

**THE ATLANTIC COUNCIL
OF THE UNITED STATES**

**International Perspectives
on U.S.-Cuban Relations**

OCCASIONAL PAPER

THE ATLANTIC COUNCIL

OF THE UNITED STATES

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International Perspectives on U.S.-Cuban Relations

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OCCASIONAL PAPER

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FOREWORD

When in 1993 the Atlantic Council first contemplated a project on the future of the U.S.-Cuban relationship, political changes on the island were beyond the visible horizon. In light of the lessons learned from the recent transitions in Eastern Europe and the former Soviet Union, we undertook to think systematically about a change in U.S.-Cuban relations. To do so we convened an eminent group of American scholars, former government officials and business leaders to propose a plan, subsequently titled the *Road Map for Restructuring Future U.S. Relations with Cuba*, that promoted U.S. interests during what we hoped would be a smooth, but recognizably difficult, period of transition.

To assist in our efforts, we also published a compendium of all laws, regulations and policies that govern the current relationship as well as a book of case studies of normalization, which appeared subsequently under the title *Reversing Relations with Former Adversaries: U.S. Foreign Policy after the Cold War* (University Press of Florida, 1998). Yet five years after we first began the project, a significant change in this relationship still eludes us. Because our efforts until now have focused narrowly on U.S. policies and interests, we thought it would be prudent and instructive to share our findings with counterparts in other countries and record their views. This occasional paper is a result of those consultations.

The drafting of this report was undertaken by Dr. C. Richard Nelson, Director of the Council's International Security Program, Mr. Kenneth Weisbrode, the Program's Deputy Director, and Dr. Pamela S. Falk, who teaches international trade and commercial transactions at the City University of New York School of Law and is a former staff director of the Western Hemisphere Subcommittee of the U.S. House of Representatives. They were assisted by Mr. Carlos Quijano, former senior official of the World Bank, who joined the group in Chile, and a steering group of prominent Cuba experts.

The Council is grateful to the project's sponsors— Aeroméxico, the Culbro Corporation, the Ford Foundation and the J.I. Foundation for their generous assistance, as well as the countless individuals and organizations in Brussels, Madrid, Mexico City, Ottawa, Santiago, Toronto and Washington, D.C. who contributed time and ideas. Without them this work would not have been possible. However, the opinions presented herein are those of the authors and their interlocutors, and do not necessarily represent those of the sponsors or of the Atlantic Council.

David C. Acheson

President

The Atlantic Council of the United States

International Perspectives on U.S.-Cuban Relations

IMPLICATIONS FOR U.S. POLICY

Views of European and Latin American government officials, business leaders and academics about U.S.-Cuban relations were surveyed during a period of two years and are relayed in the pages that follow.

Since it is widely believed that a change in U.S.-Cuban policy is unlikely as long as Fidel Castro remains in power, there is little the U.S. government can do at the present time short of a major change in legislation. The insights to be drawn from these consultations, therefore, are meant to inform *future* policies toward Cuba as well as interim steps that might be taken now to prepare for the execution of those policies.

The point of departure for these consultations was the Atlantic Council's 1995 *Roadmap for Restructuring Future U.S. Relations with Cuba* (see Appendix C, *infra*, for the Executive Summary). The talks were based on three assumptions: (1) the primary U.S. interest over the long-term is a nonviolent political transition in Cuba and a process of bilateral normalization that should occur deliberately in spite of the obstacles that are sure to arise and threaten its derailment; (2) this process will be even more difficult without the cooperation of other countries; and (3) disagreements about the current U.S.-Cuban relationship have affected other aspects of U.S. relations with third countries. All sides would be well-served by an open and constructive airing of views.

With that purpose in mind, the following implications for the United States were identified by European and Latin American counterparts:

1. Cuba is an international problem, and the current differences among the United States and its European and Latin American allies will not disappear with the advent of a new Cuban government. The United States is not the only country where Cuban policy is a powerful domestic issue. It is widely believed that U.S. policy-makers should be more sensitive to this reality and the degree to which it may constrain the policies of allies.
2. The transition in Cuba is already underway, however slow it may appear. The process is unlikely to fit exactly the single scenario dictated by current U.S. law, thus compounding the difficulty of dealing with change in Cuba. The U.S. government needs increasingly to consult and engage with, and most importantly, listen to, other

governments about Cuba.

3. Putative Cuban exceptionalism, which argues a unique standard of accountability in both domestic and international behavior, has been a burden for other countries. Instead, relations with Cuba should involve the same benefits and obligations that are found in any normal bilateral relationship.

4. While some issues between the United States and Cuba are strictly bilateral in nature, others lend themselves to multilateral solutions. Multilateral institutions are useful, indeed necessary, to reintegrate Cuba into the international system.

5. Thus, it would be a mistake for the United States and Cuba to move forward with normalization in isolation. Though few countries wish to play the role of intermediary, the United States will need international support and cooperation. To prepare itself better the U.S. government, through its policy planning staffs, should initiate contingency talks with working-level foreign ministry, trade and assistance officials in European, Canadian and Latin American governments about policy issues and coordination during a period of U.S.-Cuban normalization. Preliminary discussions about the scope of a prototype property claims agreement should be a top priority in these talks, as should ways to deal with Cuba's enormous foreign debt.

6. When the time comes to engage directly with Cuba, U.S. policy-makers and negotiators must keep in their mind the strong nationalism, bitter history and independent mindset of the Cuban people. Negotiations will require a great deal of patience and understanding.

7. In sum, Cuba's reintegration into the world community (by definition a function of its normalization of relations with the United States) will be a long and difficult process. It will require flexibility on all sides, and easily could be curtailed by short-sighted and ill-conceived demands, improper linkage of issues and poor planning. Countries with close relations to Cuba over the years have built a solid repository of knowledge and understanding. It would be wise to make use of those resources.

THE POLITICAL CONTEXT

To set the stage for the international consultations, it is important to first place U.S.-Cuban relations in context. Rebuilding a relationship with Cuba, whenever it occurs, will not be easy, given at a minimum a four decade-long freeze. The complexity of the situation is compounded by a protracted dispute between the United States and its allies in Europe and the Americas over current U.S. policy toward Cuba. The 1996 Cuban Liberty and Democratic Solidarity (LIBERTAD) Act (also known as the “Helms-Burton” legislation¹) injected emotional charges of extraterritoriality and American heavy-handedness, and obscured many of the practical challenges that lie ahead for U.S. and Cuban leaders.

Whatever the merits of the legislation, the U.S. government, led by the Congress, succeeded in elevating an already difficult bilateral problem to one that, in some quarters, potentially threatened the existence of the fragile new World Trade Organization (WTO), and with it the consensus to adhere to certain unwritten norms of interaction. At a minimum the legislation has been a serious inconvenience for U.S. diplomats and their foreign counterparts, on both the international and domestic fronts.

Thus, the enduring U.S.-Cuban confrontation moved onto the international stage when the Cuban shoot-down of two civilian planes and the subsequent passage of the Helms-Burton legislation essentially froze any movement of the domestic debate in both countries. Today both proponents and opponents of the adversarial relationship have “multilateralized” the problem, focusing on the worldwide impact of what many would consider a peripheral confrontation between a capricious behemoth and a stubborn Caribbean dictator.²

The real story, of course, is more complex. The U.S.-Cuban confrontation goes back many years, and the relationship between the two countries is unique and of greater salience than between Cuba and any other country. Thus, repetitive polemics about the U.S. embargo and Cuba’s lack of political freedom, though sincere, tend to give the false impression that the dispute is a simple one of comparably recent vintage. But so do those arguments which homogenize the “anti-Helms-Burton” views of Europe, Canada, Mexico and the other nations of Latin America. One finds in discussions with these governments (and with non-governmental actors in each country, whose opinion at times differs from those of the governments) several variations and distinctions based on unique experiences, interests and political persuasions. If one were to survey the views of more countries— say Cuba’s Caribbean neighbors or its trading partners in the former Soviet bloc, a task for which this project had insufficient time and resources— one surely

¹ P.L. 104-114, March 12, 1996. See Appendix E, *infra*, for the most contentious portions of the legislation, Titles III and IV.

² A good summary of the process may be found in Joaquin Roy, “European Perceptions and Approaches on Cuba in the Context of the U.S. Embargo and the Helms-Burton Law,” presentation delivered at the Brookings Institution, April 1998.

would hear even more diverse views. A better understanding of the multiplicity of international perspectives about U.S.-Cuban relations is the first step toward proposing avenues of collaboration in the future. As Cuban and U.S. policy-makers have come to realize in the past couple of years, “multilateralization” works both ways: by forcing the embargo and its justification onto the international arena, both governments have expanded the field of tradeoffs and costs.

In that context, nine issue areas are certain to be relevant to the international coordination of U.S. policies in the future:

- property claims
- international assistance and foreign aid
- humanitarian donations and the role of religious organizations
- regional migration issues
- democracy and human rights
- counter-narcotics efforts
- environmental issues and disaster relief
- the role of the Cuban-American community
- reintegration into international and regional economic trade agreements

Current U.S. policy already addresses several of these areas but also raises longer-term doubts over the linkages among trade, investment and assistance programs. The publication of “Support for a Democratic Transition in Cuba” by the U.S. Agency for International Development (USAID) in 1997,³ announced the intention of the U.S. government to participate in multilateral financial aid programs that are anticipated to fall within a range of \$(US) 6-8 billion. This is principally for infrastructure support and rebuilding the economy as well as for the establishment and development of political and judicial institutions upon fulfillment of the conditions set out in the Helms-Burton legislation.

Yet foreign investors in the countries that trade with Cuba today operate in a strained context without participation in the larger global lending institutions such as the World Bank or the International Monetary Fund (IMF). Although their expectation is that trade avenues and foreign investment potential will increase substantially when Cuba’s membership is reinstated, future scenarios in which this might occur are still uncertain.⁴

In addition, the highly controversial issue of claims settlement for expropriated property

³ USAID, “Support for a Democratic Transition in Cuba” (Washington, D.C.: GPO, 1997).

⁴ Antonio Romero, “Cuban Development in the Late 1990s” and Mauricio de Miranda, “Opciones de reinserción de la economía Cubana en el contexto global” at *Cuban Development: The International Context*. See also, Pamela S. Falk, “U.S. Policy Toward Cuba and International Implications for Cuban Development.” Papers presented to Spring Colloquium, City University of New York/Queens College, April 3, 1998.

does not rest solely in current U.S. law, in this case Title III of Helms-Burton,

* * *

Figure I: Cuba's Foreign Economic Relations

Country	Foreign Trade (in million US\$ in 1996)		Foreign Investment in Cuba (in million US\$)
	Imports from Cuba	Exports to Cuba	
Austria	1	3	0.1
Brazil	30	47	20
Canada	294	187	600
Chile	1	20	30
China	125	111	5
Dominican Rep.	...	...	1
France	48	217	50
Germany	24	77	2
Greece	...	1	0.5
Honduras	...	...	1
Israel	...	...	7
Italy	34	124	387
Jamaica	...	...	1
Japan	61	26	0.5
Mexico	23	350	450
Netherlands	204	61	40
Panama	...	5	0.5
Russia	369	508	2
South Africa	...	22	5
Spain	119	513	100
Sweden	4	12	1
U.K.	27	42	50
Uruguay	1	...	0.3
Venezuela	5	123	3
Total	1370	2449	1756.9

Sources: U.S.-Cuba Trade and Economic Council webpage (based in part on Cuban official data, found at <http://www.cubatrade.org>) and International Monetary Fund, *Direction of Trade Statistics Yearbook*, 1997.

even if it remains suspended until Cuba fulfills such conditions.⁵ When U.S. law is amended to authorize trade with Cuba, some U.S. lawyers whose firms already represent Cuba in intellectual property disputes have expressed the concern that the provisions of Helms-Burton that establish a private right of action in federal courts for U.S. citizens with property claims might continue in effect, thus threatening to bring to a halt other aspects of the normalization process (as occurred in Nicaragua).⁶

Meanwhile, opposition exists within the U.S. Congress to the continued suspension of Title III. A staff report published by the U.S. Senate Committee on Foreign Relations and the U.S. House of Representatives Committee on International Relations concluded that there was no evidence to back the Clinton administration's claim that the European Union (EU) has increased activities that support democratic change or human rights in Cuba. It recommends a U.S. court challenge by members of Congress to the president's suspension of Title III, congressional investigations of the administration's failure to enforce U.S. law, and declarations by members of Congress regarding the "inadequate support" for democratization in Cuba by European diplomats in Cuba.⁷

Overall and despite the lingering complaints about its implementation of Helms-Burton, the Clinton administration has worked closely to mute the conflict through a multilateral approach, with particular emphasis on the issue of deterring investment in illegally confiscated property. Future U.S. policy-makers are likely to continue the approach, linking the suspension of provisions of Helms-Burton to efforts by the EU to support democratic change and human rights in Cuba, because of the multiple trade relationships between the United States and Western Europe.⁸

Nonetheless, the engagement approach of the European Union differs from those of Canada and Mexico in the conditions that it imposes for official assistance on developments to expand non-state economic enterprises, the promotion of human rights and democratization. Electoral changes in Europe account for the shifting of emphasis in the approach, e.g., the election of a conservative government in Spain

⁵ President Clinton has suspended implementation of Title III every six months for "national security reasons" since the law's enactment. While Helms-Burton is central to current U.S. relations in an international context, the focus of this report is on future relations and therefore takes into account that the provisions of Helms-Burton could be suspended if the requisite elements of transition are in place and the president certifies to Congress that those changes have taken place (Sec. 204)

⁶ Hamilton Loeb, "Not All Business Contact with Cuba is Prohibited," *The National Law Journal*, Vol. 20, No. 32, at B11. See also, Pamela S. Falk, "Visions of Embargo Falling Spark U.S.-Cuba IP Battles," *The National Law Journal*, Vol 20, No. 32, at B7.

⁷ "Cuba at the Crossroads: The Visit of Pope John Paul II & Opportunities for U.S. Policy." March 4, 1998, pp. 46-50.

⁸ Daniel W. Fisk, "The EU-U.S. Agreement and Protection of American Property Rights in Cuba," Institute for U.S.-Cuba Relations, *Occasional Paper Series*, Vol. 2, No. 2, July 23, 1998, p. 1.

shaped the conditioning of aid, despite some pressure more recently to soften that stand. Shortly after the visit of the Pope to Cuba in late January, 1998, the EU unveiled the program on which it had been working for over a year entitled, "Financial Contribution for an Operation to Assist Cuba: Project Financed by the European Community,"⁹ whose stated purpose was to promote non-state-run small and medium sized businesses in Cuba, seminars with Cuban authorities to attract European business, and a "counterweight" to Cuba's state-controlled economy and promote an increase in European investment.¹⁰

In April 1998, in anticipation of the WTO meeting in the following month in Geneva, the EU dropped its complaint against the Helms-Burton Act and on May 18, in an agreement between the EU and the United States announced by President Clinton and British Prime Minister Tony Blair, the EU countries agreed to accept "disciplines" to halt future investments by member nationals in illegally expropriated property under much narrower conditions than Helms-Burton.

The agreement also established a global registry of confiscated property. In exchange, the U.S. negotiators agreed to ask Congress to grant the president a case-by-case waiver of Title IV sanctions, which impose visa restrictions on foreign nationals. In May, Cuban National Assembly President Ricardo Alarcon reacted to the deal by saying that it was absurd to think that such a pact could work.¹¹

What now stands is a still fractious situation where the United States and most other countries agree to disagree over Cuba but have managed to contain their disputes, with difficulty. While this may ease some concerns for the time being, it imparts little confidence that a solution to the full range of problems is at hand any time soon. Indeed, the longer a settlement of the "Cuba question" is postponed, admittedly at the whim of the Cuban government and the U.S. Congress, the more difficult it will be to embark on a harmonization of policies, a process that is just as vital to the success of the Cuban transition as the bilateral program of U.S.-Cuban normalization. If the United States and other countries of the world are ever to work together on Cuba, they must begin now to contemplate the conditions under which shared assumptions and objectives would prevail over discord. A preliminary assessment of the similarities and differences of such views is a first step in this direction.

⁹ Pub. No. 98/C 29/09, "Call for Proposals" EC: Official Journal of the European Communities, January 27, 1998.

¹⁰ Hamilton Loeb, *op.cit.*, at B9. See Fisk, *op. cit.*, Appendix II, for the full text of the agreement.

¹¹ Helene Cooper, et al, "U.S. Ends Penalties Against Cuba Trade," *The Wall Street Journal*, May 19, 1998; David E. Sanger, "Europeans Drop Lawsuit Contesting Cuba Trade Act," *The New York Times*, April 21, 1998; *Reuters*, Havana, May 24, 1998, "Cuba Says Absurd to Accord."

INTERNATIONAL PERSPECTIVES

Consultations and workshops were held in Ottawa and Toronto, Canada in October 1996, in Mexico City, Mexico in February 1997, in Brussels, Belgium and Madrid, Spain in October 1997, and in Santiago, Chile in March 1998 (see Appendix B, *infra* for a list of the host organizations). All the meetings were conducted strictly on a not-for-attribution basis. Reproduced herein is a summary of the discussions and ideas presented by both governmental and non-governmental interlocutors. *The opinions presented are largely those of the interlocutors. Where necessary, the authors have added explanation to help understand the points raised in discussions.* While some views may be factually incorrect, they nevertheless represent perceptions, and as politicians and those who study them know, perceptions often define reality. The purpose in presenting these views, therefore, is to gain a deeper appreciation of foreign opinion, not to present a comprehensive study of foreign policies and interests.

BRUSSELS & MADRID

U.S. differences with Europe over Cuba have been the most vexing and are the most relevant to the health of the Atlantic Alliance. The consultations occurred at an interesting time, just a few days before the October 15, 1997 deadline on reaching a preliminary agreement with the United States on “disciplines and principles for the strengthening of investment protection.” As already briefly noted, this agreement would allow the EU to withdraw its complaint in the WTO against the United States over the alleged extraterritorial application of Titles III and IV of the Helms-Burton legislation in exchange for an agreed framework for deterring future investments in confiscated property in third countries. These talks coincided with a contentious series of negotiations at the OECD in Paris over multilateral investment measures that stipulate the circumstances in which “host country legislation may or may not take precedence over an investor’s home country’s law when the two conflict.” The latter negotiations were stalled because of strong differences among the United States, the EU and Canada over which sectors would fall under the agreement, while the former bilateral talks between the United States and the EU were hung up over whether the disciplines and principles would be retroactive, as well as the definition of expropriation.¹²

Cuban interlocutors who were interviewed in Brussels expressed concern over this issue. The fact that the bilateral negotiations with regard to the WTO complaint were taking place at the same time as the multilateral talks at the OECD meant that the United States was “trying to multilateralize Title III of Helms-Burton. If this effort succeeds, the situation will be absolutely impossible.” Meanwhile, in Cuba’s view, the claims situation could have been solved a long time ago if the United States had simply

¹² Talks over the proposed Multilateral Agreement on Investment have since broken down entirely. See “The Sinking of the MAI,” *Economist*, March 14, 1998, pp. 81-82 and Fisk, *op.cit.*, pp. 5-9.

accepted Cuba's repeated offers to negotiate. The idea of any bilateral negotiation over claims has been abandoned because of Helms-Burton's transfer of the issue (in the Act's view, "trafficking") to the courts. This is not a condition that will be easily reversed once a decision is made to normalize relations.

A more significant measure is the December 1996 EU Common Position on Cuba, the first of its kind taken by the EU with respect to a Latin American country. It was acknowledged that Spain took the lead in forcing adoption of the position, although the decision was said to have had little to do with then-U.S. Ambassador Stuart Eizenstat's visits to several European countries. Rather it came from the need for Europe to speak with a single voice about its "third way" approach toward Cuba and the Castro regime.¹³ The Common Position is very much a compromise between Spain's insistence on greater conditionality on aid to Cuba and the traditional EU approach toward dialogue and engagement. Nevertheless, Cuba is the only Latin American country without a bilateral trade agreement with the EU, and positive rhetoric notwithstanding, one does not appear to be forthcoming. The EU does not have a representative in Havana, and continues to handle Cuban matters from its office in Mexico City. In 1996 the EU reduced its aid to Cuba from 30 million ECUs¹⁴ to 18.7 million. With the exception of the ongoing "political dialogue" and occasional posturing over Helms-Burton, most of the energies of the EU are devoted to promoting European business with Cuba.

Europeans for the most part are convinced of the superiority of their approach on the full range of issues. They want more members of the U.S. Congress to learn about their considerable experience in dealing with "a dictatorship on their borders" (i.e. the Soviet bloc) through engagement *a la Ostpolitik* and constructive dialogue. They suggested forthrightly that it was this approach rather than the confrontational stance of the United States that "brought an end to the cold war." The Europeans' response to political crackdowns in Cuba and in most other countries is to "engage more...the need is even greater."

Most European officials conveyed helpful, general suggestions on how to work with Cubans. Reiterating Cuba's sensitivity to issues of sovereignty and nationalist sentiments, they stressed the importance of listening rather than asserting, even when what one is hearing does not sound practical. It is important to state principles up front and then move on to details rather than threatening to break off dialogue. The techniques of posturing take some time to grow accustomed to, but once this takes place, one finds that Cubans are very easy to deal with.

¹³ See Ralph Galliano, ed., "U.S.-Cuba Policy Report," Vol. 3, No. 12, December 31, 1996, p. 2 for an interesting aside on the role of the Spanish government in "watering down" Ambassador Eizenstat's recommendations.

¹⁴ The ECU is worth about \$1.09 (August 1998).

Figure II: European Union Common Position

1. The objective of the European Union in its relations with Cuba is to encourage a process of transition to pluralist democracy and respect for human rights and fundamental freedoms, as well as a sustainable recovery and improvement in the living standards of the Cuban people. A transition is most likely to be peaceful if the present regime were itself to initiate or permit such a process. It is not European Union policy to try to bring about change by coercive measures with the effect of increasing the economic hardship of the Cuban people.
2. The European Union acknowledges the tentative economic opening undertaken in Cuba to date. It is its firm wish to be Cuba's partner in the progressive and irreversible opening of the Cuban economy. The European Union considers that full cooperation with Cuba will depend upon improvements in human rights and political freedom, as indicated by the European Council in Florence (June 1996).
3. In order to facilitate peaceful change in Cuba, the European Union:
 - (a) will intensify the present dialogue with the Cuban authorities and with all sectors of Cuban society in order to promote respect for human rights and real progress towards pluralist democracy;
 - (b) will seek out opportunities – even more actively than heretofore – to remind the Cuban authorities, both publicly and privately, of fundamental responsibilities regarding human rights, in particular freedom of speech and association;
 - (c) will encourage the reform of internal legislation concerning political and civil rights, including the Cuban criminal code, and, consequently, the abolition of all political offences, the release of all political prisoners, and the ending of the harassment and punishment of dissidents;
 - (d) will evaluate developments in Cuban internal and foreign policies according to the same standards that apply to European Union relations with other countries, in particular the ratification and observance of international human rights conventions;
 - (e) will remain willing in the meantime, through the member states, to provide ad hoc humanitarian aid, subject to prior agreement regarding distribution; currently applicable measures to ensure distribution through non-governmental organizations, the churches and international organizations will be maintained and, where appropriate, reinforced. It is noted that the Commission is proceeding on the same basis.
4. As the Cuban authorities make progress towards democracy, the European Union will lend its support to that process and examine the appropriate use of the means at its disposal for that purpose, including:
 - (a) the intensification of a constructive, result-oriented political dialogue between the European Union and Cuba;
 - (b) the intensification of cooperation and, in particular, economic cooperation;
 - (c) the deepening of the dialogue with the Cuban authorities, through the appropriate instances in order to explore further the possibilities for the future negotiation of a Cooperation Agreement with Cuba, on the basis of the relevant conclusions of the European Councils in Madrid and Florence.
5. The implementation of the Common Position will be monitored by the Council. An evaluation of this Common Position will be undertaken after six months.
6. The Common Position shall take effect on December 2, 1996.
7. This Common Position shall be published in the Official Journal.

The best thing to do is to create a climate of confidence and to be coherent. This

was made obvious by the failure of “Track II” efforts— “if your Track I is so corrosive, Track II is not credible.”¹⁵

The Europeans’ deepest concerns center around the leadership succession in Cuba and the likelihood of a violent transition. It is this possibility which impels them more than anything to keep dialogue open with Cuba in the hope that it will help avoid future instability. They also worry about business competition from the United States after normalization. Unlike the Canadian outlook that assumes the magnitude and strength of the U.S. market will marginalize Canadian businesses in Cuba after normalization, the Europeans, especially the Italians, Spanish and French, want to maintain an important presence on the island. They view their “foothold” in the tourist industry, especially, as the first step to a longer-term advantage *vis à vis* the United States, whereas most Canadians view their investments as short-term and speculative, even in non-extractive sectors. When asked if a strong European presence in Cuba might create complications for the decision by a future Cuban government to enter a U.S.-dominated trade regime such as North American Free Trade Agreement (NAFTA) or the Caribbean Basin Initiative (CBI), EU officials did not express much concern. Faith, they said, should be maintained in the free market.¹⁶

Some Europeans claim their greatest difficulties are attributable to U.S. pressure. “If it were not for the United States short-circuiting the process of Cuba-EU engagement, there would be a bilateral cooperation agreement by now.” Others are likely to deny this situation, saying that their “disillusionment” with Cuba is because of Cuba’s political and economic shortcomings, even if everyone really knows it is because of tough U.S. arm twisting. According to this group, Cuba assumes that the United States throws around rhetoric about democracy and human rights in pursuit of its interests but “does not really believe it.” The “problem with us Europeans,” however, “is that we really do believe it,” and somehow, this is the fault of the United States. That is paradoxical because over one-third of Cuba’s trade is with the EU, while politically most European observers consider the Cuban system to be evolving into a “social model more like Europe than most of the third world.”

Spain’s role

¹⁵ Track II refers to nongovernmental efforts in the mid-1990s to encourage “civil society” in Cuba in lieu of Track I, official governmental relations.

¹⁶ By contrast, Cubans who were consulted in Europe had mixed feelings. Cuba appreciates some Europeans’ willingness to take on the United States over Helms-Burton, but resents their patronizing attitude. The problem is that Europeans, especially the Spanish, “think they know Cuba” when actually they are seeing things through “the eyes of their Eastern European experience.” In other words, some Europeans view Cuba as a disintegrating Stalinist state in need of a bailout and superior advice. This is not the way Cubans see their system.

Largely responsible for the redefinition of Europe's policy toward Cuba has been the fact that, in recent years, Spain has taken the lead among Europeans in dealing with Cuba and thus deserves special mention. For historical and cultural reasons, Spain feels closest to its former "ever faithful isle." Since the 1996 election of Prime Minister Jose Maria Aznar, Spanish governmental aid to Cuba has been reduced and made conditional on political and economic reform, but private sector assistance remains substantial. Technical assistance to Cuba now runs about \$1 million per year. Humanitarian assistance, including food aid is \$3 million per year; cultural cooperation programs are about \$120,000 per year. Though relatively large, these numbers are significantly lower than they were under the Socialist government of Felipe Gonzalez. Official programs are carefully monitored to ensure that aid goes directly to the Cuban people, not to the regime.

Spain's ambassador to Cuba left the country in 1996 after a highly publicized dispute with the Cuban government over political reform. President Aznar remarked at the time that it was "not necessary" to send another ambassador any time soon. Yet in spite of the testy nature of bilateral relations, a broad understanding persists between the two countries. Subsequent to the Atlantic Council visit to Madrid, a new ambassador, career diplomat Eduardo Junco, was named in early 1998 and Spanish-Cuban relations were normalized. The step was allegedly taken in part to pave the way for a visit by King Juan Carlos later in the year, although this has been contentious in some circles.

The Spanish government has embarked on a Track II program of its own. It has quietly bolstered military-to-military ties and has encouraged more active Catholic Church links that began in earnest under the former Gonzalez government. The army and the Church, in classic Iberian tradition, are the "key buffers to a violent transition." Cuba is the only country in Latin America whose military does not participate in international peacekeeping missions, and Spain has initiated training programs to help introduce some new concepts into the Cuban armed forces.

With regard to relations with the EU, the Spanish government denies that it "forced" the Common Position on the table (contrary to what was described by officials in Brussels), but nonetheless acknowledges a major role in crafting the balance between conditionality and engagement. Spanish officials mentioned a widespread impression that the United States does not appreciate the difficult effort it took to reach this position, despite President Clinton's rhetoric during the repeated waivers of the Title III provisions of Helms-Burton.

Another priority for Spain is to encourage Cuban readmission into international financial institutions. Aside from the U.S. veto, the huge Cuban debt problem stands in the way of the forward movement of this process. Cuba's debt to Spain alone

exceeds \$1 billion. The only debt Cuba is paying at the moment is short-term, while the interest rates on loans for the sugar harvest and other programs continue to rise. This is an extremely serious issue toward which little long-term thought has been devoted. Meanwhile, Spain and Cuba reached a confiscated property claims settlement agreement in 1986, and it was immediately controversial because of the low ratio of return. The total amount of the claims was about \$33 million. However, the Cuban government stopped payment soon after the agreement went into force, and the Spanish government (actually, the foreign ministry) paid the claimholders from its own resources. When there was a vocal reaction in the Spanish parliament, the Cubans, protesting that they had no money to pay, offered to settle the remaining claims with the shipment of several thousand Soviet-era toilet seats.

In thinking about the more distant future and the role of Spain during the process of U.S.-Cuban normalization, the Spanish government and business sector are doubly concerned: on the one hand they sense that inadequate preparation has taken place, both in Cuba and the United States; and that additionally, the United States will “take over” Cuba economically once the embargo is lifted. Spain wants to have a long-term presence in Cuba and will use what leverage it can to protect itself against “monopolistic U.S. tendencies.” There was indication that the property claims issue will be present at the core of that tension, although Europe and the United States might prescribe some preventive diplomatic medicine through the Trans-Atlantic Business Dialogue. In the near-term, Spanish officials thought the United States could go a long way toward aiding a peaceful transition by contemplating ways to “neutralize” or “moderate” the influence of the more right-wing members of the Cuban exile community.

Changes in Spain’s Cuba policy since 1996 have been more in approach than substance. The objectives remain the same. Cuba policy under Prime Minister Gonzalez stressed achieving political change through “goodwill.” Now the priority for Spain is economic reform designed to induce a framework for political change from within. This was critical in Spain’s own transition from authoritarian rule. The opening of markets and economic liberalization in the 1950s are perceived to have led eventually to a smoother path of political reform in the 70s. Spanish businessmen in Cuba, however, are not thought to be interested in democracy and human rights, so it is not clear how this model is supposed to evolve in a very different Cuban context.

Among the opposition as well as the government’s representatives in parliament, there is recognition that the Aznar government is out ahead of public opinion regarding Cuba (or is running against it, depending on where one sits). The reason for this position derives from the prime minister’s own ideological and personal convictions. He has no desire to satisfy European public opinion on Cuba and has a strong dislike for Castro’s system. While his party’s liberal philosophy does not oppose private business ventures in Cuba, it does not condone the transfer of

public, taxpayer funds “to support a dictatorship.”

Despite growing internal debate and differences over Cuba, party leaders have made an effort to marginalize the issue. Sensible politicians do not “want to break relations with the United States over a stupid U.S. policy.” Thus, even though Cuba represents the only major area of difference among the political parties with respect to foreign affairs, most everyone agrees that engagement with Cuba should continue, only with varying degrees of conditionality and accountability.

Spanish public opinion

Cuba remains an overwhelmingly sentimental topic, “hypersensitive,” according to some interlocutors. A mirror image of the obsession with Cuba typical in some quarters of the United States exists in Spain. Just as the United States can be accused of treating Cuba as part of its backyard, many Spaniards continue to view Cuba as “theirs,” still an overseas piece of the Spanish nation.¹⁷ Over 800,000 Spaniards emigrated to Cuba between 1898 and the 1930s, that is, *after* Cuban independence. Millions of Spaniards have family ties to Cuba. Castro in this context is looked upon as a renegade son who remains part of the family, “even though he misbehaves.” Manuel Fraga, a minister under Franco and the current Popular Party governor of Galicia, traveled to Cuba to show solidarity with the large number of Cubans of Galician heritage (which includes Fidel Castro). The Galician provincial government also sends considerable amounts of assistance to Cuba. It is also important to recall that Franco himself never broke relations with Cuba after 1959.

Another constant aspect is a strong anti-Americanism always latent beneath the surface of Spanish public opinion, occasionally erupting in surprising hostility. The power of this sentiment is not well understood or recognized in the United States. It differs from other European (largely left-wing) attitudes in that it is more prevalent across the political spectrum and is combined with Spanish-American War-era resentments that still simmer in the Spanish heart. The 100th anniversary of the war has rekindled much of this animosity. Cuba, for obvious reasons, is the focus of these attitudes. U.S. policy toward Cuba has provided a symbolic whipping boy for every known anti-American strain in Spanish politics; in one sense this is positive because it allows people to get these thoughts off their chests without major consequences. On the other hand, it serves as a foreboding reminder that anti-Americanism is alive and well in the country, despite the current positive relationship between the United States and Spain, as well as the Aznar government’s

¹⁷ Some Cubans interviewed in Spain found this very objectionable, insisting that, after three wars of independence, Cuba ought to be considered a sovereign nation. “Cuba is neither Spanish nor American, but something else...totally unique. The national consciousness of the population may be ‘immature’ but should not be defined by imperialistic preconceptions, whether Spanish, U.S., Russian or any other that may come along.”

shift toward the U.S. position on Cuba (even to the extent of hosting visits with former [now deceased] Cuban American National Foundation president Jorge Mas Canosa and aiding in the establishment of a conservative Hispano-Cuban Foundation).

Although most educated people in Spain recognize the importance of lobbies in the United States, they find it difficult to make an emotional distinction between the stance of the U.S. administration and the Congress. There is also a strong conviction that the United States takes its political freedom for granted and does not understand the struggles other countries must endure in making the transition from a turbulent era or dictatorship to a freer society. (As one person put it, "it has been a long time since your period of Reconstruction.") Spaniards take pride in their own post-Franco transition, and insist the United States must have a more open mind about how this might occur in Cuba. Namely, they see U.S. policy as setting the stage for violating their four tenets of a peaceful transition: "1) don't look back; 2) be tolerant; 3) all sides must give up something; 4) don't seek revenge." The climate created by Helms-Burton, particularly with regard to property claims, will make it very difficult for Cuba to follow a Spanish, Argentine, Chilean or South African model of transition.

What the U.S. government needs to do, some Spaniards say, is to hold back and learn from the experiences of countries that have passed through this difficult period in recent times. There needs to be less posturing over "principles" and more constructive "complementarity."¹⁸ One official noted that President Bush and Prime Minister Gonzalez had a unique understanding on Cuba, with Bush using Gonzalez as a key intermediary to Castro. It is doubtful that the United States will want or need intermediaries once normalization takes place (this point came up in Canada and Mexico as well), but in the opinion of many Spaniards, the U.S. government still should devote more thought to new ways of establishing complementary Cuban policies with Europe and Latin America, rather than competitive or antagonistic policies.

Spaniards claim to have special insight into the mood of the Cuban people and their political outlook. This insight was elaborated in a series of random judgments paraphrased roughly as follows:

1. The identity of the Cuban people remains an open question. On the one hand, there is the "historical personage of the authentic Hispanic-Cuban," a pseudo-Spaniard in the Caribbean. Though Cuba's natural economic market is toward the north and the logical insertion of Cuba in international community by way of the United States, the cultural home of Cuba is in Spain.

¹⁸ This term also has been known to be used commonly by the Cuban government to refer to non-interference in its internal political affairs.

2. The U.S. approach toward Cuba suffers from tremendous ignorance about this unique character. Worse yet, it shows a total lack of interest in trying to understand it. First, the United States needs to demonstrate a sensitivity to the need for self-government in Cuba rather than contributing another imposed model of government from the outside. The United States through Helms-Burton already has “determined, established and legislated” how the political transition will take place. In the meantime, U.S. official policy toward Castro “could not be worse or more counterproductive. It could not have been better designed by Castro himself.” Cubans are said to blame the U.S. government for keeping him in power. “This feeling will last for a long time, even after Castro, even after Helms.”

3. Scared and threatened, Cuba does not distinguish between the U.S. government and the American people and therefore, has been converted into an enemy of the United States without distinction. This will be a factor in trying to build future cooperation. Many Cubans feel they will be charged with being accomplices of a “criminal government” and will experience discrimination and persecution. Meanwhile, many still believe in the “values of the Revolution, the values that Fidel represents.” They see around them Nicaragua, Haiti, Guatemala and conclude that their system is better even though the United States does nothing to help. For example, in Nicaragua millions of dollars were spent to wage war against the government and then the country was abandoned to poverty and neglect after the elections in which the Sandinistas were defeated. The lesson to be derived from this and similar examples is that the United States really does not care about the welfare of the countries of the Caribbean and Latin America. U.S. policy only grants these countries attention when parochial U.S. interests are at stake.

In addition to a better appreciation of what makes Cubans tick, Spanish interlocutors said the United States would be well advised to consider confidence building measures that go deeper than a dialogue about what comes after Helms-Burton. “A whole new language is needed, one that is more conducive to dialogue.” That is not possible under the current manner of proclaiming one’s respective national interests past one another.

Moreover, in Spain there is a strong belief in the omnipotence of U.S. policy— if and when the United States wants to act, it will. Every action then necessitates a reaction, although the United States, “like imperial Rome,” does not really consider the consequences. If there were enough political will to normalize relations it simply would happen. The same is true with resolving the claims issue: the U.S. government merely could write off the expense. Compared to the billions of dollars it has put into Russia, Eastern Europe, Egypt, Israel and other priority areas, these amounts are minimal.

Finally, a great deal was made of the rumor that the European Commission and the United States have made a secret pact to sell out Cuba in favor of Iran. Europe will surrender its sovereignty (“once again”) to the United States with respect to Cuba in exchange for the United States agreeing to look the other way on European commercial deals with Iran and Libya. One should always remember that the United States is little more than a narrow-minded pursuer of its economic and strategic interests.

* * * *

It was apparent from these discussions that public opinion in Spain probably will prove difficult to reconcile in the future. To the extent that U.S. policy-makers care about such opinion, there will be considerable work to do. However, there is no indication that any amount of listening or thoughtful exchange of views will make a difference. The same might be said to a lesser extent of other Europeans with regard to U.S.-Cuban relations.

OTTAWA & TORONTO

Canada’s policy toward Cuba is recognized throughout the world as the most generous and idiosyncratic, insofar as it is designed just as much to pique the United States as to apply to Cuba. The Canadian views can be summarized as follows:

1. Cuban leadership will not respond to public foreign pressure. However, it may be convinced that some change is in Cuba’s interest and will introduce incremental economic reform while trying to control its pace. Political oppression will continue to be pervasive.
2. Cubans are highly sensitive and are subject to long memories, strong fears and powerful stereotypes, despite the pragmatism for which some of them are well-known.
3. Canadian government, NGO and business representatives all express significant frustration with Cuba’s bureaucracy and its ubiquitous pride. But Canadians remain committed to engagement, partly because they consider that it leads to strategic advantages for Canada, but also because Cuba seems to possess an unusual attraction for them. Canada has a great deal of experience with lesser developed countries and would welcome opportunities to participate in international assistance programs led by the United States.
4. But in the near term Canada is unlikely to cooperate with the United States to pressure Cuba. There is no advantage to Canada and many downsides.

5. The international community should focus on integrating Cuba into the world economy. This will require the government of Cuba to adopt international standards and, more importantly, be more accountable. The process of integration also forces Cuba to reduce state control over the society.

6. Private, “low-profile” meetings, negotiations and ultimately, pressure in areas such as human rights are more effective than public diplomacy.¹⁹

Canada’s preferred scenario is the “Queen Mother” option in which Castro presides over reform as a symbolic but powerless figure. Alternatively, the “Pinochet” scenario is the least preferred. Another model some Canadians appeared to take seriously was Tanzania, where Julius Nyerere lives in semi-seclusion but still acts as an important symbol of authority for the country.

Canadians emphasized their approach to Cuba as “normal” in a strict sense: Cuba is treated like any country with which Canada has normal relations, with both positive and negative elements. Cubans understand that condemnation over human rights abuses is part of a dialogue, but that it does not have to be overly confrontational. At the core of Canada’s relationship is commerce, as is the case with its approach to most countries.

In looking at what works with Cuba, the Canadians emphasized mutual respect. Again, Cubans are known to be fiercely proud and will not tolerate approaches they consider to be condescending. Spain already has felt the brunt of this sentiment, while Canada, though looked upon somewhat more favorably by Cubans, also keeps vigilant over the nature of its engagement. Predefined frameworks rarely work, and Canadians worry that U.S. normalization will fall victim to their inherent inconsistencies, particularly given the large number of questionable “blueprints” that already exist. The best approach to working with the Cubans is a cautious, pragmatic and above all, respectful exchange of views.

Canadian aid programs to Cuba resumed in June 1994 after an over ten-year hiatus because of Cuban military involvement in Africa and related issues. Technical assistance is the principal form of assistance that Canada provides to Cuba. Most of the initial focus has been on NGO partnerships, for which there exist established principles of cooperation. Other types of assistance include direct aid (government-to-government) and private sector development support. The Canadian International Development Agency (CIDA) is moving toward greater emphasis on the latter type of assistance in keeping with the trade and commerce focus of Canada’s bilateral policy. It does not get involved in large-scale infrastructure

¹⁹ The Canadians seemed to refer only to U.S. policy— since the Atlantic Council visit took place in October 1996, both the Canadian foreign minister and the prime minister have made high profile visits to Cuba.

assistance under the assumption that the private sector (or someday the World Bank and Inter-American Development Bank [IDB]) will take the lead there. CIDA's aims are more modest in Cuba. The greatest level of its direct assistance in the Caribbean goes to Haiti.

Other partnership programs include a joint fiscal reform program between Revenue Canada and Cuba's tax administration; another between Statistics Canada and the Cuban Ministry of Economics and Planning; a joint MBA program between Carleton University and the University of Havana; cooperation with Oxfam Canada and CARE; a donation of paper to various ministries; and cooperation with the Catholic Church. The purpose of all these exchanges is to lay the groundwork for real reform in Cuba geared toward greater private sector development as an impetus to future prosperity and a bulwark against socioeconomic chaos.

There is little donor coordination at this point. CIDA has never done a broad assessment of assistance needs in Cuba; likewise its officials do not recall ever being consulted by USAID for advice on contingency planning for Cuba or conditions on the ground. Canadian aid officials are optimistic that their Cuban counterparts are serious about reform and someday will make use of these relationships. They foresee the growth of an informal coordinating network among UNDP, IDB, World Bank and national aid officials that could be useful in the long term, while the private sector continues to develop its own exchange network.

Finally, it is important to recall that Cuba has defaulted on about \$10 million of overseas direct assistance loans from the 1970s, but there have been proposals to convert the debt into equity as took place with Mexico a few years ago.

With respect to difficulties encountered because of U.S. policy, Canadians feel that Track II of the Cuban Democracy Act tainted all NGOs working in Cuba as subversive and made it harder for Canadian government officials to deal with issues like governance. To respond specifically to Helms-Burton, blocking legislation by way of an amendment to Canada's Foreign Extraterritorial Measures Act (FEMA), passed in 1984, was considered very likely to proceed in parliament.²⁰ Comments on the Eizenstat visit were generally upbeat about the professionalism of the envoy himself, but Canada will not join publicly with the United States to press for more reform in Cuba. At this point the Canadians feel they have little to gain by cooperating with the United States. Several mentioned that the visa denial provision (Title IV) of Helms-Burton has provoked a nationalist reaction in Canada against any U.S. initiatives. However, they feel generally optimistic about future cooperation and hope their relations with Cuban organizations will continue.²¹

²⁰ Subsequent to the Atlantic Council visit, the Canadian parliament proceeded with legislation to amend the FEMA by allowing Canadians to countersue.

²¹ See John M. Kirk, *Back in Business: Canada-Cuba Relations After 50 Years*. Ottawa: The FOCAL

The Canadian NGO experience

Non-governmental actors in Canada conveyed some in-depth views on what works well in dealing with Cuba. Cuban pride translates into a slow pace of relations. Several Canadians challenged the Atlantic Council *Road Map's* assumption that normalization will proceed rapidly; Canadians feel strongly that this assumption is false. Patience is more important than efficiency in dealing with Cubans who still are very cautious and suspicious of outside advice.

The first thing to understand is that Cubans consider the present time the first period in their history in which they have been free of foreign domination, and they are very careful not to enter into dependent relationships. However, accompanying this fear is an equally potent concern that Cuba will become another Nicaragua, that is, a stagnant economy in limbo without much short to mid-term potential. Most key officials know that they must reform significantly to survive.

The expectation of change is widespread throughout Cuba, but there is still a strong desire to "protect" what are considered to be the accomplishments of the Revolution. Again, the calibrated pace of the process is crucial.

In the meantime, there still are areas where the United States could help prepare for a smoother process of normalization along with diminished political tensions. The U.S. government should emphasize areas in which there still exists substantial contact, such as counter-narcotics efforts. There is also the Caribbean Customs Law Enforcement Council, in which Cuba could become a more active member. There is the International Hydrographic Commission in which both Cuba and the United States (U.S. Navy) participate. Greater contacts via these organizations would lead to heightened confidence. Finally, some Canadians proposed the admission of Puerto Rico to the Association of Caribbean States as a symbolic step leading to more direct U.S.-Cuban contacts.

Regarding regional security, Canadians are convinced that the military will play the key role during the Cuban transition and that it should be brought into mechanisms of regional cooperation more rapidly. A real fear of U.S. intervention persists in Cuba, and this remains the focus of Cuba's military posture. However, the Cuban military recognizes that the inter-American system is being redesigned in security terms, and they are extremely interested in taking part. They offered to assist with the Haiti relief effort and consider themselves real experts in third world affairs, namely civic action, disaster relief, humanitarian aid and so forth. There should be some creative ways to quietly engage the military through National Defense University programs or similar exchanges. Canada already has sponsored several

such exchanges. For example, the Royal Canadian Mounted Police conduct an active counter-narcotics program there; and the Canadian government provides assistance and exchanges with Cuba through the Caribbean Customs Law Enforcement Council.

The economic dimension

On the economic side there is concern in Canada about a triumphant mood in Cuba because Cuban leaders feel they have weathered the storm in the early 1990s and turned the economy around. Canadians sense a diminished willingness to engage in “respectful dialogue” now that many Cubans, especially the older, less reform-minded officials, feel that they have surpassed the most difficult hurdle of their “special period,” and that they did it by themselves. The pace of reform probably will linger, while there is little sense that political changes are necessary at this point.

Meanwhile, economic growth continues but investor interest is declining, partly but not fully because of the Helms-Burton legislation. Many Canadians have become frustrated and say “Cuba, like Russia, is a market for grown-ups.” Banks are increasingly cautious about financing projects, and there is concern that Cuba will become further isolated. Despite Canada’s efforts, most people there feel that greater tensions between Cuba and the United States make more likely an increase in anti-foreigner sentiment in Cuba and lessen the appeal of genuine reform.

Cuba came onto the radar screen of the Canadian financial sector in 1995 because of strong client interest. When the opportunity arrives to become more aggressive in Cuba, most large banks and other large businesses say they are prepared to do so because they are convinced of the island’s long-term strategic importance even though little is underway at the present time. With the notable exception of Sherritt International and its monumental investments in extractive industries, the emphasis has been on small and medium-sized businesses.²² Investors’ views about the future of Cuba’s economy and investment climate are mixed. There is a sense that the Cuba has reached a plateau and will not continue with real reform for some time. Things will not get better until after they get worse. Still, trade continues, especially in consumer goods and food, while the Cubans invent increasingly creative ways to pay for imports.

Canadian businesses are concerned about lingering political issues, namely that they feel “trapped in a civil war between Havana and Miami” and that Helms-Burton is perceived as an attempt to level the playing field in Cuba until U.S. companies can get in. However, they also admitted that once U.S. banks and other businesses enter

²² See Peter Fritch and Jose de Cordoba, “For a Canadian Firm Betting Big on Cuba, Payoff is Bittersweet,” (Profile of Sherritt International Corp.) *The Wall Street Journal* October 7, 1997, pp. A1, A10.; William C. Symonds, “Castro’s Capitalist: Canada’s Sherritt Cleans Up in Cuba,” *Business Week*, March 17, 1997, pp. 48-49.

the Cuban retail market, non-U.S. investors probably will find it difficult to compete, regardless of their degree of involvement up to that point.

Canadian business executives believe that Cubans view them as “Americans they shouldn’t fear,” that is, if most Cubans view the United States with a combination of admiration and fear; the Canadians try to capitalize on the admiration. Cubans also are said to be willing to accept advice and training, provided it is offered in a way that does not offend them. Like the Chinese, they are most interested in one-way transfers of technology.

Most Canadian business leaders consider Cubans to be very cooperative and flexible even though a few (like their government counterparts) noted the frustration they felt in dealing with the Cuban bureaucracy. Yet they also noted a remarkable lack of corruption, a safe environment and positive attributes (i.e. “the trains run on time”). Several investors anticipated that the U.S. embargo would be lifted in a few years and have set their planning schedules accordingly. They believe that Cuba’s most profitable sectors will be tourism and industrial minerals, especially once the U.S. market is open. Regarding the latter, the Canadians have developed an extensive legal framework with the Cubans regarding mining rights (as distinct from property rights, which belong to the government). Most of the agreements now stipulate that Cuba will indemnify the costs of potential property disputes or claims.

In tourism the picture is bright. Cuba is expected to dwarf the rest of the Caribbean someday, but it still needs a tourism strategy and lacks the necessary infrastructure to meet North American standards. There are about 20,000 hotel rooms, but Cuba needs at least 50,000 to compete. The Canadians see their investments as an essential link to future U.S. investment in tourism. They term it “bridge branding,” which involves bringing hotels and services up to international standards and establishing copyright and trading name recognition so that Cuba will be well-positioned to attract U.S. hotels and resorts. This is very important to Canadians who try to “look beyond the blip after lifting of the embargo” and anticipate a backlash or drop in tourist interest if the standards are not sufficiently high.

The Cuban pharmaceutical sector is “world-class” but complicated. It is difficult for large companies to make a profit and the sector is highly regulated in most countries. Nonetheless, there is potential for Cuba given the high level of investment in this sector over the years.

Thus, the economic picture described by Canadian investors depends on where one sits. Though it may take ten years for Cuba to recover to economic levels of 1990, the changes taking place are irreversible. However, Cuba cannot be competitive until it establishes international market prices and resolves its currency imbalance *vis à vis* the U.S. dollar. The Cubans still feel strongly about diversifying their economy; although they have been saying that for over half a century, they know that the

world sugar market cannot sustain them anymore. They also are very proud of their educational and medical systems and despite the setbacks, will do what they can to preserve what they value. They do not want to go the way of Russia and much of Eastern Europe in terms of reform and look more to Chinese and Vietnamese models.

Canadian private sector experts on Cuba expressed the need to approach decisions one at a time. Cubans have little concept of the bottom line and reject grand schemes when these are thrust upon them. They still consider their island a crown jewel and distinct from the rest of Latin America. Above all, messages and symbols are important.

MEXICO CITY

Mexico has a long and extensive history of bilateral relations with Cuba. The Cuban Revolution was launched from Mexico, and Mexico was the only state in Latin America not to break relations with Cuba after 1959 or join the OAS embargo in the early 1960s. Thus, Mexico has played a unique and important role, not only because of its close ties to Cuba, but also because of its strong relationship with the United States. Like Canadians, many Mexican officials still consider their country a natural bridge between Cuba and the United States. For the governing PRI as well as the PAN and the PRD opposition parties, Mexico's adherence to a policy that opposes the U.S. embargo of Cuba is politically popular and useful as a symbol of autonomy.

Nevertheless, the Mexican government is very cautious about this position and does not harbor ambitions of becoming an "honest broker" in the near future. The bilateral agenda with the United States is just too important and extensive. The people who now oversee Mexico's foreign relations have put this agenda above everything else, i.e., virtually all other issues are viewed through the prism of the U.S.-Mexican relationship. When Mexico wishes to play a "Latin American" role on a given issue, it does so through multilateral fora and only very cautiously. This is a big change in Mexican foreign policy, or, as one foreign ministry official put it, "we've sent all the *tercermundistas* (third worlders) out into the field or to Multilateral Affairs."

Nonetheless, Mexican officials do not hold back their opposition to Helms-Burton and current U.S. policy. The legislature recently passed an "Antidote Law" similar to Canada's blocking legislation, which imposes penalties on Mexican companies that comply with extraterritorial legislation of other countries.

The Mexican government adheres to its long-held principles of self-determination and non-intervention. As it stated in its written response to Helms-Burton (presented to Ambassador Eizenstat during his visit in 1996), "as a neighbor of both countries, it is in Mexico's highest interest to promote an atmosphere of respect,

observance of international law, distention and stability in an area of the highest priority for our national security.” The Mexican position does not extend much beyond that rhetoric. A few officials admitted that Mexico will pursue its anti-U.S. line regarding Cuba only if Canada takes the lead.

In the meantime, official policy toward Cuba will continue to emphasize multilateral approaches. The Mexicans take pride in encouraging Cuban involvement in the regional fora such as the Association of Caribbean States, the Ibero-American Summit and the meetings of the “G-3” (Colombia, Venezuela and Mexico). Mexico also is an observer to the meetings of CARICOM. Given the emotional and difficult state of bilateral affairs, not only between Cuba and the United States, but also between Cuba and other countries, multilateral fora are viewed as having a comparative advantage over ad hoc initiatives. Cuba must be reintegrated into the hemispheric system, and Mexico realizes that this will take some time. The more Cuba participates in multilateral fora, the more Cuba must adjust to more open international practices.

With regard to the rest of Latin America, some Mexicans noted the importance of understanding the views of Peru, Chile, Venezuela, Panama and El Salvador. Unlike Mexico, these countries reversed previously adversarial relationships with Cuba.

Mexican officials have grown accustomed to Cuban negotiating styles and idiosyncrasies over the years. They could have much to offer in the way of tactical advice to U.S. officials who someday must work with Cuban counterparts who, according to several Mexicans, are among the most astute and toughest of negotiators.

Mexican business

The Mexican business sector (private as well as public) traditionally has been active in Cuba, most notably PEMEX and Bancomex, as well as Grupo Domos (which decided to pull out of Cuba one week before the Atlantic Council’s visit). Monterrey-based industrialists, especially in textiles, are also notably engaged in Cuba, while Veracruz and Merida are the main exporters for Mexican (and allegedly redirected U.S.) goods going to Cuba.

The private sector has been particularly vocal in opposing Helms-Burton. Private sector organizations impressively joined forces with Canadian colleagues to lend support to, and in part, draft, Mexico’s blocking legislation. Paradoxically, it was the NAFTA-led mobilization of lobby and business groups that primarily was responsible for the facility with which the business sector mobilized against Helms-Burton. Even more paradoxical is the fact that since NAFTA was enacted, there has been *more* Mexican trade with Cuba, which to Mexicans underscores the point that commercial

relations are now “autonomous” from political pressures, at least more so than in the past as far as the United States is concerned.

Many U.S. corporations have entered into minority joint ventures with Mexican companies to prepare themselves to move quickly into Cuba once the time is right. They assume that there is no single product that Cuba will not lack, and the proximity of Gulf and Florida ports makes a high degree of trade inevitable. Mexico, however, fears competition, mainly in tourism. It is assumed that Cuba will once again have casinos, which Mexico until very recently had prohibited but now encourages. Other sectors do not really pose a threat to Mexico to the extent that they may pose someday to the rest of the Caribbean.

Overall there continues to be a wait-and-see attitude, similar to the ones perceived in Canada and Chile. With the exception of PEMEX and a couple of banks (who, in several cases, swapped the Cubans’ outstanding debt for investment opportunities), the only Mexican investors are small to middle-size entrepreneurs. There is no large-scale Mexican investment in Cuba, partly because of Helms-Burton, but mostly because of the widely-held assumption that someday the embargo will be lifted and the primary trade relationship with the United States will be reestablished, making it impossible for the large corporations of other countries to compete. Already, over 50 percent of trade in the Caribbean is with the United States. There is no reason to assume that future Cuban trade will not adhere to a similar pattern.

Finally, there is a potentially powerful movement afoot in the Mexican private sector to push Cuba to adopt some type of business practices, like the Sullivan, Slepak, Miller or MacBride principles.²³ It cannot be known how successful its proponents will be, but several investors acknowledged that Cuba has been held to stricter international standards in the past few years. The more frequently this takes place the better the climate will be. This not only is positive for intrinsic, humanitarian reasons, but also because it leads to more systematic preparation by Cuba to rejoin the international economic community.

Future outlook

Among scholars and within the non-governmental community, there exist several proposals to help reintegrate Cuba into regional organizations and promote a smoother U.S.-Cuban relationship over the long-term. Some Mexicans suggest a Helsinki-like process with Canada and other Latin American states to cultivate networks and goodwill. Others suggest the formation of a Cuba contact group that brings collective judgment to bear on key issues such as property claims.

²³ These principles were voluntary codes of conduct adopted by private investors in response to criticism over “support” for unpopular regimes in South Africa, the former Soviet Union, Northern Ireland, among others.

The future success of these proposals, however, will rely overwhelmingly on the political climate in both Cuba and the United States. Here, the Mexicans are very pessimistic. They see the events of February 1996 as recreating an adversarial environment that takes everyone back to the climate of the 1960s. Castro's anti-U.S. rhetoric has been stronger than ever while moderates in the Cuban government have in almost all cases lost considerable leverage. There is almost no room for maneuver on either side. This is especially disappointing because most Mexican experts believe that the current government positions do not represent a consensus in either Cuba or the United States.

The only real discernible party differences in Mexico center around the degree to which the parties feel free to discuss the internal political character of Cuba. It is much easier to sound frustrated over the lack of wisdom in U.S. policy. Cuba remains very much a domestic issue in Mexico, as it does in other countries. It is a particular source of discomfort for the PRI and PRD, who tend to be more supportive of the Cuban Revolution. Some representatives note that several leftist European parties no longer seem to be that interested in Cuban democracy. Georges Maurois, the head of the Socialist International, rejected the idea of a fact finding mission to Cuba, and even former Spanish Prime Minister Gonzalez now seems to be more interested in other areas of the world.

The real issue relating to party splits in Mexico is the degree of constraint domestic politics will put on the Mexican government if it ever tries to play a mediating role *vis à vis* the United States. This would be very difficult, not only for the reasons already mentioned (e.g., the U.S. government's lack of enthusiasm for mediators), but even more so because of domestic limitations in Mexico. It would be fairly easy for parties in Cuba or Mexico who oppose any aspect of a particular agreement to characterize the Mexican government as caving into the Americans. The Mexicans, for their part, are not willing to take the lead and offer their services. The only reason they succeeded in this role so well with reconciliation efforts in Guatemala, El Salvador and Nicaragua was because all sides made clear a request for Mexican mediation. It is unlikely that such a request would come unconditionally from Cuba or the United States, while it would be next to impossible to maintain domestic consensus for such a role in Mexico. It could become a lightning rod for the opposition, no matter which party is in power.

In the shorter term, the parties try to outdo one another in joining Cuba to other efforts to criticize the United States more broadly, particularly with regard to drug certification (the Atlantic Council visit coincided with the groundswell of criticism in the week preceding the Clinton administration's decision on certification). To illustrate this view of heavy-handedness, several interlocutors took pleasure in citing a popular commercial for a Mexican long-distance phone company that now competes with U.S. phone companies. An offensive-looking cowboy named

“Burton Helms” walks among groups of eager Mexicans, handing out AT&T trinkets like Cortez among the Indians— “do as we tell you,” he suggests.

SANTIAGO

As already mentioned, the decision to visit Chile arose during previous trips to Mexico, Spain and Canada when several interlocutors suggested consultations with a country which had broken relations with Cuba and subsequently underwent a period of normalization. It was assumed by those who made this suggestion that the comparison to their own situation of ongoing, friendly relations would provide helpful insights for a project whose aim is to assist the U.S. government’s own normalization process. It also was considered useful to contribute a Latin American perspective distinct from the European and North American ones.

In 1995 Chile established full diplomatic relations with Cuba. This marked the beginning of the normalization process and the end of a five-year trial period of relations at the consular level. During this period, the political leadership of Chile reached a consensus that Cuba no longer posed a serious security threat and that there were more benefits than costs to normalizing relations.

The fundamental policy shift was not easily reached because Cuba did pose a subversive threat to Chile in the 1960s, 70s and 80s. Castro’s close personal relationship with former President Salvador Allende contributed to perceptions that Cuba’s support for the left in Chile played an important role in the success of the Socialist-Communist victory in 1970. (Castro famously spent 42 days in the country after announcing just a four-day visit.) Subsequent to Allende’s overthrow and throughout General Augusto Pinochet’s rule, Cubans and exiled Chileans operating from Cuba were accused of a full range of subversive activities, while a recent dramatic jail escape by some who tried to assassinate Pinochet resulted in asylum in Cuba, according to many sources. Many sectors in Chile, not least the military, wanted firm guarantees from Cuba that any such activity, or even the suspicion thereof, would cease as a precondition of normalization.

Thus, when former President Patricio Aylwin decided to open a consulate in 1990, he was responding to calls to do what many on the center-left said was the natural or “moral” thing to do. But in reality the move was more complex, and for that reason, it did not lead to further steps for another five years. What appeared to be a wait-and-see attitude that placed the burden on Cuba to demonstrate the mutual benefits of normalization also was a preemptive move on Aylwin’s part to sideline any further, direct involvement by Cuba in Chile’s internal affairs while at the same time pacifying some sectors on the political left.

The complex nature of Chile’s body politic also demanded a strategy of caution. Current President Eduardo Frei admitted no intention of normalizing relations with Cuba (prompting Castro, at one point to exclaim to a Chilean visitor “why doesn’t

Frei want to have relations with me?") until Cuba demonstrated a change in its political behavior. Ideally, most Christian Democrats (Frei's party, as well as that of his predecessor) would have preferred an OAS move on Cuba before their own, but pressure continued from the other parties of Chile's governing coalition, the Socialists and the Partido Democratico Popular (centrist). Meanwhile, strong opposition subsided on the right. The leader of the Renovacion Nacional (RN) party, Andres Allamand, traveled to Cuba and despite the public stand of his party, came out in favor of normalization. The RN continued to oppose opening an embassy, but its leadership began to express alternative opinions behind the scenes. The UDI, the party furthest to the right, still lashes out against Cuba but lacks support for this position and has other battles to fight.

An important mission

The key event that determined whether or not normalization would proceed was a visit to Cuba by a prominent politician from the ruling Christian Democrats. He went to Cuba at the invitation of the Cuban Communist Party to survey the conditions on the island. The visit was designed to gather information and impressions with little formal agenda. However, soon after the envoy's arrival, it became clear that the trip had a higher purpose.

The first meetings took place with key Catholic Church officials, who urged that Castro be provoked to describe the posture Cuba would assume for normalizing relations. The Church officials also emphasized repeatedly the importance for Chile to have a full embassy in the country as necessary to contribute "space," i.e. an opening for greater interaction and free discussion. After all, foreign embassies provided a key outlet and a safe haven for criticism under Pinochet.

The 1993 Pastoral letter was used as the point of departure for discussions with Cuban Foreign Minister Robaina, Parliament Speaker Alarcon, Intelligence Chief Arbezú (head of the Americas department who succeeded Manuel "Red Beard" Piniero), Cuban economic czars Jose Luis Rodriguez and Carlos Lage as well as Castro himself. The letter condemned the U.S. embargo but also made clear the need for a freer political system in Cuba. Thus, although there was a need to deepen relations, there was also Chile's strong wish to see a commitment to change in Cuba. This implied that Chile, quite sensitive about the support it is asked to give to political transitions, would pay a great deal of attention to Cuba's democratic evolution. It would not interfere or dictate conditions to Cuba, but would reserve the right to base the further deepening of relations on its appraisal of Cuba's liberalization. This position was very different from those of Canada and Mexico regarding political accountability, and even went beyond that of the EU in some respects.

The other side of the equation was the need for a strong warning to the Cubans to refrain from interference in Chile's domestic affairs. This toughness with Castro was very provocative— each time Castro made an overture or asked a leading question, Chile's envoy replied with the conditional affirmative, that is, "fine, but you need to comply with your own laws about basic civil liberties and stay out of our business... and we're watching closely." In the end it was this "frank, aggressive and open diplomacy" that moved things forward. Each agreed to disagree over the substance of politics, but nevertheless came to a common understanding about the need to have such talks in the first place. Tough dialogue was better than no dialogue. It also was suggested as an important precedent for the manner by which future negotiations should be conducted. The implication was that the Cubans had respect for a firm hand, though it was difficult to endure and at first appeared to contradict the gesture of reconciliation.

Thus normalization proceeded, gradually and modestly. Today Chile has an ambassador and an embassy, but little else in the way of exchange programs, missions and so forth.

Economic integration

Chile's economic interests in Cuba are relatively minuscule. Trade amounts to only about \$17.5 million per year and is lopsided. Of this amount, Chile imports only about \$650,000 of goods from Cuba, mostly rum, ceramics, small toys, cement and medicines. Chile, meanwhile, sent about \$16 million of exports to Cuba in 1997, most of it fruit, cereals and other products related to the tourist industry. All of these amounts have declined since 1996. Only a handful of Chilean businessmen engage in activities with Cuba, and these involve largely family or personal investments. There were no property claims to settle, and Cuba paid its small debt to Chile a few years ago.

Nevertheless, Cuba has sought Chilean help in joining the Latin American Integration Association (LAIA or ALADI). Chile expressed initial support, but has held off anything more concrete pending greater consensus in Latin America. Argentina, a key member of MERCOSUR, for instance, is opposed to Cuban admission into ALADI. Bilateral ties for now are given priority and are seen as helping reintegrate Cuba into the hemisphere, despite slowness on the multilateral front. Guatemala and El Salvador recently normalized relations with Cuba; every Latin America country except Chile, Paraguay and Honduras has a bilateral trade agreement with Cuba, and Chile plans to negotiate one by the end of 1998.

The role for Latin America

The issue of multilateral integration goes to the heart of Chile's, and beyond it, Latin America's, role in helping to prevent U.S.-Cuban disputes from spreading to larger

fora. All accept the notion that Cuba should be reintegrated into the hemisphere, but

with U.S. opposition to readmission to the OAS, IDB and other key international institutions, as well as Cuban intransigence in meeting the basic conditions for readmission, the prospects for greater institutional integration look bleak. Moreover, Chileans echoed what they assumed to be a common feeling among Latin Americans that they have little leverage on the United States *vis à vis* Cuba and are far from united among themselves on specific issues. Relations with the United States are too important now to make Cuba a priority issue, especially when it still divides domestic constituencies in these countries.

Therefore, the best chances for positive steps by Latin America center around two poles: the Catholic Church and Europe. The Cuban transition to democracy is best assisted through delicate, small steps toward social liberalization under the auspices of the Church, as manifested by the Pope's visit and the countless efforts of local parish priests and nuns. Meanwhile, the group of Latin American bishops (CELAM) can exert an important moral force in Cuba by helping to promote dialogue with its counterparts on the island. It is also important to recall that Chile's resolution to proceed with normalization with firm political conditions came in part after exhortation by Church officials.

With respect to Europe, Chile agrees that Latin American countries should make a greater effort to work with Europeans who support the EU's common policy on Cuba. There is a draft Rio Group-European Commission joint statement on Cuba, but this is only the first step toward a common policy. This also might provide an opportunity for Canada and the United States to overcome differences and work together.

With the U.S.-Cuban relationship becoming less acrimonious only at the edges and little sign in Cuba of quickened political change, the likelihood of Latin America playing a major role in promoting common approaches or solutions to specific problems is not high. What the visit to Chile did demonstrate, however, was the degree of awareness Chileans have of both U.S. and Cuban perspectives, as well as political behavior. This appreciation deserves to be taken seriously and perhaps someday utilized.

Chile, and by extension Latin America, could possess leverage insofar as it is able to convince the United States and Cuba to utilize multilateral approaches to issues, despite the reluctance of both to rely on outside actors. As was discovered in Mexico (but in contrast to what was heard in Spain and Canada), most third parties do not wish to play the role of intermediary and recognize that multilateralism is not a bureaucratic end in itself, but rather a means for imposing gradualism on a difficult

and contentious bilateral process. Latin America and its regional institutions could provide a key safety net during what surely will be an arduous period for Cuba, the United States and the region.

Figure III: Cuba's Membership in International Organizations

ORGANIZATION	STATUS
Council for Mutual Economic Assistance (CMEA)	<i>Dissolved (1991)</i>
Customs Cooperation Council (CCC)	<i>Active</i>
UN Economic Commission for Latin America and the Caribbean (ECLAC)	<i>Active</i>
Food and Agriculture Organization (FAO)	<i>Active</i>
Group of 77 (G-77)	<i>Active</i>
Group of Latin American and Caribbean Sugar Exporting Countries (GEPLACEA)	<i>Active</i>
International Atomic and Energy Agency (IAEA)	<i>Active</i>
International Civil Organization (ICAO)	<i>Active</i>
International Red Cross and Red Crescent Movement (ICRM)	<i>Active</i>
International Fund for Agricultural Development (IFAD)	<i>Active</i>
International Federation of Red Cross and Red Crescent Societies (IFRCS)	<i>Active</i>
International Hydrographic Organization (IHO)	<i>Active</i>
International Labor Organization (ILO)	<i>Active</i>
International Monetary Fund (IMF)	<i>Suspended</i>
International Maritime Organization (IMO)	<i>Active</i>
International Mobile Satellite Organization (INMARSAT)	<i>Nonsignatory</i>
International Telecommunications Satellite Organization (INTELSAT)	<i>Active</i>
International Criminal Police Organization (INTERPOL)	<i>Active</i>
International Olympic Committee (IOC)	<i>Active</i>
International Organization for Standardization (ISO)	<i>Active</i>
International Telecommunication Union (ITU)	<i>Active</i>
Latin American Economic System (LAES)	<i>Active</i>
Latin American Integration Association (LAIA)	<i>Observer</i>
Nonaligned Movement (NAM)	<i>Active</i>
Organization of American States (OAS)	<i>Suspended (1962)</i>
Permanent Court of Arbitration (PCA)	<i>Active</i>
United Nations (UN)	<i>Active</i>
United Nations Conference on Trade and Development (UNCTAD)	<i>Active</i>
United Nations Educational, Scientific and Cultural Organization (UNESCO)	<i>Active</i>
United Nations Industrial Development Organization (UNIDO)	<i>Active</i>
United Nations Observer Mission in Georgia (UNOMIG)	<i>Active</i>
Universal Postal Union (UPU)	<i>Active</i>
World Bank	<i>Suspended</i>
World Confederation of Labor (WCL)	<i>Active</i>
World Federation of Trade Unions (WFTU)	<i>Active</i>
World Health Organization (WHO)	<i>Active</i>
World Intellectual Property Organization (WIPO)	<i>Active</i>
World Meteorological Organization (WMO)	<i>Active</i>
World Tourism Organization (WTO)	<i>Active</i>
World Trade Organization (WTO)	<i>Active</i>

Source: <http://odci.gov.cia/publications/factbook.html> and *The Europa World Year Book, 1997*

Chileans noted that education of Cubans abroad, including in Chile, also may provide an important opportunity to help overcome the fear of the United States “imposing democracy” on Cuba. The younger generation of Cubans may dislike Castro, but they are very nationalistic and will strongly resist political changes that are perceived to be dictated by the United States. Thus, opportunities for Cubans to study in Europe, Canada and Latin America as well as in the United States, should help build confidence and better understanding of the political messages of these governments.

The role of intermediary is not the same as honest broker or reinforcing cheerleader. Chile, having gone through its own complex transition from dictatorship, has a great deal to share with Cuba as well as Cuba’s self-appointed friends abroad about the transition from authoritarian rule.²⁴

Chile is distant from Cuba, but like Brazil and Argentina, it has an important role to play in the hemisphere and, by extension, in the future process of U.S.-Cuban normalization, one of the hemisphere’s last political obstacles to full integration. With little investment or direct involvement in Cuba, Chile has an objectivity not shared by Mexico, Spain or Canada. Having broken relations and then subsequently normalized them with Cuba, it bears a certain resemblance to the United States, but the situations are very different with regard to the specific issues of the normalization process. The United States has a 40 year-old laundry list of things to settle; Chile had only one, Cuba’s involvement in its internal political affairs, but even that took more than five years to overcome, and only then with difficulty and persistence

Chile’s path demonstrates that it is possible to work with Cuba while adhering to firm principles that may differ considerably. Relations may be limited, but they are fluid, and neither side has cut off the potential for more extensive interaction. But that awaits some major changes in Cuba and a modification of Chile’s wait-and-see policy. Normal and friendly relations need not be the same thing, nor mutually exclusive, merely professional and mutually satisfactory for the time being.

Nevertheless, the world is ready for reciprocal steps. No Latin American country wants to impose change on Cuba. But they also do not take seriously Cuba’s superficial displays of democracy and pervasive government controls. They admit the tradeoff: if Cuba wants to be integrated into the international community, it

²⁴ For example, an interesting anecdote is told widely in Chile. It involves a legislator from one of the right wing parties had a son who was badly injured in a diving accident. He learned that one of the best neurologists in the world lived in Cuba and would be willing to treat his son, so he, along with his wife and son, traveled to the island. On his first night they were awakened by a knock on their hotel door. In walked Fidel Castro, who neither welcomed the man to Cuba nor made any small talk. He got right to the point and asked: “Tell me, how did Pinochet do it?”

must abide by the rules, and the rules are not established unilaterally by the United States.

CODA

In addition to the implications for U.S. policy outlined at the beginning of the report, this survey of foreign opinion about U.S.-Cuban relations raises some additional issues worthy of consideration.

The passionate nature of the Cuban debate transcends national borders. Therefore it is often difficult to grasp the reality behind the strong opinions heard on all sides. But one thing is apparent: U.S. policy-makers are perceived to be oblivious to the views of other countries. They not only need to listen more, but also need to make the effort to show that they are listening. The perception of an open mind is just as important as the reality, if not more so.

Beyond this simple reminder lies a set of deeper questions. How important will the attitude and behavior of other countries be once the United States and Cuba decide to proceed with normalization? It was assumed throughout this effort that they will be very important and that U.S. policy-makers would be well served in gaining a better appreciation of their experience and views. What if a new Cuban government looks with disfavor upon the foreign governments who are now most friendly toward the Castro regime? All things being equal, would it not be better to simply assume that the U.S. relationship will once again dwarf all others in Cuba, and that going out of their way to cooperate with other countries would be distracting for busy diplomats and policy-makers, and in the worst case, misleading to Cubans who may be ill-disposed to such collaboration in the first place?

What about Cuba's Caribbean neighbors, including Colombia and Venezuela, whose views for the most part have been underreported by all sides, including Cuba?²⁵ Who can say that the perspective of the Caribbean nations will not be as significant someday to Cuba's regional reintegration as Italy's, Brazil's or Japan's?

And finally, what about Cuban-Americans— what should be their international vocation? The views of most foreign interlocutors were jaded about the Cuban-American "community," whose image abroad is hugely misconceived. They underestimate both the community's heterogeneity and its legitimate role in the policy process. Cuban-Americans will take a major, and one hopes, positive, part in normalization of relations, though their impact on the ability of the U.S. government to cooperate with other countries is difficult to predict. Yet that should not stand in the way of constructive forethought.

²⁵ This has begun to change. Cuba's trade with its Caribbean neighbors is now about \$65 million, a tenfold increase from ten years ago. In early 1998 Secretary of State Madeleine Albright said the U.S. government would not exert any negative pressure on the members of CARICOM should they decide to admit Cuba in the near future. See Canute James, "Cuba Looks for Greater Ties With Its Caribbean Neighbors," *Financial Times*, July 16, 1998.

Thus a more open attitude toward the future of U.S.-Cuban relations should avoid the ranking of actors and issues. The point of these consultations has been to demonstrate that some views, however we may judge them to be subjective or insignificant, have been neglected with unfavorable consequences that are both more widespread and intractable than policy-makers initially thought them to be. As the largest island in its region, linked irrevocably to the largest markets beyond its region, Cuba has had a long history of manipulating the sectoral interests of outside forces against one another. But the world now is different. The major outside actors in Cuban affairs must work in concert both with the political and economic forces in Cuba and with one another. If not, U.S.-Cuban normalization, and with it the peaceful transition to a durable and democratic post-Castro system, will not succeed.

APPENDIX A: TERMS OF REFERENCE

The following questions framed the discussions that took place with international counterparts. In most cases they were provided in advance to interlocutors.

- I. In dealing with Cuba, which approaches work well? Not well? Why?
 - II. What worries you most about developments in Cuba in the near term?
Over the long term?
 - III. What are the most important problems that will confront the international community when the United States embarks on normalization?
 - IV. Are there opportunities for international cooperation now that go beyond the current impasse and act to forestall such problems?
 - V. What are the status and prospects of serious political and economic reform in Cuba?
 - VI. What steps might Cuba take in the short term? Medium term?
 - VII. Assuming current difficulties persist among the United States, Mexico, Canada and Europe regarding Cuba, what can be done to prevent those difficulties from hindering a smooth process of normalization in the future?
 - Which goals are held in common?
 - Which issues need more forethought and preparation?
-

APPENDIX B: CONSULTED ORGANIZATIONS

The organizations listed below hosted workshops and/or individual meetings with project representatives. Most of the workshops involved 15-20 persons from a wide range of political and professional backgrounds.

BRUSSELS:

Embassy of Cuba
European Commission

MADRID:

Congreso de los Diputados
Instituto de Relaciones Europa-Latinoamericanas
Instituto Universitario Ortega y Gasset (workshop)
Ministry of Foreign Affairs
U.S. Embassy

OTTAWA:

Canadian Foundation for the Americas (workshop)
Canadian International Development Agency
Carleton University
Department of External Affairs and International Trade

TORONTO:

Atlantic Council of Canada
Canadian Council for the Americas (workshop)
Lang Michener
Lawrence & Company
Royal Bank of Canada

MEXICO CITY:

Embassy of Cuba
Instituto Matias Romero
Instituto Tecnológico y Autonomo de Mexico (workshop)
Mexican Business Council for International Affairs
Office of the Governor of Guanajuato
Partido de la Revolucion Democratica
Petroleos Mexicanos

Secretariat of Foreign Relations
U.S. Embassy
U.S.-Mexico Chamber of Commerce (workshop)
Winter Capital International LLC

SANTIAGO:

Consultores RGT Ltda.
Facultad Latinoamericana de Ciencias Sociales (workshop)
Ministry of Foreign Affairs
Renovacion Nacional
United Nations Commission for Latin America and the Caribbean
United Nations Development Program
U.S. Embassy

APPENDIX C
EXECUTIVE SUMMARY FROM THE
*ROAD MAP FOR RESTRUCTURING FUTURE
U.S. RELATIONS WITH CUBA (1995)*

This policy paper provides guidelines for U.S. government officials and Congress for dealing effectively with the range of topics that will need to be addressed once decisions are made to restore normal relations with a Cuba whose leaders are committed to establishing a fully democratic system of government. The process of restoring normal relations will be lengthy and difficult because of the many contentious issues to be resolved.

Several assumptions must be stated at the outset. First, the recommendations included herein apply only after a decision is made to restore normal relations and do not address current U.S. policy. The Cuban Democracy Act of 1992 (Pub. L. No. 102-484) clearly states U.S. law and the conditions required for normalization, namely Cuba's pledge to hold free, fair and internationally observed elections and adhere to accepted standards of human and civil rights. This act, therefore, is the point of departure for any process of restructuring relations. In the event that the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act becomes law, it will supersede the Cuban Democracy Act in certain respects and increase the restrictions on current bilateral relations. Nevertheless, the potential for passage of this legislation does not alter the recommendations of this paper, except to the extent that the bill, in its final form, could specify additional requirements and linkages during a Cuban transition.

Second, the paper assumes a cooperative government in Cuba but does not suggest a particular scenario for political change. Although the specific sequence and pace of restoring normal relations depend on the nature of that change and the political composition of the Cuban government, as well as the political circumstances then existing in the United States, this paper only prescribes basic principles and general steps for U.S. policy. The process will most likely be gradual, with some issues resolved before others. A logical first step would be an agreed framework that addresses the more contentious issues like claims, migration and trade, but this does not preclude simultaneous work on other topics. Indeed, it may be preferable to handle "smaller" issues like communications and travel before resolving the larger ones, but again, this decision depends on political factors beyond our power to foresee. The purpose here simply is to suggest how to deal with each issue on its own. The order of presentation of the issues does not imply a proposed sequence of policy-making.

Finally, this paper assumes that U.S. policies during the Cuban transition will be predicated on the basic principle of full respect for the sovereignty of Cuba and the right of the Cuban people to freely choose their form of government and leaders.

This paper is based on (1) analysis of the laws, regulations and policies that govern bilateral relations at the present time; (2) extensive interviews with current and former U.S. government officials, members of Congress, business leaders, academics and prominent members of international organizations; and (3) ideas and recommendations developed by members of the working group, individually and collectively.

Major recommendations:

1. Once a decision has been reached to embark on a program for restoring normal relations with Cuba, the president should appoint a senior coordinator in Washington to oversee the implementation process, including the management of aid and assistance programs, liaison work with multinational organizations and the establishment of contacts with Cuban officials. Meanwhile, the head of the U.S. Interests Section in Havana should be appointed *chargé d'affaires* while the president begins the process of appointing an ambassador.

2. The first priority for the senior coordinator should be the drafting of a framework agreement that outlines a process and a timetable for addressing the outstanding bilateral issues. The coordinator should draft the agreement in close consultation with the U.S. Congress and Cuban officials.

3. The Department of State should negotiate an agreement with the Cuban government to establish as soon as possible a mechanism for dealing with U.S. citizen confiscation claims against Cuba. This agreement should set forth a process that expeditiously frees up as much property as possible from claims; for example, the process could move quickly on the certified claims while simultaneously devising a mechanism to settle the remaining claims in a just and equitable manner. The Department of State should not espouse additional claims unless Congress passes legislation to do so. The public release of this agreement will clarify a program for dealing with claims that will undoubtedly require more time to settle in practice. Meanwhile, claimholders will be reassured that a fair process of settlement is underway and that they need not attempt to bring pressure to impede or postpone other aspects of the normalization process.

4. The U.S. government should encourage prompt Cuban accession into international organizations like the International Monetary Fund and the World Bank once Cuba satisfies readmission requirements, while supporting the lifting of the Cuban government's suspension in the Organization of American States. Congress should resist pressures to link the demands of sectors in the United States with U.S. financial commitments to the organizations and their programs for rebuilding Cuba

5. Restoring normal relations will require immediate lifting of the trade embargo and other economic sanctions. The U.S. government should also encourage a process which facilitates the granting of Most Favored Nation status to Cuba. The Export-Import Bank and the Overseas Private Investment Corporation should take the lead in expanding incentive programs for U.S.-based trade and investment, assuming that Cuba

has embarked on a plan for resolving its outstanding debt and meets other normal requirements by these institutions.

6. Unilateral U.S. restrictions on travel, port entry and access, and mail services should be lifted quickly. The need for continuation of Radio and TV Martí will have to be examined, but these programs should proceed as long as the U.S. government determines that they could play a constructive role during a Cuban transition.

7. The departments of State and Justice should move towards implementing, to the extent circumstances permit, a normal immigration policy that treats Cubans like other immigrants. In implementing such a policy, the United States should give due regard to the protection of political refugees and take steps to permit the reunification of families with members both in Cuba and the United States.

8. The National Security Council and the Department of Defense should examine plans for the future of Guantánamo Naval Base within the overall context of U.S. base policy and security relations in the hemisphere. It may be useful to propose future creative uses of the base if and when full sovereignty over its territory is returned to Cuba.

9. U.S. aid and assistance programs for Cuba should be carefully targeted and monitored. Assuming that the conditions in the U.S. Congress will not favor large appropriations of bilateral aid, the U.S. government's role should focus mainly on stimulating and coordinating efforts among private and international donors. To that effect, the United States should request that the World Bank constitute at the earliest possible time a consultative group on Cuba. Finally, all aid programs should be designed to have limited duration and encourage the processes of political reform, economic self-reliance, domestic and foreign investment, and positive trade relationships. Emergency aid should continue to be available to Cuba as long as conditions on the island require it, especially if a future transition turns chaotic.

More extensive recommendations for each issue follow in the policy paper. The steps it describes should contribute to a smoother process of restructuring relations as well as stimulate the efforts of Cuba to establish itself as a democratic state and a responsible participant in regional and global affairs.

APPENDIX D: MEMORABLE QUOTATIONS

Even though discussions were conducted on a not-for-attribution basis, some statements nevertheless deserve to be conveyed first-hand. These quotations represent themes that were heard sufficiently to merit their inclusion along with some selected to demonstrate the diversity and intensity of what was confronted during the visits.

* * * *

The wise learn by example— fools learn only by experience.

Cuba is still in financial ruin. Economic data are unreliable. But the leaders are overconfident that they have successfully adapted to the economic challenges.

Cuba doesn't trust money. When things are free, you consume too much.

The necessary economic reforms cannot be sustained while the party still wants to retain control over details.

Cuba's debt overhang is too great. Havana is attempting bilateral write-downs but must go to the Paris Club for relief.

Cuban officials fear being overwhelmed by the United States after relations are normalized.

Castro is coming to the end of his rule but he is not planning for a smooth transition. Time is running out.

Cuban problems will not be solved with the death of Castro.

Legitimacy is the protagonist of the transition: The Pope legitimized Castro, and Castro legitimized the Pope (i.e., the Catholic Church).

Cuba is best characterized by one observation: there is no (religious) faith.

Cuba does not provoke consensus, even in Latin America.

Cuba does not suffer from a Cold War complex— rather, it suffers from a colonial complex. It has to be culturally invaded, not isolated.

Recently the hard-liners have taken the upper hand— there is no space in the middle.

Cuba has never been the nice guy on the block.

The Cuban people are desperate, they are tired of their government and they want change. But they are terrified of Miami.

The departure of Fidel Castro from the scene will not fundamentally change anything.

If a post-Castro, 'neoliberal' model is imposed on Cuba, there will be war for 100 years.

The United States does not listen. It is only interested in telling others what to do.

U.S. diplomacy is like a dialogue with the deaf.

U.S. policy toward Cuba is offensive, illegal and counterproductive.

The major difference between the United States and Cuba is Castro; all other issues are resolvable.

U.S. policy toward Cuba at the present time does not represent a consensus.

Helms-Burton for the United States is Cuba policy; for the rest of the world it's much more than Cuba policy.

It is hard to find hidden opportunities for transformation while building hidden walls to transformation.

U.S. foreign policy is increasingly based on a single question: when do we send in the troops?

U.S. behavior continues to demonstrate a desire to dominate partners.

Helms-Burton in purpose and effect is directed against lawful conduct that is in accord with government policy everywhere in which it occurs. It is direct interference with legal commercial relations that have nothing to do with the United States.

Helms-Burton has had a chilling effect.

Helms-Burton gives Castro an excuse not to reform.

Helms-Burton removes the possibility of government restraint and places it in the

hands of thousands of lawyers and private owners.

Unlike the Cuba Democracy Act which it replaces, Helms-Burton is a disaster for normalization.

In dealing with Cuba, what works well is quiet diplomacy; be patient, respectful, and seek incremental changes. What doesn't work is public pressure.

If it weren't for Helms-Burton, the EU never would have adopted a common position toward Cuba.

Spain pays a great deal of attention to how the United States treats Latin America. This has a direct impact on the image of the United States in Europe.

Cuba is Spain's favorite daughter.

Cubans are more European (i.e., Spanish) than American.

It is impossible to discuss future cooperation between Europe and the United States about Cuba in the ridiculous context the United States now has created.

Sometimes the government has to come out against public opinion to lead it.

Spain recognizes that Castro is no good, but prefers to deal with him inside the family, not outside.

(Prime Minister) Aznar is a pure, Spanish man of the people. He doesn't care about appeasing European public opinion or joining the (U.S.) Council on Foreign Relations.

Castro is no Franco. He is a typical Caribbean dictator, more like Trujillo or Papa Doc, and he will leave the scene in a similar way.

Spain does not subscribe to the Canadian approach toward Cuba, nor the U.S. approach. It follows a third way: the European way.

Neither Sir Leon Brittan nor the European Commission represent Europe or Spain— their job is to cut trade deals with the Americans.

'Non-partisan' is alien to the Spanish political culture. Everything is politicized. Normalization is a misnomer— it presupposes an ideal situation to start.

In the overall scheme of U.S.-Canada relations, Helms-Burton is small potatoes but still is visible and visceral.

Trade with Cuba is a domestic issue for Mexico.

Discussion about democracy in Cuba is difficult for Mexico and places the political parties in a vulnerable position, especially on the Left.

The Helms-Burton law has created a line in the sand: Mexicans of all parties take great offense at being told with whom they can trade.

Mexico has always been paternalistic toward Cuba— they went through what we went through with our own Revolution.

Mexicans prefer to discuss Cuba in a terribly abstract way.

The U.S.-Mexican plate is too full to worry about Cuba.

The Mexican love-hate relationship with the United States is nothing compared to what will exist in Cuba.

There is no State of Florida in Chile.

Chile is a special theme for Castro— it is a soft spot, and obsession, in Cuba.

Opening an embassy is just the beginning of normalization, not the end.

Nobody in Chile believes that U.S. policy toward Cuba is intelligent.

APPENDIX E:

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT, TITLES III & IV

TITLE III— PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS

SEC. 301. FINDINGS.

The Congress makes the following findings:

- (1) Individuals enjoy a fundamental right to own and enjoy property which is enshrined in the United States Constitution.
- (2) The wrongful confiscation or taking of property belonging to United States nationals by the Cuban Government, and the subsequent exploitation of this property at the expense of the rightful owner, undermines the comity of nations, the free flow of commerce, and economic development.
- (3) Since Fidel Castro seized power in Cuba in 1959—
 - (A) he has trampled on the fundamental rights of the Cuban people; and
 - (B) through his personal despotism, he has confiscated the property of—
 - (i) millions of his own citizens;
 - (ii) thousands of United States nationals; and
 - (iii) thousands more Cubans who claimed asylum in the United States as refugees because of persecution and later became naturalized citizens of the United States.
- (4) It is in the interest of the Cuban people that the Cuban Government respect equally the property rights of Cuban nationals and nationals of other countries.
- (5) The Cuban Government is offering foreign investors the opportunity to purchase an equity interest in, manage, or enter into joint ventures using property and assets some of which were confiscated from United States nationals.
- (6) This "trafficking" in confiscated property provides badly needed financial benefit, including hard currency, oil, and productive investment and expertise, to the current Cuban Government and thus undermines the foreign policy of the United States—
 - (A) to bring democratic institutions to Cuba through the pressure of a general economic embargo at a time when the Castro regime has proven to be vulnerable to international economic pressure; and
 - (B) to protect the claims of United States nationals who had property wrongfully confiscated by the Cuban Government.
- (7) The United States Department of State has notified other governments that the transfer to third parties of properties confiscated by the Cuban Government "would complicate any attempt to return them to their original owners."
- (8) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.
- (9) International law recognizes that a nation has the ability to provide for rules of law with respect to conduct outside its territory that has or is intended to have substantial effect within its territory.
- (10) The United States Government has an obligation to its citizens to provide

protection against wrongful confiscations by foreign nations and their citizens, including the provision of private remedies.

(11) To deter trafficking in wrongfully confiscated property, United States nationals who were the victims of these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny traffickers any profits from economically exploiting Castro's wrongful seizures.

SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES NATIONALS.

(a) Civil Remedy.—

(1) Liability for trafficking.—

(A) Except as otherwise provided in this section, any person that, after the end of the 3-month period beginning on the effective date of this title, traffics in property which was confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949, plus interest;

(II) the amount determined under section 303(a)(2), plus interest; or

(III) the fair market value of that property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) court costs and reasonable attorneys' fees.

(B) Interest under subparagraph (A)(i) shall be at the rate set forth in section 1961 of title 28, United States Code, computed by the court from the date of confiscation of the property involved to the date on which the action is brought under this subsection.

(2) Presumption in favor of the certified claims.— There shall be a presumption that the amount for which a person is liable under clause (i) of paragraph (1)(A) is the amount that is certified as described in subclause (I) of that clause. The presumption shall be rebuttable by clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate amount of liability under that clause.

(3) Increased liability.— (A) Any person that traffics in confiscated property for which liability is incurred under paragraph (1) shall, if a United States national owns a claim with respect to that property which was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949, be liable for damages computed in accordance with subparagraph (C).

(B) If the claimant in an action under this subsection (other than a United States national to whom subparagraph (A) applies) provides, after the end of the 3-month period described in paragraph (1) notice to—

(i) a person against whom the action is to be initiated, or

(ii) a person who is to be joined as a defendant in the action,

at least 30 days before initiating the action or joining such person as a defendant, as the case may be, and that person, after the end of the 30-day

- period beginning on the date the notice is provided, traffics in the confiscated property that is the subject of the action, then that person shall be liable to that claimant for damages computed in accordance with subparagraph (C).
- (C) Damages for which a person is liable under subparagraph (A) or subparagraph (B) are money damages in an amount equal to the sum of—
- (i) the amount determined under paragraph (1)(A)(ii), and
 - (ii) 3 times the amount determined applicable under paragraph (1)(A)(i).
- (D) Notice to a person under subparagraph (B)—
- (i) shall be in writing;
 - (ii) shall be posted by certified mail or personally delivered to the person; and
 - (iii) shall contain—
 - (I) a statement of intention to commence the action under this section or to join the person as a defendant (as the case may be), together with the reasons therefor;
 - (II) a demand that the unlawful trafficking in the claimant's property cease immediately; and
 - (III) a copy of the summary statement published under paragraph (8).
- (4) Applicability.—
- (A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of the enactment of this Act.
- (B) In the case of property confiscated before the date of the enactment of this Act, a United States national may not bring an action under this section on a claim to the confiscated property unless such national acquires ownership of the claim before such date of enactment.
- (C) In the case of property confiscated on or after the date of the enactment of this Act, a United States national who, after the property is confiscated, acquires ownership of a claim to the property by assignment for value, may not bring an action on the claim under this section.
- (5) Treatment of certain actions.—
- (A) In the case of a United States national who was eligible to file a claim with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but did not so file the claim, that United States national may not bring an action on that claim under this section.
- (B) In the case of any action brought under this section by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this section.
- (C) A United States national, other than a United States national bringing an action under this section on a claim certified under title V of the International Claims Settlement Act of 1949, may not bring an action on a claim under this section before the end of the 2-year period beginning on the date of the enactment of this Act.
- (D) An interest in property for which a United States national has a claim certified under title V of the International Claims Settlement Act of 1949 may not be the subject of a claim in an action under this section by any other person. Any person

bringing an action under this section whose claim has not been so certified shall have the burden of establishing for the court that the interest in property that is the subject of the claim is not the subject of a claim so certified.

(6) Inapplicability of act of state doctrine.— No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1) .

(7) Licenses not required.—

(A) Notwithstanding any other provision of law, an action under this section may be brought and may be settled, and a judgment rendered in such action may be enforced, without obtaining any license or other permission from any agency of the United States, except that this paragraph shall not apply to the execution of a judgment against, or the settlement of actions involving, property blocked under the authorities of section 5(b) of the Trading with the Enemy Act that were being exercised on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act.

(B) Notwithstanding any other provision of law, and for purposes of this title only, any claim against the Cuban Government shall not be deemed to be an interest in property the transfer of which to a United States national required before the enactment of this Act, or requires after the enactment of this Act, a license issued by, or the permission of, any agency of the United States.

(8) Publication by attorney general.— Not later than 60 days after the date of the enactment of this Act, the Attorney General shall prepare and publish in the Federal Register a concise summary of the provisions of this title, including a statement of the liability under this title of a person trafficking in confiscated property, and the remedies available to United States nationals under this title.

(b) Amount in Controversy.— An action may be brought under this section by a United States national only where the amount in controversy exceeds the sum or value of \$50,000, exclusive of interest, costs, and attorneys' fees. In calculating \$50,000 for purposes of the preceding sentence, the applicable amount under subclause (I), (II), or (III) of subsection (a)(1)(A)(i) may not be tripled as provided in subsection (a)(3).

(c) Procedural Requirements.—

(1) In general.— Except as provided in this title, the provisions of title 28, United States Code, and the rules of the courts of the United States apply to actions under this section to the same extent as such provisions and rules apply to any other action brought under section 1331 of title 28, United States Code.

(2) Service of process.— In an action under this section, service of process on an agency or instrumentality of a foreign state in the conduct of a commercial activity, or against individuals acting under color of law, shall be made in accordance with section 1608 of title 28, United States Code.

(d) Enforceability of Judgments Against Cuban Government.— In an action brought under this section, any judgment against an agency or instrumentality of the Cuban Government shall not be enforceable against an agency or instrumentality of either a transition government in Cuba or a democratically elected government in Cuba.

(e) Certain Property Immune From Execution.— Section 1611 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to the extent that the property is a facility or installation used by an accredited diplomatic mission for official purposes."

(f) Election of Remedies.—

(1) Election.— Subject to paragraph (2)—

(A) any United States national that brings an action under this section may not bring any other civil action or proceeding under the common law, Federal law, or the law of any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States, that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action would otherwise be cognizable under this section may not bring an action under this section on that claim.

(2) Treatment of certified claimants.—

(A) In the case of any United States national that brings an action under this section based on a claim certified under title V of the International Claims Settlement Act of 1949—

(i) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States national may not receive payment on the claim under any agreement entered into between the United States and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the United States from any further responsibility to represent the United States national with respect to that claim;

(ii) if the recovery in the action is less than the amount of the certified claim, the United States national may receive payment under a claims agreement described in clause (i) but only to the extent of the difference between the amount of the recovery and the amount of the certified claim; and

(iii) if there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in clause (i) to the same extent as any certified claimant who does not bring an action under this section.

(B) In the event some or all actions brought under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy the claims in such actions, including a pool of assets in a proceeding in bankruptcy, every claimant whose claim in an action so consolidated was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 shall be entitled to payment in full of its claim from the assets in such pool before any payment is made from the assets in such pool with respect to any claim not so certified.

(g) Deposit of Excess Payments by Cuba Under Claims Agreement.— Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling

certified claims under title V of the International Claims Settlement Act of 1949 that are in excess of the payments made on such certified claims after the application of subsection (f) shall be deposited into the United States Treasury.

(h) Termination of Rights.—

(1) In general.— All rights created under this section to bring an action for money damages with respect to property confiscated by the Cuban Government—

(A) may be suspended under section 204(a); and

(B) shall cease upon transmittal to the Congress of a determination of the President under section 203(c)(3) that a democratically elected government in Cuba is in power.

(2) Pending suits.— The suspension or termination of rights under paragraph (1) shall not affect suits commenced before the date of such suspension or termination (as the case may be), and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension or termination had not occurred.

(i) Imposition of Filing Fees.— The Judicial Conference of the United States shall establish a uniform fee that shall be imposed upon the plaintiff or plaintiffs in each action brought under this section. The fee should be established at a level sufficient to recover the costs to the courts of actions brought under this section. The fee under this subsection is in addition to any other fees imposed under title 28, United States Code.

SEC. 303. PROOF OF OWNERSHIP OF CLAIMS TO CONFISCATED PROPERTY.

(a) Evidence of Ownership.—

(1) Conclusiveness of certified claims.— In any action brought under this title, the court shall accept as conclusive proof of ownership of an interest in property a certification of a claim to ownership of that interest that has been made by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following).

(2) Claims not certified.— If in an action under this title a claim has not been so certified by the Foreign Claims Settlement Commission, the court may appoint a special master, including the Foreign Claims Settlement Commission, to make determinations regarding the amount and ownership of the claim. Such determinations are only for evidentiary purposes in civil actions brought under this title and do not constitute certifications under title V of the International Claims Settlement Act of 1949.

(3) Effect of determinations of foreign or international entities.— In determining the amount or ownership of a claim in an action under this title, the court shall not accept as conclusive evidence any findings, orders, judgments, or decrees from administrative agencies or courts of foreign countries or international organizations that declare the value of or invalidate the claim, unless the declaration of value or invalidation was found pursuant to binding international arbitration to which the United States or the claimant submitted the claim.

(b) Amendment of the International Claims Settlement Act of 1949.— Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following) is amended by adding at the end the following new section:

"DETERMINATION OF OWNERSHIP OF CLAIMS REFERRED BY DISTRICT COURTS OF THE UNITED STATES

"Sec. 514. Notwithstanding any other provision of this Act and only for purposes of section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, a United States district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States national (as defined in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996), resulting from the confiscation of property by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a national of the United States (as defined in section 502(1)) at the time of the action by the Government of Cuba."

(c) Rule of Construction.— Nothing in this Act or in section 514 of the International Claims Settlement Act of 1949, as added by subsection (b), shall be construed—

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made under title V of the International Claims Settlement Act of 1949 before the date of the enactment of this Act.

SEC. 304. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE.

Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following), as amended by section 303, is further amended by adding at the end the following new section:

"EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE

"Sec. 515. (a) Subject to subsection (b), neither any national of the United States who was eligible to file a claim under section 503 but did not timely file such claim under that section, nor any person who was ineligible to file a claim under section 503, nor any national of Cuba, including any agency, instrumentality, subdivision, or enterprise of the Government of Cuba or any local government of Cuba, nor any successor thereto, whether or not recognized by the United States, shall have a claim to, participate in, or otherwise have an interest in, the compensation proceeds or nonmonetary compensation paid or allocated to a national of the United States by virtue of a claim certified by the Commission under section 507, nor shall any district court of the United States have jurisdiction to adjudicate any such claim.

"(b) Nothing in subsection (a) shall be construed to detract from or otherwise affect any rights in the shares of capital stock of nationals of the United States owning claims certified by the Commission under section 507."

SEC. 305. LIMITATION OF ACTIONS.

An action under section 302 may not be brought more than 2 years after the trafficking giving rise to the action has ceased to occur.

SEC. 306. EFFECTIVE DATE.

(a) In General.— Subject to subsections (b) and (c), this title and the amendments made by this title shall take effect on August 1, 1996.

(b) Suspension Authority.—

(1) Suspension authority.— The President may suspend the effective date under subsection (a) for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before such effective date that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) Additional suspensions.— The President may suspend the effective date under subsection (a) for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(c) Other Authorities.—

(1) Suspension.— After this title and the amendments of this title have taken effect—

(A) no person shall acquire a property interest in any potential or pending action under this title; and

(B) the President may suspend the right to bring an action under this title with respect to confiscated property for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the suspension takes effect that such suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) Additional suspensions.— The President may suspend the right to bring an action under this title for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(3) Pending suits.— The suspensions of actions under paragraph (1) shall not affect suits commenced before the date of such suspension, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension had not occurred.

(d) Rescission of Suspension.— The President may rescind any suspension made under subsection (b) or (c) upon reporting to the appropriate congressional committees that doing so will expedite a transition to democracy in Cuba.

TITLE IV— EXCLUSION OF CERTAIN ALIENS**SEC. 401. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS OR WHO TRAFFIC IN SUCH PROPERTY.**

(a) Grounds for Exclusion.— The Secretary of State shall deny a visa to, and the Attorney

General shall exclude from the United States, any alien who the Secretary of State determines is a person who, after the date of the enactment of this Act—

- (1) has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;
 - (2) traffics in confiscated property, a claim to which is owned by a United States national;
 - (3) is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or
 - (4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).
- (b) Definitions.— As used in this section, the following terms have the following meanings:
- (1) Confiscated; confiscation.— The terms "confiscated" and "confiscation" refer to—
 - (A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property—
 - (i) without the property having been returned or adequate and effective compensation provided; or
 - (ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and
 - (B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay—
 - (i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;
 - (ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or
 - (iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.
 - (2) Traffics.— (A) Except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—
 - (i)
 - (I) transfers, distributes, dispenses, brokers, or otherwise disposes of confiscated property,
 - (II) purchases, receives, obtains control of, or otherwise acquires confiscated property, or
 - (III) improves (other than for routine maintenance), invests in (by contribution of funds or anything of value, other than for routine maintenance), or begins after the date of the enactment of this Act to manage, lease, possess, use, or hold an interest in confiscated property,
 - (ii) enters into a commercial arrangement using or otherwise benefiting from confiscated property, or
 - (iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property.

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- (B) The term "traffics" does not include—
- (i) the delivery of international telecommunication signals to Cuba;
 - (ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;
 - (iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or
 - (iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.
- (c) Exemption.— This section shall not apply where the Secretary of State finds, on a case by case basis, that the entry into the United States of the person who would otherwise be excluded under this section is necessary for medical reasons or for purposes of litigation of an action under title III.
- (d) Effective Date.—
- (1) In general.— This section applies to aliens seeking to enter the United States on or after the date of the enactment of this Act.
 - (2) Trafficking.— This section applies only with respect to acts within the meaning of "traffics" that occur on or after the date of the enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.

Signed by the President of the United States, March 12, 1996.

APPENDIX F: GLOSSARY OF ACRONYMS

ALADI (or LAIA)	Latin American Integration Association
CARICOM	Caribbean Common Market
CBI	Caribbean Basin Initiative (U.S.)
CELAM	Consejo Episcopal Latinoamericano
CIDA	Canadian International Development Agency
EC	European Commission
ECU	European Currency Unit
EU	European Union
FEMA	Foreign Extraterritorial Measures Act (Canada)
IBRD	International Bank for Reconstruction and Development (World Bank)
IDB	Inter-American Development Bank
IMF	International Monetary Fund
MAI	Multilateral Agreement on Investments
MERCOSUR	Mercado Comun del Cono Sur
NAFTA	North American Free Trade Agreement
NGO	non-governmental organizations
NATO	North Atlantic Treaty Organization
OAS	Organization of American States
OECD	Organization for Economic Cooperation and Development
PAN	Partido de Accion Nacional (Mexico)
PEMEX	Petroleos Mexicanos
PRD	Partido de la Revolucion Democratica (Mexico)
PRI	Partido Revolucionario Institucional (Mexico)
RN	Renovacion Nacional (Chile)
UDI	Union Democratica Independiente (Chile)
UNDP	United Nations Development Program
USAID	U.S. Agency for International Development
WTO	World Trade Organization
