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Cuba: Issues for the 107th Congress

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Mark P. Sullivan
Specialist in Latin American Affairs
Foreign Affairs, Defense, and Trade Division

Maureen Taft-Morales
Analyst in Latin American Affairs
Foreign Affairs, Defense, and Trade Division

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Summary

Cuba remains a hard-line Communist state, with a poor record on human rights. Fidel Castro has ruled since he led the Cuban Revolution, ousting the corrupt government of Fulgencio Batista from power in 1959. With the cutoff of assistance from the former Soviet Union, Cuba experienced severe economic deterioration from 1989 to 1993. There has been some improvement since 1994 as Cuba has implemented limited reforms.

Since the early 1960s, U.S. policy toward Cuba has consisted largely of isolating the island nation through comprehensive economic sanctions. The Bush Administration has essentially continued this policy. The principal tool of policy remains comprehensive sanctions, which were made stronger with the Cuban Democracy Act (CDA) in 1992 and the Cuban Liberty and Democratic Solidarity Act in 1996, often referred to as the Helms/Burton legislation. Another component of U.S. policy consists of support measures for the Cuban people, including private humanitarian donations and U.S.-sponsored radio and television broadcasting to Cuba. In May 2002, President Bush announced a new initiative that includes several measures designed to reach out to the Cuban people.

There appears to be broad agreement on the overall objective of U.S. policy toward Cuba — to help bring democracy and respect for human rights to the island. But there are several schools of thought on how to achieve that objective. Some advocate a policy of keeping maximum pressure on the Cuban government until reforms are enacted, while continuing current U.S. efforts to support the Cuban people. Others argue for an approach, sometimes referred to as constructive engagement, that would lift some U.S. sanctions that they believe are hurting the Cuban people, and move toward engaging Cuba in dialogue. Still others call for a swift normalization of U.S.-Cuban relations by lifting the U.S. embargo. Policy debate in the past several years has focused on whether to maintain U.S. restrictions on food and medical exports as well as on travel to Cuba.

Legislative initiatives introduced in the 107th Congress reflect these divergent views on the direction of U.S. policy toward Cuba and also cover a range of issues including human rights, food and medical exports, travel restrictions, drug interdiction cooperation, and broadcasting to Cuba. In the first session, the House approved an amendment to the FY2002 Treasury Department appropriations bill (H.R. 2590) that would prohibit funds from being used to enforce Cuba travel restrictions; the Senate version of the bill had no such provision, and ultimately, the provision was not included in the conference report. In the second session, the Senate version of the "Farm Bill," H.R. 2646, included a provision that would strike language from U.S. law that prohibits private financing of agricultural sales to Cuba; the House version had no such provision, and ultimately the provision was not included in the conference report. The House version of the FY2003 Treasury Department appropriations bill, H.R. 5120, approved July 24, 2002, includes three Cuba provisions that would prohibit funds from being used to enforce regulations on travel, remittances, and U.S. agricultural sales to Cuba. The Senate version of the bill, S. 2740, as reported out of committee, would prohibit funds from being used to enforce Cuba travel regulations.

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This report examines the economic and political situation in Cuba, including the human rights situation, and U.S. policy toward Cuba. It analyzes numerous policy issues facing Congress, including the overall direction of U.S. policy toward Cuba; challenges to U.S. policy in the World Trade Organization; restrictions on commercial food and medical exports; restrictions on travel; bilateral drug trafficking cooperation; Cuba and terrorism; Cuban spies in the United States; funding for U.S.-government sponsored radio and television broadcasting to Cuba; the Russian signals intelligence facility in Cuba; and compensation to the families of those Americans killed in 1996 when Cuba shot down two U.S. civilian planes. The report cites legislation that was passed in the 106th Congress and also tracks and analyzes legislative action on these various issues in U.S. policy toward Cuba in the 107th Congress.

Most Recent Developments

On July 24, 2002, the House approved the FY2003 Treasury Department appropriations bill, H.R. 5120, by a vote of 308-121, that contained three amendments easing Cuba embargo restrictions. During July 23, 2002 consideration of the bill, the House approved three amendments on Cuba sanctions that would prohibit funds in the bill from being used to enforce regulations on travel (Flake, H.Amdt. 552), remittances (Flake, H.Amdt. 553), and U.S. agricultural sales to Cuba (Moran (KS), H.Amdt. 554). The House also rejected two amendments to H.R. 5120 that would have prevented any funds in the bill from being used to enforce the overall economic embargo (Rangel, H.Amdt. 555) and that would have tied the limitation of funds in the bill for enforcing the travel regulations to certain conditions regarding biological weapons and terrorism (Goss, H.Amdt. 551). On July 24, White House spokesman Ari Fleischer stated that the President would veto the measure if it contained such provisions.

On July 16, 2002, President Bush again suspended for a six-month period the right of individuals to file lawsuits against those persons benefitting from confiscated U.S. property in Cuba under Title III of the Cuban Liberty and Democratic Solidarity Act (P.L. 104-114).

On June 26, 2002, Cuba's National Assembly approved amendments to the Cuban Constitution stating that "socialism and the revolutionary political and social system in the Constitution ... are irrevocable; and Cuba will never again return to capitalism." (See "Political Conditions" below.) A speech by Fidel Castro at the National Assembly session raised concerns among some observers that Castro was planning another mass migration exodus like the ones in 1980 and 1994. Subsequently, however, both Cuban and U.S. officials stated the importance of maintaining the migration accords. (See "Migration" below.)

On June 10, 2002, the Senate approved (by a vote of 87-0) S.Res. 272 (Nelson), which expresses support for the Varela Project that is working for a national referendum in Cuba to bring about political change. (See "Human Rights" section below.)

On June 6, 2002, the House International Relations Committee's Subcommittee on International Operations and Human Rights held a hearing on Radio and TV Marti featuring Administration and outside witnesses. (See "Radio and TV Marti" section below.)

On June 5, 2002, the Senate Foreign Relations Committee, Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs, held a hearing on the issue of Cuba and biological weapons. On May 6, 2002, Under Secretary of State for Arms Control and International Security John Bolton stated that "the United States believes that Cuba has at least a limited offensive biological warfare research-and-development effort" and "has provided dual-use technology to other rogue states." When questioned on the issue at that time, Secretary of State Powell asserted that the United States believes Cuba has the capacity and the capability to conduct research on biological weapons but emphasized that the Administration had not claimed that Cuba had such weapons. (See "Cuba and Terrorism" below.)

On May 20, 2002, President Bush announced a new initiative on Cuba that includes several measures designed to reach out to the Cuban people. (See "U.S. Policy Toward Cuba" below.)

On May 12, 2002, former President Jimmy Carter arrived in Cuba for a six-day visit. During the trip, Carter raised human rights issues, and included the topic in an address televised in Cuba. (See "U.S. Policy Toward Cuba" below.)

On May 5, 2002, the Cuban government released prominent political prisoner Vladimiro Roca from jail about two months before his 5-year sentence was complete. (See "Human Rights" below.)

On May 1, 2002, the conference report (H.Rept. 107-424) to the 2002 Farm Bill was filed without a provision from the Senate version of the bill (Section 335) that would have eliminated restrictions in U.S. law against U.S. private financing of agricultural sales to Cuba. On April 23, 2002, the House had approved (273-143) a nonbinding motion to instruct the House conferees to accept the Senate provision. Press reports indicate that Cuba has purchased $90 million in agricultural products, including grains, eggs, and frozen chicken from 21 U.S. companies since late 2001. (See"Food and Medical Exports" below.)

On April 19, 2002, the U.N. Commission on Human Rights approved a resolution (by a vote of 23-21, with 9 abstentions) calling on Cuba to improve its human rights record "in accordance with the Universal Declaration of Human Rights and the principles and standards of the rule of law."(See "Human Rights" below.)

On March 19, 2002, former Defense Intelligence Agency (DIA) analyst Ana Montes pled guilty to spying for the Cuban government for 16 years. Federal prosecutors reportedly agreed to a 25-year prison term if Montes provides

information on what she knows about Cuban intelligence activities. (See "Cuban Spies in the United States" below.)

On March 12, 2002, the Cuban government delivered three diplomatic notes to the State Department proposing bilateral agreements on drug-interdiction, migration, and cooperation against terrorism. (See "Drug Interdiction Cooperation" below.)

Economic Conditions[1]

With the cutoff of assistance from the former Soviet Union, Cuba experienced severe economic deterioration from 1989-1993, although there has been some improvement since 1994. Estimates of economic decline in the 1989-93 period range from 35-50%. Recovery began in 1994, with the economy growing 0.7% in 1994, 2.5% in 1995, and 7.8% in 1996. While the Cuban government originally was predicting a growth rate of 4-5% for 1997, growth for the year was just 2.5%, largely because of disappointing sugar production. For 1998, the government's goal was for a growth rate of 2.5-3.5%, but another poor sugar harvest, a severe drought in eastern Cuba, and the effects of Hurricane Georges resulted in an estimated growth rate of just 1.2%. In 1999 and 2000, the economy rebounded with growth rates of 6.2% and 5.6%, respectively.

Growth slowed to 3% in 2001 in the aftermath of the effects of Hurricane Michelle and the September 11 terrorist attacks in the United States. The terrorist attacks severely affected Cuba's tourist industry, with reports of some hotels closing and restaurants empty. Hurricane Michelle damaged some 45,000 homes and severely hurt the agricultural sector. For 2002, an economic growth rate of 2% is forecast, while a rate of 5% is forecast for 2003, assuming an improvement in the global economy.[2] Low world prices for sugar and nickel, a decline in the number of tourists since September 2001, and Venezuela's decision in April 2002 to suspend oil shipments to Cuba because of Cuba's slow payment have all contributed to the economic downturn in 2002.[3]

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[1] For further information on the Cuban economy, see CRS Report RL30837, *Cuba: An Economic Primer,* by Ian F. Fergusson.

[2] "Cuba: Outlook for 2002-03," Economist Intelligence Unit (EIU) Country Reports, June 13, 2002.

[3] Venezuela provided Cuba with 53,000 barrels of oil per day under a five-year bilateral agreement signed in October 2000, with favorable financing terms for Cuba. This provided Cuba with about one-third of its oil needs. In the aftermath of the failed ouster of President Hugo Chavez in April 2002, Venezuela suspended oil shipments to Cuba. Reports indicate that Cuba and Venezuela will sign an agreement in September 2002 to restructure Cuba's $140 million in debt owed to Venezuela for its oil purchases; this would reportedly lead to the resumption of Venezuelan oil to Cuba. See Jose de Cordoba, "Cuba's Weak Economy May be Battered Again," *Wall Street Journal*, June 6, 2002; "Venezuela Shuts Off the Oil Spigot," *CubaNews*, June 2002, p. 12; "Venezuela: Halt in Oil to Cuba May Ease Pressure on Chavez," *Strategic Forecasting* (Straftor.com), May 30, 2002; and "Govts. To Sign U.S. $140 Million Debt Renegotiation Deal," *Business News Americas*, August 29, 2002.

Socialist Cuba has prided itself on the nation's accomplishments in health and education. For example, according to the World Bank, the literacy rate is 94% and life expectancy is 76 years, compared to 79% and 68 years average for other middle-income developing countries. The United Nations Children's Fund (UNICEF) reports that Cuba's infant mortality rate (per 1,000 live births) was just 7.9 in 1996, the lowest rate in Latin America and among the world's top 20 countries for this indicator. Nevertheless, the country's economic decline has reduced living standards considerably and resulted in shortages in medicines and medical supplies.

When Cuba's economic slide began in 1989, the government showed little willingness to adopt any significant market-oriented economic reforms, but in 1993, faced with unprecedented economic decline, Cuba began to change policy direction. Since 1993, Cubans have been allowed to own and use U.S. dollars and to shop at dollar-only shops previously limited to tourists and diplomats. Self-employment was authorized in more than 100 occupations in 1993, most in the service sector, and by 1996 that figure had grown to more than 150 occupations. Other Cuban economic reforms included breaking up large state farms into smaller, more autonomous, agricultural cooperatives (Basic Units of Cooperative Production, UBPCs) in 1993; opening agricultural markets in September 1994 where farmers could sell part of their produce on the open market; opening artisan markets in October 1994 for the sale of handicrafts; allowing private food catering, including home restaurants (*paladares*) in June 1995 (in effect legalizing activities that were already taking place); approving a new foreign investment law in September 1995 that allows fully owned investments by foreigners in all sectors of the economy with the exception of defense, health, and education; and authorizing the establishment of free trade zones with tariff reductions typical of such zones in June 1996. In May 1997, the government enacted legislation to reform the banking system and established a new Central Bank (BCC) to operate as an autonomous and independent entity.

Despite these measures, the quality of life for many Cubans remains difficult, characterized by low wages, high prices for many basic goods, shortages of medicines, and power outages. Moreover, some analysts fear that the government has begun to backtrack on its reform efforts. Regulations and new taxes have made it extremely difficult for many of the nation's self-employed (at one point estimated at more than 200,000, but now estimated at 160,000 or lower, out of a total labor force of some 4.5 million). Some home restaurants have been forced to close because of the regulations. Some foreign investors in Cuba have also begun to complain that the government has backed out of deals or forced them out of business.

Political Conditions

Although Cuba has undertaken some limited economic reforms, politically the country remains a hard-line Communist state. Fidel Castro, who turned 76 on August 13, 2002, has ruled since the 1959 Cuban Revolution, which ousted the corrupt government of Fulgencio Batista from power. Castro soon laid the foundations for an authoritarian regime by consolidating power and forcing moderates out of the government. In April 1961, Castro admitted that the Cuban Revolution was socialist, and in December 1961, he proclaimed himself to be a Marxist-Leninist. From 1959 until 1976, Castro ruled by decree.

A Constitution was enacted in 1976 setting forth the Communist Party as the leading force in the state and in society (with power centered in a Politburo headed by Fidel Castro). The Constitution also outlined national, provincial, and local governmental structures. Executive power is vested in a Council of Ministers, headed by Fidel Castro as President. Legislative authority is vested in a National Assembly of People's Power, currently with 601 members, that meets twice annually for brief periods. While Assembly members were directly elected for the first time in February 1993, only a single slate of candidates was offered. From October 8-10, 1997, the Cuban Communist Party held its 5th Congress (the prior one was held in 1991) in which the party reaffirmed its commitment to a single party state and reelected Fidel and Raul Castro as the party's first and second secretaries. Direct elections for the National Assembly were held for a second time in January 1998, but voters again were not offered a choice of candidates. Elections for the National Assembly will be held again in 2003.

In response to the challenge posed by the Varela Project, a human rights initiative that called for changes to the Constitution (see below), the Cuban government orchestrated a national referendum in late June 2002, signed by 8.1 million people, that declared Cuba's socialist system could not be changed. Subsequently the National Assembly on June 26, 2002, approved amendments to the Constitution stating that "socialism and the revolutionary political and social system in the Constitution.....are irrevocable; and Cuba will never again return to capitalism."[4]

Human Rights

Cuba has a poor record on human rights, with the government sharply restricting basic rights, including freedom of expression, association, assembly, movement, and other basic rights. It has cracked down on dissent, arrested human rights activists and independent journalists, and staged demonstrations against critics. Although some anticipated a relaxation of the government's oppressive tactics in the aftermath of the Pope's January 1998 visit, government attacks against human rights activists and other dissidents have continued since that time.

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[4] "Special Session of the National Assembly, A Transcendent Yes," *Granma International*, June 30, 2002, p. 1.

On May 5, 2002, the Cuban government released prominent political prisoner Vladimiro Roca from jail about two months before his 5-year sentence was complete. Roca was imprisoned in July 1997 along with three other leaders of the "Dissident Working Group," Rene Gomez Manzano, Marta Beatriz Roque, and Felix Bonne. The Cuban government had released Manzano, Roque, and Bonne in May 2000. All four leaders had been convicted by a Cuban court on March 15, 1999, on charges of "sedition" under the Cuban penal code after a one-day trial. Sentences ranged from 3 ½ years for Roque to 4 years for Bonne and Gomez Manzano and 5 years for Roca. Just before the dissidents' trial, scores of human rights advocates, independent journalists, and other activists were detained so that they could not cover or protest the trial. The four dissidents had released a document in June 1997 entitled, "The Homeland Belongs to Us All"[5] that strongly criticized a draft report of the 5th Congress of the Cuban Communist Party that was going to be held that October. The dissidents also urged Cubans not to vote in legislative elections and encouraged foreign investors not to invest in Cuba. Upon his release, Roca maintained that he would continue working for dialogue and reconciliation in Cuba.[6]

According to the State Department's human rights report for 2001, human rights groups inside Cuba estimate the number of political prisoners to be between 249 and 300 people, imprisoned on such charges as dissemination of enemy propaganda, illicit association, contempt for the authorities (usually for criticizing President Castro), clandestine printing, and the broad charge of rebellion. This reflected a decrease in the estimate of 300-400 reflected in the State Department's human rights report for 2000. The Cuban Commission for Human Rights and National Reconciliation notes that the number of prisoners has decreased because the government has increased its use of short-term detentions instead of prison sentences. The State Department report for 2001 notes that the government "routinely engaged in arbitrary arrest and detention of human rights advocates, subjecting them to interrogations, threats, and degrading treatment and unsanitary conditions for hours or days at a time."

Varela Project. A human rights initiative within Cuba that has received attention in recent months is the Varela Project (named for the 19th century priest, Felix Varela, who advocated independence from Spain and the abolition of slavery) in which thousands of signatures have been collected supporting a national plebiscite. The referendum would call for respect for human rights, an amnesty for political prisoners, private enterprise, and changes to the country's electoral law that would result in free and fair elections. The initiative is organized by Oswaldo Paya, who heads the Christian Liberation Movement, but it is supported by other notable Cuban human rights activists such as Elizardo Sanchez of the Cuban Commission for Human Rights and National Reconciliation.

On May 10, 2002, organizers of the Varela Project submitted 11,020 signatures to the National Assembly calling for a national referendum, more than the 10,000 required under the Cuban Constitution (Article 88). Former President Jimmy Carter

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[5] See the full text at [http://www.cubanet.org/CNews/y97/jul97/homdoc.htm].

[6] Nancy San Matin, "Cuba Frees Prominent Political Dissident," *Miami Herald*, May 6, 2002.

noted the significance of the Varela Project in his May 14, 2002 address in Havana that was broadcast in Cuba. Carter noted that "when Cubans exercise this freedom to change laws peacefully by a direct vote, the world will see that Cubans, and not foreigners, will decide the future of this country."[7]

In response to the Varela Project, the Cuban government orchestrated its own referendum in late June 2002 that ultimately led to the National Assembly amending the Constitution to declare Cuba's socialist system irrevocable.

On June 10, 2002, the Senate approved (by a vote of 87-0) S.Res. 272 (Nelson), which expresses support for the Varela Project and "urges the President to support the right of the citizens of Cuba who have signed the Varela Project to petition the Cuban National Assembly for a referendum and the peaceful transition to democracy." In the House, H.Res. 453 (Pallone), introduced June 20, 2002, would also express support for the Varela Project.

UNCHR Resolutions. From 1991 until 1997, the U.N. Commission on Human Rights (UNCHR) called on the Cuban government to cooperate with a Special Representative (later upgraded to Special Rapporteur) designated by the Secretary General to investigate the human rights situation in Cuba. But Cuba refused to cooperate with the Special Rapporteur, and the UNCHR annually approved resolutions condemning Cuba's human rights record. In 1998, however, the UNCHR rejected — by a vote of 16 to 19, with 18 abstentions — the annual resolution sponsored by the United States that would have condemned Cuba's rights record and would have extended the work of the Special Rapporteur for another year. U.S. officials and human rights activists expressed deep disappointment with the vote. Observers maintained that the vote did not signify any improvement in human rights in Cuba, but rather was an expression of disagreement with the United States over its policy toward Cuba.

For four years now, the UNCHR has again approved resolutions criticizing Cuba for its human rights record, although without appointing a Special Rapporteur. In 1999, the UNCHR resolution was approved by a vote of 21-20, with 12 abstentions. In 2000, the resolution, sponsored by the Czech Republic and Poland, was approved by a vote of 21-18, with 14 abstentions. On April 18, 2001, the resolution, sponsored by the Czech Republic and co-sponsored by 16 other nations, including the United States, was approved by a vote of 22-20, with 10 abstentions. A U.S. Congressional delegation traveled to Geneva to encourage adoption of the resolution. Mexico abstained but, in a shift under the new Fox administration, publicly stated its concern about human rights in Cuba.

On April 19, 2002, the UNCHR approved a resolution, by a vote of 23 to 21, with 9 abstentions, calling on Cuba to improve its human rights record "in accordance with the Universal Declaration of Human Rights and the principles and standards of the rule of law." Uruguay sponsored the resolution, which was supported by six other Latin American nations: Argentina, Chile, Costa Rica, Guatemala, Mexico, and Peru. Brazil and Ecuador abstained, while Venezuela was

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[7] "Text of Jimmy Carter's Speech, Broadcast Live to Cuban People," *Associated Press*, May 15, 2002.

the only Latin American country besides Cuba to vote against the resolution. Compared to previous years, the 2002 resolution was milder in that it recognized Cuba's efforts to fulfill the "social rights" of its people "despite an adverse international environment," while at the same time calling on Cuba "to achieve similar progress in respect of human, civil, and political rights." The resolution also called on Cuba to allow a visit by a representative of the U.N. High Commission for Human Rights.

Cuba lashed out at Uruguay for sponsoring the resolution and accused the country of "being servile" to the United States and its president of being a liar. Uruguay responded to Cuba's invectives by breaking diplomatic relations. Cuba also lashed out at Mexico for supporting the resolution; the Cuban government also stepped up its complaints of Mexican pressure on Castro to leave the United Nations development conference held in Monterrey, Mexico in March 2002 before the arrival of President Bush.

Outlook

Observers are divided over the future of the Castro government. Although some believe that the demise of the government is imminent, there is considerable disagreement over when or how this may occur. Some point to Castro's age and predict that the regime will collapse without Fidel at the helm. Other observers maintain that reports of the impending collapse of the Cuban government have been exaggerated and that Castro may remain in power for years. They point to Cuba's strong security apparatus and the extraordinary system of controls that prevents dissidents from gaining popular support. Moreover, observers maintain that Cuba's elite has no interest in Castro's overthrow, and that Castro still enjoys some support, in part because of the social benefits of the Cuban revolution, but also because Cubans see no alternative to Castro.

Even if Castro is overthrown or resigns, the important question remaining is the possibility or viability of a stable democratic Cuba after Castro. Analysts point out that the Castro government has successfully impeded the development of independent civil society, with no private sector, no independent labor movement, and no unified political opposition. For this reason, they contend that building a democratic Cuba will be a formidable task, one that could meet stiff resistance from many Cubans.

U.S. Policy Toward Cuba

In the early 1960s, U.S.-Cuban relations deteriorated sharply when Fidel Castro began to build a repressive communist dictatorship and moved his country toward close relations with the Soviet Union. The often tense and hostile nature of the U.S.-Cuban relationship is illustrated by such events and actions as: U.S. covert operations to overthrow the Castro government culminating in the ill-fated April 1961 Bay of Pigs invasion; the October 1962 missile crisis in which the United States confronted the Soviet Union over its attempt to place offensive nuclear missiles in Cuba; Cuban support for guerrilla insurgencies and military support for revolutionary governments in Africa and the Western Hemisphere; the 1980 exodus of around 125,000 Cubans

to the United States in the so-called Mariel boatlift; the 1994 exodus of more than 30,000 Cubans who were interdicted and housed at U.S. facilities in Guantanamo and Panama; and the February 1996 shootdown by Cuban fighter jets of two U.S. civilian planes, resulting in the death of four U.S. crew members.[8]

Since the early 1960s, U.S. policy toward Cuba has consisted largely of isolating the island nation through comprehensive economic sanctions. The principal tool of U.S. policy remains comprehensive sanctions, which were made stronger with the Cuban Democracy Act (CDA) of 1992 and with the Cuban Liberty and Democratic Solidarity Act of 1996 (P.L. 104-114), often referred to as the Helms/Burton legislation. The CDA prohibits U.S. subsidiaries from engaging in trade with Cuba and prohibits entry into the United States for any vessel to load or unload freight if it has engaged in trade with Cuba within the last 180 days. The Helms/Burton legislation — enacted in the aftermath of Cuba's shooting down of two U.S. civilian planes in February 1996 — combines a variety of measures to increase pressure on Cuba and provides for a plan to assist Cuba once it begins the transition to democracy. Among the law's sanctions is a provision in Title III that holds any person or government that traffics in U.S. property confiscated by the Cuban government liable for monetary damages in U.S. federal court. Acting under provisions of the law, President Clinton suspended the implementation of Title III at 6-month intervals.

Another component of U.S. policy consists of support measures for the Cuban people, a so-called second track of U.S. policy. This includes U.S. private humanitarian donations, U.S. government support for democracy-building efforts for Cuba, and U.S.- sponsored radio and television broadcasting to Cuba, Radio and TV Marti.

The Clinton Administration made several changes to U.S. policy in the aftermath of the Pope's January 1998 visit to Cuba, which were intended to bolster U.S. support for the Cuban people. These included the resumption of direct flights to Cuba (which had been curtailed after the February 1996 shootdown of two U.S. civilian planes), the resumption of cash remittances for the support of close relatives in Cuba (which had been curtailed in August 1994 in response to the migration crisis with Cuba), and the streamlining of procedures for the commercial sale of medicines and medical supplies and equipment to Cuba. In January 1999, President Clinton announced several additional measures to support the Cuban people. These included a broadening of cash remittances to Cuba, so that all U.S. residents (not just those with close relatives in Cuba) could send remittances to Cuba; an expansion of direct passenger charter flights to Cuba from additional U.S. cities other than the current flights from Miami (direct flights later in the year began from Los Angeles and New York); and an expansion of people-to-people contact by loosening restrictions on travel to Cuba for certain categories of travelers, such as professional researchers and those involved in a wide range of educational, religious, sports competition, and other activities.

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[8] For more on the background of U.S.-Cuban relations from CRS see CRS Report RL30386, *Cuba-U.S. Relations: Chronology of Key Events 1959-1999.*

Bush Administration Policy. President Bush made his first major statement on his Administration's policy toward Cuba on May 18, 2001. He stated that his Administration would "oppose any attempt to weaken sanctions against Cuba's government ... until this regime frees its political prisoners, holds democratic, free elections, and allows for free speech." He added that he would "actively support those working to bring about democratic change in Cuba."[9]

Although President Bush has announced stronger measures to enforce the embargo, he also has continued in the same vein as the Clinton Administration by suspending implementation of Title III of the Helms-Burton legislation. On July 13, 2001, President Bush asked the Treasury Department to enhance and expand the enforcement capabilities of the Office of Foreign Assets Control. The President noted the importance of upholding and enforcing the law in order to prevent "unlicensed and excessive travel," enforce limits on remittances, and ensure that humanitarian and cultural exchanges actually reach pro-democracy activists in Cuba. Just three days later, on July 16, 2001, President Bush decided to continue to suspend for a 6-month period the Title III provisions of the Cuban Liberty and Democratic Solidarity Act (P.L. 104-114) that allows U.S. nationals to sue for money damages in U.S. federal court those persons who traffic in property confiscated in Cuba. He cited efforts by European countries and other U.S. allies to push for democratic change in Cuba. President Bush again suspended implementation of Title III on January 16, 2002, for a 6-month period.

On May 20, 2002, President Bush announced a new initiative on Cuba that includes four measures designed to reach out to the Cuban people: 1) facilitating humanitarian assistance to the Cuban people by U.S. religious and other non-governmental organization (NGOs); 2) providing direct assistance to the Cuban people through NGOs; 3) calling for the resumption of direct mail service to and from Cuba[10]; and 4) establishing scholarships in the United States for Cuban students and professional involved in building civil institutions and for family members of political prisoners.

President Bush also called on Cuba to take steps to ensure that the 2003 National Assembly elections are free and fair and to adopt meaningful market-based reforms. If those conditions were met, the President maintained that he would work with Congress to ease the ban on trade and travel. However, the President maintained that full normalization of relations (diplomatic recognition, open trade, and a robust aid program) would only occur when Cuba has a fully democratic

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[9] The White House, "*Remarks by the President in Recognition of Cuba Independence Day*", May 18, 2001. See [http://www.whitehouse.gov/news/releases/2001/05/20010518-7.html].

[10] Direct mail service was suspended in 1962. The Cuban Democracy Act of 1992 directed the U.S. Postal service to take actions to provide direct mail service. In January 1999, President Clinton called for the resumption of direct mail service. In the past, Cuba has responded to U.S. overtures about direct mail service by maintaining that the two countries would need to enter into a civil-aviation agreement. Cuba in the past has also expressed concern about potential terrorism that could occur with direct mail service and would want to discuss with the United States measures to prevent such activity before the resumption of direct mail. See: Philip Brenner, "Washington Loosens the Knot Just a Little," *NACLA Report on the Americas*, March 1, 1999.

government, when the rule of law is respected, and when the human rights of all Cubans are fully protected. The President's initiative did not include an explicit tightening of restrictions on travel to Cuba that some observers had expected. The President, did state, however, that the United States would "continue to enforce economic sanctions on Cuba, and the ban on travel to Cuba, until Cuba's government proves that it is committed to real reform."

Carter Visit to Cuba. Former President Jimmy Carter arrived in Cuba on May 12, 2002 for a six-day visit. During the trip, Carter repeatedly raised human rights issues. On May 13, 2002, Carter met with two leading human rights activists, Elizardo Sanchez of the Cuban Commission of Human Rights and National Reconciliation and Oswaldo Paya, who heads the Christian Liberation Movement and is the main organizer of the Varela Project that has the goal of a national referendum to change Cuba's laws (see "Human Rights" section above for more on the Varela Project). He met with a number of human rights and religious organizations and activists on May 16. Perhaps most significantly, however, was President Carter's address in Havana that was broadcast live on television and radio on May 14. Carter criticized Cuba's one-party rule that does not allow opposition movements to organize. He asked Cuba to permit the International Committee of the Red Cross to visit Cubans prisons and to receive the U.N. Human Rights Commissioner to visit in order to address such issues as prisoners of conscience and the treatment of inmates. He also called attention to the Varela Project.

In addition to his advocacy of democracy and respect for human rights, Carter also called for the United States to take the first step of improving the U.S.-Cuban bilateral relationship. He called on Congress "to permit unrestricted travel between the United States and Cuba, establish open trading relationships, and repeal the embargo." Carter acknowledged that U.S. policy was not the source of Cuba's economic problems, but he maintained that "the embargo freezes the existing impasse, induces anger and resentment, restricts the freedoms of U.S. citizens, and makes it difficult for us to exchange ideas and respect."[11] In response to Carter's call to lift the embargo, the Bush Administration reiterated its stance of maintaining the embargo as a "vital part of American foreign policy."[12]

Issues in U.S.-Cuban Relations

Overall Direction of U.S. Policy

Over the years, although U.S. policymakers have agreed on the overall objective of U.S. policy toward Cuba — to help bring democracy and respect for human rights to the island — there have been several schools of thought about how to achieve that objective. Some advocate a policy of keeping maximum pressure on the Cuban government until reforms are enacted, while continuing current U.S. efforts to

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[11] "Text of Jimmy Carter's Speech, Broadcast Live to Cuban People," *Associated Press*, May 15, 2002.

[12] Tim Johnson, "U.S. Rejects Carter's Plea to End Embargo on Cuba," *Miami Herald*, May 16, 2002.

support the Cuban people. Others argue for an approach, sometimes referred to as constructive engagement, that would lift some U.S. sanctions that they believe are hurting the Cuban people, and move toward engaging Cuba in dialogue. Still others call for a swift normalization of U.S.-Cuban relations by lifting the U.S. embargo.

In general, those advocating a loosening of the sanctions-based policy toward Cuba make several policy arguments. They assert that if the United States moderated its policy toward Cuba – through increased travel, trade and diplomatic dialogue, that the seeds of reform would be planted in Cuba, which would stimulate and strengthen forces for peaceful change on the island. They stress the importance to the United States of avoiding violent change in Cuba, with the prospect of a mass exodus to the United States and the potential of involving the United States in a civil war scenario. They argue that since Castro's demise does not appear imminent, the United States should espouse a more realistic approach in trying to induce change in Cuba. Supporters of changing policy also point to broad international support for lifting the U.S. embargo, to the missed opportunities to U.S. businesses because of the embargo, and to the increased suffering of the Cuban people because of the embargo. Proponents of change also argue that the United States should adhere to some consistency in its policies with the world's few remaining Communist governments, and also maintain that moderating policy will help advance human rights in Cuba.

On the other side, opponents of changing U.S. policy maintain that the current two-track policy of isolating Cuba, but reaching out to the Cuban people through measures of support, is the best means for realizing political change in Cuba. They point out that the Cuban Liberty and Democratic Solidarity Act of 1996 sets forth a road map for what steps Cuban needs to take in order for the United States to normalize relations, including lifting the embargo. They argue that softening U.S. policy at this time without concrete Cuban reforms would boost the Castro regime politically and economically, enabling the survival of the Communist regime. Opponents of softening U.S. policy argue that the United States should stay the course in its commitment to democracy and human rights in Cuba; that sustained sanctions can work; and that the sanctions against Cuba have only come to full impact with the loss of large subsidies from the former Soviet bloc. Opponents of loosening U.S. sanctions further argue that Cuba's failed economic policies, not the U.S. embargo, are the causes of the economy's rapid decline.

Legislative Initiatives. Legislative initiatives introduced in the 107th Congress reflect divergent views on the direction of U.S. policy toward Cuba (whether sanctions should be eased or intensified) and also cover a range of issues including human rights, drug interdiction cooperation, and broadcasting to Cuba. (For a complete listing, see "Legislative Initiatives in the 107th Congress" toward the end of this report.)

Several bills would strengthen sanctions on Cuba. H.R. 160 (Ros-Lehtinen) would prohibit rescheduling or forgiving any outstanding bilateral debt owed to the United States by Russia until the President certifies that Russia has ceased all its operations, removed all personnel from, and permanently closed the intelligence facility at Lourdes, Cuba (see section below on "Russian Intelligence Facility in

Cuba," which discusses Russia's October 2001 decision to close the facility). H.R. 2292 (Rothman) would amend the Cuban Liberty and Democratic Solidarity Act of 1996 to require, as a condition for the determination that a democratically elected government in Cuba exists, that the government extradite to the United States convicted felon Joanne Chesimard and all other U.S. fugitives from justice. In addition, some Members opposed to easing sanctions have proposed legislation, H.R. 1271 (Diaz-Balart) and S. 894 (Helms), providing increased support to the democratic opposition within Cuba.

On the other side of the policy debate, numerous measures have been introduced to ease U.S. sanctions policy toward Cuba. In the first session of the 107th Congress, the House debated two amendments that would ease U.S. sanctions on Cuba during July 25, 2001 floor action on H.R. 2590, the FY2002 Treasury Department appropriations bill. The House approved one amendment that would prohibit spending for administering Treasury Department regulations restricting travel to Cuba and rejected a second that would prohibit Treasury Department funds from administering the overall U.S. embargo on Cuba. Ultimately, the Cuba travel provision was not included in the conference report to the bill (see "Travel Restrictions" below.)

In the second session of the 107th Congress, the Senate version of the 2002 "Farm Bill," H.R. 2646, would have eliminated language from the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX) that prohibits private financing of agricultural sales to Cuba. Although the House version of the Farm Bill had no such financing provision, the House on April 23, 2002, approved (273-143) a non-binding motion to instruct the conferees to accept the Senate provision. Ultimately, however, the House-Senate conference report on the bill (H.Rept. 107-424, filed May 1, 2002) did not include the Senate provision. (For further information, see "Food and Medical Exports" below and CRS Issue Brief IB10061, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation*.)

During July 23, 2002 consideration of the FY2003 Treasury Department appropriations bill, H.R. 5120, the House approved three amendments on Cuba sanctions that would prohibit funds in the bill from being used to enforce regulations on travel, remittances, and U.S. agricultural sales to Cuba; the House subsequently approved H.R. 5120 with the three Cuba provisions on July 24, 2002. The Senate version of the bill, S. 2740, as reported out of committee, includes a provision that would prohibit funds from being used to enforce Treasury Department regulations on travel to Cuba.

In the second session of the 107th Congress, a bipartisan group of 40 House Members formed a Cuba Working Group, with the overarching goal of shifting U.S. policy toward Cuba from one of isolation to one of engagement. The group is critical of Cuba's refusal to allow free elections and its failure to respect basic freedoms but maintains that U.S. policy has not brought about meaningful political and economic reform in Cuba. On May 15, 2002, the group set forth nine recommendations for U.S. policy: 1) repeal the travel ban; 2) allow normal unsubsidized exports of agricultural and medical products; 3) end restrictions on remittances; 4) sunset the Helms-Burton law in March 2003; 5) repeal a provision

of U.S. law (Section 211 of the FY1999 omnibus appropriations measure, P.L. 105-277) that prevents the United States from accepting payment for trademark licenses used in connection with a business or assets in Cuba that were confiscated; 6) terminate TV Marti and improve Radio Marti; 7) promote scholarships; 8) expand U.S.-Cuban security cooperation; and 9) consider creative approaches to resolve U.S. property claims.[13]

Helms/Burton Legislation

Major Provisions. The Cuban Liberty and Democratic Solidarity Act (P.L. 104-114) was enacted into law on March 12, 1996. **Title I, Section 102(h)**, codifies all existing Cuban embargo Executive Orders and regulations. No presidential waiver is provided for any of these codified embargo provisions. This provision is significant because of the long-lasting effect on U.S. policy options toward Cuba. In effect, the Clinton Administration and subsequent administrations will be circumscribed in any changes in U.S. policy toward Cuba.

Title III allows U.S. nationals to sue for money damages in U.S. federal court those persons that traffic in property confiscated in Cuba. It extends the right to sue to Cuban Americans who became U.S. citizens after their properties were confiscated. The President has authority to delay implementation for 6 months at a time if he determines that such a delay would be in the national interest and would expedite a transition to democracy in Cuba.

Title IV of the law denies admission to the United States to aliens involved in the confiscation of U.S. property in Cuba or in the trafficking of confiscated U.S. property in Cuba. This includes corporate officers, principals, or shareholders with a controlling interest of an entity involved in the confiscation of U.S. property or trafficking of U.S. property. It also includes the spouse, minor child, or agent of aliens who would be excludable under the provision. This provision is mandatory, and only waiveable on a case-by-case basis for travel to the United States for humanitarian medical reasons or for individuals to defend themselves in legal actions regarding confiscated property.

Implementation of Title III and IV. With regard to Title III, beginning in July 1996 then-President Clinton suspended — for 6-month periods, as provided for under the act — the right of individuals to file suit against those persons benefitting from confiscated U.S. property in Cuba. At the time of the first suspension on July 16, 1996, the President announced that he would allow Title III to go into effect, and as a result liability for trafficking under the title became effective on November 1, 1996. According to the Clinton Administration, this put foreign companies in Cuba on notice that they face prospects of future lawsuits and significant liability in the United States. At the second suspension on January 3, 1997, President Clinton stated that he would continue to suspend the right to file law suits "as long as America's friends and allies continued their stepped-up efforts to promote a transition to democracy in Cuba." He continued, at 6-month intervals, to suspend the rights to file Title III lawsuits.

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[13] "A Review of U.S. Policy Toward Cuba," Cuba Working Group, U.S. House of Representatives, May 15, 2002.

President Bush has continued to suspend implementation of Title III at six-month intervals, most recently on July 16, 2002. When President Bush first used his authority to suspend Title III implementation in July 2001, he cited efforts by European countries and other U.S. allies to push for democratic change in Cuba.

With regard to Title IV of the legislation, to date the State Department has banned from the United States a number of executives and their families from three companies because of their investment in confiscated U.S. property in Cuba: Grupos Domos, a Mexican telecommunications company; Sherritt International, a Canadian mining company; and BM Group, an Israeli-owned citrus company. In 1997, Grupos Domos disinvested from U.S.-claimed property in Cuba, and as a result its executives are again eligible to enter the United States. Action against executives of STET, an Italian telecommunications company was averted by a July 1997 agreement in which the company agreed to pay the U.S.-based ITT Corporation $25 million for the use of ITT-claimed property in Cuba for ten years. For several years, the State Department has been investigating a Spanish hotel company, Sol Melia, for allegedly investing in property that was confiscated from U.S. citizens in Cuba's Holguin province in 1961. Press reports in March 2002 indicated that a settlement was likely between Sol Melia and the original owners of the property.[14]

Foreign Reaction and the EU's WTO Challenge. Many U.S. allies — including Canada, Japan, Mexico, and European Union (EU) nations — strongly criticized the enactment of the Cuban Liberty and Democratic Solidarity Act. They maintain that the law's provisions allowing foreign persons to be sued in U.S. court constitute an extraterritorial application of U.S. law that is contrary to international principles. U.S. officials maintain that the United States, which reserves the right to protect its security interests, is well within its obligations under NAFTA and the World Trade Organization (WTO).

Until mid-April 1997, the EU had been pursuing its case at the WTO, in which it was challenging the Helms/Burton legislation as an extraterritorial application of U.S. law. The beginning of a settlement on the issue occurred on April 11, 1997, when an EU-U.S. understanding was reached. In the understanding, both sides agreed to continue efforts to promote democracy in Cuba and to work together to develop an agreement on agreed disciplines and principles for the strengthening of investment protection relating to the confiscation of property by Cuba and other governments. As part of the understanding, the EU agreed that it would suspend its WTO dispute settlement case. Subsequently in mid-April 1998, the EU agreed to let its WTO challenge expire.

Talks between the United States and the EU on investment disciplines proved difficult, with the EU wanting to cover only future investments and the United States wanting to cover past expropriations, especially in Cuba. Nevertheless, after months of negotiations, the EU and the United States reached a second understanding on May 18, 1998. The understanding set forth EU disciplines regarding investment in expropriated properties worldwide, in exchange for the Clinton Administration's success at obtaining a waiver from Congress for the legislation's Title IV visa

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[14] "April Likely to Mark Beginning of Epic Battle Over Cuba Policy Between White House, Congress," *Cuba Trader*, March 11, 2002, p. 2-3.

restrictions. Future investment in expropriated property would be barred. For past illegal expropriations, government support or assistance for transactions related to those expropriated properties would be denied. A Registry of Claims would also be established to warn investors and government agencies providing investment support that a property has a record of claims. These investment disciplines were to be applied at the same time that President Clinton's new Title IV waiver authority was exercised.

Reaction was mixed among Members of Congress to the EU-U.S. accord, but opposition to the agreement by several senior Members has forestalled any amendment of Title IV in Congress. In a letter to then-Secretary of State Albright, Representative Gilman and Senator Helms criticized the understanding for not covering companies already invested in expropriated property. Among other criticisms, they argued that the understanding only proposes a weak sanction (denying government support) that may not deter companies that are willing to invest in Cuba.[15] On the other side, however, some Members support the EU-U.S. understanding. They maintain that the understanding is important because it increases protection for the property of Americans worldwide and discourages investment in illegally confiscated property in Cuba.

The Bush Administration initially indicated that the Administration was looking into the possibilities of legislation to enact a presidential waiver for the provision, but during the June 2001 U.S.-EU summit, President Bush noted the difficulty of persuading Congress to amend the law.[16] The Clinton Administration had lauded the 1998 EU-U.S. understanding on investment disciplines and attempted at the time, but without success, to win congressional support for a waiver of Title IV so that the investment disciplines could be implemented.

Section 211 Trademark Provision

Another EU challenge of U.S. law regarding Cuba in the WTO involves a dispute between the French spirits company, *Pernod Ricard*, and the Bermuda-based *Bacardi Ltd. Pernod Ricard* entered into a joint venture with the Cuban government to produce and export Havana Club rum, but *Bacardi* maintains that it holds the right to the Havana Club name. A provision in the FY1999 omnibus appropriations measure (Section 211 of Division A, title II, P.L. 105-277, signed into law October 21, 1998) prevents the United States from accepting payment for trademark licenses that were used in connection with a business or assets in Cuba that were confiscated unless the original owner of the trademark has consented. The provision prohibits U.S. courts from recognizing such trademarks without the consent of the original owner. Although *Pernod Ricard* cannot market Havana Club in the United States because of the trade embargo, it wants to protect its future distribution rights when the embargo is lifted.

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[15] "Text: Helms, Gilman Letter on Helms-Burton," *Inside U.S. Trade*. June 17, 1998.

[16] "EU, U.S. Take Sharply Different Tacks on Dispute Resolution," *Inside U.S. Trade*, June 22, 2001.

After *Bacardi* began selling rum in the United States under the Havana Club label, *Pernod Ricard's* joint venture unsuccessfully challenged *Bacardi* in U.S. federal court. In February 2000, the U.S. Court of Appeals for the Second Circuit in New York upheld a lower court's ruling that the joint venture had no legal right to use the Havana Club name in the United States. After formal U.S.-EU consultations on the issue were held in 1999 without resolution, the EU initiated a WTO dispute settlement panel on the issue in June 2000, maintaining that the U.S. law violates the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).

An August 6, 2001 ruling by the WTO panel was described as mixed, with both sides claiming a partial victory. The panel ruled that international rules on intellectual property rights did not cover trademarks but also ruled that a portion of the law (Section 211(a)(2)) prohibiting U.S. courts from recognizing such Cuban trademarks is in violation of the TRIPS because it denies access to U.S. courts by trademark holders. In early October 2001, the EU formally notified the WTO that it was appealing the ruling.

The WTO appeals panel issued its ruling on January 2, 2002, and again the ruling has been described as mixed. According to the United States Trade Representative, the appellate panel upheld the "U.S. position that WTO intellectual property rights rules leave WTO members free to protect trademarks by establishing their own trademark ownership criteria" and overturned the earlier ruling that Section 211 was in violation of TRIPs because it denied access to U.S. courts by trademark holders.[17] However, the appellate panel also found that Section 211 violated WTO provisions on national treatment and most-favored-nation treatment, which could require the United States to amend Section 211 so that it does not violate WTO rules. On March 28, 2002, the United States agreed that it would come into compliance with the WTO ruling by January 3, 2003.[18]

Food and Medical Exports

Under U.S. sanctions, commercial medical and food exports to Cuba are allowed but with numerous restrictions and licensing requirements. The 106th Congress passed the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX) that allows for one-year export licenses for shipping food and medicine to Cuba, although no U.S. government assistance, foreign assistance, export assistance, credits, or credit guarantees are available to finance such exports. The law, furthermore, denies exporters access to U.S. private commercial financing or credit; all transactions must be conducted in cash in advance or with financing from third countries. The law reiterates the existing ban on importing goods from Cuba but authorizes travel to Cuba, under a specific license, to conduct business related to the newly allowed food and medicine sales. Regulations implementing the new provisions were published in the *Federal Register* on July 12, 2001.

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[17] United States Trade Representative, "WTO Issues Report Upholding Key Aspects of U.S. Law in Trademark Dispute," Press Release, January 2, 2001.

[18] "U.S., EU Agree on Deadline for Complying with Section 211 WTO Finding," *Inside U.S. Trade,* April 12, 2002.

Some in the business community argued that the changes in policy did not amount to much because they still do not allow financing for the sales. Nevertheless, U.S. agribusiness companies continued to explore the Cuban market for potential future sales. The Cuban government told a group of U.S. farmers who traveled there in November 2000, after passage of the new law, that although it was interested in U.S. agricultural exports, it refused to buy any under the financing restrictions imposed by that new law.

In the aftermath of Hurricane Michelle that struck in early November 2001, Cuba changed its policy of not buying agricultural products from the United States because of its disapproval of U.S. financing restrictions. While the U.S. government offered humanitarian assistance to Cuba in the aftermath of the hurricane, Cuba declined, saying that instead it wanted to purchase food supplies from the United States. As a result, Cuba negotiated with several U.S. agricultural companies to import products such as wheat, corn, soybeans, rice, and chicken. The first shipments of goods arrived in mid-December 2001. This marked the first time that Cuba purchased food supplies directly from the United States since the approval of such sales in legislation in the 106th Congress. In March 2002, the Cuban government agreed to purchase additional agricultural products from the United States.

Overall, press reports indicate that Cuba has purchased over $100 million in agricultural products, including grains, eggs, frozen chicken, corn, apples, and other products from U.S. companies since late 2001. The companies include Archer Daniel Midland, which has sold about $42 million in agricultural products to Cuba, American Rice Inc., Cargill Corporation, Cherokee Trading, ConAgra Foods, Gold Kist, Marsh Supermarkets, Perdue Farms, Radlo Foods, Riceland Foods, Soufflet USA, and Tyson Foods.[19] In late September 2002, a U.S. Food & Agribusiness Exhibition will be held in Havana featuring some 180 exhibitors marketing 1,000 products from 32 states and Puerto Rico.[20]

In March 2002, the State Department revoked the visas of several Cuban officials who were planning to visit the United States. This included Pedro Alvarez, the head of Cuba's import buying agency Alimport. Several Senators expressed concern that future agricultural sales to Cuba could be jeopardized by the State Department's action. In a subsequent hearing before the Senate Appropriations Committee on April 30, 2002, Senator Byron Dorgan expressed concern that the State Department policy was discouraging food sales to Cuba. Secretary of State Powell indicated that the visa for Alvarez should never have been issued because on a previous visit, "a good part of his time was spent lobbying against the policy of the United States government." Secretary Powell maintained that the Administration was

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[19] Larry Luxner, "U.S. Food Exports to Cuba on the Rise as Farmers Pressure Lawmakers," *CubaNews,* June 2002.

[20] Nancy San Martin, "Cuba: U.S. Firms Seek Sales in Cuba with Food Fair," *Miami Herald*, August 25, 2002, p. F1.

pleased that Cuban agricultural sales were taking place but indicated that the visit of Alvarez was not necessary for such sales.[21]

Opponents of further easing restrictions on food and medical exports to Cuba maintain that U.S. policy does not deny such sales to Cuba, as evidenced by the recent sales in the aftermath of Hurricane Michelle. Moreover, according to the State Department, since the Cuban Democracy Act was enacted in 1992, the United States has licensed more than $4.3 billion in private humanitarian donations. Opponents of easing U.S. sanctions further argue that easing pressure on the Cuban government would in effect be lending support and extending the duration of the Castro regime. They maintain that the United States should remain steadfast in its opposition to any easing of pressure on Cuba that could prolong the Castro regime and its repressive policies.

Supporters of easing restrictions on food and medical exports to Cuba argue that the restrictions harm the health and nutrition of the Cuban population. They argue that although the U.S. government may have licensed more than $4.3 billion in humanitarian donations to Cuba since 1992, in fact much smaller amounts have actually been sent to Cuba. Some supporters of easing sanctions believe the embargo plays into Castro's hands by allowing him to use U.S. policy as a scapegoat for his failed economic policies and as a rationale for political repression. U.S. agribusiness companies that support the removal of trade restrictions on agricultural exports to Cuba believe that U.S. farmers are missing out on a market of some $700 million so close to the United States.

Legislative Initiatives in the 107th Congress. Numerous initiatives focus in whole or in part on easing restrictions on food and medical exports to Cuba. Several focus on lifting private financing restrictions for agricultural sales set forth in the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX, Section 908(b)).

In July 23, 2002 consideration of the FY2003 Treasury Department appropriations bill, H.R. 5120, the House approved an amendment offered by Representative Moran (Kansas), H.Amdt. 554, by voice vote, that provides that no funds in the bill can be used to implement any sanction on private commercial sales of agricultural commodities or medicines to Cuba. Some observers suggest that practical effect of this amendment would be to prevent the Treasury Department's Office of Foreign Assets Control (OFAC) from ensuring that sales to Cuba do not include private financing.[22]

The Senate version of the 2002 "Farm Bill," H.R. 2646 (which the Senate passed February 13, 2002, after incorporating the language of S. 1731 as an amendment) would have lifted such financing restrictions, but the provision ultimately was not included in the conference report on the bill (H.Rept. 107-424, filed May 1, 2002). The Bush Administration strongly opposes lifting the financing

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[21] Federal News Service, April 30, 2002.

[22] "House Approves Limits on Treasury Enforcement of Cuba Embargo," *Inside U.S. Trade*, July 26, 2002.

restrictions because of "Cuba's denial of basic civil rights to its citizens as well as its egregious rejection of the global coalition's efforts against terrorism."[23] The Senate report to S. 1731 (S.Rept. 107-117) noted that lifting the private financing restrictions would permit U.S. exporters to gain access to a potential market of about $400 million annually but would not commit U.S. government funds. Although the House version of H.R. 2646 did not contain the financing provision, the House approved (273-143) a nonbinding motion offered by Representative Calvin Dooley to instruct the conferees on H.R. 2646 to accept the Senate provision. Despite the House vote, the conference report (H.Rept. 107-424) did not include the Senate provision. Several Senators reportedly are interested in adding the provision to the FY2003 agriculture appropriations bill.[24]

During consideration of S. 1731 on December 18, 2001, the Senate tabled (61-33) an amendment offered by Senator Bob Smith, S.Amdt. 2596, that would have conditioned the lifting of restrictions on private financing of agricultural sales to Cuba on a presidential certification that Cuba is not a state sponsor of international terrorism. A secondary amendment offered by Senator Torricelli, S.Amdt. 2597, fell when S.Amdt. 2596 was tabled. The Torricelli amendment would have conditioned the lifting of private financing restrictions on a presidential certification that all convicted felons who are living as fugitives in Cuba have been returned to the United States for incarceration.

In additional action, during May 17, 2002 Senate consideration of "trade promotion authority" (TPA) legislation (manager's amendment, S.Amdt. 3401, to H.R. 3009), Senator Dorgan offered an amendment, S.Amdt. 3439, that would permit private financing of agricultural sales to Cuba. The amendment was identical to the provision that had been included in the Senate version of the Farm Bill. Senator Dorgan subsequently withdrew the amendment on May 21, 2002, because he maintained that some cosponsors did not want to jeopardize the TPA legislation.

Several other legislative initiatives – S. 171 (Dorgan), introduced January 24, 2001, S. 239 (Hagel), introduced February 1, 2001, and H.R. 173 (Serrano), introduced January 3, 2001 – would also lift the restrictions on private financing of agricultural sales to Cuba.

S. 1017 (Dodd) and H.R. 2138 (Serrano), the Bridges to the Cuban People Act of 2001, introduced June 12, 2001, would, among other provisions, ease restrictions on food and medical exports to Cuba and allow for the importation of certain Cuban medicines. On June 19, 2002, the Senate Foreign Relations Committee's

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[23] White House, Office of Management and Budget. "Statement of Administration Policy on S. 1731 – Agriculture, Conservation, and Rural Enhancement Act of 2001," December 5, 2001; In addition, in a March 13, 2002 letter to Representative Larry Combest, chairman of the House-Senate Farm Bill conference, USDA Secretary Ann Veneman stated: "The Administration strongly objects to any changes in existing law regulating the sale of food and medicines to Cuba. We oppose repeal of prohibition on private financing by U.S. persons of sales of agricultural commodities to Cuba."

[24] "Agriculture: Harkin Hopes to Bring Farm Bill to Senate Floor Thursday," *National Journal's Congress Daily AM,* April 30, 2002; "Economic Eye on Cuba,"U.S.-Cuba Trade and Economic Council, April 22, 2002 - April 28, 2002.

Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs held a hearing on S. 1017. Identical bills S. 402 (Baucus) and H.R. 797 (Rangel), the Cuban Humanitarian Trade Act of 2001, introduced February 27 and 28, 2001, respectively, would make an exception to the embargo for the export of agricultural commodities, medicines, medical supplies, medical instruments, and medical equipment.

Finally, several broad bills would lift all sanctions on trade, financial transactions, and travel to Cuba: H.R. 174 (Serrano), the Cuban Reconciliation Act, introduced January 3, 2001; identical bills S. 400 (Baucus) and H.R. 798 (Rangel), the Free Trade with Cuba Act, introduced February 27 and 28, 2001, respectively; and H.R. 2662 (Paul), a bill that would also prohibit any federal funds to provide assistance to Cuba.

For additional information, see CRS Issue Brief IB10061, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation.*

Travel Restrictions[25]

Restrictions on travel to Cuba have been a key and often contentious component in U.S. efforts to isolate the communist government of Fidel Castro for much of the past 40 years. Over time there have been numerous changes to the restrictions and for 5 years, from 1977 until 1982, there were no restrictions on travel.

Major arguments made for lifting the Cuba travel ban are: it hinders efforts to influence conditions in Cuba and may be aiding Castro by helping restrict the flow of information; it abridges the rights of ordinary Americans; and Americans can travel to other countries with communist or authoritarian governments. Major arguments in opposition to lifting the Cuba travel ban are that American tourist travel would support Castro's rule by providing his government with millions of dollars in tourist receipts; that there are legal provisions allowing travel to Cuba for humanitarian purposes that are used by thousands of Americans each year; and that the President should be free to restrict travel for foreign policy reasons.

Legislative Actions and Initiatives in the 107th Congress. In the first session, on July 25, 2001, the House approved an amendment to H.R. 2590, the FY2002 Treasury Appropriations bill, that would prohibit spending for administering Treasury Department regulations restricting travel to Cuba. H.Amdt. 241, offered by Representative Flake (which amended H.Amdt. 240 offered by Representative Smith) would prohibit funding to administer the Cuban Assets Control Regulations (CACR) with respect to any travel or travel-related transaction. The CACR are administered by the Treasury Department's Office of Foreign Assets Control. The Flake amendment was approved by a vote of 240 to 186, compared to a vote of 232-186 for a similar amendment in the FY2001 Treasury Department appropriations bill.

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[25] For more details, see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Legislative Initiatives in the 107th Congress,* and CRS Report RS21003, *Travel Restrictions: U.S. Government Limits on American Citizens' Travel Abroad.*

The Senate version of H.R. 2590, as approved September 19, 2001, did not include any provision regarding U.S. restrictions on travel to Cuba. In floor debate, Senator Dorgan noted that he had intended to offer an amendment on the issue, but that he decided not to because he did not want to slow passage of the bill. He also indicated his support for the House provision when it came up in conference, but ultimately Congress did not include the provision in the conference report to the bill (H.Rept. 107-253).

The Cuba travel issue has received further consideration in the second session of the 107th Congress. A bipartisan House Cuba working group of 40 Representatives has vowed as one of its goals to work for a lifting of travel restrictions. On February 11, 2002, the Senate Appropriations Committee's Subcommittee on Treasury and General Government held a hearing on the issue, featuring Administration and outside witnesses.

The travel issue has been part of the debate during consideration of the FY2003 Treasury Department appropriations bill (H.R. 5120 and S. 2740). Secretary of State Colin Powell and Secretary of the Treasury Paul O'Neill have said they would recommend that the President veto legislation that includes a loosening of restrictions on travel to Cuba (or a weakening of restrictions on private financing for U.S. agricultural exports to Cuba). The White House also has stated that President Bush would veto such legislation.

In July 23, 2002 floor action on H.R. 5120, the House approved three Cuba sanctions amendments, including one on the easing of travel restrictions offered by Representative Jeff Flake. The House approved the Flake travel amendment (H.Amdt. 552), by a vote of 262-167, that would provide that no funds could be used to administer or enforce the Treasury Department regulations with respect to travel to Cuba. The Flake amendment would not prevent the issuance of general or specific licenses for travel to Cuba. Some observers have raised the question of whether the effect of this amendment would be limited since the underlying embargo regulations restricting travel would remain unchanged; enforcement action against violations of the relevant embargo regulations could potentially take place in future years when the Treasury Department appropriations measure did not include the funding limitations on enforcing the travel restrictions.[26]

During consideration of H.R. 5120, the House also rejected two Cuba amendments. A Rangel amendment (H.Amdt. 555), rejected by a vote of 204-226, would have prevented any funds in the bill from being used to implement, administer, or enforce the overall economic embargo of Cuba, which includes travel. A Goss amendment (H.Amdt. 551), rejected by a vote of 182-247, would have provided that any limitation on the use of funds to administer or enforce regulations restricting travel to Cuba or travel-related transactions would only apply after the President certified to Congress that certain conditions were met regarding biological weapons and terrorism. (For further information, see sections below on "Cuba and Terrorism" and "Cuba and Biological Weapons?".)

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[26] "House Approves Limits on Treasury Enforcement of Cuba Embargo," *Inside U.S. Trade*, July 26, 2002.

The Senate version of the Treasury Department appropriations measure, S. 2740, as reported by the Senate Committee on Appropriations on July 17, 2002 (S.Rept. 107-212), includes a provision, in Section 516, that is similar, although not identical, to the Flake amendment described above. It provides that no funds may be used to enforce the Treasury Department regulations with respect to any travel or travel-related transactions, but would not prevent the Office of Foreign Assets Control, which administers the sanctions, from issuing general and specific licenses for travel to Cuba as currently allowed. In addition, Section 124 of the Senate bill stipulates that no Treasury Department funds for "Departmental Offices, Salaries, and Expenses" may be used by OFAC, until OFAC has certain procedures in place regarding license applications for travel to Cuba.

Numerous other initiatives introduced in the 107th Congress would ease U.S. restrictions on travel to Cuba:

- H.R. 5022 (Flake), introduced June 26, 2002, would lift all restrictions on travel to Cuba.

- Several broad bills would lift all sanctions on trade, financial transactions, and travel to Cuba: H.R. 174 (Serrano), the Cuban Reconciliation Act, introduced January 3, 2001, and identical bills S. 400 (Baucus) and H.R. 798 (Rangel), the Free Trade with Cuba Act, introduced February 27 and 28, 2001, respectively.

- S. 1017 (Dodd) and H.R. 2138 (Serrano), the Bridges to the Cuban People Act of 2001, introduced June 12, 2001, would, among other provisions, ease restrictions on travel by U.S. nationals or lawful permanent resident aliens to Cuba.

- Several bills, among other provisions, would repeal the travel restrictions imposed in the 106th Congress by the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX, Section 910). These include identical bills S. 402 (Baucus) and H.R. 797 (Rangel), the Cuban Humanitarian Trade Act of 2001, introduced February 27 and 28, 2001, respectively; S. 171 (Dorgan), introduced January 24, 2001; and S. 239 (Hagel), the Cuba Food and Medicine Access Act of 2001, introduced February 1, 2001.

Drug Interdiction Cooperation

Because of Cuba's geographic location, the country's waters and airspace have been used by traffickers to transport illicit drugs for ultimate destinations in the United States. In 1999, some Members of Congress wanted Cuba to be added to the annual list of major drug transit countries, but the Clinton Administration decided not to add Cuba to the list. According to the Department of State at the time, "Cuba was not placed on the list of major drug transit countries because there is no clear

evidence that cocaine or heroin are transiting Cuba on the way to the United States in quantities that significantly affect the United States."[27]

According to President Bush, in his November 1, 2001 determination of major drug-producing or drug-transit countries, "for the last several years, much of the suspect air traffic that previously crossed Cuban airspace has shifted to Hispaniola (Haiti and the Dominican Republic)." He indicated that the traffic that occurs does not carry significant quantities of cocaine or heroin to the United States but noted that Cuba will be kept "under observation for any changes to the current transit patterns."

Over the past several years, Cuban officials have expressed concerns over the use of their waters and airspace for drug transit as well as increased domestic drug use. The Cuban government has taken a number of measures to deal with the drug problem, including legislation to stiffen penalties for traffickers, increased training for counternarcotics personnel, and cooperation with a number of countries on anti-drug efforts. Cuba has bilateral counternarcotics agreements with 29 countries and less formal arrangements with 12 others, according to the Department of State. Britain and France have provided counternarcotics training. In November 2001, Cuba hosted a regional counternarcotics conference focusing on strategies to prevent drug abuse, drug trafficking, and money laundering.

The United States has cooperated with Cuba on anti-drug efforts on a case-by-case basis dating back to the 1970s. In 1996, Cuban authorities cooperated with the United States in the seizure of 6.6 tons of cocaine aboard the Miami-bound *Limerick*, a Honduran-flag ship. Cuba turned over the cocaine to the United States and cooperated fully in the investigation and subsequent prosecution of two defendants in the case in the United States. Cooperation has increased since 1999 when U.S. and Cuban officials met in Havana to discuss ways of improving anti-drug cooperation. Cuba accepted an upgrading of the communications link between the Cuban Border Guard and the U.S. Coast Guard as well as the stationing of a U.S. Coast Guard officer at the U.S. Interests Section in Havana. The Coast Guard official was posted to the U.S. Interests Section in September 2000, and since that time, according to the State Department's International Narcotics Control Strategy Report for 2001, coordination between the U.S. and Cuban governments has increased.

Cuba has called for even more cooperation and has asked for a bilateral anti-drug cooperation agreement with the United States.[28] In January 2002, Cuba deported to the United States Jesse James Bell, a U.S. fugitive wanted on drug charges, and in early March 2002, Cuba arrested a convicted Colombian drug trafficker, Rafael Bustamante, who escaped from jail in Alabama in 1992. While

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[27] State Department, Daily Press Briefing, November 10, 1999.

[28] On March 12, 2002, Cuba's Ministry of Foreign Affairs and the Cuban Interests Section in Washington delivered three diplomatic notes to the U.S. Interests Section in Havana and the State Department in Washington proposing agreements on drug interdiction, terrorism, and migration issues. See: "Statement from the Ministry of Foreign Affairs: Prominent Drug Trafficker Arrested in our Country," Information Office, Cuban Interests Section, March 17, 2002.

Drug Enforcement Administration head Asa Hutchison expressed appreciation for Cuba's actions, he indicated that cooperation would continue on a case-by-case basis, not through a bilateral agreement.[29] State Department spokesman Richard Boucher said that if Cuba "were to demonstrate a willingness to work across the board with us on law enforcement issues, then we might consider some more formal structure," but he indicated that Cuba has not demonstrated that kind of commitment. As an example, Boucher maintained that "there are still dozens of fugitives from U.S. justice who have been provided safe haven by the Cuban government."[30] Although the current level of case-by-case cooperation will probably continue, it is unlikely that the level of cooperation will increase significantly given the Administration's position. Some Members have called for greater cooperation with Cuba on drug trafficking and view Cuba's proposal as a good-will gesture, while others view the effort as a ploy to sway public opinion and influence views in the U.S. Congress.[31]

Legislative Initiatives. In the 107th Congress, the Senate version of the FY2002 Foreign Operations Appropriations bill, H.R. 2506, had a provision (Section 580) that would have made available $1.5 million for preliminary work for the Department of State and other agencies "to establish cooperation with appropriate agencies of the Cuba government on counter-narcotics matters." The money was conditioned on a presidential certification that 1) Cuba has in place appropriate procedures to protect against loss of innocent life in the air and on the ground in connection with drug interdiction and that 2) there is no evidence of the involvement of the government of Cuba in drug trafficking. The House version of the bill, however, did not include the Cuba drug cooperation, and the conference report was filed without the Senate provision.

Nevertheless, the conference report to H.R. 2506 (H.Rept. 107-345) called for a report by the Secretary of State within 6 months on 1) the extent, if any of the direct involvement of the government of Cuba in illegal drug trafficking; 2) the likelihood that U.S. international narcotics assistance to the government of Cuba would decrease the flow of drugs transiting through Cuba; and 3) the degree to which the government of Cuba is exchanging with U.S. agencies drug-related law enforcement information. The conference report also encouraged the Administration to transmit to Congress, not later than 9 months, any legislation necessary to decrease the flow of drugs to or from Cuba. H.R. 2506 was signed into, P.L. 107-115, on January 10, 2002.

In addition to the foreign operations measure, a bill has been introduced (H.R. 1124) to authorize the Director of the Office of National Drug Control Policy to negotiate with Cuban government officials for increased cooperation between the two countries on drug interdiction efforts.

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[29] Anthony Boadle, "U.S. Thanks Cuba, But Declines Anti-drug Accord," *Reuters,* March 19, 2002.

[30] U.S. Department of State, State Department Regular Briefing, March 19, 2002.

[31] Vanessa Bauza, "Cuba's Cooperation Seen as a Trojan Horse," *Fort Lauderdale Sun Sentinel*, March 31, 2002, p. 1F.

Cuba and U.S. Fugitives From Justice

A number of U.S. fugitives from justice are in Cuba, including Joanne Chesimard, who was convicted for the killing of a New Jersey state trooper in 1973; Charles Hill and Michael Finney, wanted for the killing of a state trooper in new Mexico in 1971; and Victor Manuel Gerena, wanted for carrying out the robbery of a Wells Fargo armored car in Connecticut in 1983. In the 107th Congress, legislation has been introduced, H.R. 2292, to amend the Cuban Liberty and Democratic Solidarity Act of 1996 (P.L. 104-114) to require, as a condition for the determination that a democratically elected government in Cuba exists, that the government extradite to the United States convicted felon Joanne Chesimard and all other U.S. fugitives from justice.

During July 25, 2001 consideration of H.R. 2590, the FY2002 Treasury Department appropriations bill, Representative Smith offered an amendment, H.Amdt. 240, that would have prohibited funds in the bill from being used to enforce restrictions on travel to Cuba once the President certified to Congress that the Cuban government has released all political prisoners and has returned to the United States all persons residing in Cuba who are wanted in the United States for crimes of air piracy, narcotics trafficking, or murder. Before it was approved, however, the amendment was amended by H.Amdt. 241 offered by Representative Flake, which eliminated the presidential certification regarding political prisoners and U.S. fugitives in Cuba.

Cuba has recently deported two fugitives from justice to the United States. As noted above, the Cuban government deported U.S. drug fugitive Jesse James Bell to the United States in January 2002. According to the U.S. State Department, in December 2001 the Cuban government also deported William Joseph Harris, wanted on child abuse charges. In addition, in early March 2002, Cuba also arrested a convicted drug trafficker, Rafael Bustamante, who escaped from jail in Alabama in 1992.

Cuba and Terrorism

Cuba was added to the State Department's list of states sponsoring international terrorism in 1982 for its complicity with the M-19 insurgent group in Colombia. Communist Cuba has had a history of supporting revolutionary movements and governments in Latin America and Africa, but in 1992 Fidel Castro said that his country's support for insurgents abroad was a thing of the past. Cuba's change in policy was in large part because of the breakup of the Soviet Union, which resulted in the loss of billions in annual subsidies to Cuba, and led to substantial Cuban economic decline.

Cuba remains on the State Department's terrorism list today. According to the State Department's May 21, 2002 *Patterns of Global Terrorism* report, Castro continues "to view terror as a legitimate revolutionary tactic." The report maintained that Cuba provides safehaven to at least 20 Basque ETA terrorists from Spain and has provided "some degree of safehaven and support" to members of two Colombian insurgent groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN). (Cuba has been the site of peace talks between the

Colombian government and the ELN.) The report noted that one of three Irish Republican Army (IRA) members arrested in Colombia on suspicion of providing explosives training to the FARC had been based in Cuba for 5 years. The report also noted that numerous U.S. fugitives from justice resided in Cuba (see "Cuba and U.S. Fugitives from Justice" above). It also asserted that "since September 11, Fidel Castro has vacillated over the war on terrorism." The report noted that while Cuba signed all 12 U.N. counterterrorism conventions and the Ibero-American declaration on terrorism in 2001, it has also issued strong rhetoric against the U.S.-led war on terrorism.

Although Cuba offered support to the United States in the aftermath of the World Trade Center and Pentagon attacks, Fidel Castro also stated that the attacks were in part a consequence of the United States having applied "terrorist methods" for years.[32] Cuba's subsequent statements became increasingly hostile, according to press reports, which quote Cuba's mission to the United Nations as describing the U.S. response to the U.S. attacks as "fascist and terrorist" and that the United States was using the attack as an excuse to establish "unrestricted tyranny over all people on Earth."[33] Castro himself said that the U.S. government was run by "extremists" and "hawks" whose response to the attack could result in an "infinite killing of innocent people."[34]

The Cuban government, however, had a much more muted reaction to the U.S. decision to send captured Taliban and Al Qaeda fighters from Afghanistan to the U.S. naval base at Guantanamo Bay, Cuba. Guantanamo has been U.S. base since 1903, and under a 1934 treaty that remains in force, the U.S. presence can only be terminated by mutual agreement or by abandonment by the United States. In 1994-1995, the base was used to house thousands of Cubans and Haitians fleeing their homeland. As of August 2002, more than 500 detainees from more than 30 countries were being held at Guantanamo. Although the Cuban government objects to the U.S. presence at Guantanamo as a national security threat and opposes the presence as illegal, it has not opposed the new mission of housing detainees from Afghanistan. Defense Minister Raul Castro noted that, in the unlikely event that a prisoner would escape into Cuban territory, Cuba would capture the prisoner and return him to the base.[35]

Cuba itself has been the target of various terrorist incidents over the years. In 1976, a Cuban plane was bombed, killing 73 people. In 1997 almost a dozen bombings targeted the tourist sector in Havana and in the Varadero beach area in which an Italian businessman was killed and several others injured. Two Salvadorans were convicted and sentenced to death for the bombings in March 1999, and three Guatemalans were sentenced to prison terms ranging from 10-15 years in January 2002. Cuban officials maintain that Cuban exiles funded the bombings.

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[32] Andrew Cawthorne, "Cuba's Castro Urges U.S. to Keep Calm," Reuters, September 11, 2001.

[33] Kevin Sullivan, "Castro Warns About U.S. Military Plans," *Washington Post*, September 23, 2001, p. A38.

[34] Ibid.

[35] "Cuba Would Hand Over Escapees, Raul Castro Says," *Miami Herald*, January 20, 2002.

During December 18, 2001 consideration of the Farm Bill, S. 1731, the Senate defeated an amendment, S.Amdt. 2596, that would have conditioned a lifting of restrictions on private financing of agricultural sales to Cuba on a presidential certification that Cuba was not a state sponsor of international terrorism.

Cuba and Biological Weapons?

A recent controversy that has arisen is the question of whether Cuba, which has an advanced biotechnology sector, is involved in developing biological weapons.[36] On May 6, 2002, Under Secretary of State for Arms Control and International Security John Bolton stated that "the United States believes that Cuba has at least a limited offensive biological warfare research-and-development effort" and "has provided dual-use technology to other rogue states." Bolton called on Cuba "to cease all BW-applicable cooperation with rogue states and to fully comply with all of its obligations under the Biological Weapons Convention." Although Bolton's statement received considerable media attention, it was similar to a March 19, 2002 statement by Assistant Secretary of State for Intelligence and Research Carl Ford before the Senate Committee on Foreign Relations.

When questioned on the issue, Secretary of State Powell maintained that Under Secretary Bolton's statement was not based on new information. Powell asserted that the United States believes Cuba has the capacity and the capability to conduct research on biological weapons but emphasized that the Administration had not claimed that Cuba had such weapons.[37] Some observers, including some Members of Congress, view Powell's statement as contradicting that of Under Secretary Bolton. The State Department's annual *Patterns of Global Terrorism* report issued May 21, 2002, did not mention the issue of Cuba and biological weapons.

In response to Under Secretary Bolton's statement, the Cuban government called the allegations a lie and maintained that the Bush Administration was trying to justify its hard-line policies just when the momentum is increasing in the United States to ease the embargo. During his trip to Cuba, former President Jimmy Carter criticized the Bush Administration over the allegations and said that Administration officials who had briefed him before the trip assured him that Cuba had not shared anything with other countries that could be used for terrorist purposes.[38]

The Senate Foreign Relations Committee's Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs held a hearing on the issue on June 5, 2002. At the hearing, Assistant Secretary of State for Intelligence and Research Carl Ford distinguished between the term "effort" and "program," and maintained that Cuba has a biological weapons effort and not a biological weapons program. Ford characterized a program as something substantial and multifaceted that includes

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[36] For background, see CRS Report RL31059, *Biological Weapons: A Primer*, by Steve Bowman.

[37] David Gonzalez, "Carter and Powell Cast Doubt on Bioarms in Cuba," *New York Times*, May 14, 2002, p. 3.

[38] Kevin Sullivan, "Carter Says He Was Told U.S. Had No Proof Cuba Shared Bioweapons Data," *Washington Post*, May 14, 2002, p. 14.

test facilities, production facilities, and a unit within the military specifically designated for such weapons capability. In contrast, he characterized an effort as the research and development necessary to create biological weapons.

U.S. government concerns about Cuba's capability to produce biological weapons dates back several years. In 1998, then U.S. Secretary of State William Cohen stated in a transmittal letter (accompanying a report to Congress on Cuba's threat to U.S. national security) that he was "concerned about Cuba's potential to develop and produce biological agents, given its biotechnology infrastructure..."

Cuba began building up its biotechnology industry in the 1980s and has spent millions investing in the sector. The industry was initially geared "to apply biotechnology and genetic engineering to agriculture in order to increase yields" but has also produced numerous vaccines, interferon, and other drugs and has exported many of its biotechnology products.[39] In 1999, the British pharmaceutical company Glaxo SmithKline announced an agreement to test and market a new Cuban meningitis vaccine that might eventually be used in the United States.[40]

Cuban Spies in the United States

Over the past several years, the FBI has arrested and convicted several Cuban intelligence agents in the United States. In June 2001, five members of the so-called "Wasp Network" were convicted on espionage charges by a U.S. Federal Court in Miami. Sentences handed down in December 2001 ranged from 15 years to life sentences. The group tried to penetrate U.S. military bases and exile groups. The Cuban government has vowed to work for the return of the five spies who have been dubbed "Heroes of the Republic" by Cuba's National Assembly. In addition to the five, a married couple was sentenced in January 2002 to lesser prison terms of 7 years and 3 ½ years for their participation in the spy network.

In addition, two U.S. government officials have been implicated in spying for Cuba. In February 2000, an Immigration and Naturalization Service (INS) official from Miami, Mariano Faget, was arrested and ultimately convicted in May 2000 for passing classified information to a friend with ties to Cuba. He was sentenced to 5 years in prison in June 2001. The case led to the State Department's expulsion of a Cuban diplomat working in Washington. On September 21, 2001, Defense Intelligence Agency (DIA) analyst Ana Montes was arrested on charges of spying for the Cuban government. Montes reportedly supplied Cuba with classified information about U.S. military exercises and other sensitive operations.[41] On March 19, 2002, Montes pled guilty to spying for the Cuban government for 16 years, during which she divulged the names of four U.S. government intelligence agents

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[39] Teo A. Babun, Jr., *A Business Guide to Cuba*, Cubanews, Miami Herald Publishing Company, 1996, pp. 66-67.

[40] Michael Kranish, "Biotechnology; Incubating Biotech Cuba Become Biotech Hotbed," *Boston Globe*, May 15, 2002, p. D1.

[41] Bill Miller and Walter Pincus, "Defense Analyst Accused of Spying for Cuba, Woman Passed Classified Information on Military Exercises, FBI Says," *Washington Post,* September 22, 2001, p. A1.

working in Cuba and information about a "special access program" related to U.S. national defense. Federal prosecutors reportedly agreed to a 25-year prison term if Montes provides information on what she knows about Cuban intelligence activities.[42]

Radio and TV Marti

U.S.-government sponsored radio and television broadcasting to Cuba – Radio and TV Marti – began in 1985 and 1990 respectively. As spelled out in the *Broadcasting Board of Governors FY2003 Budget Request*, the objectives of Radio and TV Marti are: 1) to support the right of the Cuban people to seek, receive, and impart information and ideas through any media and regardless of frontiers; 2) to be effective in furthering the open communication of information and ideas through use of radio and television broadcasting to Cuba; 3) to serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news; and 4) to provide news, commentary, and other information about events in Cuba and elsewhere to promote the cause of freedom in Cuba.

TV Marti daily broadcasts for four and one-half hours daily; on May 20, 2002, the broadcast schedule was changed from the early hours of 3:30 a.m. - 8:00 a.m. to the evening hours of 6:00 p.m. - 10:30 p.m. Radio Marti broadcasts 24 hours a day on short and medium wave (AM) channels. Surveys have showed a Radio Marti listenership of 9% in 2000 and 5% in 2001.[43]

Until October 1999, U.S.-government funded international broadcasting programs had been a primary function of the United States Information Agency (USIA). When USIA was abolished and its functions were merged into the Department of State at the beginning of FY2000, the Broadcasting Board of Governors became an independent agency that included such entities as the Voice of America (VOA), Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia, and the Office of Cuba Broadcasting (OCB), which manages Radio and TV Marti. OCB is headquartered in Miami, Florida. Legislation in the 104th Congress (P.L. 104-134) required the relocation of OCB from Washington D.C. to south Florida. The move began in 1996 and was completed in 1998.

Both Radio and TV Marti have at times been the focus of controversies, including adherence to broadcast standards. There have been various attempts over the years to cut funding for the programs, especially for TV Marti, which has not had an audience because of Cuban jamming efforts. Various studies and audits of these program have been conducted, including investigations by the U.S. General Accounting Office, by a 1994 congressionally established Advisory Panel on Radio

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[42] Neely Tucker, "Defense Analyst Pleads Guilty to Spying for Cuba," *Washington Post*, March 20, 2002, p. A1.

[43] Brian Conniff, Acting Director, International Broadcasting Bureau, Broadcasting Board of Governors, Testimony before the House International Relations Committee, Subcommittee on International Operations and Human Rights, June 6, 2002.

and TV Marti, and by the State Department's Office of the Inspector General.[44] (For background on Cuba broadcasting through 1994, see CRS Report 94-636, *Radio and Television Broadcasting to Cuba: Background and Issues through 1994*.)

From FY1984 through FY2002, Congress appropriated almost $407 million for broadcasting to Cuba, with about $249 million for Radio Marti (since FY1984) and $158 million for TV Marti (since FY1989).

Debate on TV Marti. In the various congressional debates on TV Marti over the years, opponents of continued funding of the program maintain that virtually the only people who see TV Marti in Cuba are those Cubans who visit the consular section of the U.S. Interests Section in Havana, which has a waiting room in which TV Marti may be viewed. These critics argue that some $150 million has been spent by the United States for TV Marti, while the Cuban government only needs to spend a few thousand dollars to jam the broadcasts effectively. They argue that TV Marti is a waste of taxpayers' money because it does not contribute to the promotion of freedom and democracy in Cuba, unlike Radio Marti, which many Cubans listen to as a source of information. Opponents also argue that the conversion of TV Marti from VHF to UHF transmission has not succeeded in overcoming Cuba's jamming efforts.

In contrast, supporters of continued TV Marti funding point to a congressionally mandated Advisory Panel 1994, which stated "the Cuban people have an ardent desire and a genuine need to receive the programming produced by TV Marti."[45] Supporters argue that eliminating TV Marti would send a message to the Cuban people that the United States is not committed to the cause of freedom in Cuba. They believe that eliminating TV Marti would be giving in to the dictatorial Castro government, which suppresses the free flow of information in Cuba. These proponents contend that it is impossible for the Cuban government to completely jam TV Marti, and maintain that significant numbers of Cubans have attempted to tune in to the programming. Still others point to the potential use of TV Marti in the event of a crisis or upheaval in Cuba's future, and argue that in such a scenario, it would be important to have TV Marti available as a news source.

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[44] See the following reports and audits: U.S. General Accounting Office (GAO), *Broadcasts to Cuba, TV Marti Surveys are Flawed*, GAO/NSIAD-90-252, August 1990; U.S. GAO, *TV Marti, Costs and Compliance with Broadcast Standards and International Agreements*, GAO/NSIAD-92-199, May 1992; U.S. GAO, Letter to Hon. Howard L. Berman and Hon. John F. Kerry regarding Radio Marti broadcast standards, GAO/NSIAD-93-126R, February 17, 1993; Advisory Panel on Radio and TV Marti, *Report of the Advisory Panel on Radio and TV Marti*, Three Volumes, March 1994; U.S. GAO, *Radio Marti, Program Review Processes Need Strengthening*, GAO/NSIAD-94-265, September 1994; U.S. GAO, *U.S. Information Agency, Issues Related to Reinvention Planning in the Office of Cuba Broadcasting*, GAO/NSIAD-96-110, May 1996; and U.S. Department of State, Office of the Inspector General, *Review of Polices and Procedures for Ensuring that Radio Marti Broadcasts Adhere to Applicable Requirements*, 99-IB-010, June 1999.

[45] Advisory Panel on Radio Marti and TV Marti, *Report of the Advisory Panel on Radio Marti and TV Marti*, Executive Summary, March 1994.

FY2001 Funding. For FY2001, the Clinton Administration requested $23.456 million for broadcasting to Cuba for both Radio and TV Marti. Of that amount, $650,000 was for the purchase of a 100-kilowatt solid state transmitter to improve the operation, reliability, and efficiency of Radio Marti broadcasts to Cuba.

H.R. 5548, a bill making appropriations for the Departments of Commerce, Justice, and State; the Judiciary; and related agencies, was incorporated into the H.R. 4942 conference report (H.Rept. 106-1005). Signed into law December 21, 2000 (P.L. 106-553), it provided $22.095 million for radio and television broadcasting to Cuba. A subsequent rescission brought the amount down to $22.046 million.

FY2002 Funding. The FY2002 State Department and Related Agencies Appropriations measure (P.L. 107-77, H.R. 2500) fully funds the Administration's request and provides $24.872 million for broadcasting to Cuba for FY2002, $2.826 million more than the amount provided in FY2001. Both the House and Senate versions of H.R. 2500 had fully funded the request. During Senate consideration of the bill on September 10, Senator Dorgan filed an amendment, S.Amdt. 1542, that would have eliminated funding for TV Marti, but in light of the September 11 attacks in New York and Washington, Senator Dorgan withdrew the amendment on September 13, 2001.

H.R. 1646, the Foreign Relations Authorization Act for FY2002 and FY2003, approved by the House May 16, 2001, would authorize $25 million for broadcasting to Cuba for each fiscal year. In addition, the House version authorizes $750,000 for the enhancements of transmission facilities in Belize and the cost of transmissions from that country. According to the report to the bill (H.Rept. 107-57), such enhancements to the Belize facility "will help increase the capacity of the Office of Cuba Broadcasting to evade the jamming by the Cuban regime." The bill would also eliminate staff positions, including the staff director, from the Advisory Board for Cuba Broadcasting, which had often been the source of political controversy.

FY2003 Funding. The Bush Administration is requesting $25.362 million for broadcasting to Cuba for FY2003, with about $15 million for Radio Marti and $10 million for TV Marti. The Senate Appropriations Committee reported out its version of the FY2003 Commerce, Justice, State and Related Agencies (CJS) appropriations bill, S. 2778 (S.Rept. 107-218) on July 24, 2002, which would provide $24.996 million for Cuba broadcasting.

On June 6, 2002, the House International Relations Committee's Subcommittee on International Operations and Human Rights held a hearing on Radio and TV Marti featuring Administration and outside witnesses.

Russian Intelligence Facility in Cuba

Some Members of the 107th Congress again raised concerns about the Russian signals intelligence facility at Lourdes, Cuba. The facility at Lourdes was built in the aftermath of the Cuban missile crisis of 1962. It allows Russia to monitor U.S. communications, including military communications that Russians contend ensure compliance with arms control agreements.

The Cuban Liberty and Democratic Solidarity Act (P.L. 104-114) contains a provision that would reduce U.S. assistance for Russia by an amount equal to the sum of assistance and credits provided in support of intelligence facilities in Cuba. However, the legislation also provides that such a restriction does not apply to most categories of assistance. Moreover, the legislation also provides a presidential waiver if such assistance is important to U.S. national security and if Russia has assured the United States that it is not sharing intelligence collected at the Lourdes facility with officials or agents of the Cuban government.

H.R. 160 (Ros-Lehtinen), introduced January 3, 2001, would prohibit the rescheduling or forgiveness of any outstanding bilateral debt owed by the Russian government to the United States until the President certifies to the Congress that the Russian government has ceased all its operations and permanently closed the Lourdes intelligence facility. In the 106th Congress, a similar bill (H.R. 4118) was approved by the House (275-146), but stalled in the Senate, where the Senate version (S. 2748) remained in committee at the end of the 106th Congress.

On October 17, 2001, Russian President Vladimir Putin announced that the Russian military would close the Lourdes facility. The announcement was met with approval from President Bush who said that both Russia and the United States "are taking down relics of the Cold War and building a new, cooperative and transparent relationship for the 21st century."[46] On the other hand, Cuba strongly criticized Russia's move, saying that it had not agreed to the Russian pullout. Cuba reportedly received about $200 million annually for the facility. The Cuban government is turning the 70-square mile facility into a computer science university that will reportedly have 2,000 resident students.[47]

Migration[48]

In 1994 and 1995, Cuba and the United States reached two migration accords designed to stem the mass exodus of Cubans attempting to reach the United States by boat. On the minds of U.S. policymakers was the 1980 Mariel boatlift in which 125,000 Cubans fled to the United States. In response to Castro's threat to unleash another Mariel, U.S. officials reiterated U.S. resolve not to allow another exodus. Amidst escalating numbers of fleeing Cubans, on August 19, 1994, President Clinton abruptly changed U.S. migration policy, under which Cubans attempting to flee their homeland were allowed into the United States, and announced that the U.S. Coast Guard and Navy would take Cubans rescued at sea to the U.S. naval base at Guantanamo Bay, Cuba. Despite the change in policy, Cubans continued fleeing in large numbers.

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[46] "Text: U.S. Welcomes Russia's Decision to Close Facility in Cuba," U.S. Department of State, Washington File, October 17, 2001.

[47] Manuel Somoza, "Russian Spy-Post Reborn as Castro's High-Tech U, Cradle for Startups," *Agence France Presse*, August 23, 2002.

[48] For background on U.S. migration policy toward Cuba, see CRS Report RS20468, *Cuban Migration Policy and Issues*, by Ruth Ellen Wasem.

As a result, in early September 1994, Cuba and the United States began talks that culminated in a September 9, 1994 bilateral agreement to stem the flow of Cubans fleeing to the United States by boat. In the agreement, the United States and Cuba agreed to facilitate safe, legal, and orderly Cuban migration to the United States, consistent with a 1984 migration agreement. The United States agreed to ensure that total legal Cuban migration to the United States would be a minimum of 20,000 each year, not including immediate relatives of U.S. citizens. In a change of policy, the United States agreed to discontinue the practice of granting parole to all Cuban migrants who reach the United States, while Cuba agreed to take measures to prevent unsafe departures from Cuba.

In May 1995, the United States reached another accord with Cuba under which the United States would parole the more than 30,000 Cubans housed at Guantanamo into the United States, but would intercept future Cuban migrants attempting to enter the United States by sea and would return them to Cuba. The two countries would cooperate jointly in the effort. Both countries also pledged to ensure that no action would be taken against those migrants returned to Cuba as a consequence of their attempt to immigrate illegally. On January 31, 1996, the Department of Defense announced that the last of some 32,000 Cubans intercepted at sea and housed at Guantanamo had left the U.S. Naval Base, most having been paroled into the United States. Periodic U.S.-Cuban talks have been held on the implementation of the migration accords.

Since the 1995 migration accord, the U.S. Coast Guard has interdicted thousands of Cubans at sea and returned them to their country, while those deemed at risk for persecution have been transferred to Guantanamo and then found asylum in a third country. Those Cubans who reach shore are allowed to apply for permanent resident status in one year.

Tensions in South Florida heightened after a June 29, 1999 incident — televised live by local news helicopters — in which the U.S. Coast Guard used a water cannon and pepper spray to prevent six Cubans from reaching Surfside beach in Florida. The incident prompted outrage from the Cuban American community in Florida and several Members of Congress. President Clinton characterized the incident as "outrageous," and stated that the treatment was not authorized (Associated Press, July 1, 1999). Another incident occurred on July 9, 1999, when a boat being interdicted by the Coast Guard capsized and resulted in the drowning of a Cuban woman. The State Department expressed regret over the incident and noted that the Department of Justice and the Immigration and Naturalization Service would investigate whether this was a case of alien smuggling.

The Cuban government has taken forceful action against individuals engaging in alien smuggling. Prison sentences of up to three years may be imposed against those engaging in alien smuggling, and for incidents involving death or violence, a life sentence may be imposed. As of early July 2002, Cuba maintained that it had arrested and imprisoned more than 130 immigrant smugglers since 1998.[49]

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[49] "Man Accused of Immigrant Smuggling Arrested in Cuba," *Miami Herald*, July 9, 2002.

From late November 1999 through June 2000, national attention became focused on Cuban migration policy as a result of the Elian Gonzalez case, the five-year old boy found clinging to an inner tube off the coast of Fort Lauderdale. The boy's mother drowned in the incident, while his father who resided in Cuba, called for his return. Although the boy's relatives in Miami wanted him to stay in the United States, the Immigration and Naturalization Service ruled that the boy's father had the sole legal authority to speak on his son's behalf. After numerous legal appeals by the Miami relatives were exhausted, the boy returned to Cuba with his father in June 2000. In Cuba, Fidel Castro orchestrated numerous mass demonstrations and a media blitz on the issue until the boy's return. The case generated an outpouring of emotion among the Cuban population as well as in south Florida.

A June 26, 2002 speech by Fidel Castro raised concerns among some observers that Castro was planning another mass exodus like the ones in 1980 and 1994. Castro stated that the Cuban migration accords could be dissolved and the U.S. Interest Section in Havana could be withdrawn if Cuba's sovereignty was violated and if diplomatic norms were flouted by U.S. officials in Cuba.[50] Subsequently, however, both Cuban and U.S. officials stated the importance of maintaining the migration accords.

Compensation for February 1996 Shootdown[51]

On February 24, 1996, Cuban Mig-29 fighter jets shot down two Cessna 337s in the Florida Straits, which resulted in the death of four members of the Cuban American group Brothers to the Rescue. The group was known primarily for its humanitarian missions of spotting Cubans fleeing their island nation on rafts but had also become active in flying over Cuba and dropping leaflets.

In 1996, President Clinton authorized $300,000 to each of the families of the four victims, which was drawn from a pot of Cuban assets frozen in the United States. In addition, on December 17, 1997, a U.S. federal judge awarded $187.6 million ($49.9 million in compensatory damages and $137.7 million in punitive damages) to the families of three of the shootdown victims who sued under a provision in the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104-132). (The fourth shootdown victim was not a U.S. citizen, and therefore not eligible to sue under the Act.) However, Cuba refused to recognize the court's jurisdiction.

A provision in the FY1999 omnibus appropriations measure (P.L. 105-277, H.R. 4328) could have affected the payment of the December 1997 judgment from Cuba's frozen assets in the United States. That provision stipulates that foreign states are not immune from U.S. judgments for violations of international law. However, the provision also includes a presidential waiver for national security interests, which the President exercised October 21, 1998. The Clinton

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[50] "Cuban National Assembly Extraordinary Session, Speech Given by Fidel Castro, June 26, 2002" *Granma International*, June 30, 2002, p. 7.

[51] For further background, see CRS Report RL31258, *Suits Against Terrorist States*, by David M. Ackerman.

Administration opposed the provision, maintaining that it would undermine the authority of the President to use assets of countries under economic sanctions as leverage when sanctions are used to modify the behavior of a foreign state. Supporters maintain that it would let those nations who sponsor terrorism know that if they are found guilty in U.S. court, their assets will be liquidated in order to serve justice.

Nevertheless, in light of further congressional action on the issue in October 2000, the Clinton Administration agreed to go forward with payments to relatives of three of the shootdown victims. The Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386, Sections 2002 and 2003) directed the Secretary of the Treasury to pay compensatory damages for certain claims against Cuba (and Iran). Subsequently, on January 19, 2001, the day before he left office, President Clinton signed an order unfreezing Cuban funds in the United States to pay almost $97 million to the relatives of the shootdown victims. The money came from a pot of $193.5 million in Cuban assets frozen in the United States, consisting of funds from long-distance telephone fees that AT&T paid for access to Cuba's telephone system from the mid-1960s until 1994. While supporters of the relatives, the Cuban American community, and many in Congress supported the President's action, other U.S. citizens with claims against Cuba maintain that the large judgment drained the pot of money that might have been available for other claims.[52] At the end of 2001, about $112 million in Cuban assets in the United States remained frozen or blocked.

Legislation in the 106th Congress

Consolidated Appropriations Act for FY2000

P.L. 106-113 (H.R. 3194)

Enacts by reference H.R. 3421, the Commerce, Justice and State appropriations bill for FY2000, and H.R. 3427, the Foreign Relations Authorization Act for FY2000 and FY2001, as introduced November 17, 1999. H.R. 3194 signed into law November 29, 1999. H.R. 3421 appropriates $22.095 million for Cuba broadcasting for FY2000. H.R. 3427 includes the following Cuba provisions: Section 108 (b) (3) authorizes $6,000 for each of FY2000 and FY2001 for the investigation and dissemination of information on violations of freedom of expression by Cuba; Section 121 authorizes $22.743 million for broadcasting to Cuba for each of FY2000 and FY2001; Section 206 requires a report from the Secretary of State not later than 120 days after enactment of the Act on the extent of international drug trafficking through Cuba since 1990.

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[52] David Cazares, "Families of Fliers Get Award, $97 Million Compensation Draws Criticism," *Sun Sentinel* (Fort Lauderdale), February 1, 2001, p. 1B.

Foreign Operations Appropriations Bill for FY2001

P.L. 106-429 (H.R. 4811)

On October 28, the conference report (H.Rept. 106-997) struck H.R. 4811 and enacted by reference H.R. 5526. Section 507 prohibits direct funding of assistance or reparations to Cuba (and other countries). Section 523 prohibits indirect assistance or reparations to Cuba unless the President certifies that withholding such funds is contrary to U.S. national interests.

Compensation for the February 1996 Shootdown

P.L. 106-386 (H.R. 3244)

Victims of Trafficking and Violence Protection Act of 2000. Sections 2002 and 2003 direct the Secretary of the Treasury to pay compensatory damages for certain claims against Cuba (and Iran). As provided for in the bill, President Clinton waived such payments in the interest of national security when he signed the bill into law on October 28, 2000. (On January 19, 2001, he signed an executive order unfreezing the funds.)

Modifications of Sanctions on Cuba

P.L. 106-387 (H.R. 4461)

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, FY2001. Title IX of the bill, Trade Sanctions Reform and Export Enhancement, terminates unilateral sanctions on food and medical exports from economic sanctions imposed for foreign policy purposes. It allows one-year licenses for exports of these goods to countries classified as state sponsors of international terrorism, which includes Cuba, but without any U.S. financing (the President may waive the prohibition of U.S. assistance for commercial exports to Iran, Libya, North Korea, or Sudan for national security or humanitarian reasons but may not do so for Cuba). Prohibits travel to Cuba for tourism, restricts non-tourist travel to Cuba to that expressly authorized in current federal regulations. Signed into law October 28, 2000.

Resolutions Regarding Cuba's Human Rights Situation

H.Res. 99 (Ros-Lehtinen)

Introduced March 9, 1999. House approved March 23, 1999, by voice vote. Expresses the sense of the House regarding the human rights situation in Cuba, including a condemnation of Cuba's repressive crackdown against the internal opposition and independent press; a call for the Administration to secure support for a UNCHR resolution condemning Cuba for its human rights abuses and for the reinstatement of a UNCHR Special Rapporteur on Cuba; and a call for the Administration to nominate a special envoy to advocate internationally for the establishment of the rule of law for the Cuban people.

S.Res. 57 (Graham)

Introduced March 4, 1999. Senate approved (98-0) March 25, 1999. Expresses the sense of the Senate that the United States should make all efforts to pass a

UNCHR resolution criticizing Cuba's human rights abuses and securing the appointment of a Special Rapporteur.

Funding For Radio and TV Marti

P.L. 106-553 (H.R. 4942)

Appropriations for the District of Columbia government and for other purposes. H.R. 5548, making appropriations for the Departments of Commerce, Justice, and State; the Judiciary; and related agencies, was incorporated into the H.R. 4942 conference report (H.Rept. 106-1005). Signed into law December 21, 2000. Provides $22.095 million for radio and television broadcasting to Cuba.

Legislative Initiatives in the 107th Congress

Human Rights Issues

P.L. 107-115 (H.R. 2506)

Foreign Operations Appropriations, FY2002. Similar to past foreign operations appropriations measures, the bill contains provisions (Section 507 and Section 523) that prohibit direct and indirect assistance to Cuba. The House committee report to the bill notes that the Appropriations Committee fully supports the Administration's budget request of at least $5 million aimed at promoting democracy in Cuba. Introduced and reported by the Committee on Appropriations July 17, 2001 (H.Rept. 107-142). House passed (381-46) July 24, 2001. Senate Committee on Appropriations reported its version September 4, 2001 (S.Rept. 107-58). Conference report (H.Rept. 107-345) filed December 19, 2001. House agreed (357-66) to the conference December 19; Senate agreed (unanimous consent) December 20. Signed into law January 10, 2002. (Also see "Drug Interdiction Cooperation" below for conference report language.)

H.Res. 91 (Smith, Christopher)

Expressing the sense of the House of Representatives regarding the human rights situation in Cuba. Condemns the repressive and totalitarian actions of the Cuban government against the Cuban people. Expresses the sense of the House of Representatives that the President should (1) have an action-oriented policy of directly assisting the Cuban people and independent organizations to strengthen the forces of change and to improve human rights within Cuba; and (2) made all efforts necessary at the meeting of the United Nations Human Rights Commission in Geneva in 2001 to obtain passage of a resolution condemning the government of Cuba for its human rights abuses and to secure the appointment of a Special Rapporteur for Cuba. Introduced March 19, 2001. House passed (347-44, 22 present) April 3, 2001.

H.Con.Res. 123 (Andrews)

Calling for the immediate release of all political prisoners in Cuba, including Dr. Oscar Elias Biscet, and for other purposes. Introduced and referred to Committee on International Relations May 3, 2001.

H.R. 1271 (Diaz-Balart)

To assist the internal opposition in Cuba, and to further help the Cuban people to regain their freedom. Introduced and referred to International Relations Committee March 28, 2001.

H.R. 1646 (Hyde)

Foreign Relations Authorization Act, FY2002 and FY2003. H.R. 1646 Introduced April 27, 2001; Committee on International Relations reported the bill May 5, 2001 (H.Rept. 107-57). House passed (352-73) May 16, 2001. Section 101 would authorize $70,000 for each fiscal year for the establishment and operation of a mobile library at the United States Interests Section in Cuba primarily for use by dissidents and democracy activists. Section 107 would authorize $6,000 for each fiscal year for the Office of the Special Rapporteur for Freedom of Expression in the Western Hemisphere of the Organization of American States for the investigation and dissemination of information on violations of freedom of expression by the government of Cuba. Senate passed, amended, May 1, 2002, with a substitute amendment, the Security Assistance Act of 2002, that does not have Cuba provisions. (Also see legislative initiatives on "Broadcasting to Cuba" below for additional provisions in H.R. 1646.)

H.Res. 453 (Pallone)

Expresses support for the Varela Project and "urges the President and his representatives to take all appropriate steps to support the Varela Project and any future efforts by the Cuban people to assert their constitutional right to petition the National Assembly in support of a referendum. Introduced June 20, 2002; referred to the Committee on International Relations.

S.Res. 272 (Nelson)

Expresses support for the Varela Project and "urges the President to support the right of the citizens of Cuba who have signed the Varela Project to petition the Cuban National Assembly for a referendum and the peaceful transition to democracy." Introduced May 20, 2002. Senate Foreign Relations Committee reported May 29, 2002. Senate approved (87-0) June 10, 2002.

S.Res. 62 (Lieberman)

A resolution expressing the sense of the Senate regarding the human rights situation in Cuba. Introduced and referred to Foreign Relations Committee March 22, 2001.

S. 894 (Helms)

A bill to authorize increased support to the democratic opposition and other oppressed people of Cuba to help them regain their freedom and prepare themselves for a democratic future, and for other purposes. Referred to as the Cuban Solidarity, or Solidaridad, Act of 2001. Introduced and referred to Foreign Relations Committee May 16, 2001.

Modifying Sanctions Against Cuba

P.L. 107-67 (H.R. 2590/S. 1398)

Treasury and General Government Appropriations Act, 2002. Introduced and reported (H.Rept. 107-152) by the House Committee on Appropriations July 23, 2001. House approved (334-94), amended, July 25, 2001.The Senate Committee on Appropriations reported its version of the bill, S. 1398, on September 4, 2001 (S.Rept. 107-57). On September 19, 2001, the Senate approved its version of H.R. 2590, amended, which substituted the language of S. 1398. Conference report (H.Rept. 107-253) filed October 26, 2001. The House and Senate approved the conference on October 31, 2001, and November 1, 2001, respectively. Signed into law on November 12, 2001. Section 648 (Title VI) of the House version provided that none of the funds in the Act could be used to administer or enforce the Cuban Assets Control Regulations (31 CFR, part 515) with respect to any travel or travel-related transaction. This section was added by H.Amdt. 241 (Flake) that the House approved by a vote of 240-186. Another amendment, H.Amdt. 242 (Rangel), that would have prohibited the use of Treasury Department funds to implement or enforce the economic embargo of Cuba, failed by a vote of 201-227. The Senate version did not have a provision regarding Cuba travel regulations, and the conference report (H.Rept. 107-253), did not include the Cuba travel provision.

P.L. 107-171 (H.R. 2646/S. 1731)

2002 Farm Bill. H.R. 2646 introduced July 26, 2001. House passed (291-120) October 5, 2001. S. 1731 introduced November 27, 2001; Senate Committee on Agriculture, Nutrition, and Forestry reported the bill (S.Rept. 107-117) on December 7, 2001. Senate passed (58-40) H.R. 2646 on February 13, 2002, after incorporating the language of S. 1731, as an amendment. Conference report (H.Rept. 107-424) filed May 1, 2002. The House and Senate approved the conference report on May 2 and May 8, respectively. Signed into law May 13, 2002. Section 335 of the Senate version would have eliminated restrictions on private financing of agricultural sales to Cuba that were set forth in the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX). The House version did not have such a provision, but on April 23, 2002, the House approved (273-143) a nonbinding motion offered by Representative Calvin Dooley to instruct the House conferees to accept the Senate provision. Ultimately, however, the financing provision was not included in the conference report. In earlier action, during consideration of S. 1731 on December 18, 2001, the Senate tabled (61-33) an amendment offered by Senator Bob Smith, S.Amdt. 2596, that would have conditioned the lifting of restrictions on private financing of agricultural sales to Cuba on a presidential certification that Cuba is not a state sponsor of international terrorism. A secondary amendment offered by Senator Torricelli, S.Amdt. 2597, fell when S.Amdt. 2596 was tabled. The Torricelli amendment would have conditioned the lifting of private financing restrictions on a presidential certification that all convicted felons who are living as fugitives in Cuba have been returned to the United States for incarceration.

H.R. 5120 (Istook)/ S. 2740 (Dorgan)

Treasury and General Government Appropriations Act, 2003. H.R. 5120 introduced July 15, 2003; reported by House Committee on Appropriations (H.Rept. 107-575). The rule for consideration of the bill, H.Res. 488, was reported by the Rules Committee July 17, 2002 (H.Rept. 107-585); House approved the rule July 18,

2002 (224-188). On July 23, the House approved three Cuba sanctions amendments that would prohibit funds in the bill from being used to enforce regulations on travel (Flake, H.Amdt. 552, by a vote of 262-167), remittances (Flake, H.Amdt. 553, by a vote of 151-177), and U.S. agricultural sales to Cuba (Moran (KS), H.Amdt. 554, by voice vote); the House also rejected two amendments to H.R. 5120 that would have prevented any funds in the bill from being used to enforce the overall economic embargo (Rangel, H.Amdt. 555, by a vote of 204-226) and that would have tied the limitation of funds in the bill for enforcing the travel regulations to certain conditions regarding biological weapons and terrorism (Goss, H.Amdt. 551, by a vote of 182-247). House passed H.R. 5120 July 24, 2002, by a vote of 308-121. S. 2740 introduced July 17, 2002; reported by Senate Committee on appropriations (S.Rept. 107-212). S. 2740 includes two provision related to Cuba travel sanctions. Section 516 provides that no funds may be used to enforce the Treasury Department regulations with respect to any travel or travel-related transactions, but would not prevent the Office of Foreign Assets Controls (OFAC), which administers the sanctions, from issuing general and specific licenses for travel to Cuba currently allowed by the regulations. Section 124 of the Senate bill stipulates that no Treasury Department funds for "Departmental Offices, Salaries, and Expenses" may be used by OFAC, until OFAC has certain procedures in place regarding license applications for travel to Cuba.

H.R. 3009 (Crane)

Andean Trade Preference Expansion Act. House passed (voice vote) November 16, 2001. Senate passed (66-30) May 23, 2002, after incorporating (voice vote) a manager's amendment (S.Amdt 3401) that includes "trade promotion authority" (TPA) legislation. During May 17, 2002 Senate consideration of S.Amdt. 3401, Senator Dorgan offered an amendment, S.Amdt. 3439, that would permit private financing of agricultural sales to Cuba. The amendment was identical to the provision that had been included in the Senate version of the Farm Bill. Senator Dorgan subsequently withdrew the amendment on May 21, 2002, because he maintained that some cosponsors did not want to jeopardize the TPA legislation.

H.R. 160 (Ros-Lehtinen)

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. Introduced and referred to International Relations Committee January 3, 2001.

H.R. 173 (Serrano)

To amend the Trade Sanctions Reform and Export Enhancement Act of 2000 to allow for the financing of agricultural sales to Cuba. Introduced and referred to Committees on Agriculture; Financial Services; and International Relations January 3, 2001; referred to House subcommittee March 2, 2001.

H.R. 174 (Serrano)

To lift the trade embargo on Cuba, and for other purposes. Introduced and referred to Committees on Agriculture; Financial Services; International Relations;

Government Reform; Energy and Commerce; Judiciary; and Ways and Means January 3, 2001; referred to House subcommittee March 2, 2001.

H.R. 796 (Rangel)/S. 401 (Baucus)

To normalize trade relations with Cuba, and for other purposes. H.R. 796 introduced and referred to House Ways and Means Committee February 28, 2001. S.401 introduced and referred to Finance Committee February 27, 2001.

H.R. 797 (Rangel)/S. 402 (Baucus)

To make an exception to the United States embargo on trade with Cuba for the export of agricultural commodities, medicines, medical supplies, medical instruments, or medical equipment, and for other purposes. H.R. 797 introduced and referred to International Relations Committee and Ways and Means February 28, 2001; referred to House subcommittee March 7, 2001. S.402 introduced and referred to Finance Committee February 27, 2001.

H.R. 798 (Rangel)/S. 400 (Baucus)

To lift the trade embargo on Cuba, and for other purposes. H.R. 798 introduced and referred to Committees on Agriculture; Financial Services; Government Reform; Energy and Commerce; Judiciary; and Ways and Means February 28, 2001; referred to House subcommittee March 14, 2001. S. 400 introduced and referred to Finance Committee February 27, 2001.

H.R. 2138 (Serrano)/S. 1017 (Dodd)

To provide the people of Cuba with access to food and medicine from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals, and for other purposes. Referred to as the "Bridges to the Cuban People Act of 2001." H.R. 2138 introduced and referred to Committees on Agriculture, Financial Services, International Relations, Judiciary, and Ways and Means June 12, 2001. S. 1017 introduced and referred to the Foreign Relations Committee June 12, 2001. On June 19, 2002, the Foreign Relations Committee's Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs held a hearing on the bill.

H.R. 2292 (Rothman)

The No Safe Harbor in Cuba Act. To amend the Cuban Liberty and Democratic Solidarity Act of 1996 to require, as a condition for the determination that a democratically elected government in Cuba exists, that the government extradite to the United States convicted felon Joanne Chesimard and all other U.S. fugitives from justice. Introduced June 21, 2001; referred to House Committee on International Relations.

H.R. 2662 (Paul)

To lift the trade embargo on Cuba and to prohibit any federal funds to provide assistance to Cuba. Introduced July 26, 2001; referred to the Committee on International Relations and in addition to the Committees on Ways and Means, Energy and Commerce, the Judiciary, Financial Services, Government Reform, and Agriculture.

H.R. 5022 (Flake)

Freedom to Travel to Cuba Act of 2002. Removes restrictions on travel to Cuba. Introduced June 26, 2002; referred to Committee on International Relations.

S. 137 (Gramm)

To authorize negotiation of free trade agreements with countries of the Americas, and for other purposes. Section 4 outlines restrictions prior to restoration of freedom in Cuba, standards for determining restored freedom in Cuba, and establishes priority for negotiating free trade with Cuba once the President determines that freedom has been restored in Cuba. Introduced and referred to Finance Committee January 22, 2001.

S. 171 (Dorgan)

To repeal certain travel provisions with respect to Cuba and certain trade sanctions with respect to Cuba, Iran, Libya, North Korea, and Sudan, and for other purposes. Introduced and referred to Foreign Relations Committee January 24, 2001.

S. 239 (Hagel)

To improve access to the Cuban market for American agricultural producers, and for other purposes. Introduced and referred to Foreign Relations Committee February 1, 2001.

Immigration Issues

H.R. 26 (Serrano)

To waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball. Introduced and referred to International Relations and Judiciary Committees January 3, 2001; referred to subcommittee February 12, 2001.

Drug Interdiction Cooperation

P.L. 107-115 (H.R. 2506)

Foreign Operations Appropriations, FY2002. Introduced and reported by the House Committee on Appropriations July 17, 2001 (H.Rept. 107-142). House passed (381-46) July 24, 2001. Senate Committee on Appropriations reported its version September 2, 2001 (S.Rept. 107-58). Senate passed (96-2) October 24, 2001. The Senate version would provide $1.5 million for the Department of State and other agencies to establish cooperation with Cuba on counter-narcotics matters. Conference report (H.Rept. 107-345) filed December 19, 2001, without the Senate provision on counter-narcotics cooperation with Cuba. However, the conference report called for a report by the Secretary of State within 6 months on 1) the extent, if any of the direct involvement of the government of Cuba in illegal drug trafficking; 2) the likelihood that U.S. international narcotics assistance to the government of Cuba would decrease the flow of drugs transiting through Cuba, and 3) the degree to which the government of Cuba is exchanging with U.S. agencies drug-related law enforcement information. The conference report also encouraged the Administration to transmit to Congress, not later than 9 months, any legislation necessary to decrease the flow of drugs to or from Cuba. House agreed (357-66) to the conference December 19; Senate agreed (unanimous consent) December 20.

Signed into law January 10, 2002. (Also see "Human Rights Issues" above for House report language on U.S. support for U.S. funding of democracy and human rights funding regarding Cuba.)

H.R. 1124 (Rangel)

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. Introduced and referred to International Relations Committee March 20, 2001.

Broadcasting to Cuba

P.L. 107-77 (H.R. 2500)

State Department and Related Agencies Appropriations, FY2002. The measure fully funds the Administration's request of $24.872 million for broadcasting to Cuba for FY2002. H.R. 2500 reported by the House Committee on Appropriations (H.Rept. 107-139) July 13, 2001. House passed (408-19), amended, July 18, 2001. S. 1215 reported by the Senate Committee on Appropriations July 20, 2001 (S.Rept. 107-42). On September 10, 2001, the Senate substituted the language of S. 1215 as its version of H.R. 2500, and on September 13, 2001 the Senate passed (97-3) the bill, amended. Conference report (H.Rept. 107-278) filed November 9, 2001. House agreed to conference (411-15) on November 14, 2001, and the Senate approved it (98-1) on November 15, 2001. Signed into law November 28, 2001.

S. 2778 (Hollings)

State Department and Related Agencies Appropriations, FY2002. Introduced July 18, 2002; Senate Appropriations Committee reported the measure July 24, 2002 (S.Rept. 107-218). As reported, the bill would provide $24.996 million for Cuba broadcasting.

H.R. 1270 (DeFazio)

To increase accountability for government spending and to reduce wasteful government spending. Would repeal (1) the Television Broadcasting to Cuba Acts; and (2) the United States International Broadcasting Act of 1994. Introduced and referred to Committees on Armed Services; Financial Services; International Relations; Energy and Commerce; Resources; Science; Veterans' Affairs; Ways and Means; and Select Committee on Intelligence March 28, 2001; referred to subcommittees April 24, 2001.

H.R. 1646 (Hyde)

Foreign Relations Authorization Act, FY2002 and FY2003. H.R. 1646 introduced April 27, 2001; Committee on International Relations reported the bill May 5, 2001 (H.Rept. 107-57). House passed (352-73) May 16, 2001. In the House version, section 121 would authorize $25 million for broadcasting to Cuba for each fiscal year. The section would also authorize $750,000 for enhancements to and costs of transmission from the facilities in Belize, which according to the bill's report, would increase the capacity of the Office of Cuba Broadcasting to evade jamming by the Cuban government. Section 501 would eliminate staff positions for the Advisory Board for Cuba Broadcasting. Senate passed, amended, May 1, 2002, with

a substitute amendment, the Security Assistance Act of 2002, that does not have Cuba provisions. (Also see legislative initiatives on "Human Rights Issues" above for additional House provisions related to Cuba in this bill.)

For Additional Reading

CRS Electronic Briefing Book on Trade, *Cuba Sanctions*, by Mark P. Sullivan. [http://www.congress.gov/brbk/html/ebtra108.html]

CRS Electronic Briefing Book on Trade, *Economic Sanctions and Agricultural Exports*, by Remy Jurenas. [http://www.congress.gov/brbk/html/ebtra13.html]

CRS Report RL31302, *Appropriations for FY2003: Treasury, Postal Service, Executive Office of the President, and General Government,* by Sharon S. Gressle.

CRS Report RS20450, *The Case of Elian Gonzalez: Legal Basics,* by Larry M. Eig.

CRS Report RL30837, *Cuba: An Economic Primer,* by Ian F. Fergusson.

CRS Report RL30628, *Cuba: Issues and Legislation in the 106th Congress*, by Mark P. Sullivan and Maureen Taft-Morales.

CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Legislative Initiatives In the 107th Congress,* by Mark P. Sullivan.

CRS Report RL30386, *Cuba-U.S. Relations: Chronology of Key Events 1959 -1999,* by Mark P. Sullivan.

CRS Report 94-759, *Cuba-U.S. Relations: Should the United States Reexamine Its Policy?*, by Mark P. Sullivan.

CRS Report RS20468, *Cuban Migration Policy and Issues,* by Ruth Ellen Wasem.

CRS Report RL30384, *Economic Sanctions: Legislation in the 106th Congress,* by Dianne E. Rennack.

CRS Report 97-949, *Economic Sanctions to Achieve U.S. Foreign Policy Goals: Discussion and Guide to Current Law,* by Dianne E. Rennack and Robert D. Shuey.

CRS Report RL30570, *Elian Gonzalez: Chronology and Issues,* by Ruth Ellen Wasem.

CRS Issue Brief IB10061, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation,* by Remy Jurenas.

CRS Issue Brief IB93107, *Normal-Trade-Relations (Most-Favored-Nation) Policy of the United States,* by Vladimir N. Pregelj.

CRS Report RS20449, *Private Bills for Citizenship or Permanent Residency: A Brief Overview,* by Margaret Mikyung Lee.

CRS Report 94-636, *Radio and Television Broadcasting to Cuba: Background and Issues Through 1994,* by Susan B. Epstein and Mark P. Sullivan.

CRS Report RL31258, *Suits Against Terrorist States*, by David M. Ackerman.

CRS Report RS21003, *Travel Restrictions: U.S. Government Limits on American Citizens' Travel Abroad*, by Susan B. Epstein and Dianne E. Rennack.