

April 13, 1995

S. 381—THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT: HELPING TO CREATE A FREE AND PROSPEROUS CUBA

INTRODUCTION

Before the 1959 Cuban revolution that swept dictator Fidel Castro into power, Cuba was one of America's closest allies and most important trading partners in Latin America. With liberal foreign investment rules, free trade policies, and an attractive tax code, Cuba was well on its way to becoming an economic powerhouse in the region. It had doubled its gross national product between 1945 and 1958 and ranked third among Latin American countries in per capita wealth, behind only Argentina and Venezuela. Cuba's economy was becoming increasingly integrated with that of the U.S., with some 58 percent of Cuba's sugar exports supplying about 38 percent of U.S. sugar consumption.¹ But since 1959, communism has made Cuba the poorest country in the Western Hemisphere.

The Cuban Liberty and Democratic Solidarity Act, co-sponsored by Senator Jesse Helms (R-NC) and Representative Dan Burton (R-IN), is an attempt to transform Cuba into a free and prosperous nation. Doing so is in the national interest of the United States. Poor economic conditions have led to a massive increase in illegal emigration to the U.S., causing the Clinton Administration to establish refugee camps at the Guantanamo Naval Base in southeastern Cuba and in other nations like Panama. Castro has cut off these refugees from their families by threatening to prosecute them as political criminals. Moreover, Cuba continues to provide refuge to drug dealers, illegal arms merchants, terrorists, and communist revolutionaries from other Latin American countries. By passing the Helms-Burton bill, Congress would take an important step in isolating the renegade Castro regime and facilitating the peaceful transformation to a free and prosperous Cuba.

1 Victor A. Canto, Thomas Cox, and Arthur B. Laffer, "Cuba Part 1: The Background" (La Jolla, CA: A.B. Laffer, V.A. Canto and Associates, 1991).

The legislation is far-reaching, and merely passing it as it stands would increase pressure on Castro to step down. Only when Castro goes will Cuba have a chance to achieve its earlier economic prestige. Specifically, the Act would:

- ❶ **Strengthen international sanctions against the Castro government.** Among the many provisions under this section, the Act would internationalize the U.S. embargo against Cuba by seeking international cooperation in abiding by the provisions of the embargo.
- ❷ **Provide support for a free and independent Cuba.** The Act instructs the President to establish a plan for providing support to Cuba at the time he certifies that a transition government is in place. Assistance would be limited to food, medicine, and medical supplies needed to meet emergency humanitarian needs.
- ❸ **Protect American property rights abroad.** The Act provides individuals with the ability to take legal action and seek compensation for the property Castro confiscated when he came to power.

The Senate Foreign Relations Committee will soon hold hearings on S. 381; the House marked up similar legislation in March. Although the House and Senate versions are nearly identical, there are some key differences. The House version would extend both humanitarian and development aid to a post-Castro Cuba. This is a bad idea because much of the money the U.S. spends in development aid actually does more harm than good.² The Senate should use the opportunity to eliminate some provisions of the House version while strengthening portions of its own. Before passing the Helms-Burton bill, Congress should consider some modifications. These include:

- ✓ **Language to strengthen the provision prohibiting international financial institutions from providing loans and guarantees to Castro's Cuba.** Congress should require the U.S. to withhold from contributions to the World Bank and other international financial institutions double the amount of any loan or loan guarantee provided to Castro's Cuba.
- ✓ **A provision designating as a hostile act any move by Castro to unleash a mass exodus of illegal emigrants.** This provision could allow the U.S. government to impose a naval blockade, as well as other military and political pressures, should Castro decide to use the refugee weapon against the U.S.
- ✓ **Restoring Cuba's share of U.S. sugar import quotas to near its 1958 level once Castro is gone and a democratic transition government is in place.**
- ✓ **Elimination of language authorizing the President to provide government-subsidized financing and other programs to a post-Castro Cuba.** The U.S. should not get post-Castro Cuba hooked on foreign assistance and other government aid; this will only impede its ability to reform its economy.

2 Bryan T. Johnson and Thomas P. Sheehy, *The Index of Economic Freedom* (Washington, D.C.: The Heritage Foundation, 1995), pp. 245-251.

- ✓ **Language directing the President to seek a free trade area agreement with a post-Castro Cuba.**
- ✓ **A requirement that the President begin processing the 25,000 refugees at Guantanamo for controlled entry into the United States.** The refugee crisis at Guantanamo has made the base unavailable for its primary mission of naval fleet training. Moreover, nearly half of these refugees are young men with nothing to do and no hope of leaving their internment. This is a potentially explosive situation that must be defused.

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

The Cuban Liberty and Democratic Solidarity Act calls on Congress and the President to increase pressure on Castro to step down after nearly four decades of economic and political repression of the Cuban people. Specific provisions are as follows:

TITLE I—Strengthening International Sanctions Against the Castro Government.

Title I states, “It is the sense of the Congress that the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace.”³ Specifically, this title seeks further to isolate the Castro regime by:

- ↳ **Urging the President to seek, in the United Nations Security Council, an international embargo against the Castro dictatorship.** The President is urged to instruct the U.S. representative at the U.N. to seek a mandatory international embargo against Cuba, similar to the one imposed against Haiti before the return of Jean-Bertrand Aristide.⁴ The assumption is that the dictatorship of Fidel Castro is at least as egregious as that of General Raoul Cedras, who was deposed by the threat of military force.
- ↳ **Enforcing the U.S. economic embargo against Cuba.** The Helms bill tightens the Cuban Democracy Act of 1992 (CDA), which bars subsidiaries of U.S. companies from doing business with Cuba, by extending these restrictions to U.S. subsidiaries of foreign companies (for example, companies in Canada and Mexico investing in U.S. assets in Cuba that were stolen by Castro). It allows U.S. property owners to seek legal action in U.S. courts against foreign countries that are hindering their attempts to reclaim their stolen property. The bill also calls for maintaining U.S. restrictions on travel to Cuba and for enforcing these restrictions by using the Trading With the Enemy Act (50 U.S.C. App. 16).⁵

3 The Cuban Liberty and Democratic Solidarity Act, Title I, Sec. 101 (1).

4 *Ibid.*, Title I, Sec. 101 (2).

5 *Ibid.*, Title I, Sec. 102.

📖 **Prohibiting indirect financing of Cuba.** The Act makes it unlawful for any United States citizen to extend a loan, credit, or other financing to a foreign person that traffics in any stolen American property confiscated by the Castro government. This section, for example, would prohibit the extension of a loan to a foreign corporation that has invested in stolen U.S. property in Cuba.⁶

📖 **Opposing Cuban membership in international organizations.** There have been some indications that international organizations such as the World Bank and the International Monetary Fund may extend their services to Cuba. For example, staff members of these institutions met “unofficially” with Cuban officials this year to talk about the possibility of Cuba’s eventual inclusion. Moreover, Spanish government officials hosted a meeting in Spain this year with representatives of the World Bank and IMF at which these officials stated Spain’s willingness to support Cuba’s entry into both organizations. The legislation calls on the U.S. representative to each institution to vote against any such proposals. It also calls for U.S. funds to be withheld from those institutions engaging in such loans or grants, with the amount withheld equal to the amount transferred to Cuba by the World Bank or IMF.⁷

📖 **Opposing readmission of Cuba to the Organization of American States (OAS).** The OAS is an organization established by countries in the Western Hemisphere as a forum for discussion of common political and economic interests. The OAS rescinded Cuba’s membership after Castro’s revolution, although many of the non-U.S. members have since asked that Cuba be readmitted. The Act calls for the U.S. to continue opposing Cuba’s readmission until after the President has certified that Cuba has established a democratic form of government.⁸

📖 **Withholding foreign assistance to the independent states of the former Soviet Union in amounts equal to their support for the Castro government.** The Act requires the President to submit a report to Congress on the withdrawal of personnel of any independent state of the former Soviet Union from the Cienfuegos facility in Cuba, a nuclear plant funded partly by the Soviet Union in the late 1980s and early 1990s. This report would detail the progress, or lack of it, in removing these personnel. The Act also requires a reduction in foreign assistance to Russia equal to the \$200 million in credits Russia is supplying to Castro to maintain an intelligence listening post in Lourdes, Cuba. The Act exempts U.S. assistance under the Soviet Nuclear Threat Reduction Act (P.L. 102-228) and the Cooperative Threat Reduction Act of 1993 (P.L. 103-160), which are programs to assist in the dismantling of former Soviet weapons of mass destruction. It also exempts humanitarian aid.⁹

6 *Ibid.*, Title I, Sec. 103.

7 *Ibid.*, Title I, Sec. 104.

8 *Ibid.*, Title I, Sec. 105.

9 *Ibid.*, Title I, Sec. 106.

- ✍️ **Converting U.S. television broadcasting by T.V. Martí to ultra-high frequency (UHF).** T.V. Martí is a U.S. Information Agency (USIA) program which beams news and other programs to Cuba. Transmissions are being jammed by the Cuban government. Converting the transmission signal to UHF will make it more difficult for the Cuban government to jam the transmission, thereby allowing more Cubans to receive T.V. Martí programs.¹⁰
- ✍️ **Requiring the President to submit to Congress a report detailing the degree to which foreign countries trade with and provide aid to Cuba.** Under the Helms legislation, the President would be required to submit to Congress, not more than 90 days after enactment and yearly thereafter, a report detailing commerce with and assistance to Cuba by foreign nations. U.S. policymakers could use this information to determine which countries are doing the most to prop up the Castro regime.¹¹
- ✍️ **Restricting imports of sugar, syrups, and molasses from foreign countries when these products originate in Cuba.** The Helms bill would bar foreign countries from exporting sugar, syrups, and molasses purchased from Cuba to the U.S. The restriction would end after Cuba has had free and fair elections.

TITLE II—Support for a Free and Independent Cuba.

The Helms bill recognizes that Castro's regime is in danger of collapsing. Its sponsors believe that the U.S. should be prepared to deal with the inevitable uncertainty that will follow Castro's departure or demise. In particular, Title II of the Act:

- ✍️ **Instructs the President to establish a plan for providing support to Cuba once he certifies that a transition government has been created.** Once Castro goes and a transition government is in place, the U.S. should end the economic embargo, enter into negotiations on the continued use of the Guantanamo Naval Base, restore diplomatic relations, and provide assistance to alleviate human suffering.¹²
- ✍️ **Authorizes assistance for the Cuban people.** After the post-Castro government establishes a transition to democratically elected government, the President may provide assistance to the Cuban people. At first, aid would be limited to food, medicine, and medical equipment. After a democratically elected government is in place, the U.S. could provide loans and grants from the U.S. Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency, as well as funds for international narcotics control assistance and Peace Corps projects. The U.S. could consider granting Cuba "most-favored nation" trade status under conditions specified in the General Agreement on Tariffs and Trade. The Act also calls on the President to determine whether a

10 *Ibid.*, Title I, Sec. 107.

11 *Ibid.*, Title I, Sec. 108.

12 *Ibid.*, Title II, Sec. 201.

- ✓ **A provision designating as a hostile act any move by Castro to unleash a mass exodus of illegal emigrants.** This provision would allow the U.S. government to impose a naval blockade, as well as other military and political pressure, should Castro decide to use the refugee weapon.

Castro may react to tightened U.S. economic and political pressure by unleashing a new wave of illegal emigrants. Life in Cuba is so miserable that in the summer of 1994, approximately 40,000 Cubans risked their lives in shark-infested waters on makeshift rafts and inner tubes. In August 1994 alone, the U.S. Navy and Coast Guard rescued some 32,000 of these refugees at a cost of millions of dollars. The U.S. also spends \$1 million a day to maintain refugee camps at Guantanamo Naval Base in Cuba and in Panama. Moreover, in 1980, Castro opened his jails and let 125,000 Cubans enter the U.S. in the “Mariel boat lift.” The U.S. cannot let Castro do this again and should be ready to take stronger action if he tries. This could include a naval blockade, reinforcing the base at Guantanamo Bay, or—in an extreme case—even military action against targets inside Cuba.

- ✓ **Language restoring Cuba’s share of U.S. sugar import quotas to near its 1958 level once Castro is gone and a democratic transition government is in place.** This is crucial to a post-Castro Cuba’s short-term economic well-being because it would allow Cuba’s largest export immediate access to the U.S. market. It also would reduce prices paid by U.S. consumers. A post-Castro Cuba will need access to the U.S. market to help it recover from years of communism.

Title II, Section 201 should be amended to call for restoration of a large portion of Cuba’s 1958 sugar export quota. This could equal as much as 3 million metric tons, or nearly the entire volume of U.S. sugar imports under the current sugar quota scheme. Because the U.S. limits the amount of sugar that can be imported each year, this will require that the U.S. reduce sugar import allotments to current exporters of sugar to the U.S. or increase the amount of sugar that can be imported into the U.S. The latter is preferable because higher sugar imports mean lower prices for American consumers. Studies have shown that the sugar quota system costs Americans up to \$3 billion a year in higher prices.²⁰

- ✓ **Elimination of language authorizing the President to provide government-subsidized financing and other programs to a post-Castro Cuba.** Title II, Section 202 authorizes the President, after Castro is gone, to provide subsidized financing, loan guarantees, and other forms of assistance by the U.S. Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency. This drug of government-to-government aid should not be given to Cuba. It will impede market development. Far more important would be private investment from the Cuban-American community, which stands ready to invest nearly \$3 billion a year in Cuba once Castro leaves.²¹

20 See U.S. Department of Commerce, “United States Sugar Policy, An Analysis” (Washington: U.S. Government Printing Office, 1988), and International Trade Commission, “The Economic Effects of Significant U.S. Import Restraints,” Publication No. 2699, November 1993.

- ✓ **Language directing the President to seek a free trade area agreement with a post-Castro Cuba.** Once the President certifies that Cuba has established a transition government and is making progress toward establishing a free market, he should seek a free trade area agreement with Cuba in order to solidify Cuban economic reforms and allow U.S. and Cuban businesses access to each other's markets. In order to avoid the potential delays associated with bringing Cuba into the North American Free Trade Area (NAFTA), a trade agreement between the U.S. and Cuba should be bilateral.
- ✓ **A requirement that the President begin processing the 25,000 refugees at Guantanamo for controlled entry into the United States.** The refugee crisis at Guantanamo has made the base unavailable for its primary mission of naval fleet training. All military training exercises normally conducted at the base have been suspended indefinitely. This has forced the armed forces to seek out alternative sites that cost more and provide less training. Moreover, of the 25,000 refugees at the base, 16,000 are single males, mostly between the ages of 18 and 35, with little to do and no hope of leaving their internment. This is a potentially explosive situation that must be defused.

For decades, it has been U.S. policy to accept Cubans fleeing Castro's political and economic persecution. President Clinton changed that policy by establishing an internment camp at the Guantanamo Naval base after many already had left on makeshift rafts to seek refuge in the U.S. Clinton has said that these Cubans should not be allowed into the U.S. until they enter through "official" channels in Havana. Yet a return to Castro's Cuba surely would mean state-sponsored repression, including loss of food ration cards, housing, and jobs. As a result, these refugees are awaiting direct entry to the U.S. In the meantime, it is costing the U.S. \$1 million a day to house, clothe, and feed them. It would be cheaper for the Clinton Administration to allow these individuals into the U.S. to become U.S. citizens.²²

CONCLUSION

Fidel Castro has turned Cuba from the third richest nation in Latin America to one of the poorest. This is not the result of the U.S. economic embargo, but proof of the failure of communism. When Castro seized power in 1959, he promised equality for all Cubans. Instead, he has made all Cubans equally poor.

The Cuban Liberty and Democratic Solidarity Act seeks an end to Cuba's nearly 40-year nightmare by tightening the existing embargo and further isolating Castro internationally. Moreover, the legislation provides a mechanism by which U.S. citizens can regain their stolen property. The Act could be an important weapon in the fight to end Castro's death grip on the people of Cuba. Its passage would improve the

21 Bryan T. Johnson, and John P. Sweeney, "A Blueprint for a Free Cuba," Heritage Foundation *Backgrounder* No. 1029, March 23, 1995, p.10.

22 See upcoming Heritage paper by John P. Sweeney on this topic.

chances for Cubans to live in a free society where prosperity is limited only by individual initiative and they need no longer fear arrest and torture for pursuing freedom.

Bryan T. Johnson
Policy Analyst

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