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February 2, 2009

Congressional Research Service

Report RL30628

*CUBA: ISSUES AND LEGISLATION IN THE 106TH  
CONGRESS*

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Updated January 11, 2001

**Abstract.** Numerous measures were introduced in the 106th Congress that reflected the range of views on U.S. policy toward Cuba. Legislative action last year focused on initiatives to ease restrictions on U.S. food and medical exports to Cuba and initiatives to ease restrictions on travel to Cuba. At the same time, there was legislative action to increase sanctions: by conditioning aid to Russia on closing the Russian signals intelligence facility at Lourdes, Cuba; and by making it easier for enforcement of anti-terrorism judgments in U.S. courts, thereby allowing for the payment of a \$187.6 million 1997 judgment against Cuba to be paid from Cuba's frozen assets in the United States to the families of three U.S. citizens killed when Cuba shot down two U.S. planes in 1996. Other initiatives introduced in the 106th Congress dealt with such issues as Cuba's poor human rights situation, cooperation with Cuba on drug trafficking efforts, and the Elian Gonzalez immigration case.

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## Cuba: Issues and Legislation In the 106th Congress

Updated January 11, 2001

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# Cuba: Issues and Legislation in the 106th Congress

## Summary

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

Since the early 1960s, U.S. policy toward Cuba has consisted largely of isolating the island nation through comprehensive economic sanctions. The Clinton Administration essentially continued this policy of isolating Cuba. The principal tool of policy remains comprehensive sanctions, which were made stronger with the Cuban Democracy Act (CDA) in 1992 and the Cuban Liberty and Democratic Solidarity Act in 1996, often referred to as the Helms/Burton legislation. Another component of U.S. policy consists of support measures for the Cuban people. This includes private humanitarian donations and U.S.-sponsored radio and television broadcasting to Cuba. Under this rubric of support for the Cuban people, President Clinton announced several policy actions in March 1998. These included the resumption of direct charter flights and cash remittances to Cuba, and the streamlining of licensing procedures for the sale of medicines. In January 1999, the President announced additional measures, including a broadening of permissible cash remittances, increasing direct charter flights, expanding people-to-people contact, and authorizing the sale of food and agricultural inputs to independent entities in Cuba.

Although U.S. policymakers agree on the overall objective of U.S. policy toward Cuba — to help bring democracy and respect for human rights to the island — there have been several schools of thought about how to achieve that objective. Some advocate a policy of keeping maximum pressure on the Cuban government until reforms are enacted, while continuing current U.S. efforts to support the Cuban people. Others argue for an approach, sometimes referred to as constructive engagement, that would lift some U.S. sanctions that they believe are hurting the Cuban people, and move toward engaging Cuba in dialogue. Still others call for a swift normalization of U.S.-Cuban relations by lifting the U.S. embargo.

Numerous measures were introduced in the 106<sup>th</sup> Congress that reflected the range of views on U.S. policy toward Cuba. Legislative initiatives proposed both easing and increasing sanctions against Cuba. In the end, legislation passed reflected both approaches: it allowed the export of food and medicine to Cuba, but prohibited any U.S. financing, both public and private, of such exports. Travel to Cuba for tourism was also prohibited. Another law facilitated enforcement of anti-terrorism judgments in U.S. courts to allow for the payment of a \$187.6 million 1997 judgment against Cuba to be paid from Cuba's frozen assets in the United States to the families of three U.S. citizens killed when Cuba shot down two U.S. planes in 1996. President Clinton waived the provision, however, upon signing the rest of the bill into law.

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# Cuba: Issues and Legislation in the 106th Congress

## End-of-Session Legislative Developments

*On October 18, the Senate agreed to the conference report (H.Rept. 106-948) on H.R. 4461, the FY2001 agriculture appropriations bill, by a vote of 86-8. It was signed into law October 28 (P.L. 106-387). Title IX of this bill allows the export of food and medicine to Cuba and other countries against whom the United States has imposed economic sanctions for foreign policy purposes. In the case of Cuba, however, no U.S. assistance or financing may be provided by any U.S. entity, public or private, for such sales. (The President may waive the prohibition of U.S. assistance for commercial exports to Iran, Libya, North Korea, or Sudan for national security or humanitarian reasons.) Sales of food and medicine to Cuba may only be paid for by cash in advance or through third country financing. The bill also codified existing embargo regulations by prohibiting both the importation of merchandise from Cuba and travel for tourism to Cuba. (For more, see sections on "Travel Restrictions" and on "Food and Medical Exports" below.)*

*In the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386), sections 2002 and 2003 direct the Secretary of the Treasury to pay compensatory damages for certain claims against Cuba (and Iran). As provided for in this bill, President Clinton waived such payments in the interest of national security when he signed the bill into law on October 28, 2000.*

## Economic Conditions

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

Socialist Cuba has prided itself on the nation's accomplishments in health and education. For example, according to the World Bank, the literacy rate is 94% and life expectancy is 76 years, compared to 79% and 68 years average for other middle-income developing countries. The United Nations Children's Fund (UNICEF)

reports that Cuba's infant mortality rate (per 1,000 live births) was just 7.9 in 1996, the lowest rate in Latin America and among the world's top 20 countries for this indicator. Nevertheless, the country's economic decline has reduced living standards considerably and resulted in shortages in medicines and medical supplies.

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

Despite these measures, the quality of life for many Cubans remains difficult, characterized by low wages, high prices for many basic goods, shortages of medicines, and power outages. Moreover, some analysts fear that the government has begun to backtrack on its reform efforts. Regulations and new taxes have made it extremely difficult for many of the nation's self-employed (at one point estimated at more than 200,000, but now estimated at 160,000 or lower, out of a total labor force of some 4.5 million). Some home restaurants have been forced to close because of the regulations. Some foreign investors in Cuba have also begun to complain that the government has backed out of deals or forced them out of business.<sup>1</sup>

## Political Conditions

Although Cuba has undertaken some limited economic reforms, politically the country remains a hard-line Communist state. Fidel Castro, who turned 73 on August 13, 1999, has ruled since the 1959 Cuban Revolution, which ousted the corrupt government of Fulgencio Batista from power. Castro soon laid the foundations for an authoritarian regime by consolidating power and forcing moderates out of the government. In April 1961, Castro admitted that the Cuban Revolution was socialist, and in December 1961, he proclaimed himself to be a Marxist-Leninist. From 1959 until 1976, Castro ruled by decree.

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<sup>1</sup> "Crackdowns, Restrictions, Sour Investors in Cuba," *Miami Herald*, June 10, 1999, p. 1A.

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

Pope John Paul II visited Cuba from January 21-25, 1998, and conducted a series of open-air masses across the country that were televised in Cuba. Numerous Catholic groups from the United States traveled to Cuba for the Pope's visit as did thousands of journalists from around the world. While much of his visit was spent on pastoral issues, such as encouraging Cubans to come back to the Church, the Pope also made more political statements. He criticized the U.S. embargo as "unjust and ethically unacceptable," but also criticized the Cuban government for denying freedom to the Cuban people. He asked the government to release "prisoners of conscience," and Vatican officials gave Cuba a list of more than 200 prisoners. On February 12, 1998, the Vatican announced that Cuba had freed dozens of detainees, noting that this step represented a prospect of hope for the future.

There was much speculation about what effect the Pope's trip to Cuba might have on the political situation. The trip did not spark unrest from those opposed to the regime, nor did the government take any actions to loosen the tight political control of the state and party. Over the longer-term, however, the Pope's visit could result in elevating the profile of the Catholic Church in such a way that it emerges as an important actor in Cuba's civil society. An enhanced profile could improve its chances to influence the policies and actions of the government.

## Human Rights

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

Estimates of the number of political prisoners in Cuba vary considerably since the Cuban government does not allow human rights organizations to monitor prisons. According to the State Department's human rights report covering 1999, human rights groups inside Cuba estimate the number of political prisoners at between 350 and 400. The overall number of political prisoners probably increased slightly in 1999,

compared to 1998, when Cuba released almost 100 prisoners, many of whom were on a list given to Castro by Vatican officials during the Pope's visit.

On July 23, 1999, Human Rights Watch issued a highly critical report on the human rights situation in Cuba, *Cuba's Repressive Machinery: Human Rights Forty Years After the Revolution*. The report describes how Cuba "has developed a highly effective machinery of repression," and has used this "to restrict severely the exercise of fundamental human rights of expression, association, and assembly." According to the report: "In recent years, Cuba has added new repressive laws and continued prosecuting nonviolent dissidents while shrugging off international appeals for reform and placating visiting dignitaries with occasional releases of political prisoners." (The full report is available on the Human Rights Watch site on the Internet at [<http://www.hrw.org/hrw/reports/1999/cuba/>].)

The State Department maintains that the human rights situation deteriorated in 1999. According to its human rights report: "The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country." In early March 2000, the Cuban Commission for Human Rights and National Reconciliation noted that political repression increased considerably from November 1999, when Cuba hosted the Ibero-American summit, through February 2000.

In May 2000, Cuba released three prominent dissidents from prison. On May 23, Cuba released Rene Gomez Manzano, while Marta Beatriz Roque was set free on May 15 and Felix Bonne on May 12. All three were leaders of the "Dissident Working Group" and had been imprisoned since July 1997. All three have vowed to continue their peaceful opposition to the Cuban government. One remaining leader of the group, Vladimiro Roca, remains in prison. The four leaders were convicted by a Cuban court on March 15, 1999, on charges of "sedition" under the Cuban penal code after a one-day trial on March 1. Sentences ranged from 3 ½ years for Roque to 4 years for Bonne and Gomez Manzano and 5 years for Roca. Just before the dissidents' trial, scores of human rights advocates, independent journalists, and other activists were detained so that they could not cover or protest the trial. The four dissidents had released a document in June 1997 entitled, "The Homeland Belongs to Us All" [<http://www.cubanet.org/CNews/y97/jul97/homdoc.htm>] that strongly criticized a draft report of the 5<sup>th</sup> Congress of the Cuban Communist Party that was going to be held that October. The dissidents also urged Cubans not to vote in legislative elections and encouraged foreign investors not to invest in Cuba.

**UNCHR Resolutions.** From 1991 until 1997, the U.N. Commission on Human Rights (UNCHR) called on the Cuban government to cooperate with a Special Representative (later upgraded to Special Rapporteur) designated by the Secretary General to investigate the human rights situation in Cuba. But Cuba refused to cooperate with the Special Rapporteur, and the UNCHR annually approved resolutions condemning Cuba's human rights record. On April 21, 1998, however, the UNCHR rejected — by a vote of 16 to 19, with 18 abstentions — the annual resolution sponsored by the United States that would have condemned Cuba's rights record and would have extended the work of the Special Rapporteur for another year.



U.S. officials and human rights activists expressed deep disappointment with the vote. Observers maintained that the vote did not signify any improvement in human rights in Cuba, but rather was an expression of disagreement with the United States over its policy toward Cuba. In 1999 and 2000, the UNCHR again approved resolutions criticizing Cuba for its human rights record, although it did not appoint a Special Rapporteur. On April 23, 1999, the UNCHR resolution was approved by a vote of 21-20, with 12 abstentions. On April 18, 2000, the UNCHR resolution, sponsored by the Czech Republic and Poland, was approved by a vote of 21-18, with 14 abstentions.

## Outlook

Observers are divided over whether the Castro government will endure. While some believe that the demise of the government is imminent, there is considerable disagreement over when or how this may occur. Varying scenarios range from a coup or popular uprising, possibly with support from or acceptance by the Cuban military, to the voluntary resignation and self-exile of Castro. Some point to Castro's age and predict that the regime will collapse without Fidel at the helm. Other observers maintain that reports of the impending collapse of the Cuban government have been exaggerated and that Castro may remain in power for years. They point to Cuba's strong security apparatus and the extraordinary system of controls that prevents dissidents from gaining popular support. Moreover, observers maintain that Cuba's elite has no interest in Castro's overthrow, and that Castro still enjoys some support, in part because of the social benefits of the Cuban revolution, but also because Cubans see no alternative to Castro. Even if Castro is overthrown or resigns, the important question remaining is the possibility or viability of a stable democratic Cuba after Castro. Analysts point out that the Castro government has successfully impeded the development of independent civil society, with no private sector, no independent labor movement, and no unified political opposition. For this reason, they contend that building a democratic Cuba will be a formidable task, one that could meet stiff resistance from many Cubans.

## U.S. Policy Toward Cuba

### Overview

In the early 1960s, U.S.-Cuban relations deteriorated sharply when Fidel Castro began to build a repressive communist dictatorship and moved his country toward close relations with the Soviet Union. The often tense and hostile nature of the U.S.-Cuban relationship is illustrated by such events and actions as: U.S. covert operations to overthrow the Castro government culminating in the ill-fated April 1961 Bay of Pigs invasion; the October 1962 missile crisis in which the United States confronted the Soviet Union over its attempt to place offensive nuclear missiles in Cuba; Cuban support for guerrilla insurgencies and military support for revolutionary governments in Africa and the Western Hemisphere; the 1980 exodus of around 125,000 Cubans to the United States in the so-called Mariel boatlift; the 1994 exodus of more than 30,000 Cubans who were interdicted and housed at U.S. facilities in Guantanamo and

Panama; and the February 1996 shutdown by Cuban fighter jets of two U.S. civilian planes, resulting in the death of four U.S. crew members.<sup>2</sup>

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

Another component of U.S. policy consists of support measures for the Cuban people, a so-called second track of U.S. policy. This includes U.S. private humanitarian donations, U.S. government support for democracy-building efforts for Cuba, and U.S.- sponsored radio and television broadcasting to Cuba, Radio and TV Marti. According to the Administration, the two-track policy of isolating Cuba, but reaching out to the Cuban people, meets both U.S. strategic and humanitarian interests.

In the aftermath of the Pope's January 1998 visit to Cuba, the Clinton Administration made several changes to U.S. policy intended to augment U.S. support for the Cuban people. In March 1998, President Clinton announced: 1) the resumption of licensing for direct humanitarian charter flights to Cuba (which had been curtailed after the February 1996 shutdown of two U.S. civilian planes); 2) the resumption of cash remittances up to \$300 per quarter for the support of close relatives in Cuba (which had been curtailed in August 1994 in response to the migration crisis with Cuba); 3) the development of licensing procedures to streamline and expedite licenses for the commercial sale of medicines and medical supplies and equipment to Cuba; and 4) a decision to work on a bipartisan basis with Congress on the transfer of food to the Cuban people. The President stated that his actions would "build further on the impact of the Pope's visit to Cuba," "support the role of the Church and other elements of civil society in Cuba," and "help prepare the Cuban people for a democratic transition."

In January 1999, President Clinton announced five additional measures to support the Cuban people: 1) a broadening cash remittances to Cuba, so that all U.S.

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<sup>2</sup> For more on the background of U.S.-Cuban relations from CRS see CRS Report RL30386, *Cuba-U.S. Relations: Chronology of Key Events Since 1959*.

residents (not just those with close relatives in Cuba) are allowed to send \$300 per quarter to any Cuban family and licensing larger remittances by U.S. citizens and non-governmental organizations to entities independent of the Cuban government; 2) an expansion of direct passenger charter flights to Cuba from additional U.S. cities other than the current flights from Miami, and to cities other than Havana (direct flights later in the year began from Los Angeles and New York); 3) the re-establishment of direct mail service to Cuba, which was suspended in 1962 (this measure has not yet been negotiated with the Cuban government); 4) authorization for the commercial sale of food to independent entities in Cuba such as religious groups and private restaurants and the sale of agricultural inputs to independent entities such as private farmers and farmer cooperatives producing food for sale in private markets and 5) an expansion of people-to-people contact through two-way exchanges among academics, athletes, and scientists.

Over the years, although U.S. policymakers have agreed on the overall objective of U.S. policy toward Cuba — to help bring democracy and respect for human rights to the island — there have been several schools of thought about how to achieve that objective. Some advocate a policy of keeping maximum pressure on the Cuban government until reforms are enacted, while continuing current U.S. efforts to support the Cuban people. Others argue for an approach, sometimes referred to as constructive engagement, that would lift some U.S. sanctions that they believe are hurting the Cuban people, and move toward engaging Cuba with dialogue. Still others call for a swift normalization of U.S.-Cuban relations by lifting the U.S. embargo.

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

On the other side, opponents of changing U.S. policy maintain that the current two-track policy of isolating Cuba, but reaching out to the Cuban people through measures of support, is the best means for realizing political change in Cuba. They point out that the Cuban Liberty and Democratic Solidarity Act of 1996 sets forth a road map for what steps Cuban needs to take in order for the United States to normalize relations, including lifting the embargo. They argue that softening U.S. policy at this time without concrete Cuban reforms would boost the Castro regime politically and economically, enabling the survival of the Communist regime. Opponents of softening U.S. policy argue that the United States should stay the course in its commitment to democracy and human rights in Cuba; that sustained

sanctions can work; and that the sanctions against Cuba have only come to full impact with the loss of large subsidies from the former Soviet bloc. Opponents of loosening U.S. sanctions further argue that Cuba's failed economic policies, not the U.S. embargo, are the causes of the economy's rapid decline.

Numerous measures have been introduced in the 106<sup>th</sup> Congress that reflect the range of views on U.S. policy toward Cuba. Legislative action in the second session has focused on initiatives to ease restrictions on U.S. food and medical exports to Cuba and initiatives to ease restrictions on travel to Cuba. At the same time, there has been legislative action to increase sanctions: by conditioning aid to Russia on closing the Russian signals intelligence facility at Lourdes, Cuba; and by making it easier for enforcement of anti-terrorism judgments in U.S. courts, thereby allowing for a \$187.6 million 1997 judgment against Cuba to be paid from Cuba's frozen assets in the United States to the families of three U.S. citizens killed when Cuba shot down two U.S. planes in 1996. Other initiatives introduced in the 106<sup>th</sup> Congress deal with such issues as Cuba's poor human rights situation, cooperation with Cuba on drug trafficking efforts, and the Elian Gonzalez immigration case. (For a full list of initiatives, see "Legislative Initiatives in the 106<sup>th</sup> Congress" below.)

## **Issues in U.S.-Cuban Relations**

### **Compensation for February 1996 Shootdown**

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

In 1996, President Clinton authorized \$300,000 to each of the families of the four victims, which was drawn from a pot of \$148.3 million in Cuban assets frozen in the United States. However, on December 17, 1997, a U.S. federal judge awarded \$187.6 million (\$49.9 million in compensatory damages and \$137.7 million in punitive damages) to the families of three of the shootdown victims who sued under a provision in the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104-132). (The fourth shootdown victim was not a U.S. citizen, and therefore not eligible to sue under the Act.) Cuba refused to recognize the court's jurisdiction.

In a federal lawsuit, relatives of three of the shootdown victims who were U.S. citizens are attempting to collect the judgment against the Cuban government through proceeds to Cuba from U.S. telephone companies. On March 18, 1999, a federal judge awarded \$6.2 million of the telephone payments to the families' victims. Of this amount, \$4.15 million would come from AT&T, \$1.05 million would come from MCI, and the remainder would come from LDDS Communications, IDB Telecommunications Services, and WilTel LLC. On August 11, 1999, however, a federal appeals court overturned the lower court's decision and ruled that the families could not collect the \$6.2 million, because the Cuban telephone company, ETECSA, is an entity separate from the Cuban government.

A provision in the FY1999 omnibus appropriations measure (P.L. 105-277, H.R. 4328) could have affected the payment of the December 1997 judgment from Cuba's frozen assets in the United States. That provision stipulates that foreign states are not immune from U.S. judgments for violations of international law. However, the provision also includes a presidential waiver for national security interests, which the President exercised October 21, 1998. The Clinton Administration opposed the provision, maintaining that it would undermine the authority of the President to use assets of countries under economic sanctions as leverage when sanctions are used to modify the behavior of a foreign state. Supporters maintain that it would let those nations who sponsor terrorism know that if they are found guilty in U.S. court, their assets will be liquidated in order to serve justice.

A provision in Section 118 of the Senate-approved version of H.R. 2490, the FY2000 Treasury Appropriations bill, would have limited the ability of the President to prevent frozen assets from being seized, but the provision was not included in the September 14, 1999 conference report.

Subsequently, the provision was introduced as a freestanding bill, S. 1796 (Lautenberg), on October 26, 1999. S. 1796 would amend the enforcement of certain anti-terrorism judgments in U.S. courts under the Foreign Sovereign Immunities Act (28 USC 1602-11) against foreign states designated to be state sponsors of terrorism, taking away the current presidential waiver for national security interests except for the protection of diplomatic property. The Senate Judiciary Committee reported the bill March 9, 2000, and the measure was placed on the Senate Legislative Calendar under General Orders. An identical House bill, H.R. 3485 (McCollum), was introduced November 18, 1999. The House Committee on the Judiciary reported the bill July 13, 2000 (H.Rept. 106-733) and the measure was placed on the Union Calendar. A supplemental report on H.R. 3485 was filed July 18, 2000 (H.Rept. 106-733, Part II). The House approved H.R. 3485 by voice vote on July 25, 2000. It was received in the Senate and placed on the Senate Legislative calendar under General Orders July 26, 2000.

According to press reports, on July 21, 2000, the Clinton Administration reportedly proposed a settlement with the families of the three shutdown victims that would allow them to collect around \$50 million in compensatory damages from frozen Cuban assets in the United States. The families of the victims rejected the deal, saying it was unacceptable because they judged it would not punish the Cuban government, but they said they would continue to negotiate if the Clinton Administration agreed to include punitive damages in the settlement.<sup>3</sup>

In the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386), sections 2002 and 2003 direct the Secretary of the Treasury to pay compensatory damages for certain claims against Cuba (and Iran). As provided for in this bill, President Clinton waived such payments in the interest of national security when he signed the bill into law on October 28, 2000.

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<sup>3</sup> Weaver, Jay. "Pilots' Families Reject U.S. Deal Punitive Damages Sought in '96 Cuba Shoot-down," *Miami Herald*, July 25, 2000.

## Helms/Burton Legislation

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

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

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

**Implementation of Title III and IV.** With regard to Title III, since July 1996 President Clinton has suspended — for six month periods, as provided for under the act — the right of individuals to file suit against those persons benefitting from confiscated U.S. property in Cuba. At the time of the first suspension on July 16, 1996, the President announced that he would allow Title III to go into effect, and as a result liability for trafficking under the title became effective on November 1, 1996. According to the Clinton Administration, this put foreign companies in Cuba on notice that they face prospects of future lawsuits and significant liability in the United States. At the second suspension on January 3, 1997, President Clinton stated that he would continue to suspend the right to file law suits “as long as America’s friends and allies continued their stepped-up efforts to promote a transition to democracy in Cuba.” The President has continued, at six-month intervals, to suspend the rights to file Title III lawsuits, with the most recent suspension on January 15, 2000.

With regard to Title IV of the legislation, to date the State Department has banned from the United States a number of executives and their families from three companies because of their investment in confiscated U.S. property in Cuba: Grupos Domos, a Mexican telecommunications company; Sherritt International, a Canadian mining company; and BM Group, an Israeli-owned citrus company. In 1997, Grupos Domos disinvested from U.S.-claimed property in Cuba, and as a result its executives are again eligible to enter the United States. Action against executives of STET, an Italian telecommunications company was averted by a July 1997 agreement in which

the company agreed to pay the U.S.-based ITT Corporation \$25 million for the use of ITT-claimed property in Cuba for ten years. In the 105th Congress, the FY1999 omnibus appropriations measure (P.L. 105-277, H.R. 4328) included a provision that requires the Administration to report on the implementation of Title IV of the Helms/Burton legislation. The State Department is investigating a Spanish hotel company, Sol Melia, for allegedly investing in property that was confiscated from U.S. citizens in Cuba's Holguin province in 1961.

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

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

Talks between the U.S. and the EU on investment disciplines proved difficult, with the EU wanting to cover only future investments and the U.S. wanting to cover past expropriations, especially in Cuba. Nevertheless, after months of negotiations, the EU and the United States reached a second understanding on May 18, 1998. The understanding sets forth EU disciplines regarding investment in expropriated properties worldwide, in exchange for the Clinton Administration's success at obtaining a waiver from Congress for the legislation's Title IV visa restrictions. Future investment in expropriated property would be barred. For past illegal expropriations, government support or assistance for transactions related to those expropriated properties would be denied. A Registry of Claims would also be established to warn investors and government agencies providing investment support that a property has a record of claims. These investment disciplines would be applied at the same time that President Clinton's new Title IV waiver authority was exercised.

Reaction was mixed among Members of Congress to the EU-U.S. accord, but opposition to the agreement by several senior Members has forestalled any amendment of Title IV in Congress. In a letter to Secretary of State Albright, Representative Gilman and Senator Helms criticized the understanding for not covering companies already invested in expropriated property. Among other criticisms, they argued that the understanding only proposes a weak sanction (denying

government support) that may not deter companies that are willing to invest in Cuba.<sup>4</sup> On the other side, however, some Members support the EU-U.S. understanding. They maintain that the understanding is important because it increases protection for the property of Americans worldwide and discourages investment in illegally confiscated property in Cuba.

## Section 211 Trademark Provision

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

After *Bacardi* began selling rum in the United States under the Havana Club label, *Pernod Ricard's* joint venture unsuccessfully challenged *Bacardi* in U.S. federal court. In February 2000, the U.S. Court of Appeals for the Second Circuit in New York upheld a lower court's ruling that the joint venture had no legal right to use the Havana Club name in the United States. *Pernod Ricard* has vowed to take the issue to the U.S. Supreme Court.<sup>5</sup>

Formal U.S.-EU consultations on the issue were held in September and December 1999 without resolution. In late 1999 EU.-U.S. talks, the EU reportedly proposed a resolution for the issue that would involve making the law only prospective, but the United States has not responded to that proposal.<sup>6</sup> In July 2000, the EU requested a WTO dispute resolution panel to consider the issue, maintaining that it violates the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), but the United States blocked the EU's request. Reportedly the EU will make another request for the WTO dispute settlement body to rule on the issue when the body meets again in late September 2000, in which case the United States would not be allowed to block the EU's request for a second time.<sup>7</sup>

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<sup>4</sup> "Text: Helms, Gilman Letter on Helms-Burton," *Inside U.S. Trade*. June 17, 1998.

<sup>5</sup> "Battle Over Cuban Rum Trademark New Threat to EU-U.S. Relations," *International Trade Reporter*, February 17, 2000, p. 269.

<sup>6</sup> "Commission Seeks Support for WTO Case in U.S. Trademark Law," *Inside U.S. Trade*, February 18, 2000.

<sup>7</sup> "Rum Trademark Case Goes to WTO," *Associated Press*, July 27, 2000.



The Clinton Administration did not support the trademark provision in the FY1999 omnibus appropriations bill. According to an internal memo prepared for the United States Trade Representative that was cited in the press, the language of the provision “violates our obligations under the TRIPS (Trade Related Aspects on Intellectual Property Rights) Agreement.”<sup>8</sup> However, the Administration did not move to make any changes to the provision of the law.

## Food and Medical Exports

In recent years, the U.S. sanctions regime has allowed the sale of both food and medical exports, but with restrictions. The agricultural appropriations bill for FY2001 that was passed by Congress in October 2000 (P.L. 106-387) terminates unilateral medical and agricultural sanctions, broadening what can be sold and to whom. But it also maintains the prohibition against the U.S. financing of such sales, and limits licenses to one year.

Several restrictions on commercial medical exports were set forth in the Cuban Democracy Act of 1992. On March 20, 1998, President Clinton announced that the Administration would develop licensing procedures to streamline and expedite licenses for the commercial sale of medicines and medical supplies and equipment to Cuba. The simplified procedures were put in place by the Commerce and Treasury Departments in May 1998.

With regard to commercial food sales, in 1999 President Clinton authorized the sale of food and agriculture inputs to independent entities in Cuba, such as religious groups, private farmers, and private restaurants. Treasury and Commerce Department regulations for these sales were issued May 13, 1999 (with an effective date of May 10.) The Administration hoped the policy change would support Cuba’s small private sector. To date, however, it appears that actual food sales have been negligible.

Some in the business community argue that the changes in policy have not amounted to much because they still do not allow financing for the sales. Nevertheless, U.S. agribusiness companies continue to explore the Cuban market for potential future sales. The Cuban government told a group of U.S. farmers who traveled there in November, after passage of the new law, that it was interested in buying U.S. agricultural exports but refuses to buy any U.S. food under the financing restrictions imposed by that new law.

Opponents of easing restrictions maintain that U.S. policy does not deny medical sales to Cuba, and since May 1999, does not deny food sales to independent groups in Cuba. Moreover, according to the State Department, since the Cuban Democracy Act was enacted in 1992, the United States has licensed more than \$2.5 billion in private humanitarian donations, including \$227 million in donations of medicines and medical equipment. Opponents of easing U.S. sanctions further argue that easing pressure on the Cuban government would in effect be lending support and extending the duration of the Castro regime. They maintain that the United States should remain

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<sup>8</sup> “Internal USTR Memo Calls for New Approach to Congress in 1999,” *Inside U.S. Trade*. November 27, 1998.

steadfast in its opposition to any easing of pressure on Cuba that could prolong the Castro regime and its repressive policies.

Supporters of easing restrictions on food and medical exports to Cuba argue that the restrictions harm the health and nutrition of the Cuban population. They argue that licensing procedures set up for the commercial sale of medical exports to Cuba are so complex that they essentially constitute a ban on such exports because of long delays and increased costs. They argue that although the U.S. government may have licensed more than \$2.5 billion in humanitarian donations to Cuba since 1992, in fact much smaller amounts have actually been sent to Cuba. Some supporters of easing sanctions believe the embargo plays into Castro's hands by allowing him to use U.S. policy as a scapegoat for his failed economic policies and as a rationale for political repression. Other supporters of eased restrictions argue that U.S. policy has complicated relations with our allies who have adopted a "constructive engagement" approach toward Cuba. U.S. agribusiness companies that support the removal of trade restrictions on agricultural exports to Cuba believe that U.S. farmers are missing out on a market of some \$700 million so close to the United States.

**Legislative Initiatives in the 106<sup>th</sup> Congress.** The most significant action in the first session of the 106<sup>th</sup> Congress occurred during August 4, 1999 Senate consideration of the FY2000 Agriculture Appropriations bill, S. 1233. A modified Ashcroft amendment was approved requiring congressional approval before the imposition of any unilateral agricultural or medical sanction against a foreign country. However, under the modified amendment, agricultural and medical exports to state sponsors of international terrorism — which includes Cuba — would be allowed pursuant to one year licenses issued by the U.S. government, and without any federal financing or export assistance. An attempt to table the Ashcroft amendment, before it was modified to restrict exports to sponsors of international terrorism, was defeated by a vote of 28 to 70 on August 3, 1999. The Senate subsequently approved S. 1233 and incorporated the language into H.R. 1906, with the Ashcroft amendment included as subsection 748 (k). The House version of the bill had no such provision, and ultimately the Ashcroft provision was not included in the conference report. Several Senators expressed strong disapproval with the manner in which the issue was decided. When the conference committee came to a stalemate over the Ashcroft provision on sanctions and another provision on dairy prices, the House and Senate Majority Leadership brokered an agreement that dropped the Ashcroft provision.

In the second session of the 106<sup>th</sup> Congress, there have been efforts in three legislative vehicles – the foreign aid authorization bill (S. 2382), FY2001 agriculture appropriations bill (H.R. 4461), and the FY2001 Treasury Department appropriations bill (H.R. 4871)– to lift restrictions on food and medical exports to Cuba. On March 23, 2000, the Senate Foreign Relations Committee included a provision in its FY2001 foreign aid authorization bill, S. 2382, the Technical Assistance, Trade Promotion, and Anti-Corruption Act. As reported by the Committee on April 7, 2000 (S.Rept. 106-257), the bill contains a provision similar to the Ashcroft provision on sanctions in the Senate version of the FY2000 agriculture appropriations bill described above. Title I, Subtitle C of S. 2382 would lift restrictions on food and medicine exports and allow licensed exports of these goods to countries classified as state sponsors of international terrorism, which includes Cuba. Agricultural and medical exports to

these countries would be allowed pursuant to one-year licenses issued by the U.S. government.

Both the House and Senate versions of the FY2001 agriculture appropriations bill (H.R. 4461 and S. 2536) as reported out of their respective committees included a provision similar to that in the foreign aid authorization bill that effectively would allow U.S. food and medical exports to Cuba. In the Senate bill, the provision was approved by voice vote in the Senate Appropriations Committee on May 9 through an amendment offered by Senator Byron Dorgan. The full Senate approved H.R. 4461 on July 20, 2000, which included the title allowing food and medical exports to Cuba.

In the House version of the bill, on May 4, 2000, the House Appropriations Committee's Subcommittee on Agriculture approved an amendment by Representative George Nethercutt that would lift restrictions on food and medical exports and allow licensed exports of these goods to countries classified as state sponsors of international terrorism, which includes Cuba. Subsequently, on May 10, the full House Appropriations Committee defeated (by a vote of 24-35) an attempt by Representative Tom DeLay to delete the title in H.R. 4461 that would lift restrictions on U.S. food and medical exports worldwide. Continued opposition by the House GOP leadership and some Members to the sanctions-loosening effort led to a June 27 compromise agreement hammered out among the House GOP leadership, the House sponsors of the provision, and Members who opposed the initiative. Under the reported compromise, U.S. food and medical exports to Cuba would be allowed pursuant to one-year licenses, but no U.S. government or U.S. private financing could be provided for the transactions. The agreement includes a provision stating that licensed U.S. travel to Cuba may not include travel for tourist activities, as well as another provision that would prohibit all U.S. government assistance to Cuba without any presidential waiver authority. Critics charged that the restrictions were so great that sales would be practically impossible, and that the new provisions on travel would tighten restrictions on certain categories of non-tourist travel currently allowed by the Treasury Department regulations.

When the House debated H.R. 4461, on July 10, 2000, the title dealing with food and medical exports was deleted on a point of order by Representative Diaz-Balart against legislation in an appropriation measure. However, the compromise language agreed to on June 27 was reportedly the basis of the House position in the conference to H.R. 4461. The Senate-passed provision was less restrictive than the June 27 compromise agreement. Another House floor amendment by Representative Rangel that sought to ease restrictions on trade with Cuba by eliminating funding to implement provisions in the foreign assistance and other statutes that prohibit U.S. exports to Cuba was ruled to be non-germane.

In the final version of the FY2001 Agriculture appropriations bill that was signed into law on October 28, 2000, the sale of agricultural and medical products to Cuba is allowed, but any U.S. financing – public or private – is prohibited. The bill also codified existing embargo regulations by prohibiting imports from Cuba and travel for tourism to Cuba.

During House consideration of the FY2001 Treasury Department appropriations bill, H.R. 4871, the House approved (301-116) a Moran (KS) amendment that would prohibit any funds in the bill from being used to implement any U.S. sanction on private commercial sales of agricultural commodities or medicine or medical supplies to Cuba. Although passage of the amendment marked a significant departure from the longstanding sanctions-oriented policy toward Cuba, its language was eliminated from a new version of the FY2001 Treasury Department appropriations bill, H.R. 4985, introduced on July 26. This version, with no mention of Cuba, was subsequently appended to the Legislative Branch appropriations bill, H.R. 4516, on July 27.

## Travel Restrictions

Restrictions on travel to Cuba have been a key component in U.S. efforts to isolate the communist government of Fidel Castro for much of the past 40 years. Over time there have been numerous changes to the restrictions and for 5 years, from 1977 until 1982, there were no restrictions on travel. On June 30, 1999, an attempt in the Senate to end the restrictions was defeated (55-43) during consideration of the foreign aid appropriations bill, S. 1234, but similar free standing legislation was introduced in each body, S. 1919 (Dodd), H.R. 259 (Serrano), and H.R. 4471 (Sanford). Moreover, on July 20, 2000, during consideration of the FY2001 Treasury Department appropriations bill, H.R. 4871, a Sanford amendment was approved (232-186) that would prohibit funds in the bill from being used to administer or enforce the Cuban Assets Control Regulations with respect to any travel or travel-related transaction. While passage of the amendment marked a significant departure from the longstanding sanctions-oriented policy toward Cuba, the language of the amendment was eliminated from a new version of the FY2001 Treasury Department appropriations bill, H.R. 4985, which was appended to the conference report (H.Rept. 106-796) on the Legislative Branch appropriations bill, H.R. 4516, on July 27.

As noted above in the discussion of H.R. 4461, the FY2001 agriculture appropriations bill, the final version of the food and medical provision states that licensed U.S. travel to Cuba may not include travel for tourist activities. Moreover, the law imposed tighter restrictions on non-tourist travel previously allowed by the Treasury Department regulations.

Major arguments made for lifting the Cuba travel ban are: it hinders efforts to influence conditions in Cuba and may be aiding Castro by helping restrict the flow of information; it abridges the rights of ordinary Americans; and Americans can travel to other countries with communist or authoritarian governments. Major arguments in opposition to lifting the Cuba travel ban are: American tourist travel would support Castro's rule by providing his government with millions of dollars in tourist receipts; there are legal provisions allowing travel to Cuba for humanitarian purposes that are used by thousands of Americans each year; and the President should be free to restrict travel for foreign policy reasons. (For more details, see CRS Report RS20409, *Cuba: U.S. Restrictions on Travel and Legislative Initiatives in the 106<sup>th</sup> Congress.*)

## Drug Trafficking Cooperation

Because of Cuba's geographic location, its waters and airspace are used by drug traffickers to transit low levels of cocaine and marijuana for ultimate destination to the United States. Cuban officials have expressed concerns over the use of their waters and airspace for drug transit as well as increased domestic drug use by way of the growing tourist sector. Cuba has made a number of law enforcement efforts to deal with the drug problem, including legislation to stiffen penalties for traffickers and cooperation with a number of countries on anti-drug efforts. The United States cooperates with Cuba on anti-drug efforts on a case-by-case basis, and there are undergoing efforts to make bilateral cooperation more systematic.

On June 21, 1999, U.S. and Cuban officials met in Havana to discuss ways of improving anti-drug cooperation. According to the State Department, Cuba accepted an upgrading of the current telex link between the Cuban Border Guard and the U.S. Coast Guard as well as the stationing of a U.S. Coast Guard officer at the U.S. Interests Section in Havana. Barry McCaffrey, Director of the Office of National Drug Control Policy, has stated that Cuba had demonstrated a willingness to help the United States in anti-narcotics efforts but has been ineffective because of a lack of resources. Some Members have called for closer U.S.-Cuban cooperation on anti-drug measures (see H.R. 2365), while some, strongly opposing such efforts, have called on Cuba to be added to the State Department's list of major-drug producing or transit countries (see H.R. 2422). They believe that the Cuban government is involved in the drug trade, although the State Department asserts that the United States has no credible evidence of recent high-level official drug-related corruption in Cuba. H.R. 3427, the Foreign Relations Authorization Act for FY2000 and FY2001, enacted into law by reference in P.L. 106-113, requires a report within 120 days on the extent of international drug trafficking through Cuba since 1990.

On November 10, 1999, the Clinton Administration decided not to add Cuba to the annual list of major drug transit countries. According to the Department of State, "Cuba was not placed on the list of major drug transit countries because there is no clear evidence that cocaine or heroin are transiting Cuba on the way to the United States in quantities that significantly affect the United States." (Daily Press Briefing, November 10, 1999) Some Members of Congress strongly objected to Cuba not being included on the list. A hearing on the issue was held November 17, 1999, before the House Government Reform Committee's Subcommittee on Criminal Justice, Drug Policy, and Human Resources.

During June 21, 2000 Senate consideration of the FY2001 foreign aid appropriations bill, S. 2522, the Senate approved by voice vote an amendment offered by Senator Specter for up to \$1 million to fund the Secretary of Defense to work with Cuba to provide for greater cooperation, coordination, and other assistance in the interdiction of illicit drugs. The final bill omitted that language.

## Russian Intelligence Facility in Cuba

Some Members of Congress have raised concerns about the Russian signals intelligence facility at Lourdes, Cuba. The facility at Lourdes was built in the

aftermath of the Cuban missile crisis of 1962. It allows Russia to monitor U.S. communications, including military communications that Russians contend ensure compliance with arms control agreements.

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

In the 106<sup>th</sup> Congress, on July 19, 2000 the House approved (275-146) H.R. 4118, the Russian-American Trust and Cooperation Act of 2000, that would have prohibited the rescheduling or forgiveness of any outstanding bilateral debt owed to the United States by Russia until the President certified that Russia had ceased all its operations at, removed all personnel from, and permanently closed the intelligence facility at Lourdes, Cuba. The bill would have provided the President with a national interests waiver for the prohibition against rescheduling bilateral debt owed to the United States by Russia, but not for debt forgiveness. The bill also required the President to instruct the U.S. representative to the Paris Club of official creditors to use the voice and vote of the U.S. to oppose rescheduling or forgiveness of any outstanding bilateral debt owed by Russia. No presidential waiver was provided for this provision. The Senate version, S. 2748, remained in committee.

Those supporting the bill argue that the listening post, which reportedly has been upgraded in recent years, permits the collection of U.S. military, diplomatic, and commercial data and allows the invasion of Americans' privacy. They argue the compensation paid by Russia to Cuba, estimated at between \$100-\$300 million annually, helps prop up the Castro government financially. Those opposed to the bill argue that facilities such as that at Lourdes help both Russia and the United States to have confidence that international arms controls agreements are being respected. They maintain that the bill attempts to undermine U.S. leadership on engagement with Russia and could threaten U.S. leadership in Paris Club negotiations for debt rescheduling and forgiveness. The Clinton Administration opposes the legislation, maintaining that it could call into question U.S. signals intelligence facilities that perform activities similar to the facility at Lourdes. (Also see CRS Report RS20636, *Russia's Paris Club Debt: U.S. Interests*)

## **Bipartisan Commission Proposal**

In mid-October 1998, Senator John Warner along with 14 other senators from both parties wrote to President Clinton calling for the formation of a "National Bipartisan Commission on Cuba," to conduct an analysis of current U.S. policy that would help shape and strengthen the future U.S.-Cuban relationship. Another 9 senators signed on to the letter in December, bringing the total number of senators to 24. The senators recommended that the commission members be chosen from a bipartisan list of distinguished Americans experienced in international relations representing a cross section of U.S. interests. Some Members opposed the formation

of such a commission, maintaining that the idea was intended to alter U.S. policy. On January 4, 1999, State Department officials stated that the Clinton Administration had decided not to set up a bipartisan commission at that time.

A year and half later, the issue of a bipartisan commission was raised in a legislative proposal by Senator Christopher Dodd. On June 20, 2000 during consideration of S. 2549, the FY2001 defense authorization bill, the Senate tabled, by a vote of 59-41, a Dodd amendment that would have established a National Bipartisan Commission on Cuba to evaluate U.S. policy toward Cuba. The original proponent of such a commission, Senator Warner, did not support the Dodd amendment because he believed it could be an impediment to the passage of the defense authorization measure. Those arguing in favor of such a commission maintained: that the work of the commission would provide new ideas and thoughts for the next presidential administration to take office in 2001; that human rights activists inside Cuba support a rethinking of U.S. policy; and that there is a double standard regarding the sanctions-based U.S. policy toward Cuba, which contrasts with the U.S. policy of engagement toward such nations as China, Vietnam, and now even North Korea. Those opposing the establishment of such a commission argued: that it was a political attempt to change U.S. policy toward Cuba outside of the normal conduct of foreign policy by the legislative and executive branches; that it would tie the hands of the next President to set his own Cuba policy; and that there should be no movement to change U.S. policy until there is political change in Cuba.

## Radio and TV Marti

U.S.-government sponsored radio and television broadcasting to Cuba (Radio and TV Marti), begun in 1985 and 1990 respectively, have at times been the focus of controversies, including adherence to broadcast standards. Over the years there have been various attempts to cut funding for the programs, especially for TV Marti which has not had an audience because of Cuban jamming efforts. TV Marti offers its daily broadcasts between the hours of 3:30 am - 8:00 am. (For background on Cuba broadcasting through 1994, see CRS Report 94-636 F, *Radio and Television Broadcasting to Cuba: Background and Issues Through 1994*.)

**FY2000 Funding.** For FY2000, the Administration requested \$22.743 million for broadcasting to Cuba, with \$13.12 million for Radio Marti operations and \$9.623 million for TV Marti operations. The FY2000 omnibus appropriations measure, P.L. 106-113, which enacts H.R. 3421 by reference, appropriates \$22.095 million for Cuba broadcasting. The omnibus bill also enacted by reference H.R. 3427, the Foreign Relations Authorization Act for FY2000 and FY2001, which authorizes \$22.743 million for Cuba broadcasting for each of FY2000 and FY2001.

**FY2001 Funding.** For FY2001, the Administration requested \$23.456 million for broadcasting to Cuba for both Radio and TV Marti. Of that amount, \$650,000 is for the purchase of a 100 kilowatt solid state transmitter to improve the operation, reliability, and efficiency of Radio Marti broadcasts to Cuba. The House-passed version of H.R. 4690, the FY2001 Commerce, Justice, and State Department appropriations bill, provided for Cuba broadcasting within the larger funding account for international broadcasting operations. However, in the report to the bill (H.Rept. 106-680), the House Appropriations Committee recommended \$22.806 for Cuba

broadcasting. The Senate version of H.R. 4690, reported on July 21, 2000, would have provided \$22.095 million for radio and television broadcasting to Cuba.

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

## Migration

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

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

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

Since the 1995 migration accord, the U.S. Coast Guard has interdicted more than 3,500 Cubans at sea and returned them to their country, while those deemed at risk for persecution have been transferred to Guantanamo and then found asylum in



a third country. Those Cubans who reach shore are allowed to apply for permanent resident status in one year.

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

The Cuban government has taken forceful action against individuals engaging in alien smuggling. Prison sentences of up to three years may be imposed against those engaging in alien smuggling, and for incidents involving death or violence, a life sentence may be imposed. As of late July 1999, 30 U.S. residents were being held by the Cuban government on charges of alien smuggling, and Cuba has offered to return them to the United States to stand trial. In late September 1999, a Cuban court convicted two U.S. residents to jail terms of life and 30 years, respectively, for the smuggling of migrants.

**Elian Gonzalez Case.** On November 25, 1999, a boat with 13 Cubans attempting to reach the United States capsized off the coast of Florida. Among the 3 survivors was a 5-year old boy, Elian Gonzalez, who was found clinging to an inner tube off the coast of Fort Lauderdale. The boy’s mother drowned in the incident. The Immigration and Naturalization Service released the boy into the care of relatives in Florida, who said that they would request political asylum for the child. The boy’s father in Cuba called for his return.

After interviewing the boy’s father in Cuba and the boy’s great-uncle and lawyers in Miami, the INS ruled on January 4, 2000, that the boy’s father “has the sole legal authority to speak on behalf of his son, Elian, regarding Elian’s immigration status in the United States.” According to the INS ruling: “Both U.S. and international law recognize the unique relationship between parent and child, and family reunification has long been a cornerstone of both immigration law and INS practice.” The INS decision called for Elian to be returned to his father by January 14, 2000. Subsequently, efforts by the boy’s Miami relatives to challenge the ruling resulted in the Attorney General extending the January 14, 2000 deadline in order to accommodate any federal court proceedings. On January 10, a Florida circuit court judge ruled that the boy’s return to Cuba could cause the child “imminent harm” and scheduled a hearing on the case for March 6. Meanwhile, the Florida judge issued a temporary protective order for the child to keep him with his Miami relatives until the March hearing. However, on January 12, 2000, Attorney General Janet Reno reaffirmed the INS January 4 ruling, and asserted that the Florida state court had no right to intervene in the case. She maintained that Florida’s court order has no force or effect with regard to the INS’s administration of immigration laws and that any challenge must take place in federal court.

On January 19, 2000, attorneys for the boy's Miami relatives filed a federal lawsuit in Miami in an effort to block Elian's return to Cuba. The lawsuit contended that the boy's constitutional rights were violated when petitions for political asylum filed on his behalf were not considered. On March 21, federal district court judge Michael Moore dismissed the request to force the INS to grant Elian an asylum hearing. On April 6, Elian's father, Juan Miguel Gonzalez, traveled to Washington with his wife and six-month old son, with the intention of reuniting with his son Elian and taking him back to Cuba. On April 19, a U.S. Court of Appeals for the Eleventh Circuit in Atlanta ordered that Elian must stay in the United States for the duration of the Miami family's court appeal.

On April 22, Attorney General Janet Reno ordered the forced removal of Elian from the home of the Miami relatives by INS agents, after which he was flown to Andrews Air Force Base in Maryland and reunited with his father. Critics of the boy's removal argued that the INS used excessive force, while supporters contended that the government was forced to act by the intransigence of the Miami relatives. Elian Gonzalez and his father stayed at the secluded Wye River Plantation in Maryland until May 25, when they (along with other family members, a teacher, and classmates who joined them in late April) moved to a home in Washington, D.C. owned by the Youth for Understanding International Exchange.

In the next legal phase of the case, on May 11, the U.S. Court of Appeals in Atlanta heard oral arguments on whether the INS should be instructed to consider the asylum request filed for Elian Gonzalez by his Miami relatives. The three-judge panel ruled on June 1 that the INS acted within the law and its policy rights when it refused to consider the asylum request. On June 23, the full Appeals court rejected another appeal by the Miami relatives and refused to reconsider its June 1 ruling. On June 26, the Miami relatives petitioned the Supreme Court to block Elian's return to Cuba. On June 28, the Supreme Court rejected an appeal by the Miami relatives to block Elian's return to Cuba and to seek a political asylum hearing for him. The previous injunction of the Appeals Court for Elian to remain in the United States expired at 4:00 p.m. on June 28, and the boy and his father returned to Cuba the same day.

In late January 2000, it appeared that Congress would consider legislative action on the issue. Some Members supported legislation granting U.S. citizenship or legal residency to the boy (S. 1999, H.R. 3531, H.R. 3532, S. 2314). Those supporting citizenship argued that the case should have been considered in family court and that the legislation would ensure this. In contrast, other Members, who believed that Congress should not intervene in the matter, maintained that the INS should proceed with its decision to return the boy to his father (H.Con.Res. 240 and S.Con.Res. 79). Administration officials maintained that the issue should be resolved in federal court, not in Congress. The Senate Judiciary Committee held a hearing on the issue on March 1, 2000, and the Committee planned hearings to investigate the INS's armed removal from the home of the Miami relatives.

In Cuba, Fidel Castro demanded the return of the boy in early December 1999, and Cuba held numerous mass demonstrations until the boy's return in June 2000. While the Cuban government organized the mass demonstrations and used the media to influence the Cuban population, the issue in itself generated an outpouring of emotion among the Cuban population as well as in south Florida.

## Legislative Initiatives and Actions in the 106<sup>th</sup> Congress

Any legislation passed by the 106<sup>th</sup> Congress is noted as Public Law (P.L.) at the top of each section. The latest action made before the end of the 106<sup>th</sup> session is noted on all other legislation.

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

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

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

FY2001 Foreign Operations appropriations bill. On October 28, the conference report (H.Rept. 106-997) struck H.R. 4811 and enacted by reference H.R. 5526. Section 507 prohibits direct funding of assistance or reparations to Cuba (and other countries). Section 523 prohibits indirect assistance or reparations to Cuba unless the President certifies that withholding such funds is contrary to U.S. national interests.

## Initiatives Regarding Compensation for the February 1996 Shootdown

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

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

### **S. 1796 (Lautenberg)/H.R. 3485 (McCollum)**

S. 1796 would amend the enforcement of certain anti-terrorism judgments in U.S. courts under the Foreign Sovereign Immunities Act (28 USC 1602-11) against foreign states designated to be state sponsors of terrorism, taking away the current presidential waiver for national security interests except for the protection of diplomatic property. The Senate Judiciary Committee reported the bill March 9, 2000, and the measure was placed on the Senate Legislative Calendar under General Orders. An identical House bill, H.R. 3485 (McCollum), was introduced November 18, 1999. The House Committee on the Judiciary reported the bill July 13, 2000 (H.Rept. 106-733) and the measure was placed on the Union Calendar. A supplemental report on H.R. 3485 was filed July 18, 2000 (H.Rept. 106-733, Part II). The House approved H.R. 3485 by voice vote on July 25, 2000. It was received in

the Senate and placed on the Senate Legislative calendar under General Orders July 26, 2000.

## **Initiatives to Strengthen Sanctions on Cuba**

### **H.R. 181** (McCollum)

Introduced January 6, 1999; referred to House Committee on International Relations. March 23, 1999 referred to House subcommittee. Repeals the authority of the President to suspend the effective date of Title III of the Cuban Liberty and Democratic Solidarity Act.

### **H.R. 3329** (Rothman)

Introduced November 10, 1999; referred to Committee on International Relations. November 17, 1999 referred to House subcommittee. Amends the Cuban Liberty and Democratic Solidarity Act to require, in order to determine that a democratically elected government in Cuba exists, the government extradite to the United States convicted felon Joanne Chesimard and all other U.S. fugitives from justice.

### **H.R. 4118** (Ros-Lehtinen)/**S. 2748** (Mack)

Russian-American Trust and Cooperation Act of 2000. Prohibits the rescheduling or forgiveness of any outstanding bilateral debt owed to the United States by Russia until the President certifies to Congress that Russia has closed the intelligence facility at Lourdes. H.R. 4118 introduced Mar. 29, 2000. House International Relations Committee approved by voice vote May 4, 2000, after it was amended to include a presidential national interest waiver. Reported by House International Relations Committee June 12, 2000 (H.Rept. 106-668). House approved (275-146) July 19, 2000. S. 2748, introduced June 16, 2000 and referred to the Committee on Foreign Relations, is identical to the House-approved bill.

### **S. 1796** (Lautenberg)/**H.R. 3485** (McCollum)

Justice for Victims of Terrorism Act. Modifies the enforcement of certain anti-terrorism judgments in U.S. courts under the Foreign Sovereign Immunities Act (28 USC 1602-11) against foreign states designated to be state sponsors of terrorism, taking away the current presidential waiver for national security interests. The two bills relate to Cuba because they could affect the payment of a December 1997 \$187.6 million U.S. Federal court judgment against Cuba to be paid from Cuba's frozen assets in the United States to the families of three victims killed in Cuba's 1996 shutdown of two U.S. civilian planes. S. 1796 introduced October 26, 1999; Senate Judiciary Committee reported the bill March 9, 2000, and the measure was placed on the Senate Legislative Calendar under General Orders. H.R. 3485 introduced November 18, 1999; House Committee on the Judiciary reported the bill July 13, 2000 (H.Rept. 106-733) and July 18, 2000 (H.Rept. 106-733, Part II) and the measure was placed on the Union Calendar. The House approved H.R. 3485 by voice vote on July 25, 2000; received in Senate and placed on Senate Legislative Calendar under General Orders July 26, 2000.

### **S. 1829** (Helms)

Introduced October 29, 1999; referred to Committee on Foreign Relations. Prohibits the payment of debts incurred by the communist government of Cuba.

## Initiatives to Ease Sanctions on Cuba

### **P.L. 106-387 (H.R. 4461/S. 2536)**

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

### **H.R. 229 (Rangel)**

Introduced January 6, 1999; referred to Committee on International Relations, and in addition to Committees on Ways and Means, Commerce, and Government Reform. March 23, 1999 referred to House subcommittee. Lifts the trade embargo on Cuba and for other purposes.

### **H.R. 230 (Rangel)**

Introduced January 6, 1999; referred to Committee on International Relations, and in addition to the Committee on Ways and Means. March 23, 1999 referred to House subcommittee. Makes an exception to the embargo on trade with Cuba for the export of food, medicines, medical supplies, medical instruments or medical equipment.

### **H.R. 256 (Serrano)**

Introduced January 6, 1999; referred to Committee on International Relations. March 23, 1999 referred to House subcommittee. Repeals the Cuban Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity Act of 1996.

### **H.R. 257 (Serrano)**

Introduced January 6, 1999; referred to Committee on International Relations. March 23, 1999 referred to House subcommittee. Reinstates the authorization of cash remittances to family members in Cuba under the Cuban Assets Control Regulations.

### **H.R. 258 (Serrano)**

Introduced January 6, 1999; referred to Committee on International Relations. March 23, 1999 referred to House subcommittee. Allows for news bureau exchanges between the United States and Cuba.

### **H.R. 259 (Serrano)**

Introduced January 6, 1999; referred to Committee on International Relations. March 23, 1999 referred to House subcommittee. Allows travel and cultural exchanges between the United States and Cuba.

**H.R. 262** (Serrano)

Introduced January 6, 1999; referred to Committee on International Relations, and in addition to the Committee on the Judiciary. March 23, 1999 referred to House subcommittee. Waives certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball.

**H.R. 1181** (Paul)

Introduced March 18, 1999; referred to Committee on International Relations, and in addition to the Committees on Ways and Means, Commerce, and Government Reform. April 7, 1999 referred to House subcommittee. Lifts the trade embargo on Cuba and for other purposes.

**H.R. 1644** (Serrano)/**S. 926** (Dodd)

Cuban Food and Medicine Security Act of 1999. H.R. 1644 introduced April 29, 1999; referred to House Committees on International Relations and on Agriculture. June 15, 1999 referred to House subcommittee. S. 926 introduced April 29, 1999; referred to Committee on Foreign Relations. Eases restrictions on the sale of food and medicines to Cuba.

**H.R. 4471** (Sanford)

Introduced May 16, 2000; referred to Committee on International Relations. June 12, 2000 referred to House subcommittee. Allows travel between the United States and Cuba.

**H.R. 4856** (Rangel)/**S. 2896** (Baucus)

H.R. 4856 introduced July 13, 2000; referred to Committee on Ways and Means. S. 2896 introduced July 20, 2000; referred to the Committee on Finance. Identical bills to normalize trade relations with Cuba.

**H.R. 4871** (Kolbe) **S. 2900** (Campbell)

FY2001 Treasury appropriations bill. H.R. 4871 reported by House Appropriations Committee July 18, 2000 (H.Rept. 106-756). House passed (216-202) July 20, 2000. During floor consideration July 20, the House approved two amendments that would loosen economic sanctions on Cuba. A Sanford amendment was approved (232-186) that would prohibit funds in the bill from being used to administer or enforce the Cuban Assets Control Regulations with respect to any travel or travel-related transaction. A Moran (KS) amendment was approved (301-116) that would prohibit any funds in the bill from being used to implement any U.S. sanction on private commercial sales of agricultural commodities or medicine or medical supplies to Cuba. A broader Rangel amendment was defeated (174-241) that would have prohibited funds in the bill from enforcing the economic embargo of Cuba. S. 2900 reported by Senate Appropriations Committee July 20, 2000. (Note: a new version of the Treasury appropriations bill, H.R. 4985, was introduced July 26, 2000, which did not include the two House-approved Cuba amendments. On July 27, H.R. 4985 as introduced was appended to the conference report (H.Rept. 106-796) on the Legislative Branch appropriations bill, H.R. 4516.)

**S. 73** (Moynihan)

Introduced January 19, 1999; referred to the Committee on Foreign Relations. Makes available funds under the Mutual Educational and Cultural Exchange Act of

1961 to provide Fulbright scholarships for Cuban nationals to undertake graduate study in the social sciences.

**S. 566 (Lugar)**

Introduced March 8, 1999; reported by Committee on Agriculture September 13, 1999 (Senate Report 106-157) and placed on the Senate Legislative Calendar under General Orders. Exempts commercial sales of agricultural commodities, livestock, and value-added products from unilateral economic sanctions.

**S. 1771 (Ashcroft)/H.R. 3140 (Nethercutt)**

S. 1771 introduced October 22, 1999; placed on Senate Legislative Calendar under General Orders October 25, 1999. H.R. 3140 introduced October 25, 1999; referred to Committee on International Relations, and in addition to Committees on Rules and on Agriculture. November 16, 1999 referred to House subcommittee. Requires congressional approval before the imposition of any unilateral agricultural or medical sanction against a foreign country or foreign entity.

**S. 1919 (Dodd)**

Introduced November 10, 1999; referred Committee on Foreign Relations. Permits travel to or from Cuba.

**S. 2382 (Helms)**

Technical Assistance, Trade Promotion, and Anti-Corruption Act of 2000. Senate Foreign Relations Committee ordered reported Mar. 23, 2000; reported by Committee April 7, 2000 (S.Rept. 106-257). Referred to Senate Committee on Banking, Housing, and Urban Affairs April 11, 2000. Title I, Subtitle C, of the bill would lift restrictions on food and medicine exports, albeit with some conditions on exports to countries classified as state sponsors of international terrorism, which includes Cuba. Agricultural and medical exports to these countries would be allowed pursuant to one-year licenses issued by the U.S. government.

**S. 2617 (Baucus)**

Introduced May 24, 2000; referred to Committee on Finance. Lifts the trade embargo on Cuba.

## **Initiatives Regarding Cuba's Human Rights Situation**

**H.Res. 99 (Ros-Lehtinen)**

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

**S.Res. 57** (Graham)

Introduced March 4, 1999. Senate approved (98-0) March 25, 1999. Expresses the sense of the Senate that the United States should make all efforts to pass a UNCHR resolution criticizing Cuba's human rights abuses and securing the appointment of a Special Rapporteur.

**S.Res. 289** (Torricelli)

Introduced April 12, 2000; reported by the Senate Committee on Foreign Relations April 13, 2000, without written report; placed on Senate Legislative Calendar under General Orders April 13, 2000. Expresses the sense of the Senate supporting a United National Commission on Human Rights resolution on Cuba.

**H.R. 4537** (Diaz-Balart)

Introduced May 24, 2000; referred to Committee on International Relations. Assists the internal opposition in Cuba.

**Initiatives Regarding Drug Trafficking Issues****H.R. 2365** (Rangel)

Introduced June 25, 1999; referred to Committee on International Relations. Authorizes the Director of the Office of National Drug Control Policy to enter into negotiations with representatives of Cuba to provide for increased cooperation between Cuba and the United States on drug interdiction efforts.

**H.R. 2422** (Burton)

Introduced July 1, 1999; referred to Committee on International Relations. Provides for the determination that Cuba is a major drug-transit country for purposes of Section 490(h) of the Foreign Assistance Act of 1961.

**H.R. 4811** (Callahan)/**S. 2522** (McConnell)

FY2001 Foreign Operations appropriations bill. House approved (239-185) H.R. 4811 July 13, 2000. Senate approved H.R. 4811 July 18, 2000 by unanimous consent, substituting the language of S. 2522, which had been approved (95-4) by the Senate June 22; asked for conference. Senate version of H.R. 4811, section 599F, provides for up to \$1 million to fund the Secretary of Defense to work with Cuba to provide for greater cooperation, coordination, and other mutual assistance in the interdiction of illicit drugs being transported over Cuban airspace and waters. Before such assistance may be provided, the President must determine and certify to Congress that 1) Cuba has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction of illegal drugs; and 2) that there is no evidence of the involvement of the government of Cuba in drug trafficking. This provision was dropped in conference from final version of bill. On October 28, the conference report (H.Rept. 106-997) struck H.R. 4811 and enacted by reference H.R. 5526. Section 507 prohibits direct funding of assistance or reparations to Cuba (and other countries). Section 523 prohibits indirect assistance or reparations to Cuba unless the President certifies that withholding such funds is contrary to U.S. national interests.



## Initiative to Evaluate U.S. Policy on Cuba

### **S. 2549** (Warner)

Department of Defense authorization bill FY2001. Reported by Senate Committee on Armed Services May 12, 2000 (Senate Report 106-292). During floor consideration on June 20, the Senate tabled, by a vote of 59-41, a Dodd amendment that would have established a National Bipartisan Commission on Cuba to evaluate U.S. policy. Senate incorporated this measure in H.R. 4205 as an amendment on July 13, 2000.

## Initiatives Related to the Elian Gonzalez Case

### **H.Con.Res. 240** (Rangel)/ **S.Con.Res. 79** (Dodd)

H.Con.Res. 240 introduced January 24, 2000; referred to House Committee on the Judiciary. July 11, 2000 referred to House subcommittee. S.Con.Res. 79 introduced January 26, 2000; referred to Senate Committee on the Judiciary. Both resolutions express the sense of Congress that Elian Gonzalez should be reunited with his father in Cuba.

### **H.R. 3532** (Menendez)

Introduced January 24, 2000; referred to Committee on the Judiciary. July 11, 2000 referred to House subcommittee. Provides for legal residency for Elian Gonzalez.

### **H.Res. 480** (Shadegg)

Introduced April 13, 2000; referred to Committee on the Judiciary. July 11, 2000 referred to House subcommittee. Urges the Attorney General to take no irrevocable action with respect to Elian Gonzalez until a hearing concerning an asylum application is held.

### **S. 1999** (Mack)/**H.R. 3531** (McCollum)

S. 1999 introduced January 24, 2000; placed on Senate Legislative Calendar under General Orders January 25, 2000. H.R. 3531 introduced January 24, 2000; referred to House Committee on the Judiciary. July 11, 2000 referred to House subcommittee. Provides that Elian Gonzalez shall be considered a naturalized U.S. citizen.

### **S. 2314** (Smith)

Introduced March 29, 2000; placed on Senate Legislative Calendar under General Orders March 30, 2000. Provides permanent resident status for Elian Gonzalez and other family members.

## Funding For Radio and TV Marti

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

Appropriations for the District of Columbia government and for other purposes. H.R. 5548, making appropriations for the Departments of Commerce, Justice, and State; the Judiciary; and related agencies, was incorporated into the H.R. 4942

conference report (H.Rept. 106-1005). Signed into law December 21, 2000. Provides \$22.095 million for radio and television broadcasting to Cuba.

**H.R. 4690** (Rogers)

Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001. House Committee on Appropriations reported the bill June 19, 2000 (H.Rept. 106-680). House passed (214-195) on June 26, 2000. Senate Appropriations Committee reported its version of the bill on July 21, 2000, without written report, and the measure was placed on the Senate Legislative Calendar under General Orders. House version would provide for Cuba broadcasting within the larger funding account for international broadcasting operations. However, in the report to the bill (H.Rept. 106-680), the House Appropriations Committee recommends \$22.806 for Cuba broadcasting. The Senate version of H.R. 4690 would provide \$22.095 million for radio and television broadcasting to Cuba. Senate filed report (S.Rept. 106-404) September 8, 2000.

## For Additional Reading

CRS Electronic Briefing Book on Trade, *Cuba Sanctions*,  
[<http://www.congress.gov/brbk/html/ebtra108.html>]

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

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

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

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

CRS Report RS20409, *Cuba: U.S. Restrictions on Travel and Legislative Initiatives in the 106<sup>th</sup> Congress*, by Mark P. Sullivan.

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

CRS Report RL30108, *Economic Sanctions and U.S. Agricultural Exports*, by Remy Jurenas.

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

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

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

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

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

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