenses have been issued to allow telecommunications companies to work on efforts to bring the Internet to Cuba, and other licenses are being considered to expand cultural connectivity with the Cuban people through the making of documentaries and music. These companies and organizations should be allowed to continue this important work.

We thank you for your support of the reform provision to allow U.S. agriculture and medical supplies to be exported to previously sanctioned countries. As you implement this travel section of the law, however, we encourage you to continue granting travel licenses to Cuba not only for authorized commercial sales but also for projects found to be in the national interest.

Sincerely,

Chuck Hagel (R-NE)
Max Baucus (D-MT)
Patrick J. Leahy (D-VT)

John Ashcroft (R-MO)
Pat Roberts (R-KS)
Byron L. Dorgan (D-ND)

Christopher Dodd (D-CT)
Slade Gorton (R-WA)

HELMS CRITICAL OF STATE DEPARTMENT TITLE IV INACTION -- CALLS FOR ENFORCEMENT AGAINST SPANISH HOTEL GROUP

Senate Foreign Relations Committee Chairman Jesse Helms has sent a letter to Under Secretary of State Thomas Pickering, the third highest ranking State Department official, urging him to enforce the law and to cite the Madrid-based Grupo Sol Melia for trafficking violations of Title IV of the Helms-Burton Act of 1996. Sol Melia, the largest hotelier operating in Cuba, "is knowingly and willfully 'trafficking' in property...that was illegally confiscated from the U.S. nationals who own Central Santa Lucia," charges Helms in his November 16th letter which is reprinted below. Not unfamiliar with this specific case, the enforcement of which the Clinton administration has sought mightily to thwart (USCPR, Vol7, No.6), Helms explains to Pickering, "For three years, I have helped the U.S. claimants 'jump through the hoops' of the State Department's arbitrary and convoluted process (so blatantly contrived to stall enforcement of the sanctions). For more than two years, State Department officials have possessed documents, maps, photographs, and other material evidence that should have triggered a final Title IV determination many months ago." Helms is demanding that Pickering send Sol Melia the so-called "45-day" letter as required by law that warns the company to cease and desist or else its executives based in America "will forfeit their visas and be excluded from the United States." Apparently, the State Department's Bureau of Western Hemisphere Affairs has drafted an internal memo that essentially recommends the 45-day letter be sent while its Bureau of European Affairs has drafted a counter memo that recommends against doing so. Nicholas J. Gutierrez, Jr., attorney for Central Santa Lucia writes in a letter to Pickering, also dated November 16th, "As we have made very clear to the State Department in the past, among our principal objectives in this case are the: (i) recognition of U.S. private property rights in Cuba; and (ii) deterrence of foreign investment sustaining the Castro regime. Judging by some of the public admissions of Fidel Castro's emissaries themselves, it seems that our insistence on the full enforcement of Title IV has significantly assisted in accomplishing these twin objectives." Central Santa Lucia is represented by the Miami law firm of Rafferty, Gutierrez & Sanchez-Aballi. Despite the settlement of the ITT-STET trafficking case of 1997 (USCPR, Vol.4, No.8), the European Union, as a matter of policy, is now adamantly opposed to any additional settlements especially the Sol Melia case confident this administration will not enforce the law.

HELMS LETTER TO PICKERING

UNITED STATES SENATE
Committee on Foreign Relations
Washington, DC

November 16, 2000

The Honorable Thomas Pickering
Under Secretary of State for Political Affairs
2201 C Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

The State Department officers responsible for investigating violations of Title IV of the Cuban Liberty and Democratic Solidarity (*LIBERTAD*) Act of 1996 have concluded that the Spanish firm Grupo Sol Melia (GSM) is knowingly and willfully "trafficking" in property in Cuba that was illegally confiscated from the U.S. nationals who own Central Santa Lucia (CSL).

As such, the State Department is required by the *LIBERTAD* Act to notify officers and directors of GSM that, after a 45-day period, they will forfeit their U.S. visas and be excluded from the United States. (I bring this to your personal attention in the unfortunate event that some in the State Department might try to keep you in the dark, thereby preventing your enforcing U.S. law.)

I know this case well, Mr. Secretary. For three years, I have helped the U.S. claimants "jump through the hoops" of the State Department's arbitrary and convoluted process (so blatantly contrived to stall enforcement of the sanctions). For more than two years, State Department officials have possessed documents, maps, photographs, and other material evidence that should have triggered a final Title IV determination many months ago.

On July 30, 1999, the State Department after long delay wrote to GSM to merely notify that company that it was the subject of an investigation under Title IV. After yet another year of subsequent delays and denials by GSM, that company tacitly acknowledged its "trafficking" by entering negotiations to compensate CSL for use of the confiscated property. Department officers attended at least one of those negotiating sessions this summer and even warned GSM that it would be sanctioned if it failed to reach a settlement "by the end of summer."

Let me remind you explicitly that the law does not require the U.S. claimants to seek or accept any amount of compensation from the foreign company that is illegally using their property; and, once there is a finding of fact regarding the "trafficking," the law does not authorize U.S. officials to stall application of the required sanctions until the claimant seeks or accepts any amount of compensation. In any event, when it became apparent that GSM was not bargaining in good faith, CSL's legal counsel informed GSM by letter on September 21, 2000 – with copies to the State Department and to me – that it was terminating the negotiations.

It has come to my attention that, in the wake of these failed negotiations, officers in the State Department's Bureau for Western Hemisphere Affairs (WHA) – who are responsible for Title IV investigations – have drafted a memorandum informing you of their final conclusion that GSM is trafficking in property owned by the U.S. national, CSL. As you are now aware of this finding of fact, it should trigger an immediate decision by you to sanction GSM without further delay. (I request that you provide the Committee a copy of that draft or final memorandum and the 45-day determination letter sent to GSM in accordance with the law.) I remind you that, according to paragraph 5 of the "Guidelines Implementing Title IV of the Cuban Liberty and Democratic Solidarity Act" (*Federal Register*, June 17, 1996), "Determinations...under Title IV *will* be made when facts or circumstances exist that would lead the Department *reasonably to conclude* that a person has engaged in confiscation or trafficking..." The State Department's own guidelines, Mr. Secretary, describe in great detail a series of steps that *WILL* be taken once this determination is made, e.g., Paragraph 6(a) states, "An alien who may be the subject of a determination under Title IV *will* be sent a notification... that he/she *will* be denied a visa...45 days after the date of the notification letter..."

Knowing what you now know, Mr. Pickering, I am confident that you will abide by the law. Please let me hear from you.
Kindest regards,

Sincerely,
Jesse Helms

GENERAL CIGAR SUES SPANISH TOBACCO COMPANY

Charges U.S. Subsidiary Illegally Tying Future Sales of Cuban Cigars

"Defendants represent to General Cigar's and other competitor's customers that the embargo on the importation of Cuban premium cigars will be lifted in the near future," contends the complaint (Case No. 00-4187 CIV-Moreno) filed by General Cigar Holdings, Inc. on November 2nd in U.S. District Court for the Southern District of Florida in Miami. Defendant Altadis is the Madrid-based Spanish-French combination joined with Habanos, the Cuban tobacco monopoly formed by "an executive order of the communist government of Cuba." General Cigar's complaint states, "On September 30, 2000, Altadis completed the acquisition of its 50 percent share of Habanos, paying approximately \$439 million cash with an additional \$38 million to be paid based on Habanos' performance. The remaining 50 percent of Habanos is owned by Empresa Cubana del Tabaco ('Cubatabaco'), an instrumentality of the communist Cuban government."

The expectation of opening the market in the United States by December 2000 to Cuban premium cigar sales apparently was one of the hoped-for cornerstones of the Cuba trade provisions contained in the Agricultural Appropriations bill (USCPR, Vol.7, No.10) allowing for cash sales of food and medicine to Cuba but ultimately prohibiting "imports from Cuba." The critical turning point occurred during the five-hour-long negotiations session that ended in an agreement at 2:00 a.m. Wednesday, June 27th when south Florida Congressmen Lincoln Diaz-Balart and Ileana Ros-Lehtinen attached import restrictions to the so-called Nethercutt provision. The compromise contained in the agricultural funding bill strictly prohibits reciprocal trade with Cuba (USCPR, Vol.7, No.6) that would have provided the opening for Cuba to sell, among other products, its premium handmade cigars in the lucrative United States market for the first time since the February 1962 embargo was signed into law by President Kennedy.

As the Nethercutt language made its way through both houses of Congress, the Cuban foreign ministry issued a statement on Thursday, October 5th criticizing the limitations of the legislation and threatening not to purchase anything from the U.S. as long as financing, tourist travel, and reciprocal sales restrictions remained. Havana's strong message was hammered home on Monday, October 9th when Cuban Vice President Jose Ramon Fernandez applied pressure to a delegation led by Georgia State Agriculture Commissioner Tommy Irvin who was told specifically that Cuba would not purchase U.S. goods unless it could sell its products to Americans. General Cigar's complaint and motion for preliminary injunction charges Altadis, the world's largest producer and distributor of cigars (www.altadis.com), and its U.S. subsidiaries, Altadis U.S.A. and Consolidated Cigar Holdings Inc., with violation of federal and state antitrust and fair-trading statutes by illegally conditioning the future sale of Cuban cigars to U.S. customers on the purchase of its non-Cuban cigars. In addition, General Cigar charges Altadis with being in violation of the U.S. embargo and specifically with the trafficking provisions of the Helms-Burton Act of 1996. "The Confiscated Properties in Cuba include a valuable tobacco warehouse in Havana owned by General Cigar," claims the complaint. "Control of the Confiscated Properties was seized by the Cuban government on or after January 1, 1959 without the properties being returned to the owners, without compensation provided to the owners, and without the owners' claims to the properties having been settled." General Cigar lists ten counts in its suit including violations of the Sherman, Clayton, and Lanham Acts as well as the Florida Deceptive and Unfair Practices Act. It requests expedited discovery and a jury trial to recover threefold actual damages. Several of General Cigar's well known trademark brands are: Partagas and Punch. General Cigar is represented by the law firm of Verner Liipfert.

CAMPAIGN 2000 BRIEFS

HOUSE INTERNATIONAL RELATIONS COMMITTEE SET FOR NEW CHAIRMAN –

Among the key Congressional committee chairmanships set to change, the House International Relations Committee (HIRC) is expected to vote for a new chairman when the 107th Congress convenes in January. Following six years at the helm of HIRC with Rep. Ben Gilman (R-NY), who helped to shepherd the Helms-Burton Act (LIBERTAD) through the 104th Congress, the House Republican Conference voted 141-to-27 or 5-to-1 on November 15th to retain a rule limiting committee chairmanships to six years. The rule was instituted under then-Speaker of the House Newt Gingrich following the Republican takeover of the House in the 1994 elections. Based on seniority, the HIRC chairmanship would fall to either Rep. Henry Hyde (R-IL) or Doug Bereuter (R-NE). Since Hyde was required to cede his chairmanship of the Judiciary Committee under the conference rules, "the position is his for the asking," according a reliable source. In fact, "Hyde has sent a letter to the Republican leadership saying that if he can't have his first choice, which is to remain chairman of Judiciary, he would like to be made chairman" of HIRC. Bereruter would continue on as vice chairman of HIRC and as chairman of one of the subcommittees. Bereuter who currently serves as chairman of the Asia and Pacific Subcommittee would be term-limited.

RANKING HOUSE INTERNATIONAL RELATIONS COMMITTEE MEMBER DEFEATED IN GENERAL ELECTION –

Sam Gejdenson (D-CT), the leading Democrat of 23 on the House International Relations Committee will not be returning when the 107th Congress convenes in January. Gejdenson, first elected to the House in 1980 to the seat being vacated by then-Congressman Chris Dodd, was narrowly defeated in his bid for a 10th term from the 2nd Congressional District by Connecticut Republican House Member Rob Simmons. Apparently the mirror opposite of his opponent, Simmons is the recipient of two bronze stars in Vietnam and is a former CIA operations manager from 1969 to 1979. Described by the Almanac of American Politics as "suspicious of the assertion of American power abroad," Gejdenson has consistently favored lifting the U.S. embargo on Cuba.

SENATE FOREIGN RELATIONS COMMITTEE TO SEE SOME CHANGES – In an unexpected turn of events, Democrats may rule the U.S. Senate for 17 days following results from Washington State where former Congresswoman and high-tech executive Maria Cantwell appears to have defeated incumbent Republican Slade Gorton. That would split the 100 seats in the Senate 50-50 giving Vice President Gore the deciding vote when the Senate convenes on January 3, 2001, officially making Sen. Tom Daschle (D-SD) Majority Leader until the January 20th presidential inauguration. Talk in Washington has it that such a shift could be permanent if Democrats manage to persuade liberal Republican Senator Jim Jeffords of Vermont to change his party affiliation. Changes on the Republican side of the Foreign Relations Committee following the untimely death of Sen. Coverdell include the defeat of Senators Grams (MN) and Ashcroft (MO). Democrat control of the Senate would give Max Baucus (USCPR, Vol.7,No.8) the chairmanship of the powerful Finance Committee (USCPR, Vol.7,No.9) and it would also mean that Joe Biden (D-DE) would assume the Foreign Relations Committee chairmanship over Jesse Helms (R-NC) while Chris Dodd (D-CT) would become chairman of the Western Hemisphere Subcommittee.

NAME OF CUBAN-AMERICAN MENTIONED AS NEXT REPUBLICAN NATIONAL COMMITTEE CHAIRMAN – Tom Sansonetti and Al Cardenas are the two names being mentioned to become the next chairman of the Republican National Committee when it meets in Washington next January to replace outgoing chairman Jim Nicholson. Sansonetti served as the chairman of the rules committee during the Republican National Convention in Philadelphia and is currently the Republican national committeeman from Wyoming, the home state of Governor George W. Bush's running mate Dick Cheney. Beside Sansonetti is the 51-year old Havana-born Cardenas who is currently Florida's Republican Party chairman and a close friend of the Bush family. An attorney with the Miami law firm of Greenberg Traurig, Cardenas was appointed by President Bush in 1989 as a member of the board of directors of the Federal National Mortgage Association. "As Florida goes, so will America" declared a prescient Cardenas in his October 27th letter to the party faithful, encouraging them to turnout to vote in the November 7th national election. In a tightly contested race, Florida's 25 electoral votes ultimately will decide whether Vice President Al Gore or Texas Governor George W. Bush is elected president of the United States.

CURRENCY & COMMODITY BRIEFS

EURO – The year-ago currency value for the Euro on Monday, November 29, 1999 closed in Europe at \$1.01 against the U.S. dollar, down 13% from its value at inception on December 31, 1998 of \$1.16. That slide continues unabated with the fledgling European currency listed at \$0.85 on November 28, 2000, down nearly 27% from its value at inception. January 1, 2001 marks the date the Cuban National Bank has set for the official integration of the Euro into the Cuban economy.

RAW SUGAR CANE – Cuba's Sugar Ministry under General Ulises Rosales del Toro is seeking foreign investors for its co-generation ventures utilizing bagasse sugar cane residue. The ministry has created a new electricity generation company, Bioenerco, headed by Gilberto Font. Cuba's sugar mills have long burned dried bagasse in furnaces to generate power. Foreign investors being mentioned include: the Norwegian government and private companies; two Spanish firms – the sugar company Azucarera Ebro Agricolas and the energy company Union Fenosa; and, companies from Brazil which have held talks for possible joint ventures in power generation and other industry by-products. Font projected Cuba could produce 18 million tons of bagasse residue based on a seven million metric ton sugar harvest which Cuba hasn't achieved since 1989 – 1992. Cuba's 1999 – 2000 harvest was reported at 4 million metric tons. The country's harvest scheduled to begin in November has been postponed until early December due to reported drought conditions that have effected the island's sugar crop. (RL, 11/07/00).

CRUDE OIL – As the price of crude oil continues to spiral upward, Cuba's Center for Petroleum Perforation and Extraction reports it is on track to produce 2.8 million metric tons of crude compared to 2.136 million metric tons in 1999. Crude oil prices have tripled since November 30, 1998 when the per barrel price listed at \$11.22 on the NYMEX. (Energy24, 11/02/00).

NICKEL & COBALT – Nickel and cobalt, one of Cuba's biggest export earners, continues to draw the attention of foreign investors. Russia's Norilsk Nickel is awaiting an answer from Cuba over its proposal to finish building and to begin operating a nickel ore processing plant on the eastern part of the island. Construction on the plant had been started by the Soviet Union and its allies. Norilsk Chairman Yuri Kotlyar told reporters that a feasibility study was under consideration by the Cuban side pointing out that the decision would be based on economics not politics with thought given to the interest of Norilsk shareholders. In a related item, the Rotterdam-based Dutch metals group, Fondel International B.V. which handles over half of Cuba's annual nickel sales is working on a project to renovate, develop, and manage the north coast port of Mariel. Metals prices for both nickel and cobalt are nearly static at \$7,490 per metric ton for nickel and \$13.50 -\$14.50 per pound for cobalt compared to year-ago late November prices. (RL, 11/01/00; 11/03/00).

CURRENCIES & COMMODITIES

1 Euro = 0.8556 Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 17.967 Cuban Peso

Rates as of November 28, 2000.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 10.29
Year ago nearby = 6.06
Future (Mar. '01) = 9.94
High = 11.40
Low = 5.95

Cash/Spot price as of November 28, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$per bbl.)

Light Sweet (WTI)

Cash/Spot (fob) = 33.80-33.85
Year ago (Nov. 30) = 24.59
Future (Jan. '01) = 33.82

Cash/Spot price as of November 30, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 7,490
Year ago (Nov. 29) = 7,975
(\$ per metric ton)
Official Price: November 29, 2000.
Source: London Metal Exchange

Cobalt = 13.50 -14.50
Year ago (Nov. 29) = 13.65 - 14.75
(\$ per pound for 99.8%)
Price: November 30, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

CATO INSTITUTE ISSUES POLICY PAPER TO LIFT CUBA EMBARGO – The Washington-based Cato Institute has issued a paper entitled, "A Policy toward Cuba That Serves U.S. Interests," which calls for the unilateral lifting of the U.S. embargo against the Castro regime. Cato, a libertarian think-thank, is "dedicated to broadening policy debate consistent with the traditional American principles of individual liberty, limited government, free markets, and peace." Cato states in its literature that "we are coming to realize that freedom from bureaucratic institutions is not only consistent with human nature but is also the source of human progress and prosperity." The unilateral nature of the paper notwithstanding, its premise is predicated upon the end of the Cold War and the supposed end of Cuba's threat to hemispheric security as well as the end of Cuba's support for revolutionary movements in Latin America. The author of the paper, Philip Peters, calls for the U.S. to "turn to economic engagement" with Cuba. Peters is the vice president of the Lexington Institute located in Arlington, Virginia. Cato's Policy Analysis No. 384 can be found on the Internet at: <http://www.cato.org/pubs/pas/pa-384es.html>. **CATO INSTITUTE PAPER**

ADDRESSES ISSUE OF EXPROPRIATED PROPERTY -- Advocating cents-on-the-dollar settlement of certified claims, the Cato paper calls for immediate U.S. government negotiations with the Castro regime. As an alternative, the paper's author, Philip Peters, suggests giving certified "claimants permission to do business in Cuba" and entering into "new joint ventures" drawing on revenues from those new businesses in order to satisfy outstanding claims. Highly critical of the trafficking provisions contained in the Helms-Burton Act (LIBERTAD), Peters resurrects old arguments and applies them to the right of action granted to Cuban-Americans while failing to address the importance of those rights as they apply to all U.S. nationals including certified claimants.

HERITAGE FOUNDATION RELEASES 2001 INDEX OF ECONOMIC FREEDOM – In conjunction with *The Wall Street Journal*, the Washington, D.C.-based Heritage Foundation has released the seventh edition of its annual Index of Economic Freedom (USCPR, Vol.6, No.12) which "records a workaday year" including a "country-by-country analyses" along with "up-to-date data on foreign investment codes, taxes, tariffs, banking regulations, monetary policy, black markets" and other useful business information. Heritage president Ed Feulner, in his preface, says, "To enjoy the benefits of economic freedom, a country must embrace a fundamental commitment to that aim. A nation cannot undertake economic reform piecemeal and expect economic freedom to flourish." Compared to last year's index, Cuba edged up in rank from 157th to 152nd out of 161 countries studied and again scored 4.75 (where free = 1.95 or less and repressed = 4.00 or higher). Specifically, Cuba scored 5.00 in trade policy, foreign investment, banking and finance, and property rights. Hong Kong was ranked as the world's freest state with the United States coming in 5th, China 114th and Russia 127th. Only Iraq, Libya and North Korea ranking below Cuba. The 416 page paperback book is published both in English and Spanish and can be obtained by clicking on to: <http://www.heritage.org/index/2001/order.html>.

CUBAN TRADE POLICY CATEGORIZED AS REPRESSIVE IN ANNUAL STUDY -- The *2001 Index of Economic Freedom*, copublished by The Heritage Foundation and *The Wall Street Journal*, scores Cuba's trade policy as repressive and "closed to foreign trade." Citing the Cuban government's tight control over imports, official corruption, and highly protective border security, the *Index* rates Cuba under the communist rule of Fidel Castro at a score of 5.0 where 4.0 or higher is considered repressive. The study calls this the "biggest impediment to trade" where Cuba is obsessed "with protecting its borders." In a country where the state must approve all investments, "centralized planning still guides the Cuban economy." Consequently, the Cuban government: "controls all activity" in the banking and finance sector; continues to "control all significant means of production;" and "outlaws private property" while providing no contract enforcement. With regard to foreign investment, the *Index* points out that although the "new foreign investment law provides additional protection against expropriation...all arbitration must take place in government ministries that afford the investor little protection."

DOMESTIC BRIEFS

CLINTON EXCLUDES CUBA FROM ANNUAL DRUG MAJORS LIST – As required by Section 490(h) of the *Foreign Assistance Act of 1961* as amended, President Clinton issued his annual letter to Congress on November 1st naming the countries determined as "major illicit drug producing or major drug-transit countries." First prepared in 1987, 24 countries top the so-called "Majors List" this year having dropped Hong Kong and Taiwan but sidestepped the placement of Cuba on the list. "Cuba's geographical position, straddling one of the principal Caribbean trafficking routes to the United States, makes it a logical candidate for consideration for the Majors List," wrote Clinton in his letter. However, Clinton qualified his determination not to include Cuba by stating that "we have yet to receive any confirmation that this traffic carries significant quantities of cocaine or heroin to the United States." Reuters reported on November 3rd that in a joint effort by U.S., Bahamian, and the Dutch Coast Guard, two boats that were caught near Cuba resulted in the seizure of 5,000 pounds of marijuana and 1,000 pounds of cocaine. Members of Congress, especially House Government Reform and Oversight Committee Chairman, Dan Burton (R-IN), have urged President Clinton to place Cuba on the Majors List (USCPR, Vol.6,No.10).

OFAC ISSUES JUSTICE FOR VICTIMS OF TERRORISM ACT REQUIREMENTS – The Treasury Department's Office of Foreign Assets Control (OFAC) issued a *Federal Register* Notice on November 20th to explain the eligibility requirements and procedures covering compensation provided under the *Justice for Victims of Terrorism Act* (USCPR, Vol.7,No.10) sponsored by Senator Connie Mack (R-FL). According to Treasury press release LS-1037, Section 2002 of the *Victims of Trafficking and Violence Protection Act* (Public Law No. 106-386) "directs the Secretary of the Treasury to make payments to persons who hold certain categories of judgments against Cuba or Iran in suits brought under 28 U.S.C. 1605(a)(7) based on terrorist acts." The Notice, effective November 20, 2000, was published on Wednesday, November 22nd in the *Federal Register* (Vol.65, Number 226, pp. 70382-70385). Upon receipt of application and assuming "sufficient funds are available from the sources identified in Section 2002(b)," Treasury will make prompt payment to the applicant. The procedures call for the President to "vest and liquidate up to and not exceeding the amount of property of the Government of Cuba and sanctioned entities in the United States" blocked pursuant to law.

COUNCIL ON FOREIGN RELATIONS ISSUES FOLLOW-ON CUBA TASK FORCE REPORT – The New York-based Council on Foreign Relations (CFR) issued its follow-on Cuba task force report at the National Press Club in Washington, D.C. on Wednesday, November 29th. "After publishing the first report, I asked the co-chairs to continue the Task Force on a stand-by basis," states CFR president Leslie H. Gelb in the report's forward. As with the first report (USCPR, Vol.6,No.1) issued on January 12, 1999, co-chairs Bernard W. Aronson and William D. Rogers presented the follow-on report. Rogers in his presentation referred to the changing public perception of U.S. Cuba relations and the discernible shift in Congress citing the recent votes in the 106th Congress overriding travel restrictions and permitting the sale of food and medicine to Cuba. The framework of the new report resembles that of the first (five baskets) whereby recommendations are offered in four baskets: 1) Family Reunification and Migration; 2) Increasing the Free Flow of Ideas; 3) Security; and, 4) Trade, Investment, Property, and Labor Rights. This is followed by: Additional and Dissenting Views by Members. Perhaps the most significant and sure to prove controversial of the recommendations contained in the follow-on report lies within basket four and deals with the resolution of property claims suggesting that certified claimants enter into joint ventures with the Cuban government by "renouncing their certified claims in exchange for equity in joint venture projects under Law 77." The report entitled, *U.S. – Cuban Relations in the 21st Century* is available on the Internet at: www.cfr.org/p/pubs/Cuba_TaskForce.html.

NOTABLE QUOTES

"The United States should actively encourage engagement with the Cuban people, exposing them to ideas of religious, political and economic freedom, while maintaining a clear message of disapproval of the Castro regime or any non-democratic successor. In Reaganesque terms, Castro should be challenged to tear down the blockade he has imposed on the Cuban people." **Daniel W. Fisk** is the Deputy Director of the Kathryn and Shellby Cullom Davis Institute for International Studies at the Heritage Foundation and a member of the Board of Directors of the Institute for U.S. Cuba Relations in Washington, D.C. ("The Western Hemisphere," U.S. International Leadership in the 21st Century: The Potomac Foundation in McLean, Virginia, 2000, pp.47-55).

"He was elected by the people of Venezuela. We have been concerned by some of the methods that he has adopted, and some of our concerns have to do with his OPEC oil policy, but we have not compared him to Mr. Castro." Secretary of State **Madeleine Albright** rejects comparisons between Venezuela's Hugo Chavez and Cuba's Fidel Castro. (MH-In the Americas, "Albright Says Chavez is no Fidel Castro," 11/3/00).

"For anyone familiar with modern Latin American history, Mr. Castro's five days in Venezuela are eerily 'déjà vu.' They resound with memories of Mr. Castro's bizarre six-week 1971 trip through Chile, when his first 'pal,' the doomed Chilean Marxist Salvador Allende, was president. In that nearly parallel case, Mr. Castro had already provided Allende with intelligence organizers and with all those innocent 'sports coaches' who somehow couldn't find work at home. Then, too, Mr. Castro was getting, not giving." **Georgie Anne Geyer**, a nationally syndicated columnist and author of Castro biography, *Guerrilla Prince*, comments on Castro's recent five-day visit (Oct.26-30) to Venezuela. (TWT,"Going Castro's direction?" 11/8/00, p.A21). (See also USCP, Vol.7,No.10).

"...the strong connection between economic freedom and improved standards of living is highly visible throughout Beijing and in much of eastern and southern China. That connection also reinforces the idea that it is futile to harbor lofty economic hopes in the lifting of the Cuban embargo. With or without U.S. engagement, Cuba is sentenced to poverty and dictatorship as long as private ownership is taboo." **Mary Anastasia O'Grady** edits the Americas column for the Wall Street Journal. (WSJ,"Whatever Happened to Castro's Chinese Paradigm? 11/10/00, p.A19).

The *U.S. Cuba Policy Report* (ISSN 1093-099X) is published by the Institute for U.S. Cuba Relations and is available to: businesses, law firms, libraries, government agencies, embassies, and non-profit institutions at the annual subscription rate of \$150.00; individuals at \$75.00; and students at \$37.50. Add \$25.00 for international mailing. Reproduction, fax, and/or electronic transmission of the *U.S. Cuba Policy Report* is strictly prohibited without explicit written permission of the publisher.

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Source Guide - the following abbreviations should serve as a partial guide to sources contained in the *U.S. Cuba Policy Report*: AP – Associated Press; BLP – Bloomberg LP; BG – The Boston Globe; CR – Congressional Record; ENH – El Nuevo Herald; FA – Foreign Affairs Magazine; FP – Financial Post; FT – Financial Times; GI – Granma International; JOC – Journal of Commerce; LAT – Los Angeles Times; MH – The Miami Herald; MB – Metal Bulletin; NPR – National Public Radio; NYT – The New York Times; OGJ – Oil & Gas Journal; PR – Press Release; RL – Reuters Limited; ST – The Seattle Times; WSJ – The Wall Street Journal; TWT – The Washington Times; WP – The Washington Post; WTD -- Washington Trade Daily; ZNA – ZENIT News Agency.

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Ralph J. Galliano, Editor

PRESIDENT-ELECT GEORGE W. BUSH FACES EARLY DECISIONS OVER CUBA POLICY

WASHINGTON – Before President Clinton leaves office on Inauguration Day, he will have the opportunity to issue his tenth and final waiver of Title III of the Helms-Burton Act (LIBERTAD) of 1996 (Vol.7,No.7). This continuous suspension of the right of a U.S. national to sue traffickers of their confiscated uncompensated property in Cuba is expected to be reconsidered by President-elect George W. Bush after he takes the oath of office on January 20, 2001. Clinton, however, only suspended the right of action for periods of six months but not the effective date of Title III set at August 1, 1996; it could not be suspended once it was permitted to come into force (USCPR, Vol.3,No.7). Liability attached on November 1, 1996, three months following the effective date against any trafficker who did not divest on or after that date making them liable for treble damages based on the "fair market value" of the property after notice was given. Presuming the likelihood of another Clinton suspension, under the law Bush may rescind "any suspension" as long as he reports "to the appropriate congressional committees that doing so will expedite a transition to democracy in Cuba." If President Bush chooses to review Cuba policy and allow Clinton's Title III suspension to stand for six months, then he will be faced with the decision again in July 2001. The need for an even more immediate decision will occur upon Bush taking office regarding the enforcement of Title IV of Helms-Burton. Senators Helms (R-NC) and Torricelli (D-NJ) along with Reps. Burton (R-IN), Gilman (R-NY), Diaz-Balart (R-FL) and Ros-Lehtinen (R-FL) have urged the State Department in writing to enforce Title IV sanctions against Spanish hotel company Sol Melia (USCPR, Vol.7,No.6) considered the most blatant violator of Title IV trafficking provisions. On September 1st (USCPR, Vol.7,No.9) and again on November 16th (USCPR, Vol.7,No.11), Senate Foreign Relations Committee Chairman Jesse Helms relentlessly urged the State Department to enforce the law by citing Sol Melia for trafficking violations. Reps. Diaz-Balart and Ileana Ros-Lehtinen (R-FL) have developed a strong relationship with the incoming Republican president. Diaz-Balart met with Condoleezza Rice in April for a substantive discussion and review of Cuba policy and they continue to meet on Cuba and Latin American issues. Diaz-Balart submitted a memo enumerating three critical positions the Bush campaign should take: free elections; freedom for political prisoners; and, freedom of expression. Rice is President-elect Bush's designated National Security Adviser. In early December, then-Texas Governor Bush telephoned Ros-Lehtinen to thank the Congresswoman and the South Florida community for their support during the presidential election. Bush's call emphasized his desire to continue to seek her advice and counsel concerning foreign and trade policy toward Latin America. This call followed a visit to Capitol Hill by Secretary Dick Cheney who met with Ros-Lehtinen, Diaz-Balart and the Republican Conference.

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SUPPORT FOR DEMOCRACY IN CUBA, TRAVEL AND IMMIGRATION – The administration of George W. Bush is likely to ratchet up support for democratic and human rights groups in Cuba as authorized under the Helms-Burton Act. Section 109 of the Act authorizes the president "to furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba." As with the Reagan-Bush administration's support of the democracy movement in Poland during the Cold War in the 1980s, this section of the law was intended to support democratic elements on the Communist-controlled island. While in 2000 the Clinton administration spent \$10 million promoting democracy in Serbia, only \$2 million was spent to promote democracy in Cuba. U.S. Cuba relations in the next four years are expected to be very difficult for the Castro regime; unlike the last eight years under the Clinton administration which sought accommodation with the Cuban government, the Bush administration is likely to look askance at liberalized travel by Castro regime officials stationed in Washington, particularly when U.S. officials in Cuba are severely limited. The Clinton State Department, for example has permitted officials from the Cuban Interests Section in effect to lobby freely against the embargo across America and to permit liberalized licensing procedures at the Treasury Department's Office of Foreign Assets Control (OFAC) for anti-embargo groups to travel to Cuba with ease. President Bush could be facing a moral decision on the immigration front as to whether rafters should continue to be interdicted at sea and returned to Cuba as provided under the immigration accords negotiated by the Clinton administration in 1994 and 1995. Although the Castro regime is likely to test the new Bush administration on this issue, particularly since there are Marielitos still in U.S. prisons (USCPR, Vol.7, No.6), it is interesting to note that rafter crises only occurred during administrations of Democratic presidents such as Jimmy Carter and Bill Clinton but never during the Republican presidencies of Ronald Reagan and George Bush. However, in 1983 then-Florida Governor Bob Graham called for felons to be returned to Cuba via the Guantanamo Naval Base, if the Cubans refused to accept the "Excludables" as previously agreed. Pressure is expected to build for a Castro murder indictment by the Justice Department in the killings of the four Brothers-to-the-Rescue pilots on February 24, 1996 (USCPR, Vol.3, No.3) and for the Bush administration to make a decision on whether to include Cuba on the annual Drug Majors List (USCPR, Vol.7, No.11) among the "major illicit drug producing or major drug-transit countries" in November 2001.

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KEY APPOINTMENTS BY PRESIDENT-ELECT BUSH

President-elect George W. Bush's Cabinet and White House appointments to date expected to have a bearing on U.S. policy toward Cuba are listed below in the order the appointment was announced.

SECRETARY OF STATE

Colin L. Powell
(December 16, 2000)

As Bush's first appointment, retired Army General Colin Powell, 63, will become America's 65th Secretary of State. In 1991, Powell served as chairman of the Joint Chiefs of Staff presiding over Operation Desert Storm during the Persian Gulf War. Prior to serving as President Reagan's National Security Adviser, Powell served as senior military assistant to Defense Secretary Casper Weinberger. In a clear message to countries like Cuba, Powell said at his announcement, "If you want to be successful in the 21st century, you must find your path to democracy, market economics and a system which frees the talents of men and women to pursue their individual destinies." Powell will be responsible for dealing with America's European allies over relations with Cuba and the now dormant EU-U.S. Agreement (USCPR, Vol.5,Nos.5-8). A vital appointment under Powell remains the position of Assistant Secretary for the Bureau of Western Hemisphere Affairs.

NATIONAL SECURITY ADVISER

Condoleezza Rice
(December 17, 2000)

Condoleezza Rice speaks fluent Russian and wrote her doctoral thesis on the ties between the Soviet and Czech militaries. Rice, 46, who will serve as the president's top foreign policy adviser, is a professor of political science at Stanford University and the California University's Provost. During the Reagan administration, she served as an international affairs fellow of the Council on Foreign Relations and as Special Assistant to the Director of the Joint Chiefs of Staff. Rice also served in the Bush administration as Senior Director of Soviet and East European Affairs in the National Security Council. Throughout the campaign, Rice coordinated foreign policy advisory groups and briefed the candidate on key issues. Rice met with Rep. Lincoln Diaz-Balart (R-FL) during the campaign and continues to do so regarding Cuban and Latin American policy. An important position to be filled at the NSC is Special Assistant to the President for Inter-American Affairs.

SECRETARY OF TREASURY

Paul H. O'Neill
(December 20, 2000)

Chairman of Alcoa, Paul O'Neill has extensive corporate and government experience. At Treasury, O'Neill, 65, will also oversee the Office of Foreign Assets Controls (OFAC) which administers and enforces economic and trade sanctions including the issuance of export payment and travel licenses to embargoed countries such as Cuba (USCPR, Vol.4,No.3).

SECRETARY OF COMMERCE

Donald L. Evans
(December 20, 2000)

Don Evans, 54, a long time personal friend of the president-elect, is chairman and CEO of a Colorado-based oil and gas company as well as chairman of the presidential campaign. Through the Bureau of Export Administration, the Department of Commerce is responsible for issuing export regulations and licenses which would include Cuba under the recently passed *Trade Sanctions Reform and Export Enhancement Act of 2000* (USCPR, Vol.7,No.10).

SECRETARY OF AGRICULTURE

Ann Veneman
(December 20, 2000)

Ann Veneman, 51, headed the California Department of Food and Agriculture under former Governor Pete Wilson, the nation's biggest farm-income state. At USDA, she must deal with the regulation and licensing of food and agricultural products to Cuba under the *Trade Sanctions Reform and Export Enhancement Act of 2000*.

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Mel Martinez
(December 20, 2000)

Mel Martinez, 54, the first Cuban-American cabinet member in U.S. history, is an attorney and the elected chairman of Orange County, Florida. Martinez was a "Pedro Pan" boy when he escaped Castro's Cuba in an airlift to Miami in 1962. During the Elian Gonzalez affair, Martinez sponsored the boy's visit to Disney World and was roundly criticized by the Cuban press following his Cabinet nomination by president-elect Bush.

ATTORNEY GENERAL

John Ashcroft
(December 22, 2000)

John Ashcroft, 58, will serve as the chief law enforcement officer of the federal government. Although the conservative former Missouri Senator championed the so-called Ashcroft amendment in 1999 (USCPR, Vol.6,No.10) promoting the sale of food and medicine to Cuba he, unlike his predecessor Attorney General Janet Reno, probably would not have acted to return Elian Gonzalez to Communist Cuba (USCPR, Vol.7,Nos.1&6). But, the issue of returning imprisoned Marielitos or "Excludables" (USCPR, Vol.7,No.6) to Cuba via Guantanamo Naval Base may be a different matter for the INS. The Justice Department also will be under pressure to bring a murder indictment against Cuban dictator Fidel Castro in the downing of the Brothers-to-the-Rescue planes on February 24, 1996 (USCPR, Vol.3,No.3).

SECRETARY OF DEFENSE

Donald H. Rumsfeld
(December 28, 2000)

Don Rumsfeld, 68, will become Secretary of Defense a second time, first having served under President Ford in 1975. Highly experienced in both the private sector and government service, Rumsfeld served as U.S. Ambassador to NATO in 1973 and from 1998 to 1999 served as Chairman of the U.S. Ballistic Missile Threat Commission issuing a report on missile defense. The issue was highlighted most recently during Russian President Putin's trip to Cuba and Canada (USCPR, Vol.7,No.12) where President-elect Bush's proposal for a missile defense system was roundly opposed. It is highly likely that Rumsfeld would not have issued a Pentagon report released under the Clinton administration declaring that Cuba no longer posed a military threat (USCPR, Vol.5,Nos.4&5). Accordingly, Rumsfeld would not be likely to approve military-to-military contact as advocated in some quarters of Washington today.

THIESSEN DISSENTS ON CFR CUBA TASK FORCE REPORT

Marc Thiessen, press spokesman and member of the majority staff of the Senate Committee on Foreign Relations chaired by Republican Senator Jesse Helms of North Carolina, sent his dissent via email to the USCPR on December 6, 2000 following the release on November 29th of the Aronson-Rogers report by the Council on Foreign Relations (CFR). Thiessen served as a Task Force observer. The Report entitled, U.S. – Cuban Relations in the 21st Century (USCPR, Vol.7, No.11) is available on the Internet at: www.cfr.org/p/pubs/Cuba_TaskForce.html. Thiessen's dissent is reprinted below.

On the General Limitations of the Report

The goal of the original Task Force report, the thrust of which I generally supported, was to lay aside the debate over the efficacy of the Cuban embargo, and work to find consensus on ways the United States could reach out to the Cuban people and support Cuban civil society in preparation for a post-Castro democratic transition.

Unfortunately, in its second report the Task Force has strayed from this guiding principle. It advocates a lifting of the embargo on tourism in Cuba, lifting of all restrictions on food and medicine sales, and a proposal to resolve expropriation claims by giving U.S. businesses equity interest in foreign joint ventures (which, as Peter Rodman rightly points out, is a backchannel way to permit direct U.S. investment in Cuba). For these reasons, the new report is very disappointing.

The framework of U.S. Cuba policy should be to isolate the Castro regime, while working to end Castro's isolation of the Cuban people, by encouraging programs that foster and support an independent civil society—not engaging the Cuban government.

First, a point of clarification. I was astounded to read the following statement in the introduction of the report: "In March 2000, Senate Foreign Relations Committee Chairman Jesse Helms (R-N.C.) worked with GOP colleagues to include in an authorizations bill an amendment ending sanctions on the sale of food and medicine to Cuba." As I made clear in a Task Force meeting, Senator Helms opposed the amendment in question. He let it through his Committee only because the votes were not there to defeat it, but worked (successfully) with Republican leaders in the House and Senate to ensure it did not become law until further restrictions were added. Why the Task Force staff felt the need to give the false and misleading impression that Senator Helms supports ending all sanctions on the sale of food and medicine to Cuba is a mystery to me—and unnecessarily undermines the credibility of the entire report.

As the Report notes, the compromise language that became law this year prevents any government credits or private financing of sales to Cuba, and codifies the U.S. travel ban on Cuba. Tightening the travel ban in exchange for a minimal easing of restrictions on food and medicine sales was, in the end, a good trade-off.

As a result of this codification of the travel embargo, the Task Force recommendation of lifting of the U.S. tourism travel ban is essentially moot. This is a good thing. Cuba practices tourism apartheid, and ordinary Cubans are not permitted anywhere near the exclusive hotels and resorts where Western tourists stay—unless they are employed there or are selling their bodies. Allowing U.S. tourists to flood Cuba's beaches and resorts would have done nothing more to encourage democratic change than tourists visiting South Africa's "Sun City" resort contributed to ending apartheid.

As for federal funding of NGOs for people-to-people exchanges, the U.S. government already spends \$5 million a year to assist NGOs working to promote democracy in Cuba. This program, which is specifically targeted at supporting an independent civil society in Cuba and those working for democratic change, should be continued and expanded. But the U.S. government should by no means provide funding for programs with Cuban government institutions—such as exchanges with Cuba's official "trade unions" and environmental groups the Task Force suggests—which would do nothing to help Cubans build an independent civil society. U.S. tax dollars should be used to support groups seeking to create space for Cubans outside the Cuban state—not to support programs of the Cuban state.

I agree with those who dissent from the recommendations for military-to-military contacts and counternarcotics contacts. These violate the Task Force's principle of not recommending any change in policy that has the primary effect of consolidating, or appearing to legitimize the Cuban regime. The United States certainly could and should develop innovative ways to reach out to the junior officers in the Cuban military, and make them aware of the experience of the militaries in Central European nations (who did not fire on the crowds when change came, and were as a result given a place of honor in the new democratic society). There are many ways this could be done: through NGOs, use of the international mail, and creative new programming on Radio Martí. Unfortunately, the Task Force has not recommended any such measures. Instead it has recommended cooperation with the Cuban military—measures that would be used by Castro to legitimize his regime.

The proposals on labor rights have merit, and are unique among the report's recommendations in that they actually require something of the Cuban regime. But the recommendations to give Cuba observer status at the World Bank and Inter-American Development Bank are misguided—like other recommendations for government-to-government collaboration—because they do not. All of these concessions to the government should be held back and used as leverage for the time when Castro is gone, and a transitional regime will be searching for ways to negotiate an end to Cuba's isolation in exchange for real democratic reform.

Sadly, the Task Force expanded too much effort on proposals aimed at convincing the Cuban establishment of the merits of Western democracy, capitalism and culture. Instead, we should be developing proposals for ways in which the United States can do in Cuba what it did in Central Europe—support those who are working to promote democracy and create a free society within the decaying shell of Castro's totalitarian system.

Marc Thiessen

CUBA POLICY DRIVEN BY CONGRESSIONAL INITIATIVES

The longevity of Fidel Castro notwithstanding, Daniel W. Fisk presents an analysis of the current state of U.S.-Cuba policy as driven by Congressional initiatives in an article for the winter edition of the *Washington Quarterly* entitled "Cuba: The End of an Era." Fisk describes the fracturing of the Helms-Burton coalition in Congress due primarily to the Clinton administration's initiatives to sustain stability through engagement by the business community's mobilization of key constituencies such as the food and agriculture lobby and by the Cuban exile community's people-to-people contact. In making recommendations to the new president, Fisk frames the question: "how can the United States proactively support democratic elements on the island and provide humanitarian support to the Cuban people, while continuing to impede the regime's access to the hard currency it needs to sustain its repressive apparatus?" At this juncture, with several exceptions and one dealing with diplomatic reciprocity, the article offers a list of unilateral steps that history has proven are untenable without the full cooperation of the Castro regime which isn't going to permit such U.S. actions that are perceived to lie outside the area of its own self interest. Further, Fisk, queries whether in the next administration the Cuba policy debate will continue to be driven by anti-embargo Congressional initiatives or by presidential prerogatives. Given the shift in recent years to dismantle the embargo, Fisk posits that "[T]he first decision confronting the new president is whether he will be a leader on Cuba policy or a spectator." Fisk is the deputy director of the Kathryn and Shelby Cullom Davis Institute for International Studies at The Heritage Foundation. This article can be found on the Internet at: www.twq.com/winter01/fisk.html. *The Washington Quarterly* (Winter 2001) is a publication of The Center for Strategic and International Studies and the Massachusetts Institute of Technology.

SURCHARGE ON TELEPHONE CALLS THREATENED

In order to pressure the Clinton administration, Cuba's threat to cut phone service between the island and the U.S. (USCPR, Vol.7, No.10) has been issued directly to U.S. companies according to reliable sources, specifically to Sprint and AT&T rather than government-to-government contact. The Castro regime responded negatively to the passage of the *Justice for Victims of Terrorism Act* (USCPR, Vol.7, No.10) by imposing a \$.245 per minute surcharge or over 40% tax on all phone calls. Since telecommunications was opened to competition (USCPR, Vol.1, No.1) following the passage of the *Cuban Democracy Act of 1992*, American phone companies were licensed to negotiate and contract with Cuba to provide service at a rate determined by the Federal Communications Commission. That rate settled at \$1.20 per minute split 50/50 between each company and Cuba; effectively each party received \$.60 per minute collected and distributed by American companies to Cuba. Since 1996, Cuba has received over \$303 million (USCPR, Vol.7, No.9) from American phone companies. The Office of Foreign Assets Control (OFAC) rejected company requests for payment of the surcharge through third country rerouting. However, OFAC could conceivably authorize and approve a new license request by individual telecommunications companies for a higher settlement rate of \$.845 thereby incorporating the additional surcharge demanded by Havana. Estimates of \$30 million a year in additional payments would be made to Cuba assuming the surcharge. These costs likely would be passed on to the consumer or Cuban-American family members in the United States contacting relatives on the Communist-controlled island. Settlement rates to Cuba are required to decrease to \$.10 per minute from the current \$.60 per minute by mid-2001 according to FCC policy. In any event, Castro cannot afford to cut off phone service between the two countries.

THE CUBAN SPY TRIAL: FIDEL CASTRO'S EYES AND EARS IN FLORIDA

According to Assistant U.S. Attorney David Buckner, the five men on trial in Miami federal court accused of espionage have been spying for Cuban intelligence, the Direccion General de Inteligencia (DGI), for years and have served as Fidel Castro's eyes and ears in Florida. Gerardo Hernandez alias Manuel Viramontes, Ramon Labanino, Antonio Guerrero, Ruben Campa, and Rene Gonzalez went on trial on Wednesday, December 6th and face sentences ranging from life in prison to 10-year terms if convicted. District Court Judge Joan Lenard is hearing the case.

Hernandez is described in court documents as the ring leader and a captain with Cuban military intelligence. Five others of the ten charged in Miami on September 14, 1998 (USCPR, Vol.5,No.9) have already been sentenced under plea bargain agreements (USCPR, Vol.7,No.2). On May 7, 1999, new indictments (USCPR, Vol.6,No.5) were issued against four men who are believed to be fugitives in Cuba including Juan Pablo Roque a double agent spying on the Brothers-to-the-Rescue (BTR) organization prior to the

shootdown over international waters of two of their planes killing four on board on February 24, 1996 (USCPR, Vol.3,No.3). Hernandez is accused of supplying BTR's flight plans to Cuban intelligence. The 14-member spy ring attempted to infiltrate the FBI, succeeded in infiltrating U.S. military bases including the Southern Command Headquarters in Miami, monitored aircraft take-offs and landings at Boca Chica Naval Air Station in Key West, as well as accomplishing the infiltration of Cuban-American exile organizations such as the Cuban American National Foundation. The ring transmitted information clandestinely to Cuba via diplomatic pouch, encryption software, short wave radio, and electronic phone messages. Nearly 1,400 pages of recently declassified documents have been provided as evidence for the prosecution detailing "active measures" undertaken by the spy ring referred to as the "Wasp Network." For the defense it is argued that such actions were intended to protect Cuba from terrorist plots and the threat of a U.S. invasion. No Cuban-Americans serve on the 12-member jury.

RUSSIAN PRESIDENT PUTIN'S TRIP TO CUBA

If arranging a repayment schedule for Cuba's \$20 billion Soviet-era debt to Russia and possibly even agreeing upon a debt-equity swap arrangement was a failure during Vladimir Putin's first trip to Cuba as President of Russia, then at least his morale raising visit to the 1,500 Russian inhabitants of the 28 square mile Lourdes listening post and a sun drenched rest at the Varadero beach resort far away from the harsh Moscow winter was well worthwhile. Arriving just before midnight on Wednesday, December 13th and departing Sunday, December 17th via Canada before returning to Moscow, the Russian president was accompanied by Defense Minister Igor Sergeyev, Foreign Minister Igor Ivanov, and Health Minister Yuri Shevchenko in an effort to boost Russia's presence in Latin America. On Thursday, the Russian leader met for discussions with Fidel Castro and Ricardo Alarcon who heads the Cuban national assembly. Later that day, Castro and Putin, a former KGB colonel, toured Lourdes (USCPR, Vol.7,No.3) the primary source of Russia's strategic intelligence gathering aimed at the United States. Cuba and Russia signed a number of agreements during the visit including a declaration condemning the U.S. embargo, a \$50 million line of credit, a draft trade protocol agreement for the period 2001– 2005, and cooperation agreements on legal affairs and health matters, Putin having visited a biotechnology center. While Russia owes \$48 billion dollars to the Paris Club in Soviet-era debt, Havana wouldn't consider the prospect of making regular payments to Russia even when offered a 70% discount preferring instead to have the Russians write it off as "compensation for damages" caused by their pull out from Cuba following the collapse of the Soviet Union. In talks, Castro told Putin that Cuba was no longer interested in completing the Juragua nuclear power plant, in effect, releasing Russia from liability for the costly maintenance of the controversial unfinished facility. During the Cuba trip, American businessman Edmond Pope convicted of espionage by a Russian court in Moscow was freed and Putin sent a congratulatory message to President-elect George W. Bush. Castro was extended a reciprocal invitation for a state visit to Moscow.

PUTIN SEEKS TO REVIVE RUSSIAN-BUILT NICKEL PLANT IN CUBA

Among those accompanying Russian President Vladimir Putin on his recent trans-Atlantic trip to Cuba (December 13-16) and Canada (December 17-19) was Dzhonson Khagazheyev, the president of Norilsk Mining Company, Russia's premier nickel operation based in the Krasnoyarsk region of the Russian Federation. Norilsk Nickel (USCPR, Vol.7, No.11), controlled by Vladimir Potanin the president of the Interros financial and banking group, is a joint stock company with offices in Moscow that is described as the "world's largest company producing nickel, cobalt and platinum group metals."

With Cuba holding the largest nickel reserves worldwide and Russia the largest producer of nickel, second only to Canada, a deal to revive the ore processing plant linked to payment of Cuba's Soviet-era debt would appear to make good business sense for both parties. The former Soviet Union invested \$130 million through Comecon in 1983 to construct the now 70% completed nickel plant at Las Camariocas, located near Moa at the eastern end of the island.

Any deal would require a top-level bilateral agreement toward payment of Cuba's \$20 billion outstanding debt to Russia. It is estimated \$300 million in new investment is required to make the processing plant operational. The project bidder, Interros Holding Company, is prepared to finance the completion of the 30,000 metric ton capacity Las Camariocas plant (USCPR, Vol.7, No.1) through the United Export Import (UNEXIM) Bank. Formed in 1994, UNEXIM "is authorized to operate as an agent of the Russian Government to service centralized foreign economic relations."

On the heels of his Cuba visit, Putin's economic mission to Canada sought to assuage Canadian businessmen fearful of investing in Russia and to reassure them that their investments were safe, discounting the 1998 devaluation of the Ruble which amounted to huge losses for Canadian business interests. Canadian and Russian officials renegotiated their 1989 Foreign Investment Protection Agreement and the Russian president spoke before 1,550 members of the Toronto establishment at a joint luncheon meeting of the Empire Club and the Canadian Club where he called for Canadian investment in Russian mining. The Ontario-based Mariport Group Ltd. has already carried out a "due diligence analysis relating to the shipping costs and port capability to handle cargo quantities involved in completing and operating the plant." Toronto-based Sherritt International became involved in a 50/50 joint venture with Cuba at the Moa mine in 1995 and ran afoul of U.S. law following the passage of the Helms-Burton Act of 1996 (USCPR, Vol.4, No.3).

Khagazheyev believes Norilsk could complete the Las Camariocas plant in three-to-four years and "make it operational" thereby utilizing spare smelting facilities on the Kola peninsula in the Norilsk industrial region of northwest Russia. In fact, Norilsk has in past years signed letters of intent with the Cuban government. UNEXIM Bank and Norilsk Nickel reportedly have been interested in completing the Las Camariocas plant in cooperation with Canadian partners since 1998.

Economy and Planning Minister Jose Luis Rodriguez stated Thursday, December 21st in Havana that Punta Gorda, Moa Bay, and Nicaro, Cuba's three operating mines, achieved a record 72,000 mt nickel output in 2000 compared to 66,500 mt in 1999. Nickel and cobalt maintain reasonably strong price levels continuing to provide substantial export earnings for the Castro regime.

CURRENCIES & COMMODITIES

1 Euro = 0.9427 Dollar
1 US Dollar = 21.00 Cuban Peso
1 Euro = 19.796 Cuban Peso

Rates as of December 29, 2000.
Source: Bloomberg.

RAW SUGAR CANE (cents per pound)

WORLD PRICES

Cash/Spot (fob) = 10.64
Year ago nearby = 6.14
Future (Mar. '01) = 10.17
High = 11.40
Low = 5.95

Cash/Spot price as of December 29, 2000.
Source: CSCE/NYBOT.

CRUDE OIL (\$/per bbl.)

Light Sweet (WTI)

Cash/Spot (fob) = 26.80-26.85
Year ago (Dec. 30) = 25.60
Future (Feb. '01) = 26.80

Cash/Spot price as of December 29, 2000.
Source: NYMEX; Spot: Dow Jones Energy.

METALS

Nickel (settlement) = 7,185
Year ago (Dec. 29) = 8,350

(\$ per metric ton)
Official Price: December 28, 2000.
Source: London Metal Exchange

Cobalt = 12.65 -13.95
Year ago (Dec. 23) = 14.70 - 15.40

(\$ per pound for 99.8%)
Price: December 29, 2000.
Source: Metal Bulletin (London).

TRADE BRIEFS

BAUCUS OUTLINES TRADE AGENDA IN 107TH CONGRESS – Senator Max Baucus (D-MT), in a speech before the Washington International Trade Association, reiterated his intent to carry forward the free trade positions he espoused in the previous Congress. His December 5th speech affirmed his desire to "reverse the disastrous Helms-Burton legislation on Cuba, as well as liberalize and end the embargo." Baucus succeeds Senator Patrick Daniel Moynihan (D-NY) to become the ranking minority member on the Senate Finance Committee in the 107th Congress.

Along with Republican Senator Pat Roberts of Kansas, Baucus traveled to Cuba last July and subsequently vowed to push U.S. exports to Cuba (USCPR, Vol.7, No.8). **HAVANA BEGINS PAYING FOR VENEZUELAN OIL DEAL INKIND** – At least one side of the bilateral oil barter deal penned on October 30th (USCPR, Vol.7, No.10) between Venezuela and Cuba has begun to flow. Reports thus far indicate that 50 Venezuelans with illnesses have arrived in Havana accompanied by Julio Montes, Venezuela's ambassador to Cuba, in partial payment for the 106,000 barrels per day Cuba is to receive in the deal. The Venezuelan Medical Association has been critical of the plan. In addition,

Cuba is to receive preferential payment terms at 2% interest and up to 15 years to pay with payments beginning in two years at prices ranging from \$15 to \$30 per barrel. November 30th crude oil futures for WTI January 2001 delivery priced at \$33.82. Higher oil prices have permitted Venezuela's democratically elected president, Hugo Chavez, to create "a new center of political power" to counterbalance U.S. influence in the Western Hemisphere while deepening its relations with Cuba, reports Andres Oppenheimer of the *Miami Herald*. (RL, "Venezuelans in Cuba on oil-for-medicine deal," 11/30/00; MH, "Chavez need only listen to his neighbors," 12/10/00).

RUSSIAN AND CUBAN GOVERNMENTS APPROVE TRADE PROTOCOL – The Russian government issued a press release on December 13th posted on its web site www.government.gov.ru announcing ahead of Russian President Vladimir Putin's scheduled visit to Cuba, his first since assuming office in December 1999, the approval of a draft trade protocol between the Russian and Cuban governments for the period 2001 to 2005. Under the protocol, Russia would deliver between 1.5-2 million metric tons of crude oil to Cuba, between 100,000-150,000 metric tons of agricultural chemicals, along with equipment and parts for the sugar industry. In return, Cuba would deliver to Russia between 2.2-2.8 million tons of raw sugar, citrus fruit, and medical supplies. (RL, "Russian govt outlines 2001-05 Cuba sugar, oil trade," 12/13/00; WTD, 12/14/00).

CUBA BECOMES FULL ACP MEMBER – Meeting in Brussels, the ACP Council of Ministers has granted Cuba full membership in the ACP Group of developing nations consisting of the former African, Caribbean, and Pacific European colonies bringing the total ACP membership to 78 nations; this on the heels of an ACP delegation visit to Cuba in August (USCPR, Vol.7, No.8). On June 23, 2000, the European Union signed the Cotonou Agreement in Benin, a trade and aid pact with the ACP, the successor to the 25 year-old Lome Convention (USCPR, Vol.7, No.6). Cuba had withdrawn itself from consideration of the trade and aid pact given its inability to meet the human rights and rule of law standards required by the EU (USCPR, Vol.7, Nos.2&4) but retained its bid to join the ACP. The ACP amended its founding charter, the Georgetown Agreement, in order to grant membership to Cuba which is expected to be fully integrated into the group although not involved in development cooperation with the EU. (RL, "ACP developing nations group admits Cuba," 12/14/00).

CUBA NEGOTIATING WITH MERCOSUR – Foreign Minister Felipe Perez announced at a press conference in Havana on Thursday, December 28th that Cuba was negotiating a trade accord with Mercosur, the Common Market of the South, which includes Argentina, Brazil, Paraguay and Uruguay with Bolivia and Chile as associate members. While Cuba has been negotiating bilateral tariff reduction treaties with Mercosur members, the Communist-ruled Caribbean island expects to conclude talks with a signing of the pact in late 2001. Perez acknowledged Cuba has not been asked to join Mercosur. (RL, "Cuba plans trade pact with South American group," 12/28/00).

DOMESTIC BRIEFS

FLORIDA COURT ISSUES SUMMARY JUDGMENT IN FAVOR OF LOBO DE GONZALEZ --

Judge Scott M. Kenney for Florida's Nineteenth Judicial Circuit Court in the case of Ryan et al. vs. Lobo de Gonzalez et al. (Case No. 98-096CA16) ordered on December 2nd that the Defendants' motion for summary judgment be granted and that "Plaintiffs shall have and take nothing from Defendants, who shall go hence without day." Chiriqui, a holding company to the Hershey "sugar mills and related businesses in Cuba," was owned by Julio Lobo prior to the confiscation without compensation of extensive sugar properties in 1960 by the Castro regime. At issue in this complicated family dispute is whether the right to split the shares to Chiriqui between the two daughters, Maria Luisa and Leonor, of Cuban sugar magnate Julio Lobo has been forever lost to Maria Luisa's heirs (Ryans) as a result of her having redeemed those interests in 1980. Ruling in favor of the Defendants, the Court concluded that "the statute of limitations appears to bar each cause of action in this case. The only exception would be equitable estoppel." The attorney for the Ryans, Gerald F. Richman, filed a notice of appeal on December 19th. Richman told the USCPR there were a number of reasons why the statute of limitations would not apply. Since the "constructive trust" was not breached until 1996, according to Richman, "the Judge has misconstrued the doctrine of equitable tolling." In 1999, the credentials committee of the Asociacion Nacional De Haciendados De Cuba, Inc. issued a "certification of ownership," stating that surviving daughter Leonor Lobo de Gonzalez "is the owner of 100%" of the shares in the successor company to Chiriqui Sugar Mill Corporation (USCPR, Vol.6,No.5).

STATE DEPARTMENT ENFORCEMENT OF TITLE IV DRAGS ON –

Like a hot potato that no one at the State Department wanted to handle, the enforcement of Helms-Burton's Title IV, "*Exclusion from the United States of Aliens who have Confiscated Property of United States Nationals or who Traffic in such Property,*" against any trafficker but especially against any European company such as Grupo Sol Melia the Spanish hotelier doing business with the Castro regime, has been passed on from one government official to another (USCPR, Vol.7,No.9). The result has been inaction with regard to Title IV enforcement which is considered to be long overdue. In fact, Acting Assistant Secretary of State for Western Hemisphere Affairs, Peter Romero (USCPR, Vol.6,No.9) recused himself from the matter inasmuch as his not having been confirmed by the U.S. Senate for the position somehow deprived him of authority to act. Edward Goff, the Deputy Director for Economic Affairs & Confiscated Property Issues wrote in a letter dated December 20th on behalf of Under Secretary of State for Political Affairs, Thomas Pickering, that the "State Department takes its responsibility in these matters very seriously and will fully carry out its mandate." Attorney for U.S. nationals who own Central Santa Lucia, Nicolas J. Gutierrez, Jr., responded on December 26th stating, "we continue to be at a loss over the State Department's delay in implementing Title IV of the LIBERTAD Act of 1996, concerning the above-referenced case that has been under your consideration for the past five years." Gutierrez is with the Miami law firm of Rafferty, Gutierrez & Sanchez-Aballi.

WHITE HOUSE ANNOUNCES ROMERO RECESS APPOINTMENT –

In a White House press release dated December 29th, President Clinton announced the recess appointment of Peter F. Romero to be the Assistant Secretary of State for Western Hemisphere Affairs. While the position requires Senate approval, presidents often make so-called recess appointments when the U.S. Senate is not in session, more often than not to avoid a confrontation with the Senate or an outright rejection by the body. In this case, Romero, who was selected on September 9, 1998, has had his nomination held up by Senate Foreign Relations Committee Chairman Jesse Helms. As a result, Romero has held the position and the title of "Acting" Assistant Secretary ever since. With regard to Cuba policy, Romero has been an adherent of the Clinton administration's "People-to-People" contact (USCPR, Vol.6,No.10). A career member of the Senior Foreign Service, Romero, also a former U.S. ambassador to Ecuador will likely soon be replaced by an appointment made by President-elect George W. Bush.

NOTABLE QUOTES

"And although there are strong undercurrents of sympathy for the Cuban dictatorship in some key constituencies of the Democratic Party and in Congress, it somehow managed (helped along, no doubt, by the Helms-Burton Law) to hold fast to the notion that some sort of democratic opening on the island was a precondition to serious improvements of relations." **Mark Falcoff** is a resident scholar at the American Enterprise Institute in Washington, D.C. (*Latin American Outlook, "The Prospect for U.S. – Latin American Relations," December 2000.*)

"When the most venerable and influential institution concerned with U.S. foreign policy, New York's Council on Foreign Relations [CFR], proposes to sustain indefinitely one of the world's last remaining totalitarian regimes, Fidel Castro's Cuba, alarms ought to go off regarding the direction of U.S. strategy." **Irving Louis Horowitz**, a CFR member for over 30 years, is critical of the Aronson-Rogers Cuba Task Force report, *U.S. Cuban Relations in the 21st Century* (USCPR, Vol.7, No.11). (MH, "An appeasement policy for Castro's Cuba: Plan would change nothing in Cuba," 12/6/00).

"On the foreign policy front, Mr. Chavez's international moves were designed to manifest his independence and willingness to stand up to the United States. While he appears to admire Cuba's educational and medical system, his overtures to Fidel Castro and Saddam Hussein are mostly symbolic irritants. His attitudes toward the United States are an admixture of traditional Latin American leftist anti-Americanism and more updated concerns about America's global pre-eminence in the post-Cold War world. Yet, Mr. Chavez's rhetoric aside, his opposition to Plan Colombia and other U.S. regional initiatives have created some problems for Washington." **Paula J. Dobriansky** is vice-president/Washington director of the Council on Foreign Relations. (TWT, "The new autocratic democrats: Chavez and Putin chart a common course," 12/22/00, p.A23).

"There is a growing belief in Republican circles that Mr. Chavez is undercutting American foreign policy by providing oil to Cuba, by opposing "Plan Colombia," which includes \$1.3 billion in United States counter-narcotics aid for South America, and by giving political support to guerrillas and anti-government forces in neighboring Andean nations." **Christopher Marquis** is a reporter for the *New York Times* who previously reported for the *Miami Herald* and Knight Ridder newspapers. (NYT, "Bush Could Get Tougher on Venezuela's Leader," 12/28/00, p.A3).

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Source Guide - the following abbreviations should serve as a partial guide to sources contained in the *U.S. Cuba Policy Report*: AP – Associated Press; BLP – Bloomberg LP; BG – The Boston Globe; CR – Congressional Record; ENH – El Nuevo Herald; FA – Foreign Affairs Magazine; FP – Financial Post; FT – Financial Times; GI – Gramma International; JOC – Journal of Commerce; LAT – Los Angeles Times; MH – The Miami Herald; MB – Metal Bulletin; NPR – National Public Radio; NYT – The New York Times; OGJ – Oil & Gas Journal; PR – Press Release; RL – Reuters Limited; ST – The Seattle Times; WSJ – The Wall Street Journal; TWT – The Washington Times; WP – The Washington Post; WTD – Washington Trade Daily; ZNA – ZENIT News Agency.

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