

FOIA MARKER

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Folder Title:

Cuba-Wendy Sherman Meetings/Policy Papers [3]

Staff Office-Individual:

Inter-American Affairs-Hollis, Caryn

Original OA/ID Number:

2925

Row:	Section:	Shelf:	Position:	Stack:
37	2	11	3	V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	To: The Secretary; From: peter Romero, Princeton Lyman, John Shattuck; Re: Strategy for Re-Engaging the UN System on Human Rights in Cuba at the UNGA and Beyond (3 pages)	00/00/0000	P1/b(1)
001b. letter	Proposed Draft Letters; Dear Mr. Minister (2 pages)	00/00/0000	P1/b(1)
001c. talking points	Talking Points to Accompany Delivery of Letters (3 pages)	08/20/1998	P1/b(1)
001d. note	To: Jim; From: Fulton; Re: [Lula held a long meeting] (1 page)	08/27/1998	P1/b(1)
002a. paper	Pending Legislation and Next Steps (6 pages)	00/00/0000	P1/b(1)
002b. paper	Duplicate of 002a [with routing page] (7 pages)	00/00/0000	P1/b(1)
003. paper	Counter-Narcotics Cooperation with Cuba (4 pages)	00/00/0000	P1/b(1)
004. paper	Duplicate of 002b (7 pages)	00/00/0000	P1/b(1)
005. agenda	Counselor Wendy Sherman, Senior Cuba Policy Group (1 page)	05/17/2000	P1/b(1)
006. cable	Re: [Raul Castro] (9 pages)	06/26/2000	P1/b(1)
007a. report	Elsewhere in the World [incomplete report, page 6 only] (1 page)	01/22/2000	P1/b(1)
007b. report	Observers Differ on Cuba's Future [incomplete report, page 5 only] (1 page)	03/04/2000	P1/b(1)

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Clinton Presidential Records
National Security Council
Inter-American Affairs (Hollis, Caryn)
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FOLDER TITLE:

Cuba-Wendy Sherman Meetings / Policy Papers [3]

2016-0920-F

sb2131

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
008. memo	To: POTUS; From: Samuel Berger; Re: Cuban Illegal Migration Incidents (3 pages)	07/22/1999	P1/b(1)
009a. memo	Re: 2000 Contingency Planning Guidance (18 pages)	00/00/2000	P1/b(1)
009b. paper	Draft/Working Paper - Re: Strategic Concept (5 pages)	02/00/2000	P1/b(1)

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Meeting on Cuba
11:00 a.m.
Friday, August 21, 1998
ARA Conference Room
Room 6909

I. UNGA and Human Rights

- Review of strategy and action plan

II. Support for the Cuban People

- Remittances
- Direct Mail
- Expediting exchange procedures (how to handle visas, etc.)
- Direct food sales

*November package
ARA small group developer*

III. Meeting with U.S. Catholic Hierarchy on Cuba

*part of public
statements*

IV. Managing Cuban Contacts - FBI stuff

V. Visa and Licensing Issues

- Alamar-sponsored business summit in Cancun
- Review of Thursday's OFAC Meeting and Next Steps
- MIDEI - Latin American and Caribbean Music Mart
- Authorize musicians' visas, but deny agents and business managers' visas.

OK

VI. Quick-Updates

Status of Presidential decision on counternarcotics initiative

✓

World Food Program report on the Cuban drought

✓

Indictments related to "La Esperanza" interdiction off Puerto Rico

✓ *see
later*

Drafted: ARA/CCA: RMWitajewski

Mtg w/ Steinberg on Panama
must be at 12:30

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Rodriguez, Lula

From: Robinson, Maura N.

Sent: Friday, August 21, 1998 2:47 PM

To: Rodriguez, Lula

Subject: Agenda for Public Affairs Meeting

Agenda for Public Affairs Meeting

- The Secretary host a working breakfast with the three Cuban American members of Congress;
- Release UNGA statement and/or action;
- Identify a group of up and coming opinion leaders in the Cuban American community and invite them to a full day briefing. This action could establish a new core group of "validators and friends";
- Organize and implement Undersecretary Eizenstat's visit to South Florida after UNGA;
- Build upon the Secretary's successful trip to Miami by preparing a plan of action to expand our contacts with the Catholic Church in the US (this must include the Cuban American clergy);
- Prepare an outreach plan that targets Cuban American NGOs;
- Prepare a media outreach strategy that includes government officials, editorials, Spanish media, regional press roundtables, and a weekly Spanish press effort;
- Address family reunification concerns as defined by Monsignor Roman;
- The Secretary meet with the mothers of the Brothers to the Rescue pilots who were shot down; this request has been pending;
- Work with USIA to build a public profile of Cuban political prisoners and dissidents;
- Work with USIA to reach out to media in third countries.

Maura Robinson
Public Affairs, Rm. 6800
ph - 202-647-9606
fax - 202-647-5939

08/27/98

Conference premise: "the island is undergoing a new, subtle revolution"

Options for reply:

1. Standard approach

What is going on is not reform

Merely cosmetic; system fundamentally unchanged
Cynical actions by regime desperate to survive
Controls overshadow smother anything positive
Rhetoric confirms changes are only temporary
Piecemeal changes only in the economy

What is going on does not benefit Cuban people

Regime cadre and military benefit most
Prolongs regime tenure and people's suffering
Creation of social divisions without benefits
Fueling crime, corruption, social decay

Any change must be fundamental, irreversible

Economy moribund until really opened
Respect for human rights and elections necessary

Policy is to achieve peaceful democratic transition through maximum pressure on regime (embargo, "multilateral approach," etc.) while extending support to Cuban people (humanitarian, civil society, etc.)

2. Analytical approach

True that there have been some subtle changes

Human rights groups allowed to operate, albeit within strict limits
Independent journalists file with outside media
Papal visit itself brought rush of fresh air; churches face significantly less repression
Technocrats increasingly have influence
New economic models (such as incentive systems) in some sectors of economy, especially joint ventures

Prosperity of farmers markets and *cuentapropismo*,
 loosening dependence on government
 Deep decline of CDRs and other mass organizations;
 less intrusive in daily life
 Occasional rhetorical suggestions of change

Could say: Subtle changes in political and economic
 culture that are not incompatible with development
 of civil society and, eventually, entrepreneurship

But not a "revolution" in any sense

A. Government political control not at all in doubt

Repression of dissidents at whim (Working Group)
 Rapid Action Brigades, although not often mobilized,
 remain poised for action and cast dark shadow
 Independent journalists forced to work outside law
 Nonfulfillment of Church requests (visas, printing
 press, etc.)
 All media, schools, institutions state-controlled
 Elections controlled
 Penal code still punishes *desacato* and *peligrosidad*
 Anecdotal information about dissidents being denied
 access to services

B. Economic system still woefully backward

Most of economy still centrally controlled --
 inefficient, corrupt
 Legal *cuentapropistas* small sector -- less than
 5 percent of workforce -- and still hampered by
 regulations and lack of legal channels for supplies
 Shortages of food and daily necessities help control
 dissent; people preoccupied every day with need to
resolver.
 Even Cubans in reformed sectors do not enjoy full
 fruits of labor -- much of hard-currency salary
 absorbed by state. (Foreign firms can't hire/fire
 freely.)
 Result has been corruption, crime and decay.

Could say: Plight of Cuban people today -- the
 political repression and the imposed poverty -- is
 as difficult as ever; there is no sign yet that the
 government is embarked upon any serious reform of
 its failed revolution.

Policy is to keep pressure on regime and provide support to Cuban people -- to press for change and to prepare for change

Economic pressure (embargo, HB enforcement)

Diplomatic pressure (UN resolutions, "multilateral approach")

Support to Cuban people -- humanitarian relief and promotion of civil society (March measures, Section 109, the Marti's and other flow of information)

Fulton

From: Fulton [fultona@dc.infi.net]
Sent: Saturday, August 22, 1998 9:57 AM
To: Lula Rodriguez (E-mail)
Cc: 'ARMSTRONG_F@a1.eop.gov'
Subject: RE: Public Affairs

Lula:

Thanks for opportunity to comment on your agenda for the Public Affairs Meeting. Here are some Saturday morning musings.

You're the expert on public affairs, but I think I should still make my case: we're not doing too bad. The inevitable occasional bump in the road is not a "setback." It's especially inaccurate to say that there's been a "series of setbacks." Your vastly underestimating your and the team's performance.

** I think that more accurate analysis of events would note that after the March 20 announcements, some of the predictably critical elements in the community set up to ambush us with whatever issue -- real or not -- that they could. They totally fabricated one issue -- the FAA briefing issue -- and willfully blew the other (the security zone) out of perspective. No, repeat NO, amount of spin from one or two friendlies in the war zone could have prevented that. It was inevitable, and we shouldn't let it faze us. These are fringe groups, as you yourself say. But the important thing is that BASIC CORE CONSTITUENCIES -- the ones who matter in both a political and policy sense-- support the March 20 measures today as much OR MORE than they did before. They now see how carefully the Admin is implementing them -- how no one's giving away the farm. Implementation could not have been so smooth had that consensus existed.

** In other words, to say that the "initial support" has been "eroded" by "series of public affairs setbacks" is wrong. There's been some predictable noise from predictable groups -- and CANF's PR wars with the New York Times and its attempt to politicize the supposed indictments -- certainly have stirred the pot. But I have seen no/no/no evidence that support for the March measures has eroded. What we have seen is a loss of momentum, but I don't think you guys (Remember: I wasn't around then) were trying to build major momentum -- you didn't want to create big expectations of big change. On the contrary, you were trying to implement things very slowly, consistent with policy, and avoiding danger of creating wrong impression about intentions.

This is important because it gets to the issue of what you want your public affairs strategy to achieve. As drafted, the strategy doesn't state our goals; it just asserts that we've been beat up and need to get out and hustle. But it doesn't say "hustle for what?" My recommendation is not to cast the strategy as intended to rescue a teetering policy, but as a "maintenance program" ... or as an effort to continue forward momentum with elements of the community. Here's how I'd frame it:

Despite the success of our March 20 announcements, momentum within the Cuban American community for a more proactive, humanitarian policy probably has diminished some, and we need to renew efforts to project what our policy is and how it is compatible with the aspirations of the community. Implementation of the measures has gone very smoothly, thanks to the careful rollout and transparent implementation. But the sense of anticipation that prevailed after the Papal visit has worn off and the reality that there are no quick fixes in Cuba has once again set in. Tumult within the community -- stemming in large part from the post-Mas Canosa realignment and aggravated by press and government investigations into alleged terrorist activity by prominent Cuban-Americans -- has resulted in increased stridency in some elements' criticism of shifts, real or imagined, in US policy. Some hardliners ambushed us about minor policy decisions (such as expansion of the Coast Guard security zone) and about fabricated issues as well. As a result of these factors, there are still lingering concerns within the community about our ability to ensure that our "support to the Cuban people" measures do not inordinately benefit the Castro Government and are not harbingers of a normalization of relations.

To further clarify our policies and shore up support for them, we recommend the following initiatives:

- * The Secretary host a working breakfast with the three Cuban American members of Congress;

+++ You're in a much better position than I to judge whether

this will help anything.

- * Release UNGA statement and/or action;

- * Identify a group of up and coming opinion leaders in the Cuban American community and invite them to a full day briefing. This action could establish a new core group of "validators and friends";

+++ I know you're sick (already) of hearing me say it, but I think that the content of this "briefing" is important. If it's just to call them together to hear us parrot back to them what we can all read in El Nuevo and El Diario, then we don't need a full day. But if it's to try to achieve a deeper understanding, there are some creative things we can attempt -- depending on the size and makeup of the group.

- * Organize and implement Undersecretary Eizenstat's visit to South Florida after UNGA;

- * Build upon the Secretary's successful trip to Miami by preparing a plan of action to expand our contacts with the Catholic Church in the US (this must include the Cuban American clergy);

++++ Long overdue, as long as we're not going to just talk past each other.

- * Prepare an outreach plan that targets Cuban American NGOs;

++++ This is unclear. What NGOs are there that are not already knocking on our door for Section 109 grants? What would we be targeting these NGOs for?

- * Prepare a media outreach strategy that includes government officials, editorials, Spanish media, regional press roundtables, and a weekly Spanish press effort;

++++ Outreach to the Cuban-American community? The Anglo community? Or is this part of non-US outreach? Outreach is always a good thing, I guess, as long as we don't set it up as merely 1) preaching to the converted, or 2) purely defensive among the non-converted.

- * Address family reunification concerns as defined by Monsignor Roman;

++++ Sounds interesting. What is he thinking of?

- * The Secretary meet with the mothers of the Brothers to the Rescue pilots who were shot down; this request has been pending;

- * Work with USIA to build a public profile of Cuban political prisoners and dissidents;

++++ Good, as long as we can stay above the pissing matches among Cuba-based and Miami-based groups (e.g., namecalling against persons who aren't as pure as some might hope), and above the pissing matches among on-island persons.

- * Work with USIA to reach out to media in third countries.

++++ Long, long overdue. Good idea.

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

NATIONAL SECURITY COUNCIL	From: Fulton T. Armstrong To: Deputy Ass't Secretary Lula Rodriguez Agency: State/PA Fax Number: 647-3344 No. of pages to follow: 3
17th & Penn, N.W. Washington, D.C. 20504	Message:
Did you get a complete, clear transmission? If not, please call:	
(202) 456-9137	Lula: I would like to continue our private dialogue on the Dallas Morning News event before we discuss in larger meeting, such as on Thursday. Attached is an outline -- just for discussion -- of the two approaches. Maybe the modified approach is impossible. Maybe stupid. But I think that, given the underlying premise of the conference, the standard approach would also be problematic. -- Fulton

DRAFT

08/20/98

Conference premise: "the island is undergoing a new, subtle revolution"

Options for reply:

1. Standard approach

What is going on is not reform

Merely cosmetic; system fundamentally unchanged
Cynical actions by regime desperate to survive
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DRAFT

Prosperity of farmers markets and *cuentapropismo*,
 loosening dependence on government
 Deep decline of CDRs and other mass organizations;
 less intrusive in daily life
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Could say: Subtle changes in political and economic
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 Nonfulfillment of Church requests (visas, printing
 press, etc.)
 All media, schools, institutions state-controlled
 Elections controlled
 Penal code still punishes *desacato* and *peligrosidad*
 Anecdotal information about dissidents being denied
 access to services

B. Economic system still woefully backward

Most of economy still centrally controlled --
 inefficient, corrupt
 Legal *cuentapropistas* small sector -- less than
 5 percent of workforce -- and still hampered by
 regulations and lack of legal channels for supplies
 Shortages of food and daily necessities help control
 dissent; people preoccupied every day with need to
resolver.
 Even Cubans in reformed sectors do not enjoy full
 fruits of labor -- much of hard-currency salary
 absorbed by state. (Foreign firms can't hire/fire
 freely.)
 Result has been corruption, crime and decay.

Could say: Plight of Cuban people today -- the
 political repression and the imposed poverty -- is
 as difficult as ever; there is no sign yet that the
 government is embarked upon any serious reform of
 its failed revolution.

DRAFT

Policy is to keep pressure on regime and provide support to Cuban people -- to press for change and to prepare for change

Economic pressure (embargo, HB enforcement)

Diplomatic pressure (UN resolutions, "multilateral approach")

Support to Cuban people -- humanitarian relief and promotion of civil society (March measures, Section 109, the Marti's and other flow of information)

Wendy Sherman 8/21

Car 21st 12:05

(A) Loy

(A) CN memo

(?) Klosson prepare consult
on WFP

(?) Package for November
build, coord, implement

(?) coord. public affairs strategy

(A) visa streamline

- Loy talk too much

- Press for CD memo

- WFP

+ Conzil interim

Graham + Torr. ~~was~~ our stand

→ way, but want to consult

Nomiga - Helms

↳ can go along if we

engage w/ them on R or

Admin - Helms legis initiative

- Graham wd welcome

- Torr. not ask to engage on bill.

+ Staff consultation

w/ policy content

- seek views

but need to offer something
on legsl. proposals.

Wendy: but change of
deal incl other stuff
is big. Have to
push on table other ideas
than will become pol.
football

Jim: but act of consulting
wd have groundwork.

Experts need to put together
package on drought

monitoring is part of deal

Page 2

we can influence
- WFP agreement / AOC

- did specify particular
monitors

O'Brien: need to build as building investment, not building

another package for November

- Rumors: need to define how far willing to go
- ARA working on paper w/ options
- ~~Timeline~~: build in Sept; cord in Oct; rollout in Nov
- coordinate w/ P.A. strategy

Go ahead w/ Visa simplification?

Visa namecheck only since shutdowns.

① find our executive authn
for visa approvals

- check w/ FBI re
need for current
procedures.

② ARA sm. group

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

**NATIONAL
SECURITY
COUNCIL**

17th & Penn, N.W.
Washington, D.C.
20504

Did you get a complete,
clear transmission? If not,
please call:

(202) 456-9137

From: Fulton T. Armstrong

To: Mike Ranneberger

Agency: State/ARA/CCA

Fax Number: 736-4476

No. of pages to follow: 1

Message:

Per our conversation

NATIONAL SECURITY COUNCIL

FAX COVER SHEET

**NATIONAL
SECURITY
COUNCIL**

17th & Penn, N.W.
Washington, D.C.
20504

Did you get a complete,
clear transmission? If not,
please call:

(202) 456-9137

From: Fulton T. Armstrong

To: Margo Morris

Agency: State/C

Fax Number: 647-0247

No. of pages to follow: 1

Message:

Margo: Per our conversation. Some things Jim would like
Wendy Sherman to consider for the agenda for tomorrow's
meeting. --Fulton

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002a. paper	Pending Legislation and Next Steps (6 pages)	00/00/0000	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs (Hollis, caryn)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Wendy Sherman Meetings / Policy Papers [3]

2016-0920-F
sb2131

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002b. paper	Duplicate of 002a [with routing page] (7 pages)	00/00/0000	P1/b(1)

COLLECTION:

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National Security Council
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We are doing this

CD

- public dimensions

- limitation

- entail assistance?

- when GOC do?

- op. in Cuba waters?

- joint/coordinated ops?

- Canil CN net?

- small team

- can't get ahead of ourselves

- INL, DEA, CG

- preceded w/ Sm. IWB to agree on parameters, guidance, config. com.

- maybe background on problem

Jim - • firm work our Range. Albright

• can answer ^{in paper} questions ourselves

• only State + CG ^{on laptop}, DEA doesn't need to be on ground floor

^{too close to investigate + law-enforce}

• cable re send team in 4-6 wks - 2-3k on early Aug •

• discuss drugs heavily

•• degradation of interdiction

•• we consult CG. No decision but willing to talk

• potential leaks

• Lule: don't need to consult or do strategy for firm phase

• Clausen: concern; not to do before trip

• Sherman: discreet if go ahead w/ trip.

focus on interdiction, not law enforcement + not for pol.

Bill in
INL

- cable clear around by late wk or 1st of next wk
- Sherman - check w/ Reno re DEA role
- When team goes, defensive PA points
+ some briefing
- Also Jim: Ask CIA for all source anal. of Cuba news
- Sherman - Kozak go in after Congress recess

do WABA to get space for other things

- Dougherty - Mike: Cuban exas. Only \$60m vs \$200m
Wendy: do guidance then Jim suggested
- not judge scope
 - ~~like~~ approve humanitarian assistance

Support to Cuck

~~book~~

- Prepare package for eventual rollout
- On use in ~~negot~~ discussions w/ Hall or Dodd + Helms

Expanded exchanges - USIA + non-USIA

- Pres. already told us intent to do
- Time to in down w/ USIA and discuss?
- keep in package or move alone?

Lula:

~~preliminary~~
piecemeal approach hurts more

can't exchange easily; others require
some groundwork

Can't negot. ~~of~~ food w/ Hall.

Jim: consult in August? And, if we fail, we go ahead w/ them.

Wahy: hold to Nov + do, noting that Congress failed to do

Romero: or just go to Hill to listen + then do package in Nov.

Clauser + Raman: we've told Hill we'd come back.

Impator: have to show who's setting terms of debate

Sherman: Need strategy - probably launch in Sept ^{or start of} ~~staff in Aug~~
who see? We @ rep. Admin?
What say?
Public affairs?
Sequence for us to take action?

Jim: but shouldn't make our move substantive negot.

Wahy: check w/ Al ~~Re~~ re Title IV

AGENDA

Cuba Meeting
Tuesday, July 28, 1998

Chaired by Wendy R. Sherman
"S" Conference Room

- Counter-narcotics cooperation
- Support for the Cuban people

Food sales

Remittances

Expanded exchanges

Direct mail

Broadcasting

Related steps

- Reuters license request -OK
- Cuban effort to gain membership in ALADI
- Cuban draught and UN relief effort
- ECOSOC/UNGA Peter Briley when assign to Cuba-UNGA late Oct or early Nov

do yes
Lockheed-Martin - consult further

*we can't stop. We're not members.
No affiliation w/ OAS and
No cable. Maybe some press guidance*

*at least speech
maybe resolution
a jt declaration
ARA's UNGA rep Eileen
Ted met.
Bill Walker*

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. paper	Counter-Narcotics Cooperation with Cuba (4 pages)	00/00/0000	P1/b(1)

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National Security Council
Inter-American Affairs (Hollis, caryn)
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Withdrawal/Redaction Marker

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004. paper	Duplicate of 002b (7 pages)	00/00/0000	P1/b(1)

COLLECTION:

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National Security Council
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**Senior Cuba Policy Group
Agenda
July 19, 2000**

- I. Family Reunification Public Diplomacy Strategy (PA/CCA)
- II. Visa Impasse - Talbot-Holder
- III. The Hill Report
 - A. Read-out on Nethercutt/Dorgan (H)
 - B. Read out from Sen. Roberts (CCA)
- IV. Pension Payments to GTMO Retirees – Menendez briefing set for July 20 (CCA)
- V. Migration (CCA)
 - A. No date for talks
 - B. No GOC response re GTMO hunger strikers
 - C. Andy Morales is at Krome Detention Center
- VI. Private Cuba Travel by USG Employees – Working w/ L (CCA)

Dear Mr. President:

On behalf of the Secretary of State, we are transmitting to the Committee a report concerning compliance by the Government of Cuba with the U.S.-Cuba Migration Accords of September 9, 1994 and May 2, 1995. This report is required pursuant to section 2245 of the Omnibus Consolidated and Emergency Appropriations Act for Fiscal Year 2000 (Public Law 105-277).

The May 2, 1995 Joint Statement calls for the return to Cuba of Cuban nationals interdicted at sea by the U.S. Coast Guard while attempting to enter the U.S., or who illegally enter the U.S. Naval Base at Guantanamo Bay, and who do not have protection concerns. Pursuant to this joint statement, the United States and Cuba pledged to "ensure that no action is taken against those migrants returned to Cuba as a consequence of their attempt to emigrate illegally."

We hope this report is useful to you. As always, please do not hesitate to contact us if you have further questions.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosures:
As stated.

The Honorable
Al Gore, President,
United States Senate.

ACTION MEMORANDUM

S/S

UNCLASSIFIED

TO: The Secretary

FROM: R - Barbara Larkin
WHA - Peter F. Romero, Acting

Subject: Report to Congress on GOC compliance with the U.S.-Cuba Migration Accords of September 9, 1994 and May 2, 1995.

ISSUE FOR DECISION

Whether to transmit to the Senate and House Committees on Appropriations, the House International Relations Committee and the Senate Foreign Relations Committee the attached report concerning Government of Cuba compliance with the U.S.-Cuba Migration Agreements of September 9, 1994 and May 2, 1995. The report is required by Section 2245 of the Omnibus Consolidated and Emergency Appropriations Act, FY 2000 (P.L. 105-277).

ESSENTIAL FACTORS

Section 2245 of the Omnibus Consolidated and Emergency Appropriations Act, FY 2000 (P.L. 105-277) requires a report to Congress concerning the methods employed by the Government of Cuba to enforce the U.S.-Cuba Joint Communiqué of September 1994 and the treatment by the Government of Cuba of persons who have been returned to Cuba pursuant to the U.S.-Cuba Joint Statement of May 1995.

The proposed report covers all the information required by the statute. This report also includes the transmittal letters to the appropriate committees and ranking members.

The USC takes all allegations of government harassment seriously and organizes special monitoring trips to investigate individual claims as warranted. We have no credible information that returnees have been arrested for exit attempts leading to their interdiction. As noted above, the Interests Section continues to raise with the Cuban government the status of those returnees who claim to have lost their jobs or to have been

UNCLASSIFIED

expelled from school as a consequence of their unauthorized departure. These cases eventually are resolved. The U.S. Interests Section is in the process of collecting information through interviews and analyzing the results of interviews conducted over the first half of 2000 in an effort to better document the problem of retaliation. Although hard evidence of retaliation in the form of lost employment is difficult to document, we are concerned that local authorities find ways to fire those individuals who were employed in sensitive sectors, especially tourism. We will continue to monitor this situation and raise this issue with the Government of Cuba.

RECOMMENDATION

That you approve transmittal of the proposed report at Tab 1 to the appropriate committees of Congress under cover of the proposed letters at Tab 3.

Approve _____ Disapprove _____

Attachments:

- Tab 1 - Proposed Report to Congress
- Tab 2 - Section 2245 of Public Law 105-277, the Omnibus Appropriations Act FY 2000.
- Tab 3 - Proposed Transmission Letters

Drafted by: WHA/CCA- N Torres
7-9272 6/27/00

SEARACCA/2000 Documents/Consular Affairs/CONG Report- Returned
Migrants

Cleared by: WHA- W Miele (ok)
WHA/CCA-CSShapiro (ok)
L/WHA-I Diaz (ok)
USINT-V Huddleston(ok)
PA- L Rodriguez(ok)
S-JCO'Brien
P-G Olson (ok)
C-SSnyder (ok)
H-Mtrejo (info)
INS- K Thompson (ok)
USCG-G Magee (ok)
NSC- C Hollis/ W Patten

U.S. Department of State
ARA/CCA, Room 3234
2201 C Street, N.W.
Washington, D.C. 20520-6263

Phone: (202) 647-9273
FAX: (202) 736-4476
FAX: HELMS-BURTON UNIT: (202) 647-7095

F A X C O V E R S H E E T

DATE: 7/10/00

TO: Caryn Hollis

FROM: Cory Kuykendall

SUBJECT: Congressional Report for final Clearance

REMARKS :

Please get back to me
as soon as possible

NUMBER OF PAGES, INCLUDING COVER PAGE:

10

(IF THIS TRANSMISSION WAS NOT RECEIVED IN ITS ENTIRETY, PLEASE CALL 202 647-9273)

Report to Congress

U.S.-Cuba Migration Accord

President of the Senate
Speaker of the House

Pursuant to Section 2245 of the Omnibus Consolidated and
Emergency Appropriations Act, FY-2000 (P.L. 105-277)

Introduction:

The September 9, 1994 Joint Communiqué commits the U.S. to permit the legal migration to the U.S. of 20,000 Cubans each year (this included an annual credit for 5,000 Guantanamo paroles during FY 1996-1998.) The May 2, 1995 Joint Statement provides for the return to Cuba of Cuban nationals who do not have protection concerns and who are either interdicted at sea by the U.S. Coast Guard while attempting to enter the U.S., or who enter the U.S. Naval Base at Guantanamo Bay. Pursuant to this Joint Statement, Cuba and the United States pledged to "ensure that no action is taken against those migrants returned to Cuba as a consequence of their attempt to emigrate illegally."

Together, these Migration Accords aim to promote "safe, legal, and orderly" migration as an alternative to dangerous open-sea voyages. It is against the backdrop of our success in expanding legal migration opportunities that our effort to discourage dangerous sea voyages is best understood.

Furthermore, U.S. Government efforts under the Migration Accords have curbed the Government of Cuba's pre-1994 practice of retaliating against individuals who have exited illegally.

Efforts by the GOC to Implement the September 1994 Joint Communiqué

We are aware of several measures that the GOC has instituted in accordance with the September 1994 Joint Communiqué to encourage safe, legal and orderly immigration and to deter persons who are attempting to reach the U.S. illegally. For example, the GOC Frontier Guards frequently contact the U.S. Coast Guard with reports and coordinates of suspicious vessels in order to facilitate USCG interceptions of such craft. Also, the GOC broadcasts the repatriation of Cubans on national television and radio in an effort to discourage future attempts at rafting to the U.S. by other Cuban citizens.

In accordance with long-standing Cuban migration law, Cubans attempting to leave without authorization and caught by the GOC within its territory may be returned to their homes, fined, or given a prison sentence. Under the 1995 Joint Statement, however, persons intercepted on the high seas, or who reach the naval base at Guantanamo Bay and are returned to Cuba by the U.S., will not be punished for their attempted departure.

UNCLASSIFIED

The GOC has used its laws against illegal entry to arrest individuals entering Cuba for the purpose of alien smuggling and instituted new laws in February 1999, to prosecute illegal migrant smugglers.

Cuban Migrants Interdicted, Returned and Repatriated:

Y From May 2, 1995 through July 3, 2000, the U.S. Coast Guard has interdicted a total of 3,084 migrants pursuant to the May 2, 1995 Joint Statement. After being offered or undergoing an interview with an INS Asylum Pre-Screening Officer, the majority of the intending migrants interdicted were directly returned to Cuba pursuant to the May 2, 1995 Joint Statement. A small number of those migrants interdicted at sea were transported to Guantanamo Bay Naval Base for more extensive INS interviews. Those determined to have legitimate protection concerns were given permanent resettlement in third countries; those determined not to have such concerns were repatriated to Cuba.

The number of Cuban migrants interdicted on the high seas or in U.S. waters as of July 3 in FY 2000 is 479. Of these, 401 were returned to Cuba. The U.S. Coast Guard transported 57 individuals to the U.S. for medical attention and the remaining 21 were taken to Guantanamo Bay Naval Base for further review by INS for possible protection concerns.¹

Approximately 200 Cuban nationals have illegally entered the Guantanamo Bay Naval Base since the May 1995 Joint Statement through June 30 of FY 2000. Of those, 8 entered during FY 2000.

Monitoring Returned Migrants:

All returned migrants are informed by U.S. Interests Section officers immediately upon their return to Cuba of the Cuban government's commitment not to take action against them for their attempt to migrate illegally. They are also provided with a packet containing detailed information about legal migration opportunities and a refugee program questionnaire that enables them to meet with a refugee program interviewer.

Our Interests Section actively monitors the treatment of returned migrants. Officers from the Consular Section of the U.S. Interests Section periodically visit returned migrants. Interests Section monitors have made 398 visits to the homes of returned migrants throughout Cuba thus far in FY 2000.

¹ Another 113 who departed from the Bahamas were returned to the Bahamas. They do not fall within the scope of the U.S.-Cuba Joint Statement.

Every calendar year, the U.S. Interests Section makes every effort to interview all repatriated individuals for refugee claims arising after their repatriation and is generally successful. Those individuals who live in Havana are generally not interviewed as they have easy access to the Havana Refugee Processing Center. The Refugee Processing Program does receive applications from individuals who have been repatriated and approves those who qualify as refugees. Most returnees appear comfortable discussing their situations with the monitors, whether at home or at the Interests Section.

The majority of returnees have not suffered reprisals attributable to their exit attempt. There are some individuals who have most likely lost their employment or been demoted as a result of their attempt to leave illegally. Of particular concern is the tourism sector as individuals who have been repatriated often are told by their employer that they no longer have confidence in them or that they are being terminated from their employment for unexcused absence. A number of these individuals find other employment or become self-employed. Some individuals have been harassed by security and in a few cases jailed for a brief period. In these cases as well as those in which we suspect or can prove that there was retaliation, the U.S. Interests Section requests by diplomatic note that the Government of Cuba correct the situation. The U.S. delegation to the bi-annual U.S.-Cuba Migration talks has raised this issue as a point of concern and will continue to seek a positive resolution to those cases. In some cases, these individuals qualify as displaced professionals and are given refugee status.

The U.S. Interests Section is aware of some returned migrants currently in jail in Cuba. Interests Section monitors have concluded that none of these appears to have been jailed as a direct result of his illegal exit attempts. In one case however, the monitors were unable to determine the precise reason for the returnee's imprisonment. Some returnees were imprisoned because they hijacked boats using the threat of lethal force, and some because of earlier or subsequent criminal acts unrelated to migration offenses. In cases where returned migrants are in jail, monitors rely primarily on interviews with the relatives of the imprisoned returnees to determine whether their incarceration is related to the "illegal" exit that led to their interdiction at sea or their repatriation after entry into the Guantanamo Bay Naval Base.

The U.S. Interests Section is addressing a small number of unresolved cases of alleged Cuban government harassment at this time through discussions with the Cuban Foreign Ministry and returnees.

Conclusion:

The USG takes all allegations of government harassment seriously and organizes special monitoring trips to investigate individual claims as warranted. We have no credible information that returnees have been arrested for exit attempts leading to their interdiction. As noted above, the Interests Section continues to raise with the Cuban government the status of those returnees who claim to have lost their jobs or to have been expelled from school as a consequence of their unauthorized departure. These cases eventually are resolved. The U.S. Interests Section is in the process of collecting information through interviews and analyzing the results of interviews conducted over the first half of 2000 in an effort to better document the problem of retaliation. Although hard evidence of retaliation in the form of lost employment is difficult to document, we are concerned that local authorities find ways to fire those individuals who were employed in sensitive sectors, especially tourism. We will continue to monitor this situation and raise this issue with the Government of Cuba.

HB-III

Sherman mty
7/9

Dave Worland
Villanueva
Chasen
Dave Goldwyn
Rene Likens
Pete Romero

- Hill calls day before
- IPs
- who make calls?

Background

Weds call

Thurs

Stu calls 3-4h

- day before - Wed

Other calls - conf. call
w/ 3

Sherman meeting

no longer there
as it is about

Food begin - Hill now move forward

Dodd press D'Amato for hearing
Still reading paper by CCA

Jim: maybe make other issues as byproduct, ready to
add in w/ food idea when ready

Tell III waivers 7/16 rollout

Tell IV waiver - drafted waiver language w/ Stu has
Larsen briefing on Understanding

Fula: Rojas of CAFE - say more ahead w/ Helms but next wk

- claim 26 sponsors

- claim work on compromise w/ @

T. L. Sheen & Bob

Jim - food - compromise w/ ^{add} sale of
food to non-gvt entities
to donations

- Noriega likes; fears real breach
- Janis O'Connell ^{is embury}
says not oppose but
contrary to Dadd's view
on w/holding h.

Jim - shldn't support Dodd yet
- don't have anything to
hang it on for Cu

Lula: - can use basic arguments used for
CDA sale of medicines

- Rojas wants to like w/ Title IV, but
Jim: shld keep sep.

Jim: Can add: • direct mail

• all sites for RM

- shld at least have
survey of

- we just say w/ study

• urge USIA to do more on Cuba
outside Cuba

- to motivate NGOs on
EU + MX, etc, w/

forum on journalists -

- encourage papers to
hire indep. journalists
hold conferences, etc

- maybe get USA some BID money
- "Adopt a Cuban" program; allow any US~~er~~ to send money \$300/quarter to dissidents, etc.

- go ahead w/ exchanges of higher level
- even hardliners see @ value in bringing in our
- culture, academic

Can present to Congress as being in spirit of what they're doing + seeking.

Guidance on Dodd

- not oppose any legis that gives the Pres. add'l authority but at this point not ~~as~~ foresee ~~any~~ unrestricted food sales.

- ~~Let's get the message across~~
- maybe pay for sm. no.
 - but mostly it's visits
 - at min., streamline visas.
 - wd ~~have~~ to waive in some party type + speed up waivers of SAO requirements.

Albini + DOS go up + include points on food sales, Trade II, etc
= follow

Romero - need to make sure other countries not misinterpreted - even erosion on h.r.

Lula - March 20 not cause erosion
Security always emphasize no change

Trade Fair - medical

- not to decide whether authorize license

+ GOC start to earn \$250K

maybe pay in kind (w/ medicines)

fin - tell them ^{still in anticipation of positive response soon} ~~not coming soon~~
- can tell them payment is problem.

Satellit - ^{memo to Tallott} ~~not~~ recommended approve for ~~the~~ reserve
right to review as implemented - or any give time.
- CCA prepare TPs
- staff ~~not~~ approve
(A) note to Berger

Meningitis Vaccine - answer deal in in-kind payment

Lula: Bishop Roman write letter to secy
propose that half of lottery be set aside
for families.

Concern that newcomers don't
have family, were in GOC, etc.

- Family takes 5 yrs.
- Lottery takes 1 yr

Perhaps can move up some on wait
list.

Albin smuggling
+ blabber + open
+ not to stop up

C-D coop

+ build on existing coop
a further sm. amount
mission
not join sea-cad (sp?)

+ Limer: not to know when other agencies
want out of this.

+ Lula - 3 times support mil. liaison

can present as part of SIATF - east Southern Sea

+ Kozch + Rannberg saw mid off, not CG.

- Can see CG as they toward narrow gate

*Licensing*Talking Points for Counselor's Call to Sandy Alderson

- Administration supports genuine people-to-people contacts like those that can come from baseball games.
- OFAC is the licensing agency. OFAC looks to Department for policy guidance. We will support a program consistent with Administration's policy.
- Some key lessons we all learned from the Orioles games:

Get Cubans committed up front on all details when you have maximum leverage.

Expect Cuban insistence on strict reciprocity.

Goal is genuine people-to-people contact, not tourism, politics, or profit making.

While happy to provide policy guidance as issues arise, prefer to leave negotiating details to you.

Faxing you expanded list of issues that arose during Orioles' games.

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL# of pages **2**To **Karen Hollis**From **Susan Snyder**

Dept./Agency

Phone #

Fax # **456-9130**

Fax #

NSN 7540-01-317-7368

5099-101

GENERAL SERVICES ADMINISTRATION

People-to-People Contacts

- Access to all events in both U.S. and Cuba should be non-discriminatory.
- Any complimentary tickets provided should be reciprocal in quantity and location.
- Delegations' size, level and composition should be reciprocal, baseball related, and composed only of individuals actually participating in specific events. Tourism is not licensable.
- Activities should be baseball-related. Delegations should not engage in political activities during visits.
- Visas must be submitted to USINT for processing 10 workings days in advance of travel.
- The event is assumed to be non-profit. Fees to Cuban entities (e.g., broadcast rights, etc.) should be reasonable and customary. Any capital improvements should be modest, MLB should receive due credit, and at facilities open to the Cuban people.
- Early and extensive coordination of municipal, state, and federal law enforcement agencies is critical in terms of providing Cuban delegation with appropriate security, maintaining public safety, and providing for constitutionally-protected expressions of free speech.
- In light of the \$187m judgment won by families of BTTR victims, travel on a Cubana or Cuban Air Force aircraft is likely to present legal difficulties.

3

Drafted by: WHA/CCA: CJackson
87-9272 3/1/00 Congressionals/Mar 13 - Various re Oxfam licenses

Cleared by: WHA/CCA: RWitajewski (OK)
L/WHA: IDiaz (info)
WHA/CCA: VMayer (OK)

Approved by: WHA/CCA: CSShapiro (OK)

Nine identical letters sent to following Members of Congress:

Joe Moakley
William Delahunt
James P McGovern
José Serrano
Michael Capuano
John Tierney
John Olver
Barney Frank
Richard Neal

Counselor Wendy Sherman
Senior Cuba Policy Group

March 10, 2000

AGENDA

I. UNHRC

- A. Acceptable language for Czech resolution
- B. Travel to Geneva: Who? When?
- C. Secretary's Geneva speech: Cuba content; new measures package?

II. Imperatori

- A. FBI now deferring to Justice on his return
Address/postpone immunities issue?
- B. Bielsa: Arrived in U.S. March 4; Noriega called.
- C. FBI will now object to visa for Brito.

III. Other issues

- A. Cuban rejection of return of illegal migrants
- B. Annual contact with Cubans policy cable: limitations and implications.
- C. Elian.
- D. G-77 Summit participation by Pol/Econ Section.
- E. Global Exchange & Oxfam updates.
- F. Fiber optic cable & Iridium updates.
- G. Lomé: demarche sent.

*postponed***Counselor Wendy Sherman****Senior Cuba Policy Group
March 15, 2000****Agenda****I. UNHRC (CCA)**

- A. Trilateral meeting with Czechs, Poles, and U.S.

II. New Measures Package

- A. Proceed now without public announcement?
B. New measures building on previous measures including:

- Expanding family reunification visits
- Removing special restrictions on Cuba re. gifts and food
- Further streamlining medical sales
- Development of book donation program
- Creation of enhanced public diplomacy program

III. Elián

- A. Department and INS' decision-day game plan (CCA)
B. INS' options list (CCA)

IV. Imperatori

- A. Expanded waiver of immunities statement (CCA)

V. Fiber Optics: results of Hill consultations (H)**VI. Illegal Migration**

- A. Front-page Granma editorial
B. Meeting with Cubans
C. NSC meeting on public diplomacy and coordination

SEARACCA/2000/misc: mar 15 - Wendy agenda

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages 2

To	Shawn Hollis	From	Bob W. Torgerson
Dept./Agency	NISC	Phone #	647 5272
Fax #		Fax #	WHA/CCA

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OA/ID: 2925

Counselor Wendy Sherman

Senior Cuba Policy Group

March 22, 2000

AGENDA

I. UNHRC

- A. Update on resolution language (WHA) — *send up resolution.*
- B. Lobbying strategy
- C. WHA/Mike Kozak/Lula to Geneva

II. Elián

- A. Judge's ruling: What's next
- B. INS' game plan

III. Fiber Optics: Results of Hill consultations (H)

IV. Migration Issues

- A. May 10/11 or 16/17 proposed to Cubans.
- B. Cuban arguments about lack of enforcement/legal deterrence
- C. NSC meeting on public diplomacy and coordination

V. New Measures Package

- A. Postpone or proceed now without public announcement?
- B. New measures building on previous steps include:
 - Expanding family reunification visits
 - Removing special restrictions on Cuba on food and gifts
 - Further streamlining medical sales
 - Development of a book donation program
 - Creation of enhanced public diplomacy program

Counselor Wendy Sherman
Senior Cuba Policy Group
March 1, 2000

AGENDA

I. José Imperatori

- A. Cubans desperately seeking help to resolve their mess
- B. FBI/DOJ reluctance to permit return.
- C. USINT awaiting the Cubans' response.

II. Elian Gonzalez

- A. Interior Ministry's report on Uncle Lazaro
- B. Unresolved consular access

III. UNHRC

- A. Czechs' embargo language.
- B. Brownfield's trip to Prague
& Warsaw

IV. Other Issues

- A. Accelerated migration talks?
- B. Fenceline talks/fenceline lunch for Base Commander's
farewell?

Counselor Wendy Sherman
Senior Cuba Policy Group
March 1, 2000

AGENDA

I. José Imperatori

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farewell?

Not now.

NATIONAL SECURITY COUNCIL

①

① solid interagency consensus
to lift it entirely on
family travel.
→ As long as terms humanit
there ⇒

- hula at last minute, raised
by = multiple specific
licenses //

W.S. = told to stop it.
solid consensus.
hula / do press guidance.

Remittances & gifts!
- \$1,200 a yr is more than
enough
- Xmas pkgs wld allow
donate inputs to
industries

②

NATIONAL SECURITY COUNCIL

Bob started to put Cuba
in same status as NK,
Libya etc.

TP about pariah state
but could give almost
anything.

[gas, wife & money]
[gifts] — as long as no
tech transfer issues.

Migration — note from
Reno to Sandy

Call

NATIONAL SECURITY COUNCIL

(3)

package approved
⇒ Sept/Oct

after pack

⇒ lifting it to fam
him travel

anomaly • family members self define

General license
for sports, academic

Jan issues

- non cult could self designate
- remove it on family him travel
- raising its on study
- summit stances

June 1971
- Δ gifts

PHOTOCOPY PRESERVATION

NATIONAL SECURITY COUNCIL

Substantive issue

not pub
licensing

- guar
- ball game
- regatta under
 dist

1647-4901

CUBA SVTS

February 18, 2000

Agenda

I. BTTR February 24 Anniversary Events

- A. Report on commemoration/flotilla plans (USCG, DOJ, FAA)
- B. USG preparations (JCS, INS, USCG, FAA, State)
 - 1. Monitoring/surveillance/departure inspections/notices to airmen/mariners/contacts with organizers
 - 2. Task force needed?

Chas talked to Basulto
his plan to put tag to
fly to Miami & pt.
sit of Cuba Terr.

II. Migration Trends

- A. Cuban diplomatic note rejecting two/sending third back (State)
- B. Dealing with future rejections by GOC (INS, USCG)
- C. Resettlement efforts (State) — DR. GERTH

III. On-going Issues

- A. Update on Ly Tong enforcement actions (FAA)
- B. Reaction to Airport security inspection pre-visit (FAA)

45 of 51 names
are w/gout th/
will take people
Nu
19 of BL
12 w/ HD
2 w/ CA
Brownfield asked
EC. blew off

Bill Dougherty — FBI investigation

Translation of MINREX Diplomatic Note 266

The Cuban Ministry of Foreign Affairs presents its compliments to the US Interests Section of the Embassy of Switzerland and has the honor to refer to the February 8, 2000 U.S. Coast Guard message requesting the repatriation to Cuba of its nationals Guillermo Alvera Amador and Humberto Cuba Solis, also requested by U.S. Department of State Deputy Assistant for Inter-American Affairs, Mr. William Brownfield to the Cuban Interests Section in Washington on February 11, and to the improper repatriation of Cuban citizen Pedro Diaz Mantecon.

1-According to investigations conducted by competent Cuban authorities, the Cuban Ministry of Foreign Affairs wants to inform that Cuban citizens Guillermo Alvera Amador and Humberto Cuba Solis illegally emigrated to the U.S. in April, 1999, and have been residing in the U.S. ever since. This has been confirmed in statements provided to Cuban authorities by relatives of the above mentioned Cuban citizens who also revealed Alvera Amador and Cuba Solis' intentions to return to Cuba by any means.

In virtue of the results of the investigations conducted by Cuban authorities and taking into account the letter and spirit of the bilateral Migration Accords, the Cuban Ministry of Foreign Affairs reiterates to the U.S. Interests Section that the above mentioned citizens who are residents in the U.S. can not be repatriated to Cuba.

2-The Ministry also wants to call the attention to the case of Cuban citizen Pedro Diaz Mantecon, who was repatriated to Cuba last February 8 under the name of Rodobaldo Vazquez Morales. This citizen confessed to Cuban authorities that he had falsified another person's identity who turned out to be his nephew, with the aim of illegally enter Cuba. It was also confirmed that Diaz Mantecon illegally emigrated to the United States on July 6, 1999 arriving there on July 11, 1999. He was held at the Krome Detention Center until July 15, 1999 when he was released in view of the so-called and inappropriate "Cuban Adjustment Act".

In his statements to Cuban authorities, Diaz Mantecon admitted having contacted Cuban citizens Guillermo Alvera Amador and Humberto Cuba Solis with whom he planned to illegally leave the United States to return to Cuba. To that effect, they landed on "Cayo Sombrero", on U.S. territory, last February 3rd, being picked up by a U.S. Coast Guard vessel on February 4th. Diaz Mantecon specified that during his stay in the U.S., he contacted people who had illegally left Cuba towards the U.S., adding these people are involved in alien smuggling. Among these smugglers, Guillermo Alvera Amador's name was cited by Diaz Mantecon.

The Ministry of Foreign Relations of the Republic of Cuba demands that in virtue of what has been expressed about Diaz, the U.S. Government accept the return to U.S. territory of Mr. Pedro Diaz Mantecon, who was residing there and was repatriated to Cuba in opposition of what is stipulated on the Migration Accords.

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- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

State Under Secretary Larson Talking points for use with
Agriculture Policy Advisory Committee on Trade

2 PM Friday, May 19

- We have been following progress of several sanctions bills very closely on Hill. Two bills (Dorgan & Nethercutt) have passed Senate and House Approps cmte and may be debated on floor shortly. Nearly identical legislation sponsored by Ashcroft passed SFRC in March. A somewhat different bill, Sen. Lugar's Agricultural Freedom Act, has also been introduced.
- Let me emphasize that President directed his Administration in April 99 to exempt commercial sales of food, medicine and medical devices in future sanctions regimes and extended that policy to existing regimes on a case-by-case basis.
- The President's policy reflects an appropriate balance between his ability to conduct foreign policy and the need to minimize the costs of economic sanctions as borne by the American public, including its farmers.
- Our new policy is already paying off for U.S. agriculture. As of March, U.S. farmers have exported or contracted to export over 600,000 tons of corn to Iran. We hope that exports of other agricultural bulk products will follow.
- The Administration is clear on the role of economic sanctions. When properly designed, implemented and applied as part of a coherent strategy, sanctions are a valuable tool for enforcing international norms of behavior and protecting our national interests.
- We realize, of course, that sanctions are not cost-free, especially to America's farmers. That's why their use should be governed by common sense. Economic sanctions should be 1) effective, 2) applied multilaterally whenever possible, 3) implemented flexibly (with the President having national interest waiver authority); and 4) used only when other policies fail.
- Unfortunately, we have serious concerns with Dorgan/Nethercutt/Ashcroft legislation now under consideration on the Hill. These bills share in some respects the basic intent of the actions already taken by the

Administration - to open farm exports when the President has the authority to do so.

- As presently drafted, there are provisions that would restrict the President's flexibility - for example, requirements for a 60-day prior notice and a joint resolution of approval by Congress before sanctions can be imposed. Also the licensing provisions do not appear to provide the President the flexibility with regard to exports to non-government entities in terrorist-list countries. [However, I understand there is an effort in the House, **which we oppose,** that would remove any flexibility that the bill would provide with respect to Cuba.] There is no provision for a broad presidential waiver, as is provided for in the Lugar Agricultural Trade Freedom Bill.

State Department legislative update: According to Democratic cloakroom, Senate not expected to take up Ag Approps until today at the earliest. House Rules Committee has not scheduled a meeting on Ag Approps, but it is still tentatively slated for floor action tomorrow. There still may be an effort in the House to carve out Cuba, Iran and Libya. Overwhelming passage of Dorgan seems likely, given last year's vote on Ashcroft and Helms' support. Nethercutt, Dorgan, Ashcroft and Rep. Pomeroy (D-ND) held a press conference Tuesday to push their amendments. Nethercutt is reportedly saying that he will be able to rally votes to defeat the rule, if it does not protect his amendment on sanctions reform. Prospects for the Lugar Agricultural trade Freedom Act, are problematic - not scheduled for floor debate and has no House counterpart.

UNCLASSIFIED FAXTHE NATIONAL SECURITY COUNCIL
AND THE NATIONAL ECONOMIC COUNCIL
OF THE WHITE HOUSESENDER: JAY BRUNS, INTERNATIONAL GROUP

WH PHONE: (202) 456-9283

WH FAX: (202) 456-9370

DATE: 5/19/00 PAGES (INCLUDING COVER SHEET): _____SUBJECT: Sanctions bills & CubaTO: Caryn Hollis PHONE: 69131 FAX: -9130

Hope this helps answer your
question.

Jay

UNCLASSIFIED FAX

- '(I) in the case of a current sanction, whether removing the sanction would increase the reputation of United States producers as reliable suppliers of agricultural commodities in general, and of specific agricultural commodities identified by the Secretary; and
- '(II) in the case of a new sanction, the likely effect of the proposed sanction on the reputation of United States producers as reliable suppliers of agricultural commodities in general, and of specific agricultural commodities identified by the Secretary.'

SEC. 4. OBJECTIVES FOR AGRICULTURAL NEGOTIATIONS.

It is the sense of Congress that the principal agricultural trade negotiating objectives of the United States for future multilateral and bilateral trade negotiations (including negotiations involving the World Trade Organization) should be to achieve, on an expedited basis and to the maximum extent practicable, more open and fair conditions for trade in agricultural commodities by--

- (1) developing, strengthening, and clarifying rules for trade in agricultural commodities, including eliminating or reducing restrictive or trade-distorting import and export practices, including--
 - (A) enhancing the operation and effectiveness of the relevant provisions of the Uruguay Round Agreements designed to define, deter, and discourage the persistent use of unfair trade practices; and
 - (B) enforcing and strengthening rules of the World Trade Organization regarding--
 - (i) trade-distorting practices of state trading enterprises and similar public and private trading enterprises; and
 - (ii) the acts, practices, or policies of a foreign government that unreasonably--
 - (I) require that substantial direct investment in the foreign country be made as a condition for carrying on business in the foreign country;
 - (II) require that intellectual property be licensed to the foreign country or to any firm of the foreign country; or
 - (III) delay or preclude implementation of a report of a dispute panel of the World Trade Organization;
- (2) increasing the export of United States agricultural commodities by eliminating barriers to trade (including transparent and nontransparent barriers);
- (3) eliminating other specific constraints to fair trade (such as export subsidies, quotas, and other nontariff import barriers and more open market access) in foreign markets for United States agricultural commodities;
- (4) developing, strengthening, and clarifying rules that address practices that unfairly limit United States market access opportunities or distort markets for United States agricultural commodities to the detriment of the United States, including--
 - (A) unfair or trade-distorting activities of state trading enterprises, and similar public and private trading enterprises, that result in inadequate price transparency;
 - (B) unjustified restrictions or commercial requirements affecting new technologies, including biotechnology;
 - (C) unjustified sanitary or phytosanitary restrictions; and
 - (D) restrictive rules in the establishment and administration of tariff-rate quotas;
- (5) ensuring that there are reliable suppliers of agricultural commodities in international commerce by encouraging countries to treat foreign buyers no less favorably than domestic buyers of the commodity or product involved; and
- (6) eliminating nontariff trade barriers for meeting the food needs of an increasing world population through the use of biotechnology by--
 - (A) ensuring market access to United States agricultural commodities derived from biotechnology that is scientifically defensible;
 - (B) opposing the establishment of protectionist trade measures disguised as health standards; and
 - (C) protesting continual delays by other countries in their approval processes.

(D) the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.).

(3) DETERMINATION BY PRESIDENT- If the President determines that the exemption provided under paragraph (1) should not apply to a unilateral economic sanction for reasons of foreign policy or national security, the President may include the agricultural commodities made available as a result of the activities described in paragraph (1) in the unilateral economic sanction.

(c) CURRENT SANCTIONS-

(1) IN GENERAL- Subject to paragraph (2), the exemption under subsection (b)(1) shall apply to a current sanction.

(2) PRESIDENTIAL REVIEW- Not later than 90 days after the date of enactment of the Agricultural Trade Freedom Act, the President shall review each current sanction to determine whether the exemption under subsection (b)(1) should apply to the current sanction.

(3) APPLICATION- The exemption under subsection (b)(1) shall apply to a current sanction beginning on the date that is 180 days after the date of enactment of the Agricultural Trade Freedom Act unless the President determines that the exemption should not apply to the current sanction for reasons of foreign policy or national security.

(d) REPORT-

(1) IN GENERAL- If the President determines that the exemption under subsection (b)(2) or (c)(2) should not apply to a unilateral economic sanction, the President shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate--

(A) in the case of a current sanction, not later than 15 days after the date of the determination under subsection (c)(2); and

(B) in the case of a new sanction, on the date of the imposition of the new sanction.

(2) CONTENTS OF REPORT- The report shall contain--

(A) an explanation of the foreign policy or national security reasons for which the exemption should not apply to the unilateral economic sanction; and

(B) an assessment by the Secretary--

(i) regarding export sales--

(I) in the case of a current sanction, whether markets in the sanctioned country or countries present a substantial trade opportunity for export sales of a United States agricultural commodity; or

(II) in the case of a new sanction, the extent to which any country or countries to be sanctioned or likely to be sanctioned are markets that accounted for, during the preceding calendar year, more than 3 percent of export sales of a United States agricultural commodity;

(ii) regarding the effect on United States agricultural commodities--

(I) in the case of a current sanction, the potential for export sales of United States agricultural commodities in the sanctioned country or countries; and

(II) in the case of a new sanction, the likelihood that exports of United States agricultural commodities will be affected by the new sanction or by retaliation by any country to be sanctioned or likely to be sanctioned, including a description of specific United States agricultural commodities that are most likely to be affected;

(iii) regarding the income of agricultural producers--

(I) in the case of a current sanction, the potential for increasing the income of producers of the United States agricultural commodities involved; and

(II) in the case of a new sanction, the likely effect on incomes of producers of the agricultural commodities involved;

(iv) regarding displacement of United States suppliers--

(I) in the case of a current sanction, the potential for increased competition for United States suppliers of the agricultural commodity in countries that are not subject to the current sanction; and

(II) in the case of a new sanction, the extent to which the new sanction would permit foreign suppliers to replace United States suppliers; and

(v) regarding the reputation of United States agricultural producers as reliable suppliers--

S 566 IS

106th CONGRESS

1st Session

S. 566

To amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

IN THE SENATE OF THE UNITED STATES

March 8, 1999

Mr. LUGAR introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Agricultural Trade Freedom Act'.

SEC. 2. DEFINITIONS.

In this Act, the terms 'agricultural commodity' and 'United States agricultural commodity' have the meanings given the terms in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

SEC. 3. AGRICULTURAL COMMODITIES, LIVESTOCK, AND PRODUCTS EXEMPT FROM SANCTIONS.

Title IV of the Agricultural Trade Act of 1978 (7 U.S.C. 5661 et seq.) is amended by adding at the end the following:

'SEC. 418. AGRICULTURAL COMMODITIES, LIVESTOCK, AND PRODUCTS EXEMPT FROM SANCTIONS.

(a) DEFINITIONS- In this section:

(1) CURRENT SANCTION- The term 'current sanction' means a unilateral economic sanction that is in effect on the date of enactment of the Agricultural Trade Freedom Act.

(2) NEW SANCTION- The term 'new sanction' means a unilateral economic sanction that becomes effective after the date of enactment of that Act.

(3) UNILATERAL ECONOMIC SANCTION- The term 'unilateral economic sanction' means any prohibition, restriction, or condition on economic activity, including economic assistance, with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other members of that regime have agreed to impose substantially equivalent measures.

(b) EXEMPTION-

(1) IN GENERAL- Subject to paragraphs (2) and (3) and notwithstanding any other provision of law, agricultural commodities made available as a result of commercial sales shall be exempt from a unilateral economic sanction imposed by the United States on another country.

(2) EXCLUSIONS- Paragraph (1) shall not apply to agricultural commodities made available as a result of programs carried out under--

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

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

(C) the Food for Progress Act of 1985 (7 U.S.C. 1736o); or

05/09/00 TUE 11:18 FAX 2026474064

EB ESC

009

001

News From U.S. Senator

North Dakota

Byron L. Dorgan

U.S. Senate □ 713 Hart Building □ Washington D.C. 20510

E-mail: senator@dorgan.senate.gov □ Internet Web Page: <http://dorgansenate.gov>

FOR IMMEDIATE RELEASE

Monday

May 8, 2000

CONTACT: Barry E. Piatt

or Maynard Friesa

PHONE: 202-224-2551

**DORGAN WILL OFFER AMENDMENT TOMORROW TO LIFT
FOOD AND MEDICINE TRADE SANCTIONS AGAINST CUBA**

(WASHINGTON, D.C.) -- U.S. Senator Byron Dorgan (D-ND) said Monday he will ask that the 40 year old food and medicine embargo against Cuba be lifted, opening that market to U.S. farm exports. Dorgan said he will offer an amendment that would lift the embargo when the Senate Appropriations Committee considers the Agriculture appropriations bill Tuesday. His amendment will be identical to the legislation Senator Ashcroft (R-MO) and he got the Senate to pass last year. It was subsequently dropped in a House-Senate conference committee.

"Continuing this embargo makes no sense," Dorgan said. "After 40 years, it is clear it hasn't worked. It merely provides Fidel Castro with an excuse to blame every problem in Cuba on the United States."

"We ought to recognize one fact here," Dorgan added. "This embargo only hurts poor people and sick people. Fidel Castro hasn't missed a meal or medication because of it."

Cuba imports nearly a billion dollars in food each year, Dorgan noted, and said that amount is expected to grow significantly in coming years. "To continue the U.S. embargo only hurts the Cuban people and American farmers, who are denied a potentially valuable export market."

Last year, Dorgan went to Cuba to explore issues surrounding the current U.S. trade embargo and to investigate health care and other humanitarian efforts on behalf of the Cuban people.

Upon his return to the U.S. following those meetings, Dorgan and Ashcroft asked the Senate to approve legislation to lift the embargo. Both the Appropriations Committee and the full Senate voted to do so, but House leaders adjourned the conference committee working out differences between House and Senate versions of last year's Agriculture Appropriations bill rather than allow a vote on the proposal. As a result, the Cuba embargo remains in effect.

Peter Barr EA/FSR 7-8758

Brian Mohler

7-4064

Susan Snyder - C staff (2-0247)

	Miscellaneous provisions • Sense of Congress on objectives for agricultural negotiations (section 4) • Sense of Congress on sale or barter of food assistance (section 5) • Sense of Congress regarding relief from unfair trade practices affecting U.S. agricultural commodities (section 6) • Repeal of section 415 of the Agricultural Trade Development and Assistance Act of 1954 (Micronutrient Fortification Pilot Program) (section 7) • Technical corrections (section 8) to: • Federal Agriculture Improvement and Report Act of 1996 • Food, Agriculture, Conservation and Trade Act of 1990 • Section 417(a) of the Agricultural Trade Act of 1978	
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Congressional Priority Procedures (Section 128)

- Sets forth procedures for the Senate and House of Representatives to use when considering a joint resolution to approve a Presidential recommendation to impose unilateral agricultural or medical sanctions.
- The procedures provide for expedited consideration in that:
 - Joint resolution of approval must be introduced within 10 session days of Congress after date of submission of President's report.
 - The committee of jurisdiction has a limited time to report the joint resolution after its introduction.
 - Points of order against the joint resolution are waived.
 - Motion to proceed on consideration of joint resolution is privileged and not debatable.
 - Motion to proceed on consideration of joint resolution not subject to amendment, motion to postpone, motion to proceed to consideration of other business or motion to reconsider.
 - There are limitations on debate.

Congressional Priority Procedures (Section)

- Sets forth procedures for the Senate and House of Representatives to use when considering a joint resolution to disapprove a Presidential report subsequent to determination that it is in the national interest to impose or continue restrictions on exports of agricultural commodities.
- The procedures provide for expedited consideration in that:
 - Joint resolution of disapproval must be introduced within 10 session days of Congress after date of submission of President's report.
 - The committee of jurisdiction has a limited time to report the joint resolution after its introduction.
 - Points of order against the joint resolution are waived.
 - Motion to proceed on consideration of joint resolution is privileged and not debatable.
 - Motion to proceed on consideration of joint resolution not subject to amendment, motion to postpone, motion to proceed to consideration of other business or motion to reconsider.
 - There are limitations on debate.

- Helms/Ashcroft provides Congressional priority procedures for a joint resolution of approval of a unilateral agricultural or medical sanctions, while Lugar's procedures are for a joint resolution of disapproval.

Provisions on Terrorism List States • Section 125 that prohibitions of section 620A of Foreign Assistance Act on providing assistance to a terrorism list government shall remain in effect as long as the country remains on the terrorism list. • Section 127 imposes certain conditions on the export of agricultural commodities, medicine or medical devices to governments of terrorism list countries. It specifies that notwithstanding any other provisions of subtitle, such exports shall only be made - • Pursuant to one-year USG licenses for contracts completed within 12 month period • Without benefit of Federal financing, direct export subsidies, Federal credit guarantees, or other Federal promotion assistance programs. • Licensing agency shall submit quarterly reports to Congress on activities. • Biennial reports on the licensing system by the applicable department/agency are required.	No analogous provisions	
Sunset Provision (Section 126) • Where an agricultural or medical sanction is imposed pursuant to joint resolution, it shall terminate within 2 years unless reauthorized under same procedures (Presidential report 60 days in advance and joint resolution of Congress).	No analogous provisions	

Effect on Presidential authority with respect to existing sanctions (section 123)

- President must terminate any current unilateral agricultural or medical sanctions.
- For current sanctions, the subtitle takes effect 180 days after date of enactment.

Exceptions (section 124):

- President may maintain existing restrictions on grant food aid programs, on GSM-102 and GSM-103 credit guarantee programs, and the dairy export incentive program.
- President may continue to impose a unilateral agricultural or medical sanction where:
 - Declaration of war against foreign country or entity
 - Where specific statutory authority for use of US armed forces against foreign country or entity
 - Where US armed forces are involved in hostilities against foreign country or entity
 - Where imminent involvement by US armed forces in hostilities against the foreign country or entity is clearly indicated by circumstances.
 - Where sanction would restrict provision or use of agricultural commodity, medicine or medical device that is on the US Munitions List, on the Commerce Control List, or used to facilitate development of a chemical or biological weapon or a weapon of mass destruction.

Effect on Presidential authority with respect to existing sanctions (section 3)

- President must review all current sanctions within 90 days of enactment to determine whether the exemption for commercial sales of agricultural commodities should apply.
- Commercial sales of agricultural commodities shall be exempt from existing unilateral agricultural sanctions starting 180 days after enactment (meaning no restrictions on commercial exports) unless the President determines that the exemption should not apply to an existing sanction for reasons of the national interest.
- If the President makes this national interest determination, he must report to Congress within 15 days of the determination. The report needs to include certain assessments by the Secretary of Agriculture.
- (Note: As drafted, Congress can disapprove the report by joint resolution, but there is no mechanism by which that disapproval would cause the existing sanction to terminate. It appears thus that a Presidential determination that continuation of a restriction on commercial sales of agricultural commodities is in the national interest would effectively continue the restriction even if Congress enacted a joint resolution of disapproval of the President's report.)

- Helms/Ashcroft would automatically terminate existing unilateral agricultural or medical sanctions. He could seek to impose again by notifying Congress in advance and seeking Congressional enactment of a joint resolution of approval.
- Lugar would permit President to continue restrictions on commercial exports of unilateral agricultural sanctions if he makes national interest determination and Congress does not enact a joint resolution of disapproval.

Effect on Presidential authority to impose new sanctions (section 123) • Notwithstanding any other provision of law, President may not impose unilateral agricultural or medical sanction against a foreign country or entity unless he submits a report to Congress 60 days in advance and Congress enacts a joint resolution of approval for the report. • Note that prohibition on imposing unilateral agricultural sanction means that President could not restrict commercial exports of agricultural commodities and could not restrict a variety of agricultural assistance programs. Exceptions: • President may impose a unilateral agricultural or medical sanction where: • Declaration of war against foreign country or entity • Where specific statutory authority for use of US armed forces against foreign country or entity • Where US armed forces are involved in hostilities against foreign country or entity • Where imminent involvement by US armed forces in hostilities against the foreign country or entity is clearly indicated by circumstances. • Where sanction would restrict provision or use of agricultural commodity, medicine or medical device that is on the US Munitions List, on the Commerce Control List, or used to facilitate development of a chemical or biological weapon or a weapon of mass destruction.	Effect on Presidential authority to impose new sanctions (section 3) • Notwithstanding any other provision of law, commercial sales of agricultural commodities shall be exempt from a unilateral agricultural sanction imposed by the United States on another country. • This does not apply to agricultural commodities made available as a result of agricultural assistance programs (thus, President could continue to restrict such programs) Exceptions: • President may impose unilateral agricultural sanctions restricting the commercial sales of agricultural commodities where: • Declaration of war against foreign country or entity • President determines that restriction on commercial sales of agricultural commodities is in the national interest, he submits the required report to Congress and Congress has not approved a joint resolution of disapproval of the report	• Helms/Ashcroft would remove Presidential flexibility to impose unilateral agricultural or medical sanctions unless President notified Congress in advance and Congress enacted a joint resolution of approval. • Because of definition of unilateral agricultural or medical sanctions, Helms/Ashcroft would remove Presidential flexibility to restrict commercial exports of agricultural commodities, agricultural assistance programs or commercial exports of medicine and medical devices. • Lugar would permit President to impose restrictions on exports of agricultural commodities as part of unilateral agricultural sanctions if he makes national interest determination and Congress does not enact a joint resolution of disapproval. • Lugar would not restrict Presidential flexibility with regard to restrictions on agricultural assistance programs or restrictions on commercial exports of medicine or medical devices.
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Definition of Agricultural Commodity (section 122) • "Agricultural commodity" is defined with reference to 7 U.S.C. 5602, which defines it as "any agricultural commodity, food, feed, fiber, or livestock ... and any product thereof." • Definition of agricultural commodity would include raw cotton, raw tobacco, and likely lumber as well. There would be pressure to interpret statutory definition even more broadly to include other possible industrial inputs.	Definition of Agricultural Commodity (Section 2) • "Agricultural commodity" is defined with reference to 7 U.S.C. 5602, which defines it as "any agricultural commodity, food, feed, fiber, or livestock ... and any product thereof." • Definition of agricultural commodity would include raw cotton, raw tobacco, and likely lumber as well. There would be pressure to interpret statutory definition even more broadly to include other possible industrial inputs.	None
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Key Provisions of Helms' Sanctions Bill (Title I, Subtitle C) (referred to as "Helms/Ashcroft" bill)	Key Provisions of S. 566, Lugar's "Agricultural Trade Freedom Act"	Key Differences
Scope: • Helms/Ashcroft speaks to the President's authority to impose unilateral agricultural or medical sanctions. • A unilateral agricultural sanction is defined broadly to encompass not only restrictions on commercial sales of agricultural commodities, but also restrictions on numerous agricultural assistance programs. • Bill excepts measures imposed pursuant to multilateral regime where other members have agreed to impose substantially equivalent measures.	Scope: • Lugar bill speaks to the President's authority to impose unilateral agricultural sanctions and does not cover unilateral medical sanctions. • A unilateral agricultural sanction is defined to cover only prohibitions, restrictions or conditions imposed on the export of an agricultural commodity. Thus, the bill would only constrain the President's ability to restrict agricultural commodity exports, not his ability to restrict agricultural assistance programs. • Bill excepts measures imposed pursuant to multilateral regime where other members have agreed to impose substantially equivalent measures.	• Helms/Ashcroft covers unilateral agricultural and medical sanctions (including restrictions on agricultural assistance programs), whereas Lugar covers only restrictions on exports of agricultural commodities.
Mechanism • Helms/Ashcroft "Trade Sanctions Reform and Export Enhancement Act of 2000" would be subtitle C to Title I of an omnibus bill.	Mechanism • Lugar's "Agricultural Trade Freedom Act" would incorporate sanctions provisions by amending Title IV of the Agricultural Trade Act of 1978 (7 U.S.C. § 5602)	

NONE

COSPONSORS(27), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: by date)

Sen Allard, Wayne - 6/14/1999

Sen Bayh, Evan - 5/27/1999

Sen Bunning, Jim - 6/14/1999

Sen Campbell, Ben Nighthorse - 7/1/1999

Sen Cochran, Thad - 5/11/1999

Sen Craig, Larry E. - 6/9/1999

Sen Fitzgerald, Peter G. - 4/14/1999

Sen Gramm, Phil - 6/29/1999

Sen Harkin, Tom - 5/11/1999

Sen Johnson, Tim - 5/13/1999

Sen Leahy, Patrick J. - 5/17/1999

Sen McConnell, Mitch - 4/12/1999

Sen Roberts, Pat - 5/12/1999

Sen Smith, Gordon - 6/10/1999

Sen Baucus, Max - 5/11/1999

Sen Bond, Christopher S. - 6/10/1999

Sen Burns, Conrad R. - 6/9/1999

Sen Cleland, Max - 7/1/1999

Sen Conrad, Kent - 5/27/1999

Sen Daschle, Thomas A. - 5/5/1999

Sen Gorton, Slade - 4/12/1999

Sen Grams, Rod - 5/12/1999

Sen Hutchinson, Kay Bailey - 6/29/1999

Sen Kerrey, J. Robert - 5/12/1999

Sen Lincoln, Blanche - 4/15/1999

Sen Murray, Patty - 4/14/1999

Sen Santorum, Rick - 5/18/1999

MOST RECENT SUMMARY:

9/13/1999—Reported to Senate, amended. (There is 1 other summary)

Agricultural Trade Freedom Act - Amends the Agricultural Trade Act of 1978 to exempt, with specified exceptions including government export, market access, and enhancement programs, commercial sales of agricultural commodities from unilateral economic sanctions imposed by the United States upon another country.

States that the President: (1) may determine that for reasons of war or national interest such exemption shall apply; and (2) shall determine such exemption's applicability to each sanction. Sets forth exemption determination requirements and related congressional procedural provisions.

(Sec. 4) Expresses the sense of Congress with respect to: (1) U.S. agricultural trade negotiation objectives; (2) sale or barter of food assistance; and (3) relief from foreign trade practices restricting U.S. agricultural commodities, including the use of specified agricultural authorities in instances of undue delay in resolving disputes.

(Sec. 7) Amends the Agricultural Trade Development and Assistance Act of 1954 to repeal the micronutrient fortification pilot program.

(Sec. 8) Makes technical amendments to the: (1) Federal Agriculture Improvement and Reform Act of 1996; (2) Food, Agriculture, Conservation, and Trade Act of 1990; and (3) Agricultural Trade Act of 1978.

Bill Summary & Status for the 106th Congress**NEW SEARCH | HOME | HELP****S.566**Sponsor: Sen Lugar, Richard G. (Introduced 3/8/1999)

Latest Major Action: 9/13/1999 Senate preparation for floor

Title: A bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

Jump to: Titles, Status, Committees, Related Bill Details, Amendments, Cosponsors, Summary**TITLE(S):** (*italics indicate a title for a portion of a bill*)

- **SHORT TITLE(S) AS INTRODUCED:**
Agricultural Trade Freedom Act

- **SHORT TITLE(S) AS REPORTED TO SENATE:**
Agricultural Trade Freedom Act

- **OFFICIAL TITLE AS INTRODUCED:**
A bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

STATUS: (color indicates Senate actions) (Floor Actions/Congressional Record Page References)**3/8/1999:**

Read twice and referred to the Committee on Agriculture.

5/11/1999:

Committee on Agriculture. Hearings held.

5/26/1999:

Committee on Agriculture. Ordered to be reported with an amendment in the nature of a substitute favorably.

9/13/1999:

Committee on Agriculture. Reported to Senate by Senator Lugar with an amendment in the nature of a substitute and an amendment to the title. With written report No. 106-157.

9/13/1999:

Placed on Senate Legislative Calendar under General Orders. Calendar No. 276.

COMMITTEE(S):

Committee/Subcommittee:

Activity:

Senate Agriculture, Nutrition, and
Forestry

Referral, Reporting

RELATED BILL DETAILS:

NONE

AMENDMENT(S):

SEC. 5. SALE OR BARTER OF FOOD ASSISTANCE.

It is the sense of Congress that the amendments to section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) made by section 208 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127; 110 Stat. 954) were intended to allow the sale or barter of United States agricultural commodities in connection with United States food assistance only within the recipient country or countries adjacent to the recipient country, unless—

- (1) the sale or barter within the recipient country or adjacent countries is not practicable; and
- (2) the sale or barter within countries other than the recipient country or adjacent countries will not disrupt commercial markets for the agricultural commodity involved.

SEC. 6. SENSE OF CONGRESS REGARDING RELIEF FROM UNFAIR TRADE PRACTICES AFFECTING UNITED STATES AGRICULTURAL COMMODITIES.

(a) FINDINGS- Congress finds that—

- (1) often dispute settlement proceedings to resolve unfair trade practices of foreign countries that restrict market access of United States agricultural commodities are inadequate, time consuming, and cumbersome; and
- (2) practices that unfairly limit market access opportunities for United States agricultural commodities through export subsidies and import barriers include—
 - (A) unfair or trade-distorting activities of state trading enterprises, and similar public and private trading enterprises, that result in inadequate price transparency;
 - (B) unjustified restrictions or commercial requirements affecting new technologies, including biotechnology, that are not scientifically defensible;
 - (C) unjustified sanitary or phytosanitary restrictions;
 - (D) restrictive rules for the establishment and administration of tariff-rate quotas;
 - (E) requirements that substantial direct investment in the foreign country be made as a condition for carrying on business in the foreign country; and
 - (F) requirements that intellectual property be licensed to the foreign country or to any firm of the foreign country.

(b) SENSE OF CONGRESS- It is the sense of Congress that the Secretary of Agriculture should aggressively use the authorities granted to the Secretary under section 302 of the Agricultural Trade Act of 1978 (7 U.S.C. 5652), which provides the Secretary with the authority to use programs of the Department of Agriculture for the agricultural commodity involved when there is undue delay in a dispute resolution proceeding of an international trade agreement (such as an agreement administered by the World Trade Organization).

SEC. 7. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

Section 415 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736g-2) is repealed.

SEC. 8. TECHNICAL CORRECTIONS.

(a) ADMINISTRATIVE PROVISIONS- Section 216 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127; 110 Stat. 957) is amended—

- (1) in paragraph (2), by striking 'subsection (c)' and inserting 'subsection (b)';
- (2) in paragraph (3), by striking 'subsection (d)' and inserting 'subsection (c)';
- (3) in paragraph (4), by striking 'subsection (g)(2)' and inserting 'subsection (f)(2)'; and
- (4) in paragraph (5), by striking 'subsection (h)' and inserting 'subsection (g)'.

(b) EMERGING MARKETS- Section 1542(d)(1)(A)(i) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 7 U.S.C. 5622 note) is amended by striking 'such democracies' and inserting 'the markets'.

(c) TRADE COMPENSATION AND ASSISTANCE PROGRAMS- Section 417(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5677(a)) is amended by inserting 'of an agricultural commodity' after 'causes exports'.

(d) EFFECTIVE DATE- The amendments made by this section take effect on April 4, 1996.

END



106th Congress

Congressional Black Caucus of the United States Congress

319 Cannon HOB • Washington, DC 20515 • (202) 225-3315

July 28, 2000

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Ricardo Alarcon
President
National Assembly of People's Power of the Republic of Cuba
Havana, Cuba

Dear President Alarcon:

On behalf of the Members of the Congressional Black Caucus, I am writing to invite a delegation of Cuban leaders to participate in the Congressional Black Caucus Foundation's 30th Annual Legislative Conference (ALC) and Annual Awards Dinner. This year's ALC will take place September 13 - 16, 2000 at the Washington Convention Center, Washington, DC. The Awards Dinner will take place on Saturday, September 16, 2000.

The ALC is a four day event that includes a series of Issue Forums and Congressional Braintrusts, convened by the Members of the Congressional Black Caucus. During the course of events, there are major efforts that support the CBCF's educational and public policy research programs.

This year's ALC theme, "Tools for 2000, Launching a Century of Equity and Empowerment," will guide us in moving forward in the new millennium by developing action plans to seed and carry our agenda well into the Twenty-First century.

I feel this venue will provide an opportunity for us to continue building upon the current dialogue and exchange of ideas between the people of Cuba and the Congressional Black Caucus. It will also give us an opportunity to discuss further the projects on which we can work collaboratively.

Please have your staff contact my Special Assistant, Michael Elazier at 202-225-3315 to work out the details. Thank you for your consideration and I look forward to your favorable response.

Sincerely,

James E. Clyburn
Chairman

Senior Cuba Policy Group

Agenda

August 3, 2000

I. Cuban Exit Visa Denials - Public Affairs and Public Diplomacy Strategy (PA/CCA)

II. Visa Impasse - Talbot-Holder (WHA)

III. The Hill Report (H) — Nelheratta Nelhung > Hastert
-- Administration Response to House Treasury Appropriations Bill Provision Denying OFAC Funding to Enforce Travel Restrictions

IV. Pending Licensing Decision on Ry Cooder (CCA) —

BCA invited Alarcon...
V. Revisiting No-Fly Zone between Cuba and Haiti/Direct Flights to Guantanamo (CCA)

VI. Altercation on April 14 at CUBINT

VII. Proposed Media Ride-Along Program in USCG District 7 —

VIII. Private Cuba Travel by USG Employees - Latest Draft (CCA)

IX. Inviting Cuban Director to Meeting of Association of Directors of Diplomatic Academies at FSI

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. cable	Re: [Raul Castro] (9 pages)	06/26/2000	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs (Hollis, caryn)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Wendy Sherman Meetings / Policy Papers [3]

2016-0920-F
sb2131

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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DEOB 361

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
007a. report	Elsewhere in the World [incomplete report, page 6 only] (1 page)	01/22/2000	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs (Hollis, caryn)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Wendy Sherman Meetings / Policy Papers [3]

2016-0920-F
sb2131

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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
007b. report	Observers Differ on Cuba's Future [incomplete report, page 5 only] (1 page)	03/04/2000	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs (Hollis, caryn)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Wendy Sherman Meetings / Policy Papers [3]

2016-0920-F
sb2131

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
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RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
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EMBASSY OF SWITZERLAND
CUBAN INTERESTS SECTION

WASHINGTON, D.C.

031/00

The Republic of Cuba Interests Section of the Embassy of Switzerland presents its compliments to the Department of State of the United States of America, and wishes to inform that Juan Miguel Gonzalez, father of Elián Gonzalez, is still having difficulties in speaking to his son by phone.

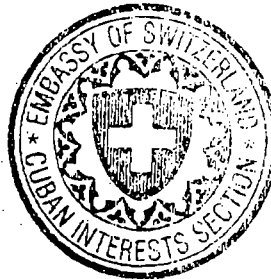
On Saturday, March 4, four calls were made from 5:00 p.m. Lazaro Gonzalez answered all of them and said the boy had gone out. On Sunday, March 5, some calls were made at three different times and nobody answered the phone.

The Republic of Cuba Interests Section requests the Department of State of the United States of America to inform the Department of Justice and the Immigration and Naturalization Service about this fact.

The Republic of Cuba Interests Section of the Embassy of Switzerland avails itself of this opportunity to renew to the Department of State of the United States of America the assurances of its consideration.

Washington D.C., March 6, 2000

To the
Department of State
Washington D.C.



To: Janelle Jones
Carin Hollis
Fr: Natty

- the EU-Latin American Summit in 1999,
11. notes with satisfaction the measures recently taken for the improvement of religious freedom and expects that an increasing scope will be offered to the Churches in the field of social, humanitarian and educational activities,
 12. appreciates the attitude of the Cuban Government concerning meetings between Ibero-American Leaders and political and human rights activists at the Summit in Havana in November 1999,
 13. calls upon the Government of Cuba to accede to human rights instruments to which it is not yet a party, in particular the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,
 14. is concerned about the fact that the Cuban Government has not yet repealed the „Law for the Protection of the National Independence and Economy of Cuba“, which is in direct contradiction with Cuba's international commitments,
 15. calls upon the Cuban Government to immediately begin a dialogue with the opposition as requested by several opposition groups incl. the coalition „Mesa de Reflexion de la Oposicion Moderada“,
 16. reiterates its concern that the four members of the dissident working group „Grupo Trabajo de la Disidencia Interna“ are still imprisoned, and calls upon the Cuban Government to release them in accordance with the rights guaranteed by Cuban Constitution,
 17. expects that the efforts of the international community will be accompanied, on the Cuban side, by changes aimed at a reform of domestic legislation, incl. of the Cuban criminal code, and consequently the abolition of all political offences, the release of all prisoners of conscience and the ending of the harassment and punishment of persons expressing their political, social and religious views in non-violent way. CHR is concerned about the use of psychiatry to political repression and condemns the recent trend regarding the further use of the death penalty in Cuba,
 18. invites the Government of Cuba to afford the Cuban citizens the full and open contact with the democratic world by allowing freer flow of people and ideas,
 19. calls upon the Government of Cuba to increase its cooperation with the mechanisms of the Commission,
 20. invites the Government of Cuba to take advantage of the technical cooperation

0503



The WALT DISNEY Company

Roy E. Disney
Vice Chairman of the Board

TO: LEGAL
INTERAM
PLS. DRAFT
RESP. DBO
SRB.

January 13, 2000

The Honorable Sandy Burger
National Security Advisor
The White House
Washington, DC 20500

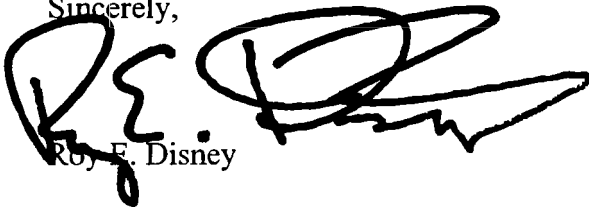
Dear Mr. Burger:

I am writing to urge your positive consideration of the license request that the City of Baltimore, The Storm Trysail Club and the U.S. Optimist Dinghy Association has submitted to the Office of Foreign Assets Control, U.S. Department of the Treasury to plan and organize the Havana to Baltimore Race/Optimist Dinghy Regattas for April 2000.

I plan to participate in this unique people-to-people sailing event which will include clinics and sailing events for children in Havana and Baltimore. In my opinion, this type of person-to-person event is the most positive kind of international relationship.

Thank you for your consideration.

Sincerely,



Roy E. Disney

RED/me

JAN 24 12:13

JAN 24 2000

Migration Talks Meeting
WHA/CCA, Room 3234
February 22, 2000

Chair: CCA: Charles Shapiro

Attendees: CCA: Robert Witajewski
CCA: Natly Torres
INS: Janelle Jones
INS: Ron Whitney
DOJ: James Costello
NSC: Caryn Hollis
NSC: Wendy Patten

Agenda:

I. Returning landed migrants to Cuba after the legal process is complete

II. Migration Talks

A. New York- USUN

B. March 27-29 or post-UNHRC vote (April 14)

C. Delegation: Reducing size

*CCA still trying to undermine
spot & likely to slip to next wk.*

III. Proposed agenda for the Migration Talks:

A. Returning interdicted migrants

B. Request GOC cooperation in announcing LEGAL means for migration

C. Revisit outstanding issues

1. Additional USINT personnel

2. Returning criminal excludables

3. Exit fees

4. Repatriating via third country

5. Preparations for the 2001 lottery

CCA want to talk about:

① CCA - wet feet

② Radio Martí encourages migrants

③ illegal migration prosecution S.F.L

④ 90% of people use RTH encourages migrants
(80% are returned directly to Cuba)

Hollis, Caryn C. (INTERAM)

From: WHSR
Sent: Tuesday, February 29, 2000 4:24 PM
To: Cables; Clarke, Richard A. (TNT); Hollis, Caryn C. (INTERAM); McCarthy, Mary O. (INTEL); Patten, Wendy L. (MULTI); Valenzuela, Arturo A. (INTERAM)
Subject: INSTRUCTIONS ON CUBAN AIRSPACE VIOLATION

ActionAddres: RUEHMT/AMCONSUL MONTREAL PRIORITY 0000
Classification: UNCLASSIFIED
DateTime: 292114Z FEB 00
Distribution: SIT: NSC CLARKER HOLLIS MCCARTHY PATTEN VALENZUELA
Identifier: M4318290
InfoAddres: RUEHUB/USINT HAVANA PRIORITY 0000
RULSDMK/DOT WASHDC PRIORITY
RUEANHA/FAA WASHDC PRIORITY
Line1: PAAUZYUW RUEHCAA6711 0602119-UUUU--RHEHAAX.
Line2: ZNR UUUUU ZZH
Line3: P 292114Z FEB 00
Line4: FM SECSTATE WASHDC
Originator: SECSTATE WASHDC
Precedence: PRIORITY
Profiles: CABLES
CLARKER
HOLLISC
MCCARTHM
PATTENW
VALENZUA

StationRoutingIndicator: RUEHC
StationSerialNumber: 6711
TimeOfReceipt: 02/29/2000 16:24:34 ET

UNCLAS STATE 036711

MONTREAL FOR USMISSION ICAO, FAA FOR AIA, DOT FOR MIMS

E.O. 12958: N/A
TAGS: EAIR, ICAO, PREL, CU
SUBJECT: INSTRUCTIONS ON CUBAN AIRSPACE VIOLATION

REF: (A) JACKSON-SHAPIRO FAX DATED 2/21/00 AT 08:54 (3 PAGES), (B) CAPESTANY-JACKSON FAX DATED 2/17/00 (23 PAGES), (C) MONTREAL 97

1. THIS IS AN ACTION REQUEST. PLEASE SEE PARAGRAPHS SIX AND SEVEN.

2. SUMMARY. REF (C) ASKED WASHINGTON AGENCIES TO REPORT ON STEPS THE USG HAS TAKEN TO INVESTIGATE THE JANUARY 1, 2000, OVERFLIGHT OF HAVANA BY AMCIT PILOT LY TONG, AS WELL AS ON STEPS THE UNITED STATES HAS TAKEN TO ADDRESS VIOLATIONS OF U.S. LAWS OR REGULATIONS. AS OF FEBRUARY 18, 2000, THE U.S. HAS CONCLUDED THAT LY TONG INDEED OVERFLEW CUBAN AIRSPACE, BUT THAT THE U.S. LAW OR REGULATION THAT HE VIOLATED REFERS TO ENTERING A FOREIGN COUNTRY'S AIRSPACE WITHOUT COMPLYING WITH THE REGULATIONS RELATING TO THE FLIGHT AND MANEUVER OF AIRCRAFT IN EFFECT IN THAT COUNTRY AT THE TIME OF THE INCIDENT. FOR THAT REASON, WE HAVE SOUGHT REPEATEDLY SINCE JANUARY 12, 2000,

lowest ebb since Cuban MiG fighters shot down two small planes from Miami flown by anti-Castro exiles off the Cuban coast in 1996.

"Unfortunately, the events of the last few months have tended to polarise the issues and there is a smaller middle ground to stand on," said Edward Bartholomew, president of the U.S.-Cuba Chamber of Commerce. The chamber has sat it out in exile for four decades waiting for political conditions to change and opportunities to open up again in Havana.

Bartholomew and other observers do not believe the embargo will be changed in the near future and certainly not in this presidential election year, when candidates are vying for votes in Florida, the fourth largest state in the electoral college.

EMBARGO DEBATE WILL NOT DIE

However, debate on lifting the ban on agricultural exports to Cuba is expected to rage again in Congress this year.

"The issue won't die. It is unlikely to get through, but it might get even closer than it did last time," said Gillian Gunn Clissold, Caribbean project director at Georgetown University.

Havana will not suspend its migration agreements with the United States or cooperation in fighting the drug trade, said Clissold, who returned from Cuba on Monday.

In the past, Havana has automatically suspended talks with the United States when relations deteriorated.

Some experts believe relations between Washington and Havana could improve if Elian Gonzalez is sent back to Cuba, as decided by the U.S. Immigration and Naturalisation Service.

"It's just question of whether the Justice Department and the INS have the guts to implement their own decision," said Wayne Smith, former chief U.S. diplomat in Havana.

Cuban officials have stressed the dispute is with Cuban exiles in Miami and not the U.S. government, which agrees with Havana that the boy should live with his father, Smith noted.

"Assuming that the U.S. finally does the right thing and sends the boy back to his father, it might even result in some slight improvement in relations," he said.

While polls show most Americans think Elian should go home, the custody saga has focused U.S. public opinion on the illogic of the sanctions policy, which causes hardship for the Cuban people rather than its communist government, Sweig said.

It has become harder to argue that the embargo can be used constructively to get concessions out of Castro, she said.

"This is is not Chechnya, or Iran. It's a country that is very close by, with a rich musical history, and our doors are more open than ever to Cuban culture," Sweig said.

RB-- 02/29/00 20:51:16

Hollis, Caryn C. (INTERAM)

From: WHSR
Sent: Tuesday, February 29, 2000 8:58 PM
To: Clarke, Richard A. (TNT); Hollis, Caryn C. (INTERAM); McCarthy, Mary O. (INTEL); Patten, Wendy L. (MULTI); Valenzuela, Arturo A. (INTERAM)
Subject: FLARE-UP WITH CUBA SLOWS MOVE TO END U.S. EMBARGO

Classification: UNCLASSIFIED
Distribution: SIT: CLARKER HOLLIS MCCARTHY PATTEN VALENZUELA
Identifier: Rbc77940
Originator: Reuters
Precedence: RUSH
TimeOfReceipt: 02/29/2000 20:58:05 ET

a4699

^BC-CUBA-USA-EMBARGO

^Flare-up with Cuba slows move to end U.S. embargo

By Anthony Boadle

WASHINGTON, Feb 29 (Reuters) - The expulsion of a Cuban diplomat

accused of spying and a politically charged custody battle over a child have ratcheted up tensions between the United States and Cuba like a flashback to the Cold War.

Still, experts said on Tuesday the flare-up will only temporarily hold in check growing momentum in the United States to end a 37-year trade embargo against the communist-run Caribbean nation.

Steps taken by the Clinton Administration to ease restrictions led to greater contact with Cuba last year, when an unprecedented 200,000 Cuban-Americans and Americans visited the island, legally and illegally, Cuba watchers in Washington said.

Cuban music, invading the United States like never before in the four decades since Cuban leader Fidel Castro took power in a revolution, is helping to smooth relations, they said.

U.S. congressmen have been visiting Cuba in increasing numbers and speaking out in favour of easing the trade embargo, backed by a powerful lobby of farmers and pharmaceutical companies who want to enter the Cuban market.

Last year, a move to end bans on food sales to Cuba and other nations cleared the U.S. Senate but was defeated in the House of Representatives, where Cuban-American exiles remain influential.

"The farm crisis has driven very conservative politicians from farm states to make a play to lift sanctions to rogue nations, among them Cuba," said Julia Sweig, the Cuba expert at the Council of Foreign Relations, a nonpartisan think tank.

"This new constituency has contributed to driving the change in U.S. public opinion on Cuba," she said.

EXILES SEIZE ON CUSTODY DRAMA

On the other side of the debate, Florida's staunchly anti-Castro Cuban exile community in Florida has seized on the case of little Elian Gonzalez to revive their weakened voice in Washington, Sweig said.

The six-year-old became the centre of a tug of war across the Florida Straits after surviving a boatwreck in November in which his mother drowned trying to reach the United States.

Elian's father in Havana and the Cuban government want him sent back, but exiled relatives with whom the boy is staying want to keep him in Miami, where he has become the poster child of the anti-Castro cause.

On Saturday, the United States expelled Cuban vice consul Jose Imperatori after accusing him of being the contact for a Miami immigration official arrested for spying for Havana.

Relations between Cuba and the United States are at their

TO OBTAIN FROM THE GOVERNMENT OF CUBA A CITATION OF THE CUBAN LAWS IT WOULD ASSERT WERE VIOLATED, BUT TO NO AVAIL.

IT IS THE OPINION OF THE FAA THAT MR. TONG CANNOT NOW OBTAIN THE USE OF A PLANE TO MAKE ANOTHER OVERFLIGHT ATTEMPT, AS HE VOLUNTARILY HAS SURRENDERED HIS PILOT'S LICENSE PENDING THE FEDERAL AVIATION ADMINISTRATION'S (FAA) ISSUANCE OF A NOTICE PROPOSING TO REVOKE HIS PILOT CERTIFICATE. THE FAA ALREADY HAS WARNED MR. TONG NOT TO REPEAT THIS INCIDENT. CURRENTLY, THE FAA IS IN THE PROCESS OF DETERMINING NEXT STEPS IN THE ABSENCE OF A STATEMENT FROM THE GOVERNMENT OF CUBA ON WHICH CUBAN LAWS HAVE BEEN VIOLATED. THIS MESSAGE IS AN CLEARED VERSION OF REF (A). END SUMMARY.

3. USG INVESTIGATION OF THE INCIDENT: ON JANUARY 1, 2000 AT 1334 UTC, MIAMI AIR ROUTE TRAFFIC CONTROL WAS NOTIFIED BY TELEX MESSAGE FROM CUBAN AIR TRAFFIC OFFICIALS THAT THERE WAS AN UNKNOWN AIRCRAFT AT 2000 FEET FLYING AT 140 MILES PER HOUR IN CUBAN AIRSPACE. THEY REQUESTED ANY INFORMATION THE U.S. MIGHT HAVE ON THE AIRCRAFT. IMMEDIATE ACTION WAS TAKEN TO IDENTIFY AND TRACK THE AIRCRAFT, WHICH BY THEN WAS HEADED NORTHBOUND. THE AIRCRAFT WAS INTERCEPTED BY U.S. AIRCRAFT AND WAS FORCED TO LAND AT TAMiami AIRPORT (MIAMI-DADE COUNTY). THE AIRCRAFT WAS IDENTIFIED AS A U.S.-REGISTERED AIRCRAFT. THE PILOT WAS TAKEN INTO CUSTODY, AND ON QUESTIONING, IDENTIFIED HIMSELF AS LY TONG, A NATURALIZED U.S. CITIZEN, ORIGINALLY FROM VIETNAM. DURING THE QUESTIONING, CUSTOMS OFFICIALS INSPECTED THE AIRCRAFT MR. TONG HAD PILOTED AND FOUND PAMPHLETS IN THE COCKPIT, PRINTED IN BOTH ENGLISH AND SPANISH, ON WHICH WERE PRINTED "PROCLAMATION AGAINST COMMUNISM." MR. TONG STATED HE HAD DROPPED COPIES OF THOSE PAMPHLETS OVER HAVANA. HE ALSO STATED THAT HE HAD DEPARTED KEY WEST (FLORIDA) AIRPORT ON JANUARY 1, 2000, AND HAD FLOWN LOW OVER THE OCEAN TO HAVANA, OVER WHICH HE DROPPED LEAFLETS AND THEN RETURNED TO THE UNITED STATES.

4. CONCLUSION OF THE INVESTIGATION: IN INVESTIGATING THIS INCIDENT, THE CUSTOMS SERVICE DETERMINED INDEPENDENTLY THAT MR. TONG INDEED OVERFLEW HAVANA, CUBA. ON JANUARY 1, MR. TONG VOLUNTARILY HANDED OVER HIS FAA LICENSE AND AIRMEN'S PHYSICAL CERTIFICATES TO CUSTOMS SERVICE OFFICIALS AND PROMISED NOT TO TRY TO RENT AN AIRPLANE, OR TO FLY TO CUBA, AGAIN. AT THAT POINT, THE INVESTIGATION WAS HANDED OVER TO THE FAA'S SOUTHERN REGIONAL HEADQUARTERS LEGAL TEAM FOR POSSIBLE LEGAL ACTION.

5. NEXT STEPS: THE FAA IS PREPARED TO TAKE ALL APPROPRIATE STEPS TO PROSECUTE THIS CASE. THIS PROCESS WILL MOVE FORWARD AS SOON AS THE FAA RECEIVES

CORROBORATION AND VALIDATION OF THE INFORMATION CONCERNING CUBAN LAWS THAT HAVE BEEN VIOLATED BY MR. TONG'S ACTIONS. THE USG HAS REPEATEDLY ASKED THE GOVERNMENT OF CUBA FOR INFORMATION ON THESE LAWS: BY DIPLOMATIC NOTE ON JANUARY 12, 2000, AND VERBALLY BY HAVANA-BASED U.S. INTERESTS SECTION PERSONNEL AND BY WASHINGTON-BASED OFFICIALS VISITING HAVANA TO CUBAN MINISTRY OF FOREIGN RELATIONS AND OTHER GOC OFFICIALS. RECEIVING THE REQUESTED INFORMATION WILL GREATLY ENHANCE THE CASE AGAINST MR. TONG; OTHERWISE, VIOLATIONS OF THE FEDERAL AVIATION ADMINISTRATION REGULATIONS SUCH AS THOSE COMMITTED BY MR. TONG NORMALLY CARRY ONLY A 45-DAY SUSPENSION OF THE AIRMEN'S CERTIFICATE

AND A MAXIMUM FINE OF USDOLS TWO THOUSAND.

6. ACTION REQUESTED: USMISSION ICAO SHOULD RELATE TO ICAO AMBASSADOR KOTAITE THE MEASURES THE USG HAS TAKEN TO INVESTIGATE THIS INCIDENT, AND SHOULD EMPHASIZE THE IMPORTANCE OF THE USG'S RECEIVING AS SOON AS POSSIBLE THE INFORMATION WE HAVE REQUESTED FROM THE GOVERNMENT OF CUBA, IN ORDER TO APPLY TO MR. TONG SANCTIONS TO THE MAXIMUM EXTENT POSSIBLE. USMISSION ICAO ALSO MAY WISH TO REFER TO THE FACT THAT THE CUBAN GOVERNMENT COOPERATED EXTENSIVELY WHILE THE USG WAS INVESTIGATING SIMILAR PAST INCIDENTS. FINALLY, USMISSION ICAO SHOULD EXPRESS THE USG'S APPRECIATION TO CUBAN CIVIL AVIATION AUTHORITIES FOR NOTIFYING U.S. OFFICIALS ABOUT THE FLIGHT, AND SHOULD NOTE THAT THE LACK OF AGGRESSIVE ACTION BY CUBAN AUTHORITIES WAS IN CONFORMITY WITH ICAO RULES AND PROCEDURES IN SUCH CASES, AND THAT THE USG EXPECTS THE GOVERNMENT OF CUBA TO CONTINUE TO EXERCISE SUCH RESTRAINT AND COMPLIANCE WITH ITS INTERNATIONAL OBLIGATIONS IN THE FUTURE. TALKING POINTS FOR USMISSION ICAO'S USE FOLLOW AT PARAGRAPH SEVEN.

7. TALKING POINTS:

-- U.S. CITIZEN MR. LY TONG DEPARTED FROM KEY WEST, FLORIDA, ON THE MORNING OF JANUARY 1, 2000. SINCE HE WAS FLYING UNDER VISUAL FLIGHT RULES, HE WAS NOT REQUIRED TO FILE A FLIGHT PLAN.

-- MR. TONG'S ENTRY INTO CUBAN TERRITORIAL AIRSPACE WAS UNAUTHORIZED.

-- WE APPRECIATE THE NOTIFICATION BY CUBAN CIVIL AVIATION OFFICIALS ABOUT THE FLIGHT.

-- THE USG IMMEDIATELY TOOK ACTION ON NOTIFICATION AND IDENTIFIED, TRACKED, AND INTERCEPTED THE AIRCRAFT AND

FORCED IT TO LAND AT TAMiami AIRPORT IN MIAMI-DADE COUNTY, FLORIDA, WHERE THE PILOT (MR. TONG) WAS QUESTIONED.

-- WE HAVE PUBLICLY CONDEMNED THE OVERFLIGHT AS RECKLESS AND PROVOCATIVE.

-- THE LACK OF AGGRESSIVE ACTION AGAINST THE CIVILIAN AIRCRAFT BY CUBAN AUTHORITIES WAS IN CONFORMANCE WITH ICAO RULES AND PROCEDURES IN SUCH CASES. WE EXPECT THE GOC TO CONTINUE TO EXERCISE SUCH RESTRAINT AND COMPLIANCE WITH ITS INTERNATIONAL OBLIGATIONS IN THE FUTURE.

-- WE URGE THE GOVERNMENT OF CUBA TO PROVIDE THE UNITED STATES GOVERNMENT AS SOON AS POSSIBLE A LEGAL CITATION OF THE CUBAN LAWS OR REGULATIONS IT WOULD ASSERT WERE BROKEN IN THIS INCIDENT, IN ORDER TO BE ABLE TO APPLY SANCTIONS TO THE MAXIMUM EXTENT POSSIBLE.
ALBRIGHT

INITIALS

APPR:	CSS	...
DRAFT:	CJR	...
CLR 1:	EW	...
CLR 2:	WH	...
CLR 3:	WH	...
CLR 4:	CC	...
CLR 5:	CA	...
CLR 6:	EM	...

UNCLASSIFIED

WHA/CCA:CJACKSON:CJ
02/15/00 X7-9272
WHA/CCA:CSSHAPIRO

WHA/CCA:RWITAJEWSKI IO: WHO? EB/TRA/OTP: WHO?
FAA: CCAPESTANY FAA: CARMSTRONG UDSOT: BMIMS

PRIORITY MONTREAL

PRIORITY HAVANA, DOT WASHDC PRIORITY,
FAA WASHDC PRIORITY

MONTREAL FOR USMISSION ICAO, FAA FOR AIA, DOT FOR MIMS

E.O. 12958: N/A

TAGS: EAIR, ICAO, PREL, CU

SUBJECT: INSTRUCTIONS ON CUBAN AIRSPACE VIOLATION

REF: MONTREAL 97

1. THIS IS AN ACTION REQUEST. PLEASE SEE PARAGRAPH SIX.

2. SUMMARY. REFTEL ASKED WASHINGTON AGENCIES TO REPORT ON STEPS THE USG HAS TAKEN TO INVESTIGATE THE JANUARY 1, 2000 OVERFLIGHT OF HAVANA BY AMCIT PILOT LY TONG, AS WELL AS ON STEPS THE UNITED STATES HAS TAKEN TO ADDRESS VIOLATIONS OF U.S. LAWS OR REGULATIONS. AS OF FEBRUARY 16, 2000, THE U.S. HAS CONCLUDED THAT LY TONG INDEED OVERFLEW CUBAN AIRSPACE, BUT THAT THE ONLY U.S. LAW OR REGULATION THAT HAS BEEN VIOLATED REFERS TO ENTERING A FOREIGN COUNTRY'S AIRSPACE IN CONTRAVENTION OF THAT COUNTRY'S LAWS. FOR THAT REASON, WE HAVE SOUGHT SINCE JANUARY 12, 2000 TO OBTAIN FROM THE GOVERNMENT OF CUBA A CITATION OF THE CUBAN LAWS IT WOULD ASSERT WERE VIOLATED, BUT TO NO AVAIL. IT IS THE POSITION OF THE USG THAT LY TONG CANNOT NOW OBTAIN THE USE OF A PLANE TO MAKE ANOTHER OVERFLIGHT ATTEMPT, AS HE HAS SURRENDERED HIS PILOT'S LICENSE PENDING THE FAA'S REVOCATION ORDER. THE FAA ALREADY HAS WARNED LY TONG NOT TO REPEAT THIS INCIDENT.

UNCLASSIFIED

UNCLASSIFIED

2

CURRENTLY, THE FAA IS IN THE PROCESS OF DETERMINING WHETHER OR NOT IT WILL REVOKE LY TONG'S LICENSE IN THE ABSENCE OF A STATEMENT FROM THE GOVERNMENT OF CUBA ON WHICH CUBAN LAWS WERE VIOLATED. END SUMMARY.

3. DESCRIBE U.S. INVESTIGATION OF THE INCIDENT.

4. DESCRIBE CONCLUSION OF THE INVESTIGATION OF THE INCIDENT (THAT LY TONG INDEED OVERFLEW CUBAN AIRSPACE?)

5. DESCRIBE NON-ACTION RE REVOCATION OF LICENSE AND WHY IT HASN'T BEEN DONE IN 6 WEEKS SINCE THE INCIDENT. NOTE DIPLOMATIC NOTE SENT JANUARY 12, WITH STILL NO RESPONSE.

6. ACTION REQUEST: USMISSION ICAO IS REQUESTED TO...

YY

UNCLASSIFIED

UNCLASSIFIED

To: Carolyn Hollis (4pg)
Sgt. Carole Jackson

Printed By: Carole A Jackson 02/15/2000 04:22:44 PM

MONTREAL 97

From: AMCONSUL MONTREAL
Subject: VIOLATION OF CUBAN AIRSPACE ON 1/1/2000
MRN: 97
ICNbr: TED0942Date/Time: 272111Z JAN 00
Precedence: ROUTINE

Cable Text:

TED0942

ACTION WMA-01

INFO	LOG-00	AMAD-01	A-00	ACQ-00	CIAS-00	DODS-00	DS-00
	EB-00	FAAE-00	UTED-00	TEDE-00	INR-00	IO-00	M-00
	NSAE-00	OIC-02	SS-00	DSCC-00	SAS-00	/004W	

-----238DA9 272113Z /38

R 272111Z JAN 00
FM AMCONSUL MONTREAL
TO SECSTATE WASHDC 1346
DOT WASHDC
FAA WASHDC

UNCLAS MONTREAL 000097

FROM USMISSION ICAO

DEPT FOR IO AND EB/TRA/OTP
FAA FOR AIA
DOT FOR BRADLEY MIMS

E.O. 12958: N/A
TAGS: ZAIR, ICAO, CU
SUBJECT: VIOLATION OF CUBAN AIRSPACE ON 1/1/2000

1. SUMMARY. U.S. MISSION REQUESTS STATUS REPORT ON ACTION TAKEN AGAINST PILOT WHO FLEW INTO CUBAN AIRSPACE ON 1/1/2000. CUBA MAY RAISE TOPIC AT FORTHCOMING SESSION OF ICAO COUNCIL.

2. ICAO PRESIDENT KOTAITE HAS ASKED U.S. MISSION FOR A STATUS REPORT ON ACTION TAKEN BY THE U.S. AGAINST THE PILOT OF THE NEW YEAR'S DAY FLIGHT OVER HAVANA. THE CUBAN REPRESENTATIVE

UNCLASSIFIED

UNCLASSIFIED

ON THE ICRO COUNCIL HAS INDICATED TO HIM THAT SHE MIGHT RAISE THE ISSUE AND MAKE A STATEMENT ON THE OPENING DAY OF THE 159TH SESSION OF THE COUNCIL ON FEBRUARY 21.

2. USREP HAD AN INFORMAL CONVERSATION WITH CUBAN REPRESENTATIVE MAYDA MOLINA MARTINEZ ON JANUARY 18. SHE INDICATED THAT THE FLIGHT OVER HAVANA HAD SERIOUSLY JEOPARDIZED SAFETY BY LOW AND ERRATIC FLYING.

3. DR. KOTAITE BELIEVES THIS WILL NOT BECOME A MAJOR ISSUE BEFORE THE COUNCIL, BUT NEEDS TO BE IN A POSITION TO INDICATE THAT THE U.S. HAS TAKEN STEPS TO INVESTIGATE THIS INCIDENT AND HAS TAKEN STEPS TO ADDRESS VIOLATIONS OF FEDERAL LAWS OR REGULATIONS. SPECIFIC ACTIONS TAKEN BY THE U.S. WOULD BE MOST USEFUL.

4. ACTION: PLEASE PROVIDE U.S. MISSION WITH STATUS REPORT AND OTHER CURRENT INFORMATION THAT WOULD BE HELPFUL TO DR. KOTAITE AND USREP IN COMMUNICATING U.S. RESPONSE AND ACTIONS.
STIMPSON PENDLETON
NNNN

End Cable Text

Printed By: Carole A Jackson 02/15/2000 04:22:45 PM

UNCLASSIFIED

MILLER & CHEVALIER

CHARTERED

655 FIFTEENTH STREET, N.W., SUITE 900
WASHINGTON, D.C. 20005-5701
(202) 626-5800 FAX: (202) 628-0858

MATTHEW M. NOLAN
(202) 626-5936
INTERNET: MNOLAN@MILCHEV.COM

December 6, 1999

By Mail

Mr. Fulton Armstrong
Director
InterAmerican Affairs
National Security Council
Old Executive Office Building
Room 361
17th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20540

Re: Florida Ferries, Inc.

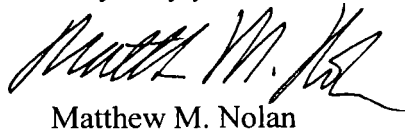
Dear Mr. Armstrong:

Enclosed is a copy of our letter dated December 3, 1999 to the U.S. Department of the Treasury, Office of Foreign Assets Control regarding Florida Ferries, Inc. This letter supplements our request dated August 10, 1999 for a license to provide passenger ferry service between Miami, Florida and Havana, Cuba.

In the enclosed letter, we have tried to address issues raised as a result of our contact with officials at the Department of State, U.S. Customs Service, Immigration and Naturalization Service, and the U.S. Coast Guard.

Please contact me or my colleague, Bill McGlone, if you have any questions.

Very truly yours,



Matthew M. Nolan

Enclosure



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

NOV 19 1999

FAC No. CU-174785

William M. McGlone, Esq.
Miller & Chevalier
Florida Ferries, Inc.
655 Fifteenth Street, N.W #900
Washington, D.C. 20005-5701

Dear Mr. McGlone:

This is in reference to your application of August 10, 1999, requesting a license to engage in providing carrier services to Cuba by means of the use of a vessel.

As you may know, the Cuban Assets Control Regulations, 31 C.F.R. Part 515 ("CACR"), prohibit persons subject to the jurisdiction of the United States from dealing in property in which Cuba has an interest, unless authorized. The CACR are administered by the Office of Foreign Assets Control ("OFAC"). The prohibition extends to the provision of carrier services to Cuba. Pursuant to the terms of the CACR and the regulatory program, at this time only applications involving the provision of transportation services by aircraft are being approved. For this reason, your application is inconsistent with U.S. policy.

In view of your interest in providing carrier services to Cuba within the terms of the CACR and the regulatory program, we are enclosing for your review information otherwise provided to applicants seeking to provide transportation services by aircraft.

If you have any questions concerning the details of the regulatory program, feel free to contact me at (305) 810-5140.

Sincerely,

Charles Bishop
OFAC-Miami Sanctions Coordinator
Office of Foreign Assets Control

Enclosures

MILLER & CHEVALIER

CHARTERED

655 FIFTEENTH STREET, N.W., SUITE 900
WASHINGTON, D.C. 20005-5701
(202) 626-5800 FAX: (202) 628-0858

WILLIAM M. McGLONE
(202) 626-5833
INTERNET: WMCGLONE@MILCHEV.COM

December 3, 1999

CONFIDENTIAL TREATMENT REQUESTED

BY HAND AND FACSIMILE

Ms. Clara David
Office of Foreign Assets Control
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W. -- Annex
Washington, D.C. 20220

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: ADB DATE: 8/20/18
2016-0920-F

Re: FAC No. CU-174785: Follow-Up to Request for Specific License Authorizing
Passenger Ferry Service Between Miami, Florida and Havana, Cuba

Dear Ms. David:

This letter provides additional information in support of our August 10, 1999 request for a specific license authorizing our client, Florida Ferries, Inc., to serve as a "carrier service provider" -- in connection with passenger ferry travel between the United States and Cuba -- under section 515.566(a)(2) of the Cuban Assets Control Regulations. Following up on subsequent meetings and telephone discussions with you and officials from the U.S. Department of State, we summarize below our discussions with other agency officials, describe the practical steps our client is prepared to take to address any remaining security concerns, and set forth the legal and policy bases for issuing a license under these circumstances.

As reflected in the paragraphs that follow, we see no legal, policy, or practical reason for denying -- or failing to act on -- this license request. On the contrary, we believe that authorizing the proposed vessel service would be entirely consistent with current U.S. law and policy and the expanding practice of allowing direct air travel between the two countries. Based on our extensive discussions with officials of the U.S. Customs Service, the Coast Guard, the Immigration and Naturalization Service, and the National Security Council, we have found no opposition to the proposed service. Any practical concerns appear to be relatively minor and manageable -- and not radically different from the issues faced by air carriers. Our client is prepared to implement procedures that address any government concerns and to follow OFAC's "Operational Guidelines for Carrier Service Providers," which we received earlier this week from OFAC's Miami office.

Background

As explained in our original license request, which we submitted to OFAC on August 10, our client, Florida Ferries, Inc., is seeking to provide high-speed passenger ferry service between the Port of Miami and Havana, Cuba. If authorized by OFAC, Florida Ferries would serve as the "carrier service provider," and SeaEscape Cruises, an established and reputable vessel charter company, would serve as the operator of the vessels. The vessels would be capable of carrying more than 600 persons (in airline-type seating) and sustaining speeds of 40 to 60 knots. This type of ferry service would offer a lower cost alternative to air travel for persons who are authorized to travel to Cuba but are unable, due to financial or physical constraints, to take advantage of the expanding air service between the United States and Cuba. In addition to providing passenger service, Florida Ferries is prepared to offer, subject to OFAC approval, limited cargo service with respect to food, agricultural, and medical products that are approved for shipment from the United States to Cuba.

Licensing Florida Ferries to provide this service would be consistent with current U.S. law and policy. Section 515.572(a)(2) (formerly § 515.566) of the Cuban Assets Control Regulations (the "Regulations") confirms that specific licenses may be issued by OFAC, on a case-by-case basis, for carrier service providers that offer passenger service between the United States and Cuba on either aircraft or vessels. The ferry service to be provided under this proposal would be made available only to individuals who are otherwise authorized under U.S. law to engage in transactions relating to travel to Cuba. See 31 C.F.R. § 515.560(a)(1). Given the nature of the vessel and the speed at which it travels, as well as the security measures Florida Ferries is prepared to adopt, there would be virtually no risk that unauthorized travelers would be able to use this service.

No Legal Obstacles to Authorizing Vessel Service

In order to expedite consideration of our license request on policy grounds, we want to emphasize that there is no legal barrier to issuing a license under these circumstances. As noted above and in our original request, the Regulations expressly allow OFAC to issue specific licenses to "carrier service providers," a term defined to include persons "wishing to provide carrier services by aircraft or vessels . . ." (emphasis added). This provision effectively trumps a separate prohibition in the Regulations that denies entry into U.S. ports of vessels carrying goods or passengers from Cuba, "[e]xcept as specifically authorized by OFAC through . . . licenses or otherwise." 31 C.F.R. § 515.207 (emphasis added). Because the prohibition on vessel entry contemplates that OFAC may issue an exception to the prohibition, and OFAC is

expressly empowered to do so under section 515.572(a)(2), there is no legal limitation on OFAC's ability to issue the license we have requested. Indeed, OFAC's own guidelines (FAC No. CU-163116) provide that "[a] person may make application with OFAC to become a Service Provider by satisfying the criteria laid out in § 515.572 of the Regulations. OFAC considers such applications on a case-by-case basis." See Tab A (page 4).

If authorized to provide vessel service, our client is, of course, prepared to follow all relevant requirements set forth in the Regulations. This would include affirming and demonstrating that it "does not participate in discriminatory practices of the Cuban government against certain residents and citizens of the United States." See 31 C.F.R. § 515.572(b). In addition, per this letter and subject to additional guidance from OFAC, our client is prepared to "report on the forms and other procedures used to establish that each customer is in full compliance with CACR and either qualifies for a general license, has received a specific license from OFAC, or is a fully-hosted traveler." See 31 C.F.R. § 515.572(c)(4). Specifically, Florida Ferries will demonstrate, in OFAC's preferred format, "that it requires each customer to attest, in a signed statement, to his/her qualification for the particular general license or fully-hosted status claimed." See 31 C.F.R. § 515.572(c)(4)(i). The Regulations require authorized service providers to "file quarterly reports with OFAC" (consistent with content requirements established by the specific license); "keep full and accurate records of each Cuba-related transaction"; and maintain files with the names and addresses of individual travelers. Needless to say, our client is prepared to abide by these and any other reasonable documentation and recordkeeping requirements imposed by OFAC.

Our client will also abide by the terms and conditions of and specific license that is issued and follow OFAC's "Operational Guidelines for Carrier Service Providers ("CSPs")," which are attached to this letter at Tab B. Among other things, the guidelines require CSPs to keep records and provide notifications to passengers to help ensure that passengers are in compliance with the Regulations. Specifically, this would include providing certain information about each traveler to OFAC in Washington 48 to 72 hours prior to departure; requiring each passenger to fill out an outbound declaration form and, if required, travel affidavits (attached at Tab C); and keeping detailed records and providing regular reports to OFAC.

Finally, we assume that any authorized vessel service would be subject to Customs Service regulations that are similar to those that apply to air carriers. In order to accommodate air carrier service authorized by OFAC, Customs has amended its own regulations to ensure that its concerns are adequately addressed. See 19 C.F.R. §§ 122.153-122.156. Under current Customs regulations, airports of entry and departure (for flights involving Cuba) are limited to Miami, New York, and Los Angeles. All aircraft entering the United States from Cuba are

required to give advance notice of arrival not less than one hour before crossing the U.S. coast or border. 19 C.F.R. § 122.154. The advance notice must include the following:

- type of aircraft and registration number;
- name of aircraft commander;
- number of U.S. citizen passengers;
- number of alien passengers;
- place of last foreign departure;
- estimated time and location of crossing U.S. coast or border; and
- estimated time of arrival.

19 C.F.R. § 122.154(c). Upon arrival, the aircraft commander is required to present a manifest of all passengers, as required by INS regulations, to an INS officer or a Customs officer (acting as an INS officer). 19 C.F.R. § 122.155(a). No passengers arriving from Cuba by aircraft will be released by Customs, nor will the aircraft be cleared or permitted to depart before the passengers are released by an INS or Customs officer. 19 C.F.R. § 122.156. Prior to departure, the aircraft commander must present certain documents to Customs, including an air traffic permit and an export license from either the Department of Commerce (for "exports" of commercial aircraft) or the Department of State (for military aircraft).

These OFAC and Customs regulations are designed to guard against abuse of the favorable licensing policies for limited travel to and from Cuba. While they so far have been applied only to air travel, they could easily be adapted to cover vessel service as well. In fact, Florida Ferries agrees to comply with these notification and clearance procedures. In addition, Florida Ferries agrees to accept rigorous inspection procedures by Customs and INS upon the arrival of each vessel from Havana to prevent smuggling or illegal immigration. With precautionary measures like these in place, we are confident that the proposed high-speed ferry service would not pose any greater risk than air travel.

Customs, INS, and Other Security Issues Are Manageable

Based on our discussions with officials of the U.S. Customs Service (Port of Miami), the Coast Guard Service (also in Miami), the INS, and the National Security Council, we are able to report that we have not encountered any opposition to the proposed ferry service. In most cases, we have furnished these officials with copies of our August 10 specific license request (with attachments), to ensure that the officials have a full and detailed understanding of our proposal. While there may be some logistical and perhaps budgetary hurdles to be overcome, none of the

Ms. Clara David
December 3, 1999
Page 5

officials with whom we have conferred has identified any reason for opposing the ferry service concept.

From the standpoint of the Customs Service, we have confirmed the following with the Miami Port Director's office. In telephone discussions with officials in that office, we have been advised that they are familiar with SeaEscape, the proposed operator of our client's ferry service. They would expect that three or four Customs officials (including a Boarding Officer, a Supervisor, and a Cashier) would be required to handle each inbound arrival. Depending on the times of arrival and departure, as well as the number of voyages per week, Miami Customs might need additional staff to be authorized by headquarters in Washington. Most -- if not all -- of any additional expenses related to staffing would presumably be offset by the customs user fees to be paid by the vessel upon each entry.

The U.S. Coast Guard has confirmed, moreover, that it would be relatively easy and desirable to certify a high-speed vessel for the proposed ferry service. Indeed, based on telephone discussions with the Port Captain in Miami, and a meeting with a commander based in Miami, we think it is fair to characterize the Coast Guard's position as supportive of our proposal, provided the vessel complies with all Coast Guard safety requirements. As an established cruise ship provider, SeaEscape is well aware of safety requirements, certifications, and international standards applicable to vessels. Florida Ferries is prepared to adopt specific procedures, such as varying routes, submitting route plans in advance, undergoing special inspections, and other reasonable measures to respond to any safety concerns.

INS officials have stated that they do not oppose the service, as long as proper immigration controls are in place. Florida Ferries is prepared to establish appropriate procedures, including: (1) requiring pre-boarding documentation inspections to ensure that only persons with licenses and visas board the vessel; (2) allowing INS/Customs officers to accompany vessels at random; and (3) establishing a secure port of entry in Havana (or in Marina Hemingway Harbor) to limit access to authorized personnel. Florida Ferries would be pleased to discuss any other reasonable measures with INS.

Update on Business Plan

Florida Ferries is proceeding to implement its business plan for this venture, contingent upon receipt of appropriate approvals from OFAC and other U.S. government authorities. The Company has visited port facilities and office space at the Miami port which would be used as a base of operations. Company personnel are also in the process of inspecting potential vessels to be used in the service. Vessels under consideration are either coast guard certified or will be

Ms. Clara David
December 3, 1999
Page 6

certified with a minimum of retrofitting. The Company is preparing to make significant capital outlays within the next thirty days to prepare for operations in year 2000. Accordingly, we urge that U.S. Government officials work with us to resolve any remaining safety or security issues.

This Matter Warrants a Policy Decision

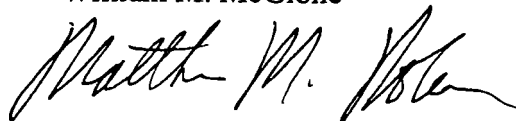
Any failure to issue the license we have requested would, in our view, be inconsistent with current U.S. policy. The principal purpose of section 515.572(a)(2) is to facilitate the U.S. Government's policy to promote people-to-people interaction with Cuba. With no distinction in the carrier service provider provision between aircraft and vessels, the intent of the Regulations is to extend a favorable licensing policy towards both modes of transportation. Just as there was no policy basis for failing to mention vessel service in the Regulations, there is no valid policy reason for applying the rules in a manner that excludes vessels from eligibility for carrier service provider status. A licensing denial -- or a failure to move forward with this request -- based on non-policy grounds would have the effect of placing administrative hurdles (which in fact appear to be quite manageable) above the objectives articulated in the Regulations and expressed through the favorable licensing policy for aircraft.

As we have emphasized in our prior discussions with you and representatives of the State Department, our client is prepared to take any and all reasonable steps to advance this application to the appropriate policy level. The purpose of this letter is to address and dispose of any impediments -- real or perceived -- that would prevent the government from reaching a decision on the merits. Rather than continuing to delay due to concerns that either have no basis in fact or which may be resolved in a mutually satisfactory manner, we expect that OFAC will now be able to allow the relevant agencies to reach the policy issues raised by our request. On a separate track, of course, we would be happy to work with OFAC and the other administering agencies on the logistical issues that we would face if a favorable licensing decision is reached.

Sincerely,



William M. McGlone



Matthew M. Nolan

Ms. Clara David
December 3, 1999
Page 7

Attachments

cc: Ms. Carole Jackson (U.S. Department of State)
Ms. Deborah Elliott (U.S. Department of State)
Mr. Fulton Armstrong (National Security Council)
Miami Port Director, U.S. Customs Service
Miami Port Director, Immigration and Naturalization Service
Miami Port Director, U.S. Coast Guard

TAB A



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

FAC No. CU-163116

NOV 19 1999

William M. McGlone, Esq.
Miller & Chevalier
Florida Ferries, Inc.
655 Fifteenth Street, N.W #900
Washington, D.C. 20005-5701

Dear Mr. McGlone:

This overview summarizes the current regulatory program which permits certain transactions involving property in which Cuba has an interest with respect to provisions of carrier services, travel services and the forwarding of remittances, pursuant to the terms and conditions of the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the "Regulations") (copy enclosed), and authorization by the Treasury Department's Office of Foreign Assets Control ("OFAC").

This summary covers in part information previously published by OFAC in the Regulations, the provisional authorization letter (as amended, if applicable) issued to individual entities to provide services, OFAC circular letters and other communications with individual entities. This overview is intended to summarize the current rules and procedures established by OFAC. However, the Regulations and terms of OFAC letters and/or licenses specifically authorizing any given entity to engage in certain transactions which are otherwise prohibited are controlling in all matters.

This overview provides a restatement of the basic information germane to all authorized service providers -- those who qualify as Carrier Service Providers, Travel Service Providers, and/or as Remittance Forwarders (hereinafter, "CSP," "TSP," "RF," and/or the "Service Provider"). This body of information shall be referred to as the "Service Provider Program" or "Regulatory Program."

BASIC PROHIBITIONS AND PENALTIES

The Regulations prohibit all unlicensed transactions by persons subject to the jurisdiction of the United States involving property in which Cuba or a Cuban national has an interest, unless exempt or otherwise authorized. This prohibition includes the provision of services benefitting Cuba or a Cuban national.

Consistent with OFAC's enforcement function, civil and criminal fines and penalties and the loss of operating authority may be applicable for violations of the Regulations or activity inconsistent with specific authorization from OFAC. Violations include engaging in unauthorized travel-related transactions, engaging in the provision of services using another Service Provider or individual which does not possess OFAC authorization to perform the Cuba-related services, making unauthorized remittances of funds, or providing unauthorized carrier, remittance, or travel-related services.

A Service Provider providing carrier, travel and/or remittance services must be aware of the authorizations and restrictions applicable to individuals using those services. In view of this, there follows first a brief summary of OFAC authorizations available to such individuals, then a discussion of the several forms of authorization under the Service Provider Program.

AUTHORIZATIONS FOR INDIVIDUALS

Travel-Related Transactions

It is the responsibility of a person subject to the jurisdiction of the United States seeking to engage in travel-related transactions or to remit funds to Cuba to ensure compliance with the Regulations. A person may be authorized to engage in travel-related transactions in Cuba if he or she qualifies under a general license category or obtains a specific license from OFAC. The enclosed "What You Need To Know About The U.S. Embargo" brochure describes more fully the several categories of generally licensed travel transactions and those for which specific licenses are available from OFAC.

An authorized traveler may not pay more than \$500 within a year to Cuba for fees imposed by the Cuban Government for such items as passports, visas fees, and taxes. An authorized traveler may spend no more than \$183 per day for living expenses in Cuba. (This amount is set by the State Department and may be periodically revisited, travelers can check the current *per diem* rate on the Internet <<<http://www.state.gov/www/perdiems/index.html>>>).

The Regulations do not prohibit "fully-hosted" travel within Cuba, provided no person subject to U. S. jurisdiction makes any payment to Cuba or a Cuban national (directly or indirectly) or provides any services to Cuba or a Cuban national in conjunction with such travel. A fully-hosted traveler may pay for his or her transportation to and from Cuba but may not pay for any other travel related expense such

as visas for example. Such fully-hosted travelers may not use direct charter flights between Cuba and the United States.

Household Remittances

Persons subject to U.S. jurisdiction aged 18 or older may send to the household of any individual in Cuba "individual-to-household" cash remittances of up to \$300 per household in any consecutive three-month period, provided that no member of the household is a senior-level Cuban government or senior-level Cuban communist party official.

Persons subject to U.S. jurisdiction aged 18 or older may send to the household of any close relative of the remitter or the remitters's spouse "family" cash remittances of up to \$300 per household in any consecutive three-month period. No more than a combined total of \$300 of individual-to-household and family remittances may be sent by a remitter to any one household in any consecutive three-month period, regardless of the number of close relatives or other persons residing in that household.

Emigration Remittances

Persons subject to U.S. jurisdiction may send up to \$1,000 per payee on a one-time basis as an "emigration-related" remittance to a Cuban national to enable the payee to emigrate from Cuba to the United States. Specifically, up to \$500 may be remitted to a Cuban national prior to the payee's receipt of a valid U.S. visa or other U.S. immigration document, and up to \$500 may be remitted to the Cuban national after the payee receives a valid U.S. visa or other U.S. immigration document.

Carrying Remittances

Persons licensed to engage in travel-related transactions (this does not include fully-hosted travelers) may carry their own remittances, provided that they may carry no more than a combined total of \$300 of individual-to-household and family remittances, and provided that no emigration-related remittances may be carried before the payee has received a valid U.S. visa or other immigration document and the traveler can supply the visa number and the date of issuance.

Persons within the United States seeking to engage in the transactions with Cuba or Cuban nationals discussed above may only use the services of a travel or remittance service provider authorized by OFAC to deal in these activities. All persons who wish to provide carrier services, travel services to, from and within

Cuba, and remittance forwarding to qualifying individuals must apply for and obtain written authorization from OFAC in order to provide these services.

AUTHORIZATIONS FOR SERVICE PROVIDERS

An authorized person within the United States engaging in those transactions outlined above may only use the services within the United States of persons authorized by OFAC as a CSP, TSP, or RF.

A person may make application with OFAC to become a Service Provider by satisfying the criteria laid out in §515.572 of the Regulations. OFAC considers such applications on a case-by-case basis.

The provision of carrier, travel, and/or remittance services must only occur from the Service Provider's principal place of business or branch office as identified in the Service Provider's application and as set forth in OFAC's letter of provisional authorization (as amended, if applicable). Only those businesses to which OFAC has granted provisional authorization may provide the authorized services described in the Regulations and the Regulatory Program. OFAC makes an up-to-date list of such Service Providers available on its Fax-on-Demand service ((202) 622-0077).

Carrier Service Providers

The Regulations and individual authorizations from OFAC describe what a CSP may do consistent with the Regulatory Program. A CSP may operate charter flights between the United States and Cuba, provided the CSP possesses an updated authorization from OFAC prior to commencing the provision of direct-flight services. A CSP may book passengers only on flights which depart the United States from Miami International Airport during normal Customs business hours of 8:00 AM and 10:00 PM. The CSP must insure, to its knowledge and belief, that every passenger is in compliance with the Regulations and the Regulatory Program, both by record keeping and by putting each passenger on notice about the prohibitions, both verbally and in writing, consistent with OFAC's "Operational Guidelines for CSPs," which also describe in part the TSP's required reporting activity.

A CSP may not provide services to a person claiming to be "fully hosted" other than to arrange travel to Cuba through third countries.

The CSP must provide certain information about each traveler to OFAC in Washington 48 to 72 hours prior to departure of the flight. The

CSP must file this data by means of file transfer by modem using an Internet connection.

The CSP must ask each passenger to fill out an OFAC outbound declaration card approved by the Office of Management and Budget. The declaration card must be made available to Federal law enforcement officials at the departing gate and, if not retained by those officials, held by the CSP and delivered to the OFAC-Miami office.

A CSP not required to file a charter prospectus with the Department of Transportation must notify Customs of their intended departure 24 hours prior to such departure for purposes of outbound inspection.

Finally, the CSP must satisfy U.S. Customs rules including taking declarations from passengers about the amount of money he/she is carrying, as necessary.

Travel Service Providers

A TSP may provide services in connection with arranging and assisting authorized persons to engage in travel-related transactions to, from, and within Cuba. The TSP must ensure that each person seeking to engage in travel-related transactions qualifies for one of the general OFAC authorizations or has a Specific License issued by OFAC.

The TSP may assist an authorized person to obtain a Cuban passport or renewal, if necessary, obtain a Cuban visa, and/or purchase a ticket for travel between the United States and Cuba. A TSP may not require the obligatory purchase of hotel accommodation packages by customers in order to obtain expedited visas or for any other purpose, as this is a discriminatory practice inconsistent with the Regulations. A TSP may book passengers only on flights which depart the United States from Miami International Airport during normal Customs business hours of 8:00 AM and 10:00 PM. The TSP must insure, to its knowledge and belief, that every passenger is in compliance with the regulatory program, both by record keeping and by putting each passenger on notice about the prohibitions, both verbally and in writing, consistent with OFAC's "Operational Guidelines for CSPs," which in part discusses TSP operations.

A TSP may sell a ticket for travel from the U.S. to a third country and return to a person claiming to be "fully-hosted". The TSP may not book them on flights where the carrier and/or charterer is owned or controlled by Cuba or a Cuban national. Ticketing for flights

between third countries and Cuba may only occur in a third country. A TSP may make reservations with airlines or travel agencies in third countries for travel to Cuba either by authorized travelers or fully-hosted travelers, but the issuance of the tickets to travel between the third country and Cuba may not occur in the U.S. A TSP may not provide any other travel-related services to a fully-hosted traveler.

Finally, a TSP must provide the following information about each traveler to the CSP prior to the CSP accepting a reservation or selling a seat on a CSP flight for the passenger: full name (including mother's maiden name), address, date of birth, passport country of issuance and number, and category of travel (specifically licensed, family, official government, international organization, journalistic activity, amateur or semi-pro athletes).

Remittance Forwarders

An RF may forward authorized remittances to Cuba on behalf of authorized remitters (See discussion of authorized remitters above). U.S. depository institutions are generally licensed to provide these services and, thus, are not required to obtain specific authorization from OFAC.

All RFs and U.S. depository institutions must use the OFAC Remittance Affidavit to record compliance with the Regulations as to the eligibility of remitters and the limitations on dollar amounts and frequency of transfers.

RECORD-KEEPING AND REPORTING REQUIREMENT

Record-keeping

A Service Provider must engage in record keeping for each authorized transaction. OFAC provides suggested formats for the required record keeping (copies of the suggested formats enclosed). The record-keeping must include details about individual travelers or remitters and their circumstances sufficient to allow identification and verification that the subject transactions comply with the Regulations. These records must be maintained for five years.

Reporting

The Service Provider must furnish periodic reports covering the Service Provider's activity, or lack thereof, in the preceding calendar year. The reports must be filed no later than January 20 of each year. The report(s) must be mailed to the OFAC-Miami Office. OFAC provides the Service Provider(s) with a suggested format for

each category of report (one format each for CSP, TSP, RF). Copies of the suggested formats are enclosed.

On an on-going basis, each TSP must provide details about every traveler to the CSP prior to the CSP accepting a reservation or selling a seat on a CSP flight. The CSP in turn must provide detailed information to OFAC by electronic mail. The terms and conditions of this informational report are described in the "Operational Guidelines for CSPs."

All persons are required under 31 C.F.R. §§501.601 and 501.602 to provide access to OFAC for examination of records upon request. OFAC will attempt to give appropriate prior notice to Service Providers when such cases arise.

Information is available concerning OFAC programs for retrieval through our Fax-on-Demand 24 hours a day by dialing (202) 622-0077. Letters of application for authorization to engage in transactions as a CSP, TSP, and/or RF should be mailed to the following address: OFFICE OF FOREIGN ASSETS CONTROL; U.S. DEPARTMENT OF THE TREASURY; 909 SE FIRST AVE #736; MIAMI, FL 33131.

If you have any further questions concerning any matters discussed above, please contact me in the OFAC-Miami Office at (305) 810-5140.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. Bishop", followed by a horizontal line.

Charles Bishop
Sanctions Coordinator
Office of Foreign Assets Control

Enclosures

The Cuban Assets Control Regulations
Recent Amendments Published May 13, 1999
OFAC Brochure "What You Need To Know About The U.S. Embargo"
OFAC Brochure "Travel Restrictions/Restricciones de Viajes"
OFAC Guidelines "Operational Guidelines for CSPs"
OFAC Suggested Formats (Updated 6/99)

TAB B

GUIDELINES TO CARRIER SERVICE PROVIDERS FLIGHTS

1. Direct flights between Cuba and the United States must operate on a non-stop basis between Cuba and the following U.S. airports: Miami International Airport ("MIA"); Los Angeles International Airport ("LAX"); and John F. Kennedy International Airport ("JFK").
2. OFAC-authorized direct charter operators ("Carrier Service Providers -- CSPs") must provide OFAC with a copy of their schedule of flights as submitted to the Department of Transportation as soon as possible prior to the month of operation using this fax number: (305) 810-5148. For occasional charter flights to Cuba, CSPs must notify the U.S. Customs Service in the appropriate airport at least 24 hours in advance via phone and fax:

MIA: CET Operations ph(305) 869-2720 fx (305) 876-6697
LAX: Outbound ph(310) 215-2444 fx (310) 215-2013
JFK: Outbound ph(718) 553-1509 fx (718) 553-0093

3. Travel Service Providers ("TSPs") must provide the following information about each traveler to the CSPs prior to CSPs accepting a reservation or selling a seat on a CSP flight:
 - a. Full name (including mother's maiden name);
 - b. Address;
 - c. Date of birth;
 - d. Passport country of issuance and number;
 - e. Category of travel (specifically licensed, family, official government, official international organization, journalist, professional, etc.); and
 - f. Airport of departure from the United States.
4. CSPs must provide the following information about each traveler to OFAC in Washington 48 to 72 hours prior to departure of the flight:
 - a. All the information listed above in #3 A-F, above;
 - b. U.S. departure and return dates; and
 - c. Name of TSP who arranged for the travel.

5. CSPs must file the data described in paragraphs 3 and 4 above by means of a file transfer using a modem and Internet connection. OFAC will make the necessary software available and if possible will install such software on your computers if you wish. OFAC also will instruct you in the details of accomplishing this filing. Please contact the OFAC-Miami office to schedule a date for installation and instruction. After installation, technical assistance is available by calling Alexander Manfull (OFAC Compliance) at (202) 622-2490. As always, feel free to contact the OFAC-Miami office for blank Travel Declaration Forms or if you have questions: (305) 810-5140.
6. CSPs operating regularly scheduled charter flights must make the attached OFAC flight announcement in English and Spanish in such a way that it can be clearly heard and understood by those at the departure gate approximately 45 minutes and again 25 minutes before boarding. For charter flights not operating on a regular basis to Cuba, CSPs need not read the announcement. All CSPs must distribute the announcement to every traveler as part of the check-in procedure at the ticket counter.
7. Customs Form 4790: Have available Customs Form 4790 for use by travelers carrying more than \$10,000 in authorized currency or monetary instruments. Consistent with applicable Customs laws and regulations, blank copies of Customs Form 4790 are available from Customs. Completed forms are to be make available to Customs at the gate, if appropriate, or otherwise delivered to Customs consistent with Customs rules and procedures.
8. Travel Declaration Form: Have available as well U.S. Treasury Department Travel Declaration Form [TDF 90-22.39 (05/89)], bearing OMB number 1505-0118. It is entitled: "Travel to Cuba/Viajes a Cuba."
 - a. CSPs are to ensure that every passenger receives a Travel Declaration Form as part of the check-in procedure at the ticket counter assigned to the charter.
 - b. CSPs must collect completed, signed Travel Declaration Forms from each adult traveler before the traveler passes into the jet way for the outbound aircraft. You may allow no adult passenger to board any aircraft bound for Cuba without first collecting a completed, signed Travel Declaration Form.

9. CSPs must make available to the U.S. Customs Service inspector at the departure gate the completed Travel Declaration Forms. The Customs inspector may return the forms to the CSP after reviewing them. When completed Forms are returned to you, or if no Customs inspector is present at the departure gate, then all of the completed Forms must be forwarded to the OFAC-Miami office no later than the fifth day of the month following the month of travel or as you arrange with the Sanctions Coordinator.

OTHER CSP OPERATIONS

1. CSPs may not carry "fully hosted" travelers on flights to Cuba.
2. Service providers wishing to use other businesses (for example: travel agencies booking seats on behalf of passengers) to assist in the licensable service they provide must ensure that transactions are conducted only with another OFAC authorized business operating from an OFAC-authorized address.
3. CSPs may only conduct business from an address(es) which OFAC authorizes.
4. CSPs may ticket passengers only on flights which depart from an authorized airport in the United States during the operational hours of 0800 TO 2200. If a CSP seeks to depart outside of these hours, then clearance must be received in advance both from OFAC-Miami and from the official with the discretion to provide clearance on behalf of the U.S. Customs Service at the following contact numbers:

MIA:	Service Port Director	(305) 869-2800
JFK:	Area Director	(718) 553-1542
LAX:	Port Director	(310) 215-2618
5. Booking of seats on flights between a third country and Cuba may only be made with a travel agency located in the third country, unless all agencies involved in the transaction are authorized by OFAC.
6. CSPs must ensure that every passenger qualifies under an OFAC general license or possesses an OFAC specific license in compliance with the Regulations, and must keep records of such data for five year.
7. CSPs must engage in record keeping for each authorized transaction as described in §501.602 of the Reporting and Procedures Regulations, 31 CFR Part 501, and may use OFAC-suggested formats for this purpose. Records must be made available for OFAC audits and information must be furnished upon request.

8. Annual reports must also be filed with the OFAC-Miami Office on activities with Cuba covering the preceding calendar year. Each report must be filed no later than January 20 of each year. If you prefer not to use the OFAC suggested formats for filing your reports, please make sure that your report contains all the same information as is requested in the OFAC formats. Reports must be filed timely and must be filed even if there has been no business activity.
9. A service provider's failure to comply with the Regulations and/or these operating guidelines may subject the service provider to civil penalties and/or revocation of operating authority.
10. CSPs must use their best effort to (1) honor reservations of U.S. Government personnel and (2) guarantee cargo/diplomatic pouch space on any flight as requested by the U.S. Government.

Attachment:

Airport announcement in English/Spanish

#

TAB C

A F F I D A V I T

Persons traveling to Cuba in one 12 month period for reasons of humanitarian need
Personas que viajan a Cuba dentro de un periodo de 12 meses por razones de necesidad humanitaria

Date of declaration: _____

Fecha de la declaración: _____

I, _____, declare
the following:

Yo, _____, declaro lo
siguiente:

1. I understand that under a general license (§515.561), there is a possibility to travel once in any 12-month period to visit close relatives in Cuba in circumstances that demonstrate humanitarian need.

1. Yo entiendo que bajo la licencia general (§515.561), existe la posibilidad de poder viajar una vez en un periodo de 12 meses para visitar a familiares cercanos por circunstancias que demuestran necesidad humanitaria.

2. I understand that if I need to travel to Cuba for a second time within the 12 month period I must apply in writing for a specific license from the Office of Foreign Assets Control before engaging in any travel related transaction.

2. Yo entiendo que si necesito viajar a Cuba por segunda vez dentro de un periodo de 12 meses, he de solicitar por escrito una licencia específica a la Oficina de Control de Bienes Extranjeros antes de hacer alguna transacción de viaje.

I have read and understood the above mentioned and certify that:

Yo he leído y entendido lo antes mencionado y declaro que:

I have not traveled to Cuba within a period of 12 months under the terms of the humanitarian need general license.

Yo no he viajado a Cuba dentro de un periodo de 12 meses bajo los términos de necesidad humanitaria licencia general.

I certified that the above information is true and correct. (Afirmo que la información dada es verídica y correcta)

SIGNATURE _____ / _____ DATE
(Firma) (Fecha)

Witnessed by employee of licensed TSP OR CSP (Firma de testigo del empleado de la agencia autorizada)

Name [print] Nombre [letra de imprenta]]

Signature (Firma)

Service Provider's name (Nombre de la agencia)

TRAVEL AFFIDAVIT

I understand that under current United States travel restrictions with respect to Cuba, travel related transactions are prohibited except for the following categories and that by signing my name at the bottom of this affidavit, I am declaring that I fall under the category I have checked below:

- ☐ 1. **Official government travelers** --U.S. and foreign government officials including representatives of international organizations of which the United States is a member, who are traveling on official business.
- ☐ 2. Persons regularly employed as **journalists** by a news reporting organization and persons regularly employed as **supporting broadcast or technical personnel** who travel to Cuba to engage in journalistic activities.
- ☐ 3. Persons traveling **once in a twelve-month period** to visit close relatives in Cuba in circumstances of **humanitarian need**.
- ☐ 4. Amateur or semi-professional athletes, selected by their relevant sports federation, traveling to participate in Cuba in athletic competition held under the auspices of an international sports federation.
- ☐ 5. Full-time professionals whose travel transactions are directly related to non-commercial, academic research in their professional areas and whose research will comprise a full work schedule in Cuba and have a substantial likelihood of dissemination.
- ☐ 6. Full-time professionals whose travel transactions are directly related to attendance at professional meetings or conferences in Cuba organized by an international professional organization (not headquartered in U.S.) that regularly sponsors meetings or conferences in other countries. The purpose of the meeting or conference does not promote tourism or other commercial activity involving Cuba or the production of biotechnological products.
- ☐ 7. Persons who have received a specific license from OFAC prior to traveling. My OFAC License No. is _____

Name _____
(Nombre)

Phone Number () _____
(Número telefónico)

Yo entiendo que bajo las actuales restricciones de viaje de los Estados Unidos referente a Cuba, cualquier transacción de viaje esta prohibida excepto por las siguientes categorías y que firmando esta planilla estoy declarando que viajo bajo una de estas categorías:

- ☐ 1. **Oficiales del gobierno** estadounidense y extranjeros incluyendo representantes de organizaciones internacionales de las cuales Estados Unidos es también un miembro, quienes viajan por asuntos oficiales.
- ☐ 2. Personas regularmente empleadas como **periodistas** por agencias noticiosas y como **personal de apoyo técnico para radiodifusoras** quienes viajan para participar en actividades periodísticas.
- ☐ 3. Personas que viajan **una vez en un periodo de doce meses** para visitar familiares cercanos en Cuba en circunstancias de **necesidad humanitaria**.
- ☐ 4. Atletas aficionados o semi-profesionales seleccionados por sus respectivas federaciones deportivas que viajan para participar en Cuba en competencias atléticas bajo los auspicios de una federación deportiva internacional.
- ☐ 5. Profesionales que trabajan tiempo completo y cuyas transacciones de viaje estan directamente relacionadas con investigación académica no comercial en las areas de su profesión y cuya investigación llenará un programa de trabajo completo en Cuba y tiene la posibilidad sustancial de ser diseminada.
- ☐ 6. Profesionales que trabajan tiempo completo cuyas transacciones de viaje estan directamente relacionadas con asistir a reuniones y conferencias profesionales en Cuba organizadas por instituciones u organizaciones (cuyas oficinas no tienen como base los Estados Unidos) que regularmente organizan éstas en otros países. El propósito de la reunión o conferencia no promueve el turismo u otra actividad comercial en Cuba o la producción de productos biotecnológicos.
- ☐ 7. Personas que han recibido una licencia específica de OFAC antes de viajar. El número de mi Licencia de OFAC es: _____

Date of Birth _____
(Fecha de Nacimiento)

ADDRESS _____
(Dirección)

I certified that the above information is true and correct. (Afirmo que la información dada es verídica y correcta)

SIGNATURE _____
(Firma)

DATE _____
(Fecha)

Witnessed by licensed TSP or CSP (Firma de testigo del empleado del Proveedor de Servicios autorizado)

Name [print] (Nombre [letra de imprenta])

Signature (Firma)

Service Provider's name
(Nombre del Proveedor de Servicios)

OFFICE OF CUBAN AFFAIRS

U.S. Department of State
WHA/CCA, Room 3234
2201 C Street, N.W.
Washington, D.C. 20520-6263

Phone: (202) 647-9273
FAX: (202) 736-4476

FAX: HELMS-BURTON UNIT: (202) 647-7095

FAX COVER SHEET

DATE: 2/17

TO: Caryn Hollis

FROM: Tim Wolfe

SUBJECT: Please see attached for your clearance.

URGENT ACTION REPLY FYI

REMARKS: Apologies that I have not sent the new Commerce & BEAC proposed regs yet. Still waiting for the OFAC text.

NUMBER OF PAGES (INCLUDING COVER PAGE): 4

(IF THIS TRANSMISSION WAS NOT RECEIVED IN ITS ENTIRETY, PLEASE CALL 202 647-9272)

UNCLASSIFIED
MEMORANDUM

TO: R. Richard Newcomb
Director
Office of Foreign Assets Control
Department of the Treasury

James Lewis
Director
Office of Strategic Trade and Foreign Policy Controls
Bureau of Export Administration
Department of Commerce

Rebecca Arbogast
Chief
Telecommunications Division
International Bureau
Federal Communications Commission

FROM: Brian J. Mohler
Director
Office of Economic Sanctions Policy
Bureau of Economic and Business Affairs

SUBJECT: Approving License Requests for Laying Fiber Optic Cable
between U.S. and Cuba

The Department of State is hereby requesting that the Department of Commerce and the Federal Communications Commission post the following information on their public databases for telecommunications issues and policy. We do not think that a higher profile press release would be advisable at this time. This information relates to the Department of State's recommendation of December 1999 to the Office of Foreign Assets Controls (OFAC) of the Department of Treasury, which approved the licensing of telecommunications companies to undertake

negotiations with the Cuban telephone company on laying a fiber optic cable to link the United States and Cuba.

Approval of Travel License

In December 1999, the Department of State informed the Department of the Treasury that it has no objection to OFAC issuing licenses for telecommunications companies to travel to Cuba on fact finding missions and for consultations with ETECSA (the Cuban telephone company) concerning the possibility of laying a fiber optic cable between the U.S. and Cuba to replace or augment the existing cable. This approval is subject to the applicants' understanding that issuance of a travel license does not constitute a guarantee that any future license application that companies may submit to lay fiber optic cable to Cuba will be approved. Approval of any such future license applications will be subject to an evaluation of the specific terms of the agreement reached by any U.S. company or group of companies with ETECSA.

Furthering People-to-People Contact

An interagency review has concluded that upgrading or replacing the existing telephone cable linking the U.S. and Cuba could play an important role in the Administration's people-to-people policy. A fiber optic cable would increase capacity for, and reliability of, voice communication between American citizens and the Cuban people. More significantly, such a cable would make possible improved data communications, potentially leading to unprecedented access to the Internet and electronic mail for the Cuban people. Although few Cubans currently own or have access to computers, over time the number ~~may~~ increase.

of them will

Section 1705(e) of the Cuban Democracy Act (CDA), P.L. 102-484, as amended, provides specific authority for licensing U.S. companies to provide "efficient and adequate telecommunications services between the United States and Cuba." Companies should note that the export of a fiber optic cable would still require a Commerce Department license. (If interested companies are not certain how their product is classified or of other licensing procedures, they should contact the Commerce Department at 202-482-4811 to inquire about classification procedures.)

Conditions of Approval

Any companies engaging Cuban officials in negotiations about installing a fiber optic cable should be aware that the cable could be installed only as far as the existing gateway; U.S. companies could undertake no effort to upgrade or invest in the

Cuban domestic network; the companies would be required to abide by all relevant U.S. laws and regulations regarding telecommunications and Cuba; and the cable would be subject to normal export licensing procedures through the Department of Commerce. The Cuban government, as half owner of the cable, would pay costs for material and installation at the gateway in Cuba.

4

OFAC: License Requests for laying fiber optic cable from U.S. to
Cuba - Public Memo

Drafted: WHA/CCA:JWolfe x7-9272 2/14/00

E:SEARACCA/2000 DOCS/ofac lic/jw-ofac-fiber optics-short

Cleared:	WHA/CCA:CShapiro	-ok
	WHA/FO:WBrownfield	
	EB/ESP:DElliot	-ok
	P:Trogan	-ok
	C:SSnyder	
	E:WWitteman	-ok
	NSC:CHollis	
	EB/CIP:DWells	-ok
	Commerce/BXA:JBolsteins	-info
	L/WHA:IDiaz	-ok
	L/EB:HSchildge	
	PA:LRodriguez	-ok
	T:ACHurch	-info
	S/CT:AMuirhead/MSheehan	-ok

 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO 2783
 CONNECTION TEL 94182816
 SUBADDRESS
 CONNECTION ID CIB ENGINEERING
 ST. TIME 03/09 18:47
 USAGE T 01'59
 PGS. 3
 RESULT OK

UNCLASSIFIED

Domestic OutGoing Cable

Status: Draft

Classification UNCLASSIFIED

Date 03/09/2000

DRAFTER/APPROVER INFORMATION

Drafter Info:

Office WHA/CCA

Name CJACKSON

Phone 202-647-9272

Approver Info:

Office WHA/CCA

Name CSSHAPIRO

ADDRESS INFORMATION

DESIRED DISTRIBUTION:

ARA/CCA; EB/CIP; EB/TRA/OTP; IO/T

POST ADDRESSES

USINT HAVANA IMMEDIATE
 MONTREAL
 GENEVA
 FAA WASHDC
 FCC WASHDC

OPTIONAL FORM 99 (7-90)

See exp. (*) on page 3.

FAX TRANSMITTAL

of pages - 3

To Joe Casey	From Carol Jackson
Dept FCC Enforcement	Phone 647-9272
Fax 202/418-2816	Fax 736-4476

CLEARANCE INFORMATION

NSN 7540-01-317-7368

5093-101

GENERAL SERVICES ADMINISTRATION

MESSAGE/HEADER INFORMATION

Special Handling Captions:

Other Captions:

FreeForm Captions: FAA: ASCOTT

FCC: JCASEY

EB/CIP: HGRIGSBY

EB/TRA/OTP: SBENNETT

NSC: CHOLLIS

UNCLASSIFIED

Domestic OutGoing Cable

Status: Draft

Classification UNCLASSIFIED

Date 03/09/2000

DRAFTER/APPROVER INFORMATION

Drafter Info:

Office WHA/CCA

Name CJACKSON *gj*

Phone 202-647-9272

Approver Info:

Office WHA/CCA

Name CSSHAPIRO

ADDRESS INFORMATIONDESIRED DISTRIBUTION:

ARA/CCA; EB/CIP; EB/TRA/OTP; IO/T

*Caryn - REVISED TEXT
I need your clearance Friday morn!*POST ADDRESSES

USINT HAVANA IMMEDIATE

MONTREAL

GENEVA

FAA WASHDC

FCC WASHDC

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL# of pages *43*To *Caryn Hollis*From *Shapiro Jackson*Dept./Agency *NSC*

Phone #

Fax # *4156-9130*

Fax #

NSN 7540-01-317-7368

5099-101

GENERAL SERVICES ADMINISTRATION

CLEARANCE INFORMATIONMESSAGE/HEADER INFORMATION

Special Handling Captions:

Other Captions:

FreeForm Captions: FAA: ASCOTT *gj*
 FCC: JCASEY *pending*
 EB/CIP: HGRIGSBY *gj*
 EB/TRA/OTP: SBENNETT *gj*
 NSC: CHOLLIS *pending*

TAGS: CU, BAIR, ECPS, KTIA

Subject Line: DEMARCHE: HOAX
 TRANSMISSIONS THREATEN
 AIR TRAFFIC SAFETY

Reference:

Message Text:

1. THIS IS AN ACTION TELEGRAM. PLEASE SEE PARAGRAPHS FOUR AND FIVE.

2. SUMMARY. SINCE MID-MAY 1999, A U.S. FIRM WORKING WITH THE FEDERAL AVIATION ADMINISTRATION (FAA) HAS DETECTED AND REPORTED

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FIVE INSTANCES IN WHICH HOAX TRANSMISSIONS EMANATING FROM CUBA HAVE ATTEMPTED TO INTERFERE WITH OVER-WATER (OCEANIC) AIR TRAFFIC CONTROL OPERATIONS. AERONAUTICAL RADIO, INC., A FIRM FUNDED BY COMMERCIAL AIRLINES TO PROVIDE LONG DISTANCE COMMUNICATIONS FOR THEM (CONSIDERED A SAFETY-OF-LIFE SERVICE), DETECTED HOAX TRANSMISSIONS ON FIVE OCCASIONS (IN MAY 1999, DECEMBER 1999, AND FEBRUARY 2000); THE FEDERAL COMMUNICATIONS COMMISSION (FCC) HAS DETERMINED THAT THE TRANSMISSIONS EMANATED FROM VARIOUS LOCATIONS, INCLUDING THE VICINITY OF HAVANA, MATANZAS, SANTA CLARA, AND CENTRAL PINAR DEL RIO PROVINCE.

3. DURING THE TRANSMISSIONS, PERSONS CLAIMED TO BE FLYING U.S. MILITARY AIRCRAFT, BUT THE PURPORTED AIRCRAFT NEVER APPEARED ON FAA RADAR. THE TRANSMISSIONS PRESENT A SAFETY PROBLEM BECAUSE THEY COMPLICATE U.S. AIR TRAFFIC CONTROL BY CONSUMING AIR TRAFFIC CONTROLLERS' TIME AND ATTENTION, AND BECAUSE CONTROLLERS MUST RESERVE AIR SPACE FOR FLIGHTS WHICH ARE LATER DETERMINED NOT TO EXIST. THE U.S. INTERESTS SECTION IN HAVANA IS INSTRUCTED TO DELIVER TO THE GOC A DEMARCHE AND A DIPLOMATIC NOTE PROTESTING THESE TRANSMISSIONS (SUGGESTED TEXT FOLLOWS AS PARA FOUR). WHILE THE USG MAY LATER FILE FORMAL COMPLAINTS ABOUT THESE TRANSMISSIONS WITH THE INTERNATIONAL TELECOMMUNICATIONS UNION AND THE INTERNATIONAL CIVIL AVIATION ORGANIZATION, WE ARE NOT YET READY TO DO SO. THE FCC HAS INFORMALLY REPORTED THE MAY 1999 INCIDENTS TO THE ITU. THIS MESSAGE HAS BEEN SENT AS INFO TO THE U.S. MISSIONS IN GENEVA AND MONTREAL FOR THEIR INFORMATION AND POSSIBLE FUTURE USE.
END SUMMARY.

4. (U) ACTION REQUESTED: USINT HAVANA SHOULD PREPARE AND DELIVER THE FOLLOWING TEXT IN THE FORM OF A DIPLOMATIC NOTE. BEGIN SUGGESTED TEXT (DELETE PARAGRAPH MARKINGS IN ACTUAL NOTE):

PARA A: THE UNITED STATES INTERESTS SECTION OF THE EMBASSY OF SWITZERLAND PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN RELATIONS OF THE REPUBLIC OF CUBA AND HAS THE HONOR TO INFORM THE MINISTRY OF A SERIES OF TRANSMISSIONS THAT HAVE BEEN DETERMINED TO HAVE EMANATED FROM THE TERRITORY OF THE REPUBLIC OF CUBA AND WHICH POSE A CLEAR AND PRESENT THREAT TO THE SAFETY OF AIR TRAFFIC.

PARA B: THE FEDERAL AVIATION ADMINISTRATION (FAA) OF THE UNITED STATES OF AMERICA HAS REPORTED TO THE UNITED STATES DEPARTMENT OF STATE THAT OVER THE PAST TEN MONTHS, FIVE INCIDENTS OF HOAX TRANSMISSIONS WERE REPORTED TO IT BY AN ENTITY THAT PROVIDES LONG DISTANCE COMMUNICATIONS FOR COMMERCIAL AIRLINES (CONSIDERED A SAFETY-OF-LIFE SERVICE). DURING THESE TRANSMISSIONS, PERSONS CLAIMED TO BE FLYING U.S. MILITARY AIRCRAFT. HOWEVER, THE OSTENSIBLE AIRCRAFT NEVER APPEARED ON FAA RADAR. THESE HOAX TRANSMISSIONS COMPLICATE U.S. AIR TRAFFIC CONTROL BY CONSUMING TIME IN COMMUNICATIONS WITH AIR TRAFFIC CONTROLLERS, AS WELL AS BY REQUIRING CONTROLLERS TO RESERVE AIR SPACE FOR FLIGHTS WHICH ARE LATER

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DETERMINED NOT TO EXIST.

PARA C: THE UNITED STATES INTERESTS SECTION REQUESTS THAT THE MINISTRY OF FOREIGN RELATIONS CONVEY THESE SAFETY CONCERNS TO THE GOVERNMENT OF CUBA FOR INVESTIGATION AND CORRECTIVE ACTION. THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE RELEVANT CIVILIAN ORGANIZATIONS HAVE BEEN ADVISED TO BE ALERT TO THE POSSIBILITY OF FUTURE DECEPTIVE TRANSMISSIONS.

PARA D: THE MINISTRY MAY FIND HELPFUL THE FOLLOWING DETAILS ON THE TRANSMISSIONS, MOST OF WHICH HAVE BEEN DETERMINED TO HAVE EMANATED FROM CENTRAL PINAR DEL RIO PROVINCE IN WESTERN CUBA (ALTHOUGH EMANATIONS WERE DETECTED FROM VARIOUS LOCATIONS INCLUDING THE VICINITIES OF HAVANA AND SURROUNDING AREAS, MATANZAS, AND SANTA CLARA):

13 MAY 1999 (1637 UTC TO 1652 UTC): SINGLE SIDEBAND VOICE SIGNAL ON THE CARRIERS AT 11,330 KILOHERTZ AND 17,907 KILOHERTZ;

14 MAY 1999 (2100 UTC) - 17 MAY 1999 (1500 UTC): BROADCAST JAMMING AT 11,331.4 KILOHERTZ;

18 MAY 1999 (1933 UTC AND 1943 UTC): SINGLE SIDEBAND VOICE SIGNAL ON THE CARRIERS AT 11,330 KILOHERTZ;

29 DEC 1999 (1505 UTC TO 1534 UTC): SINGLE SIDEBAND VOICE SIGNAL ON THE CARRIER AT 11,330 KILOHERTZ;

28 JAN 2000 (1920 UTC OR 1957 UTC -- FAA AND FCC TO DETERMINE WHO'S CORRECT); SINGLE SIDEBAND VOICE SIGNAL ON THE CARRIER AT 11,330 KILOHERTZ.

PARA E: THE UNITED STATES INTERESTS SECTION WOULD APPRECIATE BEING INFORMED OF THE STEPS THE GOVERNMENT OF CUBA HAS TAKEN TO HALT THESE POTENTIALLY DANGEROUS TRANSMISSIONS.

PARA F: COMPLIMENTARY CLOSE. END TEXT.

6. PLEASE FAX WHA/CCA A COPY OF THE DIPLOMATIC NOTE ONCE IT HAS BEEN DELIVERED TO THE MINISTRY OF FOREIGN RELATIONS, AND REPORT ANY REACTION TO ITS CONTENT.

}*

UNCLASSIFIED

Hollis, Caryn C. (INTERAM)

From: DeRosa, Mary B. (LEGAL)
Sent: Monday, May 01, 2000 7:15 PM
To: Hollis, Caryn C. (INTERAM)
Subject: FW: [UNCLASSIFIED]

For *your* review and comment.

-----Original Message-----

From: DeRosa, Mary B. (LEGAL)
Sent: Monday, May 01, 2000 6:56 PM
To: @LEGAL - Legal Advisor
Subject: (UNCLASSIFIED)

Any comments??

Please pass to Sandy

On the margins of a letter from Representatives McGovern and Moakley about Cuba, you asked "what sanctions are left that can be waived by executive authority?"

In 1996 the Helms-Burton Act (section 102(h)) codified the embargo -- which had previously been in place pursuant to executive action. The Helms-Burton Act contains no waiver provision. The only presidential action that the Act contemplates to lift the embargo is after a presidential determination that a transition government is in power in Cuba. Therefore, the executive branch may not lift or suspend the embargo's broad restrictions.

Section 102(h) does not, however, lock in place the embargo's restrictions exactly as they existed when Helms-Burton passed. (Although some in Congress would argue it does.) Instead, the codification includes reasonable administrative flexibility to ensure that the programs serve the foreign policy objectives of the embargo. Therefore, we have the flexibility to ease some of the current restrictions through licensing policy, but we cannot change the basic character of the embargo.

How to draw these lines is very difficult legally and requires a careful review of any proposed ^{change -} restriction. The best way to demonstrate that a modification is an exercise of reasonable regulatory flexibility -- rather than a basic change to the embargo -- is to show that at some point in the embargo's history it was interpreted to permit the activity in question. For example, restrictions on the number of family reunification visits permitted by U.S. persons to Cuba have changed over time. Currently, only one visit is permitted per year, and any others must be justified on "humanitarian" grounds. According to OFAC, at earlier times in the embargo's history there were no limits on the number of family reunification visits permitted. Therefore, it can be argued that to permit unlimited family reunification visits would be an exercise of regulatory flexibility, not a change to the basic embargo restrictions.

Our initiative to permit the sale of food to independent entities in Cuba was criticized by some in Congress as inconsistent with the Helms-Burton codification of the embargo. It is our position, however, that it is permitted because it is consistent with the general embargo policy first announced by President Kennedy that sales of foodstuffs may be permitted on humanitarian grounds. In addition, it was consistent with the Helms-Burton Act's encouragement of support for individuals and independent, nongovernmental organizations to support democracy-building efforts for Cuba.

There are certainly other actions that we can take to ease some embargo restrictions. For example, we could lift the restrictions on family reunification visits or permit higher remittances. On the other hand, although we have not conducted a complete legal review, it is unlikely that we could permit broader sales of food (including to government entities) without new legislation. Any truly significant changes to our sanctions against Cuba will require legislation.

2. ~~who~~ who approved measures?



Smithsonian Institution

Office of International Relations

December 24, 1998

DEC 30 1998

Mr. James Dobbins
Special Assistant to the President and
Senior Director of Inter-American Affairs
National Security Council
361 Old Executive Office Building
Washington DC 20504

Dear Mr. Dobbins:

On December 15, 1998, a group of Smithsonian scholars and professional colleagues, representing the Institution's America's Jazz Heritage Program, were scheduled to travel to Havana to attend the annual Cuban jazz festival for the second year in a row. All fell clearly within the guidelines for special licensing under educational exchange. Although application was filed with the Treasury Department on October 27, seven weeks in advance of the planned departure - we had always understood that one month was sufficient - the license was not issued in a timely fashion and travel and hotel reservations were canceled. Because the trip was to participate in a specific activity, delayed travel was not an option. Numerous calls and followup for a period of one week, resulted in the issuance of the license at 4:45 pm on December 14, the day prior to departure. With a great deal of difficulty, arrangements were made to rebook two of the participants to leave the next day for Havana, but the larger number could not go. The reason for the delay, as stated by the Foreign Assets Control staff, was simply that they had so many applications that they were still working on applications sent in September; that there was insufficient staff to move the process along any faster; and that the actual departure date had no significance to the process.

I bring this incident to your attention because of the larger issue of the severe gap between the stated policy of the Administration to promote person-to-person exchange and the lack of adequate infrastructure to allow this to happen. The Smithsonian has conducted scientific and education exchange with the Cubans for many years, utilizing whatever system of licensing required at the particular time. We have been told many times, particularly in the last few years, that the type of contact exemplified by the Smithsonian's person-to-person scholarly exchanges, is exactly the type of activity which best serves United States' interests. We remain in close touch with USIA and with the

S. Dillon Ripley Center Suite 3123
1100 Jefferson Drive SW
Washington DC 20560-0705
202.357.4795 Telephone
202.786.2557 Fax
fcb@ic.si.edu E-mail

U.S. Interests Section in Havana and are always encouraged to continue our programs.

The inability or unwillingness of the Treasury Department to allocate appropriate resources to adequately process applications for special licenses is, de facto, a sanction against the very best kind of US-Cuban exchange. I hope that the National Security Council might be moved to look at this issue and determine whether U.S. interests are indeed being served.

I would be happy to provide additional information regarding this incident should you wish to receive it.

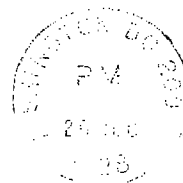
Sincerely,

A handwritten signature in cursive script, appearing to read "Francine Berkowitz".

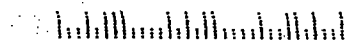
Francine C. Berkowitz
Director



Smithsonian Institution
International Relations
Washington, D.C. 20560-0705
Official Business
Penalty for Private Use \$300



Mr. James Dobbins
Special Assistant to the President and
Senior Director of Inter-American Affairs
National Security Council
361 Old Executive Office Building
Washington, D.C. 20504



Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
008. memo	To: POTUS; From: Samuel Berger; Re: Cuban Illegal Migration Incidents (3 pages)	07/22/1999	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs (Hollis, caryn)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Wendy Sherman Meetings / Policy Papers [3]

2016-0920-F
sb2131

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
009a. memo	Re: 2000 Contingency Planning Guidance (18 pages)	00/00/2000	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Inter-American Affairs (Hollis, caryn)
OA/Box Number: 2925

FOLDER TITLE:

Cuba-Wendy Sherman Meetings / Policy Papers [3]

2016-0920-F
sb2131

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
009b. paper	Draft/Working Paper - Re: Strategic Concept (5 pages)	02/00/2000	P1/b(1)

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