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# THE CUBAN DEMOCRACY ACT OF 1992: THE INTERNATIONAL IMPLICATIONS

— JOANNA R. CAMERON —

The United States must continue to change its foreign policy objectives to confront the challenges posed by the post-Cold War global economy. In the face of the collapse of the former Soviet Union and the dissipation of the communist threat, the Clinton administration has identified the following six U.S. foreign policy objectives: sustainable development, democratization, provision of humanitarian aid, promotion of peace, growth through trade and investment, and the advance of diplomacy.<sup>1</sup> The Cuban Democracy Act (CDA) of 1992 is one example of legislation passed with the goal of furthering these objectives.

This article will argue that the CDA represents an inappropriate use of export controls in the U.S. struggle against the dictatorship of Cuba's Fidel Castro. Now that the original cause for the Cuban embargo has ended—the global spread of communism and the threat of its close proximity to the United States—what are the U.S. policy objectives for the CDA, and what is the likelihood that the CDA will meet those objectives? Members of the United Nations and U.S. trading allies have consistently, nearly unanimously, voiced discontent with the CDA, but the U.S. domestic opinion has remained divided. This article will address the debate over the CDA, its modification of previous export controls on Cuba, the conflict of laws in the CDA's extraterritorial application to U.S. foreign subsidiaries, international reaction, infringements on the rights of foreign countries to conduct trade with Cuba, the cost to U.S. business, and the compromised welfare of the Cuban people. In the analysis of these issues, this article will argue that the costs of the CDA exceed its benefits and that Congress should repeal the act.

The impetus for the Cuban Democracy Act stems back to the Export Control Act of 1949, which was designed to prevent the spread of commercial products with militaristic applications—"dual-use" technologies—from any country to the USSR. The U.S. government has since used export controls regularly in an attempt to curb the diffusion of communist influence. In 1960, President Eisenhower imposed a partial embargo on Cuba, a country aligned with the Soviet Union and officially associated with the socialist countries' economic

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union, the Council for Mutual Economic Assistance. The government extended this embargo to all goods in March 1962, an action legitimized by the Trading With the Enemy Act of 1917.<sup>2</sup> In recent years, the Export Administration Act (EAA), its amendments, and the Cuban Assets Control Regulations have shaped U.S. foreign policy in this region, culminating in the passage of the CDA of 1992.

The bill H.R. 5232, proposed by Rep. Robert Torricelli (D-NJ) ostensibly "to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban government and support for the Cuban people," was passed by Congress on October 3, 1992, and written into law on October 23, 1992.<sup>3</sup> The bill called for two significant divergences from the EAA that were designed to tighten restrictions on the export controls on Cuba. President Bush initially responded by presidential decree in April 1992,<sup>4</sup> ordering the Treasury Department to prohibit ships that have docked in Cuba to dock at U.S. ports for 180 days after departure from Cuba.<sup>5</sup> Not until the October 1992 campaign in Miami did President Bush address the second and "most contentious" mandate of the bill, which prohibits foreign subsidiaries of U.S. companies from trading with Cuba.<sup>6</sup>

This latter restriction is a critical component of the CDA, significantly tightening former export controls. A considerable volume of trade between Cuba and foreign subsidiaries of U.S. companies was conducted circuitously through loopholes in former regulations. Prior to the CDA, U.S. corporations "seiz[ed] on porous laws and lax enforcement of United States sanctions . . . [and] used foreign subsidiaries to conduct business openly with Cuba."<sup>7</sup> In an editorial defense to a *New York Times* article criticizing the ineffectiveness of the CDA, Torricelli claimed that "United States trade through foreign subsidiaries fell from \$718 million in 1991 to only \$1.6 million" in 1992, after the act was implemented.<sup>8</sup>

Domestic debate surrounded the passage of the CDA and its strict export control measures on Cuba. The most resounding criticism of the bill focused on the heavy hand laid on Congress and the executive branch by Jorge Mas Canosa, chairman of the Cuban American National Foundation (CANF). This lobbying group, which represents the Cuban exile community of Miami, provided the original design for the CDA.

According to Raul Masvidal, a co-creator of CANF, and Alicia Torres, the executive director of the Cuban American Committee, Mas Canosa had malicious reasons for promoting the CDA. They regarded the CDA as Mas Canosa's "pet bill," with which he hoped to wreak chaos on the country, "to halt the transformation of Cuba . . . [and to] create violence."<sup>9</sup> Canosa, a Miami millionaire considered to be "perhaps the most influential Cuban outside Havana," was believed to have plans to devastate the country economically with the export controls and then, following the eventual lifting of the embargo, return to Cuba with his blueprint for economic reconstruction, become democratically elected, and effectively replace Castro as dictator.<sup>10</sup>

Mas Canosa believed that he would be able to reappear and take control

of Cuba after the country imploded due to economic hardship, for which Castro would be blamed. As Mas Canosa planned, economic disaster has taken its toll on the starving populace. As it stands, however, Castro has used the U.S. embargo as an excuse for his country's discontent.

Supporters of the CDA refer to its residual Cold War appeal and to its importance in terms of the Clinton administration's six foreign policy determinants stated above.<sup>11</sup> In his defense of bill H.R. 5232, Torricelli proposed that "the government of Fidel Castro ha[d] demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values."<sup>12</sup> Torricelli pointed to the restrictions on the Cuban people and "their yearning for freedom," Castro's "[e]fforts to suppress dissent," and his "unwillingness to respond positively to increasing pressures for reform."<sup>13</sup>

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While proponents of the CDA believed that the export controls in the bill would promote a peaceful transition to democracy in Cuba, the bill also called for sanctions on countries that assisted Cuba through grants, loans, concessional sales, export subsidies, or any means more favorable than those on the world market.<sup>14</sup> Exceptions included trade of medicines, medical supplies and nongovernmental donations of food, excluding possible "dual usage" goods which could be diverted for human rights abuses, reexport, the manufacture of biotechnical products, or other activities restricted under the EAA or the International Emergency Powers Act (IEPA).<sup>15</sup> The strict export control exemption standards, however, have resulted in a serious reduction in the trade of legitimate medical supplies and food donations, to the detriment of the Cuban people.

To ensure that all goods meet the necessary requirements under the CDA, shipments must be licensed by the Office of Foreign Assets Control (OFAC). The tests and review which these goods undergo take considerable time. During the careful and narrow reading of the regulations, substantial administrative costs accrue, often making the business prohibitively expensive. Furthermore, in most circumstances it must be possible for the U.S. government to be assured by on-site inspection that these medicinal goods met their intended use. More time-consuming complications arise since the exporter bears the responsibility of finding an entity in Cuba to inspect and verify the import's end use to OFAC. Finding an entity that OFAC considers satisfactory is difficult, given that Cuban involvement in this process "is unlikely to be acceptable."<sup>16</sup>

These strict regulations on medical exports have had several deleterious effects. First, the rigorous, time-consuming, and costly nature of the review process has impeded transactions of legitimate medical suppliers. Not only has this disrupted business, but also it has had an adverse effect on the Cuban people.<sup>17</sup> Medicinal import complications resulting from the CDA have had a detrimental effect on the country's health care system, and increasingly people die of tuberculosis, influenza, and pneumonia. This trend has been described as "killing, engineered by the U.S. government."<sup>18</sup>

While Cuba may substitute medicinal imports from countries other than the United States, the cost of such supplies may be "30 percent higher, with anywhere from 40 to 500 percent increases in shipping costs."<sup>19</sup> On behalf of the Cuban American Research and Education Fund, Alicia Torres presented congressional testimony on the negative repercussions of the CDA's strict export control exemption standards. According to Torres, "prior to the CDA, 90% of what U.S. subsidiaries sold to Cuba was medicines and foods, . . . [accounting for] more than 500 million dollars worth of sales," and since the CDA, the volume of these transactions has diminished substantially.<sup>20</sup>

In March 1994, R. Richard Newcomb, Director of OFAC, provided testimony to the House Ways and Means Committee in defense of these restrictive measures. Newcomb explained that OFAC's responsibility to implement and enforce the CDA's embargoes and sanctions relied "on the President's broad powers under the Trading With the Enemy Act . . . and the International Emergency Economic Powers Act . . . to prohibit or regulate commercial or financial transactions involving specific countries."<sup>21</sup> According to Section 1705 (d) (2) of the CDA, Newcomb emphasized, OFAC, as a foreign policy instrument, requires licenses for humanitarian donations, medical supplies, and payments to Cuba for telecommunications services.<sup>22</sup> Newcomb thus supported the U.S. foreign policy objectives purportedly served by the CDA—the democratization of Cuba and the removal of a regime that perpetrates human rights abuses. The export controls employed to achieve these goals, however, have instead damaged Cuba's social coherence by contributing to economic strife.

Human rights activists, critics of Mas Canosa, and congressional representatives appealing for the democratization of Cuba and enforcement of the CDA have all debated the substance, justification, and objectives of the CDA. Another source of opinion, U.S. business and trading partners, asserts that the objectives of the CDA do not compensate for the real dollar cost of legal battles and missed opportunities, as well as the damage to trade relationships. Enforcement of the CDA has posed extraterritorial threats to countries that persist in trading with Cuba.

In an effort to gain foreign country compliance with CDA export controls, Congress has argued that because the "United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe . . . it is appropriate for those allies to cooperate with the United States policy to promote a peaceful transition in Cuba."<sup>23</sup> U.S.

requests for support of the CDA have extended from the diplomatic to the commercial level. These requests have been met with much concern and disapproval and, in at least two circumstances, with outright rejection.

These rejections of the CDA took the form of blocking orders by the United Kingdom and Canada, both of whom trade with Cuba and the United States. They reacted quickly to the CDA, making it illegal for subsidiaries of U.S. companies operating in their countries to comply with the CDA. The Canadian blocking order was announced by External Affairs Minister Barbara McDougall in Ottawa on October 9, 1992, 13 days before the CDA was officially signed into law and only six days after Congress approved its passage. This order falls under Canada's Foreign Extraterritorial Measures Act and calls for noncompliance with the CDA export controls, "requir[ing] firms to report any instruction or attempt made to influence their trade with Cuba."<sup>24</sup> According to McDougall, Canada had repeatedly warned the United States of its disapproval of the CDA. Canadian Justice Minister Kim Campbell reaffirmed that Canada would maintain a firm stance against any infringement on its sovereignty, claiming that "the order will protect the primacy of Canadian trade law and policy."<sup>25</sup> The order called for fines of up to \$8,500 on companies that complied with the CDA<sup>26</sup> and a potential five-year imprisonment for company executives.<sup>27</sup>

Like Canada, the United Kingdom also hosted a large number of U.S. subsidiaries conducting trade with Cuba and decided to invoke a blocking order against those subsidiaries' compliance with the CDA. One year prior to the act's passage, British Trade Secretary Peter Lilley warned the United States that "[i]t is for the British Government, not the US Congress, to determine the UK's policy on trade with Cuba."<sup>28</sup> When the CDA was legislated, the United Kingdom responded by invoking the Protection of Trading Interests Act. This act was designed specifically to combat extraterritorial threats like the CDA and, according to a "strongly worded statement" by British Trade Minister Robert Needham, was a sign of the United Kingdom's unwillingness to "accept any attempt to superimpose US law on UK companies."<sup>29</sup>

The sentiments of Canada and the United Kingdom generally were shared by members of the European Union and the United Nations, many of whom have contended that the CDA has overstepped the bounds of national sovereignty.<sup>30</sup> A 1994 *Monthly Report in Europe* revealed strong indignation toward the CDA as an "extraterritorial application of national trade provisions, which can adversely affect trade and investment by clashing with the sovereignty of . . . trading partners and thereby lead to insoluble legal conflicts."<sup>31</sup> One year prior to this report, the European Parliament requested that European Community (EC) governments disregard the CDA and continue business with Cuba, following the example of the United Kingdom and Canada. The Parliament dismissed the embargo against Cuba, recognizing its harm to the welfare of the Cuban people. The EC consensus held that the CDA pushed the boundaries of extraterritorial application of trade law and sanctions. It also criticized the hypocrisy of U.S. provisions for application of foreign trade

laws to U.S. business overseas. Specifically, the Foreign Anti-Boycott Provision of the 1969 Export Administration Act prohibits U.S. companies from complying with their host countries' boycotts. While dismissing the embargoes of other countries, the United States insists on the enforcement of its own embargoes.

Many conflicts arose when the United States attempted to enforce the CDA extraterritorially. The United States threatened its trading partners with sanctions if they continued to conduct economic transactions with Cuba. Furthermore, letters and telephone calls warned that "the United States would look unfavorably upon Cuban participation in certain commercial activities."<sup>32</sup> Ricardo Alarcon, the then-Cuban ambassador to the United States, gave a speech in November 1991 to the United Nations General Assembly in which he cited 27 cases of trade contracts "interrupted by U.S. pressure."<sup>33</sup> Aside from the implicit threats in letters and phone calls, the United States also made numerous explicit accusations of legal transgression.

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According to the CDA, it is a violation for any company to export a product to Cuba that contains more than 20 percent of U.S. inputs or is based on U.S. technology; anything that contains between 10 and 20 percent of U.S. inputs requires an OFAC license. One conflict that arose from these stipulations occurred with Cargill Ltd., a Canadian-based, wholly owned subsidiary of Cargill, Inc., whose headquarters are located in Minneapolis, Minnesota. The Canadian subsidiary had approximately 2,000 employees in 1990, reinvested all profits into the Canadian business operations, and sold approximately 800,000 tons of wheat, 300,000 tons of barley, 100,000 tons of corn, and 100,000 tons of flour to Cuba annually.<sup>34</sup> Cargill's manager of corporate affairs, Barbara Isman, defended the Canadian nationality of Cargill Ltd.: "Let's be clear . . . we are a Canadian company. We will definitely obey the laws of Canada."<sup>35</sup> This alignment with the Canadian legal system, however, did not prevent Cargill Ltd. employees from being named in 1988 and 1989 as unindicted co-conspirators "in an alleged scheme to sell Cuban sugar in the world market."<sup>36</sup>

The Cargill case raised many issues regarding the legality of U.S. companies' subsidiaries abroad exporting to Cuba. In this case, FBI agents were originally investigating bank documents obtained from the Atlanta branch of the prominent Italian Banca Nazionale del Lavoro (BNL) in search of evidence of illegal loans to Iraq. During this investigation, the FBI agents discovered

evidence suggesting that illegal transactions might have occurred between Cargill's Swiss subsidiary, Canadian Cargill Ltd., the Atlanta branch of BNL, and the headquarters of Cargill, Inc. in Minneapolis. While Cargill claimed it had received a special license from OFAC that permitted a 1988-1989 shipment of Cuban sugar to Venezuela by its Swiss subsidiary,<sup>37</sup> the license specifically stated that American executives would not be involved in the deal.<sup>38</sup> Furthermore, an indictment was issued for the bank officer at the Atlanta branch of BNL for falsifying documents to show that the sugar was sent from U.S. ports, when in actuality it had originated in Cuba. In addition, the indictment charged that a payment for the Cuban sugar of \$7.8 million had been sent to the Swiss subsidiary.<sup>39</sup> The BNL officer was eventually found guilty and sentenced to 37 months in jail for bank fraud and violation of the Trading With the Enemies Act.<sup>40</sup>

The Cargill case was still being discussed and debated when the CDA became law in 1992. The issues it raised had significant implications for the CDA, including the tremendous difficulty of making a case against a subsidiary for violation of the embargo "even when there is ample evidence that the United States executives were involved."<sup>41</sup> Another impediment to the effective handling of the Cargill case involved a lack of coordination between the Justice Department and the Customs Service (under the Treasury Department), who "got into a bitter fight" over their respective competencies and roles.<sup>42</sup> The Justice Department accused the customs agents of conducting an illegal search, and the Customs Service "contended that the Justice Department lawyers were not being aggressive enough on Cargill and other sanctions cases."<sup>43</sup> The end result was a prolonged and costly investigation, which provided an unimpressive precedent for efficient enforcement of the CDA.

Inefficiencies in the act's enforcement have indeed become apparent. Vehement international disapproval of the CDA and a growing interest on the part of U.S. companies and subsidiaries in trading with Cuba reveal a business community once apprehensive of transgressing the CDA now emboldened by the ineffectiveness of "rules governing sanctions . . . so loosely drawn that law enforcement officials have had to abandon or back away from several investigations of American companies suspected of doing illegal business abroad."<sup>44</sup>

In June 1992, more than 100 U.S. businesses were represented at the Euro-money conference on Cuban investment opportunities.<sup>45</sup> Many countries have already rushed to Cuba to fill the void left by diminished trade with the former Soviet Union. According to the manager of *Cuba News*, Guillermo Cueto, at least 500 foreign firms have invested in Cuba, and the number of U.S. firms eager to enter the market has grown.<sup>46</sup> U.S. companies and subsidiaries are sensitive to the real costs of the embargo; last year the U.S. Chamber of Commerce stated that "the principal beneficiaries of [the CDA] are our foreign competitors."<sup>47</sup>

Current discussions of business opportunities between Cuba and U.S. subsidiaries substantiate this trend toward defying the CDA and challenging Washington as the "limp crusader against US subsidiaries ignoring the law."<sup>48</sup>

Cuban Vice President Carlos Lage claimed that in the first six months of 1994, 69 companies visited Cuba and "signed letters of intent for future contracts to take effect when the US embargo comes to an end."<sup>49</sup> The efforts of U.S. companies and subsidiaries to forestall great losses in the Cuban markets are not unwarranted—the value of lost business was estimated last year to be \$6 billion.<sup>50</sup> Charles B. Rangel (D-NY), Chairman of the Subcommittee on Select Revenue Measures, presented this estimate to support his argument for the passage of H.R. 2229, the Free Trade With Cuba Act. Rangel, the most vocal congressional opponent of the CDA, urged normalization of relations with Cuba through the gradual lifting of trade restrictions. Rangel announced that this bill would effectively "terminate the denial of foreign tax credit for companies that do business with Cuba . . . [and] remove all restrictions on U.S. trade, except in arms, under the Foreign Assistance Act of 1961, the Trading With the Enemy Act, and the Export Administration Act of 1979 . . . [and] include the repeal of the Cuban Democracy Act."<sup>51</sup>

There are still those, however, who continue to promote the "democratizing" objective of the CDA. The new voice of support for the act is the Chairman of the House Foreign Relations Committee, Jesse Helms (R-NC), whose first piece of legislation proposed under his current title was the Cuban Liberty and Democratic Act. In January 1995, Helms proposed this act to strengthen the current restrictions placed on Cuba through the CDA. It prohibited sugar imports from countries that import sugar from Cuba, requested an international embargo by the United Nations, and denied loans or financing to any person who purchased American property that had been confiscated by the Cuban government. Helms is supported by people like John McCain (R-AZ), an original co-sponsor of the CDA who espoused the hegemonic supremacy of the United States and its duty to quell communism at its doorstep. In a 1992 statement on the CDA, McCain explained that the CDA "exemplifies our determination not to relinquish our leadership of this just cause. It seeks to firmly establish our support for the oppressed people of Cuba by shaping the united opposition of the ever expanding free world to the maintenance of Castro's rule."<sup>52</sup>

The congressional debate continues, and the CDA persists in interfering with what most nations consider to be their legal trading rights. The CDA restrictions are opposed through blocking orders, such as those of the United Kingdom and Canada, and through attempts to test the weak enforcement of the export controls. The costs of the act, as measured in terms of dollars, time, energy, and human welfare, are tremendous.

Individuals within Congress, such as Rangel, have made laudable efforts to listen and respond to the resounding arguments against the CDA, but powerful players like Helms, and President Clinton himself, do not wish to alienate the Cuban lobby. They try to justify the CDA as part of a U.S. moral imperative to support democratization and the improvement of the welfare of a civilian populace, but the foreign policy instrument that they wield to achieve these objectives has proven to have a substantially opposite, deleterious effect.

The legal implications of the CDA are manifold, and there exists nearly unanimous consent within the trading community that this unilateral trade legislation and its extraterritorial application "violate every international trade agreement."<sup>53</sup> The CDA results in lost, or at least complicated, business for countries that do not support U.S. objectives. The act is wreaking havoc on the international business community, which claims the legal right to normal trade relations with Cuba. As U.S. companies and their foreign subsidiaries prepare for the pending scramble for opportunities within Cuba, and given the proven deficiencies in CDA enforcement, the harm to U.S. interests caused by the act cannot be justified. The costs of the CDA clearly outweigh its benefits. The United States should acknowledge these costs and, using an incremental and conservative approach, repeal the Cuban Democracy Act and lift the embargo against Cuba.

### Notes

1. Curt Tarnoff and Larry Q. Nowels, *U.S. Foreign Assistance: The Rationale, the Record, and the Challenges in the Post-Cold War Era* (Washington DC: National Planning Association, 1994), 21-22.
2. *EIU Country Profile, Cuba 1994-1995* (London: The Economist Intelligence Unit, 1994), 3-4.
3. U.S. Congress, House of Representatives, Mr. Alexander, Mr. Bereuter, Mr. Broomfield, Mr. Burton of Indiana, Mr. Fascell, Mr. Gilma, Mr. Goss, Mrs. Johnson of Connecticut, Mr. Lagomarsino, Mr. Ramstad, Mr. Rangel, Mr. Ros-Lehtinen, Mr. Serrano, Mr. Smith of Florida, and Mr. Torricelli speaking on the Cuban Democracy Act of 1992, H 9084, 102nd Cong., 2nd sess. *Congressional Record* (September 22, 1992), vol. 138, no. 130, pt. 2.
4. The Bush administration did not initially support the bill because it originally included mandatory sanctions on all aid or assistance to countries that assist Cuba in any preferential terms. Once this section was amended to allow an executive option for applying sanctions, the Bush administration supported the CDA. David Clark Scott, "Plan to Stiffen Cuba Ban Annoys Trading Allies," *Christian Science Monitor*, June 23, 1992, 1.
5. U.S. Congress, House of Representatives (September 22, 1992), vol. 138, no. 130, pt. 2.
6. Scott, 1.
7. Dean Baquet, "U.S. Companies Use Affiliates to Skirt Sanctions," *The New York Times*, December 27, 1993, A1.
8. Robert G. Torricelli, "Cuba Embargo Has Desired Effect," *The New York Times*, January 5, 1994, A14.
9. Cathy Booth, "The Man Who Would Oust Castro," *Time*, October 26, 1992, 56.
10. *Ibid.*
11. The CDA was designed as "part of the Department of Defense reauthorization bill, HR 5006." "Congressional, Presidential Differences Doom Many Trade Bills in 102nd Congress," *International Trade Reporter*, vol. 9, no. 45 (November 11, 1992): 1928.
12. U.S. Congress, House of Representatives (September 22, 1992), vol. 138, no. 130, pt. 2.
13. *Ibid.*
14. *Ibid.*
15. "Shipping Medical Products to Cuba: OFAC Requirements Swamp the Raft," *Export Control News*, vol. 8, no. 9 (September 30, 1994).
16. *Ibid.*
17. Alexander Cockburn, "Killing Cubans; Cuban Democracy Act of 1992; Beat the Devil," *The Nation*, vol. 259, no. 15 (November 17, 1994): 520.
18. *Ibid.*

19. Ibid.
20. U.S. Congress, House of Representatives, Ms. Alicia Torres providing testimony to Subcommittee on Foreign Affairs regarding One Year Later: The Goals of the Cuban Democracy Act, *Federal Document Clearing House* (November 18, 1993).
21. U.S. Congress, House of Representatives, Mr. Richard Newcomb, Director of Foreign Assets Control, Department of the Treasury, providing testimony to the House Ways and Means Committee on Select Revenue Measures Trade and Free Trade with Cuba Act, *Federal Document Clearing House* (March 17, 1994).
22. Ibid.
23. Title 22. Foreign Relations and Intercourse; Chapter 69. Cuban Democracy; *United States Code Service* (Lawyers Cooperative Publishing: 1994), Current through P.L. 103-325. Approved 9/23/94.
24. Canada's Foreign Extraterritorial Measures Act was passed in 1984 "to put in legislation the government's opposition since 1963 to U.S. efforts to regulate trade by Canada-based firms in Cuba." It was not invoked in either 1990 (Mack Amendment) or 1991 (Export Administration Act Amendments), indicating the significance of the CDA for Canadian trade with Cuba. "Canadian Government Issues Order Blocking Cuban Democracy Act Expansion," *International Trade Reporter*, vol. 9, no. 41 (October 14, 1992): 1758.
25. Ibid.
26. Another source indicated that the maximum penalties included a \$10,000 fine, in addition to the five-year imprisonment for company executives. Robert Brehl, "Firms Caught in Cuban Trade Row," *Toronto Star*, November 3, 1990, C3.
27. Andrew Zimbalist, "Dateline Cuba: Hanging On In Havana," *Foreign Policy* 92 (Fall 1993): 151.
28. Scott, 1.
29. David Owen, "UK Rejects Trade Ban on Cuba by US," *Financial Times*, October 21, 1992, 7.
30. The U.N. vote of October 27, 1994, marked the third year running that a non-binding resolution passed to end the U.S. embargo against Cuba. Only the United States and Israel voted to continue the sanctions; 101 nations voted against and 48 nations abstained from the vote. *Investors Business Daily*, October 27, 1994, A1.
31. "EU/US: EU Trade Relations With US: Good in Parts?" *Monthly Report on Europe* 118 (May 21, 1994).
32. Zimbalist, 151.
33. Ibid.
34. Brehl, C3.
35. Tom Hamburger, "Cargill, Employees Named in an Alleged Sugar Scheme," *Star Tribune*, April 17, 1992, 1D.
36. Ibid.
37. In 1990, the Swiss subsidiary accounted for nearly three-quarters of all U.S. subsidiary trade the OFAC approved for Cuba. Pisani, 6.
38. Hamburger, 1D; and Baquet, A1.
39. Hamburger, 1D.
40. The penalties under the Trading With the Enemies Act include a maximum of 10 years imprisonment and a fine of \$250,000. Jonathan Marshall, "U.S. Business Tantalized by Cuba," *San Francisco Chronicle*, February 17, 1994, A1.
41. Baquet, A1.
42. Ibid.
43. Ibid.
44. Ibid.
45. Zimbalist, 151.
46. In addition to these 500 firms providing direct foreign investment in Cuba, over 85 nations have normal trade relations with Cuba. These nations' activities include "pro-

- viding . . . marketing management skills to assist in Cuba's transition towards a market economy, investing in Cuba, providing humanitarian assistance, and maintaining open doors of communication." U.S. Congress, House of Representatives (November 18, 1993).
47. U.S. Congress, Senate. Mr. Simon speaking on A Cuba Policy Driven by Sadistic Zeal, 103rd Cong., 2nd sess., *Congressional Record* (November 30, 1994, Legislative Day of Monday, September 12, 1994), vol. 140, no. 48.
  48. Pisani, 6.
  49. *EIU Country Report, Cuba*, 4th quarter (London: The Economist Intelligence Unit, 1994), 17.
  50. "Cuba Winning Support From Latin America," *Chicago Tribune*, June 16, 1994, 29.
  51. Charles Rangel, "Free Trade With Cuba," *Congressional Press Release #19* (March 25, 1994).
  52. U.S. Congress, Senate. Mr. Graham, Mr. Lautenberg and Mr. McCain presenting Statements on Introduced Bills and Joint Resolutions, 102nd Con., 2nd Sess. *Congressional Record* (February 5, 1992, Legislative Day of Thursday, January 30, 1992), vol. 140, no. 13.
  53. U.S. Congress, House of Representatives (September 22, 1992), vol. 138, no. 130, pt. 2.



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