

2008

## The Great North American Trade-off: Legislation Shaping Trade Policies between Cuba and the United States

Catherine M. Clendinning

Follow this and additional works at: <https://scholar.smu.edu/lbra>

---

### Recommended Citation

Catherine M. Clendinning, *The Great North American Trade-off: Legislation Shaping Trade Policies between Cuba and the United States*, 14 LAW & BUS. REV. AM. 139 (2008)  
<https://scholar.smu.edu/lbra/vol14/iss1/7>

This Comment and Case Note is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Law and Business Review of the Americas by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

# THE GREAT NORTH AMERICAN TRADE-OFF: LEGISLATION SHAPING TRADE POLICIES BETWEEN CUBA AND THE UNITED STATES

Catherine M. Clendinning\*

## I. INTRODUCTION

CUBA'S history is wrought with discord, and its trading relationship with the United States reflects this friction.<sup>1</sup> U.S. legislation outlining trade regulations with Cuba or, more often, banning trade with Cuba shapes the relationship between the two countries and has done so for more than forty years.<sup>2</sup> This paper surveys the main legislative acts that the United States imposes on trade with Cuba, with a deeper look at what events brought about those acts.

## II. COMING TO "THE EMBARGO": THE FOREIGN ASSISTANCE ACT OF 1961

While poor political relations plagued trade between the United States and Cuba for nearly half of the last century, the origins of the trouble and the U.S. legislation to follow began as early as the mid-fifteenth century.<sup>3</sup> Cuba's rich crop of sugarcane, among other commodities, made it attractive to Spanish settlers after Christopher Columbus claimed the island for Spain in 1492.<sup>4</sup> By 1898, Cuba was ripe for independence from Spain

---

\* Catherine M. Clendinning received her undergraduate degree from University of Texas at Austin and is currently a third-year law student at Southern Methodist University Dedman School of Law. Due to her husband's job, she moved to Denver in August of 2007 and is finishing her last year of school at the Colorado University School of Law. She plans to practice real-estate law in the Denver area after graduation. Catherine would like to thank her husband Brent for all his encouragement throughout her law school career.

1. See Fact Sheet, U.S. Department of State, U.S.-Cuba Relations (May 1, 2001), <http://www.state.gov/p/wha/rls/fs/2001/2558.htm> [hereinafter U.S.-Cuba Relations].

2. See *Morning Edition: 10 Presidents, One Dictator: U.S.-Cuba Policy* (NPR radio broadcast Aug. 4, 2006), available at <http://www.npr.org/templates/story/story/story.php?storyId=5615898>.

3. See Primer: Castro's Cuba, <http://www.washingtonpost.com/wp-dyn/content/custom/2006/08/14/CU2006081400541.html> (last visited Oct. 22, 2006); *Unfriendly Neighbors*, NEWSHOUR EXTRA, May 17, 2000, [http://www.pbs.org/newshour/extra/features/jan-june00/us\\_cuba.html](http://www.pbs.org/newshour/extra/features/jan-june00/us_cuba.html).

4. U.S. Department of State, Background Note: Cuba, <http://www.state.gov/r/pa/ei/bgn/2886.htm> (last visited Oct. 1, 2006) [hereinafter Background Note: Cuba]; *Unfriendly Neighbors*, *supra* note 3.

when the U.S. military entered into the conflict (later known as the Spanish-American War) and gained control of Cuba.<sup>5</sup> From 1898 to 1902, the U.S. military remained in Cuba but eventually granted Cuba its pseudo-independence through the Platt Amendment in 1902.<sup>6</sup> Until the Platt Amendment was rescinded and replaced by the Treaty of Relations in 1934, the United States continued to somewhat control Cuba, fostering anti-American sentiments among the Cuban people.<sup>7</sup>

A growing sense of Cuban nationalism and the rocky rule of military and authoritarian leaders set the stage for Fidel Castro's entrance in the late 1950s.<sup>8</sup> The United States continued its involvement in Cuban politics by suspending shipments of arms in 1958 in an effort to help Castro overthrow Cuba's current leader, Fulgencio Bastia.<sup>9</sup> Castro's success was official on January 1, 1959, and President Eisenhower "welcome[d] Castro to power" just six days later.<sup>10</sup>

In only a few short months, however, American apprehensions about Castro became clear.<sup>11</sup> First, Castro failed to fulfill promises to return Cuba to "constitutional rule and democratic elections" and instead moved the country toward "a one-party Marxist-Leninist system."<sup>12</sup> While he did restore the Cuban Constitution of 1940 when he came to power, he quickly made radical amendments to it, and then, on February 7, 1959 (barely one month later), he replaced it with the *Ley Fundamental de Republica* (Fundamental Law).<sup>13</sup> The Fundamental Law granted broad power to Castro's regime and aided the country in the direction of Socialism.<sup>14</sup> For example, the second amendment to the Fundamental Law was the Agrarian Reform Act, which expropriated many previously private-owned Cuban farms.<sup>15</sup> Then, in May 1960, Cuba began its long relationship with the Soviet Union by beginning to import Soviet oil.<sup>16</sup> Finally, in October of the same year, Castro commandeered the "American-owned refineries in Cuba" that refused to refine the Soviet oil, insti-

5. *Id.*; see *Unfriendly Neighbors*, *supra* note 3.

6. See *Unfriendly Neighbors*, *supra* note 3; U.S.-Cuba Relations, *supra* note 1.

7. *Unfriendly Neighbors*, *supra* note 3; U.S.-Cuba Relations, *supra* note 1.

8. *Unfriendly Neighbors*, *supra* note 3; U.S.-Cuba Relations, *supra* note 1.

9. See U.S.-Cuba Relations, *supra* note 1; *10 Presidents, One Dictator*, *supra* note 2.

10. U.S.-Cuba Relations, *supra* note 1; *10 Presidents, One Dictator*, *supra* note 2.

11. See *10 Presidents, One Dictator*, *supra* note 2.

12. See U.S.-Cuba Relations, *supra* note 1; Background Note: Cuba, *supra* note 4.

13. Agustín de Goytisolo, *On the Continued Good Standing of Pre-Castro Legal Entities: Ubi Lex Non Distinguit, . . . Nec Nos Distinguere Debemus*, in 6 CUBA IN TRANSITION 502, (Ass'n for the Study of the Cuban Econ. ed., 1996), available at <http://lanic.utexas.edu/la/cb/cuba/asce/cuba6/59Goytisolo.fm.pdf>.

14. See Ignacio E. Sánchez, *Constitutional Protection of Cuban Property Rights*, in 6 CUBA IN TRANSITION 398, 402-03, (Ass'n for the Study of the Cuban Econ. ed., 1996), available at <http://lanic.utexas.edu/la/cb/cuba/asce/cuba6/50Sanchez.fm.pdf>; Kern Alexander & Jon Mills, *Resolving Property Claims in a Post Socialist Cuba*, 27 LAW & POL'Y INT'L BUS. 137, 142 (1995).

15. Sánchez, *supra* note 14 at 403; see JOSÉ ALVAREZ, TRANSFORMATIONS IN CUBAN AGRICULTURE AFTER 1959 (Dep't of Food & Res. Econ. 2004), <http://edis.ifas.ufl.edu/FE481>.

16. See *Unfriendly Neighbors*, *supra* note 3; U.S.-Cuba Relations, *supra* note 1; *10 Presidents, One Dictator*, *supra* note 2.

gating the first U. S. “partial economic embargo on Cuba.”<sup>17</sup>

Over the next few years, the relationship between Cuba and the United States quickly deteriorated, while U.S. policies halting trade with Cuba solidified.<sup>18</sup> In January of 1961, the United States “broke diplomatic relations” with Cuba.<sup>19</sup> After John F. Kennedy took office in the White House, U.S. tensions with Cuba peaked as Castro became closer to Soviet leaders.<sup>20</sup> Then, in April of 1961, the United States attempted and failed to overthrow Castro at the Bay of Pigs.<sup>21</sup>

Finally, on September 4, 1961, Congress passed the Foreign Assistance Act, which addressed U.S. exports to Cuba as well as Cuban sugar quotas.<sup>22</sup> The Act—commonly referred to today as “the embargo” or “el bloqueo” by Cubans<sup>23</sup>—was codified into U.S. code and reads in part:

(a) Cuba; embargo on all trade (1) No assistance shall be furnished under this chapter to the present government of Cuba. As an additional means of implementing and carrying into effect the policy of the preceding sentence, *the President is authorized to establish and maintain a total embargo upon all trade between the United States and Cuba.* (2) Except as may be deemed necessary by the President . . . of the United States, no assistance shall be furnished under this chapter to any government of Cuba, *nor shall Cuba be entitled to receive any quota authorizing the importation of Cuban sugar into the United States* (emphasis added).<sup>24</sup>

The Cold War continued and 1962 was not much better for U.S.-Cuba relations than the year before.<sup>25</sup> After the Cuban Missile Crisis, President Kennedy promised the Soviet Union that the United States would not invade Cuba again.<sup>26</sup> Further U.S. restrictions on business with Cuba followed, including a ban on travel to the island, with some exceptions for those with immediate family still living there.<sup>27</sup>

Over the next thirty or so years, enforcement of U.S. restrictions on trade with Cuba ebbed and flowed, depending on who was in the White House at the time.<sup>28</sup> During the 1970s, Presidents Ford and Carter attempted to “normalize relations with Castro’s Cuba.”<sup>29</sup> But after the fall of the Soviet Union, U.S. policies again tightened toward Cuba, in an

17. See U.S.-Cuba Relations, *supra* note 1; *10 Presidents, One Dictator*, *supra* note 2; HistoryofCuba.com, Economic Embargo Timeline, <http://www.historyofcuba.com/history/funfacts/embargo.htm> (last visited Oct. 1, 2006).

18. See U.S.-Cuba Relations, *supra* note 1.

19. See *id.*

20. See *10 Presidents, One Dictator*, *supra* note 2.

21. See U.S.-Cuba Relations, *supra* note 1; *10 Presidents, One Dictator*, *supra* note 2.

22. 22 U.S.C. § 2370 (2000 & Supp. IV); USAID, USAID History, [http://www.usaid.gov/about\\_usaid/usaidhist.html](http://www.usaid.gov/about_usaid/usaidhist.html) (last visited Oct. 6, 2007).

23. Cuba vs. Bloqueo Homepage, <http://www.cubavsbloqueo.cu/> (last visited Oct. 22, 2006).

24. 22 U.S.C. § 2370.

25. See U.S.-Cuba Relations, *supra* note 1; *10 Presidents, One Dictator*, *supra* note 2.

26. *10 Presidents, One Dictator*, *supra* note 2.

27. Economic Embargo Timeline, *supra* note 17.

28. *10 Presidents, One Dictator*, *supra* note 2.

29. *Id.*

attempt to run Castro out for good.<sup>30</sup>

### III. 1990'S TO TRADE TODAY

#### A. THE CUBAN DEMOCRACY ACT

The fall of the "Soviet bloc" in the early 1990s served as the first major impetus since the Bay of Pigs for U.S. legislators to try again to force Castro out of Cuba.<sup>31</sup> In 1992, U.S. Congressman Robert Torricelli introduced the Cuban Democracy Act, which quickly passed into law later that year.<sup>32</sup> The Cuban Democracy Act represents the George H. W. Bush administration's efforts to force Castro out by prohibiting "foreign subsidies of U.S. companies from trading with Cuba."<sup>33</sup> The Cuban Democracy Act (in part below) encouraged international cooperation from companies trading with Cuba and reiterated the use of sanctions.

(a) Cuban trading partners. The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this chapter. (b) Sanctions against countries assisting Cuba. (1) Sanctions. The President may apply the following sanctions to any country that provides assistance to Cuba: (A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act. (B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government (emphasis added).<sup>34</sup>

#### B. CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT

Although some touted the Cuban Democracy Act would bring Castro down "within weeks," it did not, and over the next four years, serious migration issues involving Cuban exiles attempting to make their escape to Florida manifested.<sup>35</sup> In 1996, four pilots—three of them American citizens—from the self-proclaimed humanitarian group called Brothers to the Rescue (originally involved in aerial rescue missions of Cuban refugees crossing the Gulf of Mexico) flew over Cuba to drop political leaflets.<sup>36</sup> When the pilots deviated from the flight plan agreed to with the Cubans, they were shot down by Cuban military aircraft.<sup>37</sup>

30. *Id.*

31. *Id.*

32. Elmer Smith, *When it Comes to Cuba, All We've Done is Wait and Squeeze*, P.A. DAILY NEWS, Aug. 8, 2006, at 7.

33. *10 Presidents, One Dictator*, *supra* note 2.

34. 22 U.S.C.A. § 6003 (2000 & Supp. IV).

35. Smith, *supra* note 32.

36. Anthony F. Kirkpatrick, *U.S. Shares Blame in Brothers to the Rescue Shootdown*, TAMPA TRIB., Mar. 3, 2001, at 19; *10 Presidents, One Dictator*, *supra* note 2.

37. Kirkpatrick, *supra* note 36; Brothers to the Rescue, Inc., Background and Information, <http://www.hermanos.org/Background%20and%20Information.htm>, (last visited Oct. 1, 2006).

President Clinton reacted to the Brothers to the Rescue incident by quickly signing the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996, often called the Helms-Burton Act, into law.<sup>38</sup> The Helms-Burton Act reiterated the embargo on trade with Cuba and suggested enforcement of the sanctions against other countries that continued to trade with Cuba.<sup>39</sup> It also was the first piece of U.S. legislation to prohibit the recognition of a “transition government” in Cuba if it included Fidel Castro or his brother, Raul Castro.<sup>40</sup> The act (in part below) also gave the President power to suspend the embargo but reserved the power in the legislative branch to override such a suspension by the enactment of a joint resolution of both the houses of Congress.

(e) Review of suspension of economic embargo (1) . . . If the President takes action . . . to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination . . . that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. *The action of the President . . . shall cease to be effective upon the enactment of a joint resolution . . .* (emphasis added).<sup>41</sup>

International criticism of the Helms-Burton Act was strong.<sup>42</sup> Responses from the United Nations and the European Union were similar, citing concerns of “unwarranted interference” by the United States<sup>43</sup> and denouncing disruption of the “free flow of international trade.”<sup>44</sup> Similarly, Canada and Mexico disputed its legality,<sup>45</sup> and Canada even passed legislation (Bill C-54) that provided its citizens with protection from lawsuits brought under the act.<sup>46</sup> In one instance, a Canadian Wal-Mart resumed the sale of eight dollar pajamas made in Cuba in compliance with the Canadian law prohibiting its companies from “joining the Cuban embargo,” only to face reprimand from its parent company in the United States for violating the Helms-Burton Act.<sup>47</sup>

Despite the international issues, hopes were high in the United States for the success of the Helms-Burton Act; Senator Jesse Helms even re-

---

38. See Deborah Ramirez, *U.S., Cuba Renew Talks on Migration*, S. FLA. SUN-SENTINEL, Dec. 3, 1996, at 6A; U.S.-Cuba Relations, *supra* note 1.

39. 22 U.S.C. §§ 6021-091 (2000 & Supp. IV).

40. *Id.* § 6065.

41. *Id.* § 6064.

42. See EU/US Summit, <http://www.eurunion.org/partner/summit/Summit9712/extrater.htm> (last visited Oct. 23, 2006); International Responses, <http://www.earlham.edu/~pols/ps17971/weissdo/iresponse.html> (last visited Oct. 23, 2006).

43. EU/US Summit, *supra* note 42.

44. International Responses, *supra* note 42.

45. David E. Sanger, *Wal-Mart Canada is Putting Cuban Pajamas Back on the Shelf*, N.Y. TIMES, Mar. 4, 1997, at D4.

46. Douglas H. Forsythe, *Introductory Note to Canada: Foreign Extraterritorial Measures Act Incorporating the Amendments Countering the U.S. Helms-Burton Act*, 36 I.L.M. 111, Jan. 1997.

47. Sanger, *supra* note 45.

ferred to it as the "Farewell Fidel" Act.<sup>48</sup> But Castro remained in power, and pressure on the United States from humanitarian groups who opposed the embargo grew stronger.<sup>49</sup> Many felt that it was time for a change, including U.S. agricultural groups and even Senator Helms.<sup>50</sup> And in the wake of the six-year-old Cuban refugee Elian Gonzales' highly publicized deportation, Congress was poised to take action.<sup>51</sup>

### C. TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000

Shortly before leaving office, President Clinton signed the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000 into law.<sup>52</sup> While the TSRA did not change the ban on imports from Cuba, it did allow for exceptions of medical and agricultural exports.<sup>53</sup> While the change in U.S. policy opened up a profitable market for U.S. farmers, the financial restrictions built in to the TSRA limit transactions to those "financed by payment of cash in advance or through financing by a third-country financial institution."<sup>54</sup> The U.S. Treasury clarified the financial restrictions in 2005 to allow financing through letters of credit, so long as the bank was in a third country and was authorized under the provisions.<sup>55</sup>

The TSRA has improved trade between Cuba and the United States greatly and even played a role in the rebuilding of New Orleans after Hurricane Katrina hit in 2005.<sup>56</sup> The first shipment of U.S. rice to Cuba under the TSRA left from the Port of Lake Charles, and between 2001 and 2004, more than half of the "agricultural commodities sold to Cuba through TRSA" were shipped through the Port of New Orleans.<sup>57</sup> In 2005, Cuba bought from companies in thirty-eight U.S. states, and as of 2004, Cuba was the twenty-first "largest market for U.S. agricultural exports," importing about \$380 million worth of agricultural products from the United States that year.<sup>58</sup>

---

48. Smith, *supra* note 32.

49. David Adams, *Backers of Cuba Embargo Losing Ground in Congress*, ST. PETERSBURG TIMES, May 20, 2000, at 2A.

50. *Id.*

51. *Id.*

52. USDA Foreign Agricultural Service, Trade with Cuba, <http://www.fas.usda.gov/itp/cuba/cuba.html> (last visited Oct. 6, 2007).

53. *Id.*

54. Bob Deans, *Cuba Trade Deal Likely*, ATLANTA J. & CONST., Jun. 28, 2000, at A1; U.S. Department of State, U.S. Payment Policy for Agricultural Exports to Cuba Clarified, <http://usinfo.state.gov/wh/Archive/2005/Mar/16-189486.html> (Mar. 16, 2005) [hereinafter U.S. Payment Policy].

55. U.S. Payment Policy, *supra* at 54.

56. See Larry Luxner, *A Year After Katrina, Louisiana Once Again Considers Cuba*, 14 CUBA NEWS (Issue 4), Sept. 1, 2006.

57. *Id.*

58. USDA Foreign Agricultural Service, Trade with Cuba: Frequently Asked Questions, <http://www.fas.usda.gov/itp/cuba/cuba-faq.html> (last visited Oct. 6, 2007); Portia Siegelbaum, *U.S. Trade with Cuba? You Bet!*, CBS NEWS, Mar. 11, 2005, <http://cbsnews.com/stories/2005/03/10/world/printable679400.shtml>.

## D. COMMISSION FOR ASSISTANCE TO FREE CUBA

In 2003, as trade with Cuba continued to grow, President Bush established the Cabinet-level Commission for Assistance to a Free Cuba “to explore ways the U.S. can help hasten and ease a democratic transition in Cuba.”<sup>59</sup> The first report it submitted to the President included a “comprehensive program to: 1. Bring about a peaceful, near-term end to the dictatorship; 2. Establish democratic institutions, respect for human rights, and the rule of law; 3. Create the core institutions of a free economy; 4. Modernize infrastructure; and 5. Meet basic needs in the areas of health, education, housing, and human services.”<sup>60</sup> The report also lists a plan for providing support to the Cuban government “on the condition that it agree to the legalization of political parties, freeing of political prisoners, freedom of the press and implementation of free-market reforms.”<sup>61</sup> While another report was issued by the Commission in 2006, no new legislation involving trade with Cuba has passed since the TSRA of 2000.

## IV. CUBA AFTER CASTRO

Reports of Fidel Castro’s intestinal surgery in late July of 2006 caused much speculation (and some celebration) among Americans.<sup>62</sup> After nearly fifty years of trying to end Castro’s rule, news that he might have to step down from power due to age and health issues was promising.<sup>63</sup> Many Cubans and Americans alike felt further anticipation when news came that Fidel Castro ceded power to his brother Raul Castro, Cuba’s Minister of Defense.<sup>64</sup> The news prompted Secretary of State Condoleezza Rice to make an official statement to the people of Cuba on August 4, 2006: “All Cubans who desire peaceful democratic change can count on the support of the United States. We encourage the Cuban people to work at home for positive change, and we stand ready to provide you with humanitarian assistance, as you begin to chart a new course for your country.”<sup>65</sup>

Almost as soon as the excitement about a post-Castro Cuba began, it was quelled.<sup>66</sup> “[P]hotos of a recuperating Fidel Castro” coupled with

---

59. Commission for Assistance to a Free Cuba, Mission and Members, <http://www.cafc.gov/mission/> (last visited Oct. 4, 2006).

60. *Id.*; see also Commission for Assistance to a Free Cuba, Report to the President, <http://www.cafc.gov/rpt/2004> (last visited Oct. 1, 2006).

61. See Primer: Castro’s Cuba, *supra* note 3.

62. Castro Steps Aside After Surgery, BBC NEWS, Aug. 1, 2006, <http://news.bbc.uk/go/pr/fr/-/2/hi/americas/5233556.stm>.

63. *Id.*

64. *Id.*; *The World Today: Castro Hands Reins of Power to Raul*, (Australian Broadcasting Corp. broadcast Aug. 2, 2006), available at 2006 WLNR 13331577.

65. Secretary Condoleezza Rice, Message to the People of Cuba (Aug. 4, 2006), available at <http://www.state.gov/secretary/rm/2006/69974.htm>.

66. *Morning Edition: Cuban Stability Raises Doubts About Change*, (NPR radio broadcast Aug. 15, 2006) [hereinafter *Cuban Stability*]; *Castro ‘Singing, Fit for Baseball,’* CNN, Sept. 15, 2006, [http://article.wn.com/view/2006/09/15/Castro\\_singing\\_fit\\_for\\_baseball/](http://article.wn.com/view/2006/09/15/Castro_singing_fit_for_baseball/).

news from the Nonaligned Movement summit of Raul Castro's anti-American sentiments quieted press reports of the new Cuba on the horizon.<sup>67</sup> Reports also began to surface reminding the world that no matter what happens to Fidel Castro, the current U.S. legislation toward Cuba will not easily allow for overnight changes.<sup>68</sup>

Between the Helms-Burton Act and the Cuban Liberty and Democratic Solidarity (Libertad) Act, expanding trade with Cuba could be much further down the road than many anticipate.<sup>69</sup> First, "the Libertad Act of 1996 precludes the U.S. president from establishing normal economic and political relations with Cuba, as long as the government includes one of the Castro brothers."<sup>70</sup> The Helms-Burton Act also places many conditions on what the government of Cuba must look like before considering fully lifting the embargo.<sup>71</sup> When commenting on what measures Cuba would have to take in order to meet the standards set out in the U.S. legislation, Miami attorney Pedro Feryre noted, "It's very difficult for any government to meet this criteria."<sup>72</sup>

In addition to the tough U.S. criteria, recent Cuban laws present additional hurdles to change in U.S.-Cuba relations. For example, in 1999, Cuba passed the *Proteccion de la Independencia Nacional y la Economia de Cuba* (Law for the Protection of National Independence and Economy of Cuba), also called "Law 88."<sup>73</sup> This law bans assisting the United States in any way, such as in "ownership, distribution, or reproduction" of U.S. government materials, and imposes prison sentences for "collaborating with radio . . . stations" thought to be helping the United States<sup>74</sup> (such as Radio Marti, the U.S.-funded station broadcasted to Cuba from Miami).<sup>75</sup> Most recently, Cuba passed a constitutional amendment in 2002 "declaring Cuba's socialist system 'untouchable.'"<sup>76</sup>

Despite the obstacles imposed by current Cuban law, U.S. senators have already begun drafting legislation in an effort to help the Cuban people who are still determined to reshape their government into a democratic one.<sup>77</sup> Senator Bill Nelson from Florida, along with Senators Mel

---

67. *Cuban Stability*, *supra* note 66; see also Castro 'Singing, Fit for Baseball', *supra* note 66.

68. Lauren Villagran, *Even Post-Castro, U.S. Trade with Cuba Not a Sure Thing*, MERRILLVILLE POST-TRIB., Aug. 13, 2006, at E1.

69. *Id.*; Jane Bussey, *South Florida Awaits Change in Cuba*, MIAMI HERALD, Jun. 15, 2006, at C1.

70. Villagran, *supra* note 68.

71. 22 U.S.C. § 6065.

72. Bussey, *supra* note 69.

73. Report, Amnesty International, *Cuba: Massive Crackdown on Dissent* (Apr. 4, 2003), <http://web.amnesty.org/library/Index/ENGAMR250082003?open&of=ENG-CUB>.

74. *Id.*

75. Sarah Cox, *Broadcast News*, HOLLINS (Fall 1997), available at <http://www.hollins.edu/undergrad/International/intlnews.htm>.

76. *Castro Warns He Might Sever U.S. Ties*, CNN, June 26, 2002, <http://archives.cnn.com/2002/WORLD/americas/06/26/castro.cuba/index.html>.

77. *Congress Seeks Money for Cuban Dissidents*, MSNBC, Aug. 2, 2006, <http://www.msnbc.msn.com/id/14136896/print/1/displaymode/1098/>; *Senators Press for Aid to*

Martinez, John Ensign, and Majority Leader Bill Frist, introduced legislation in August of 2006 that would “pay millions of dollars to dissidents who fight for democratic change.”<sup>78</sup> Senator Nelson’s website describes more details about the proposed legislation:

Specifically, the bill authorizes an unspecified amount to promote democracy through assistance to political prisoners and dissidents, workers’ rights organizations, independent libraries, journalists, doctors and economists; and, to help promote human rights reforms. A separate measure Nelson intends to file creates the Cuba Fund for a Democratic Future and would provide the first \$40 million for the two-year program.<sup>79</sup>

Of course not everyone agrees with Senator Nelson’s plan. Many policy makers want to be careful not to be “too quick to acknowledge a transition government” in Cuba.<sup>80</sup> Yet others suggest a much more aggressive stance toward bringing Castro down at this time, citing concerns about terrorism and what could happen if Cuba fell into the wrong hands.<sup>81</sup> Despite the range of opinions policy makers have on how to move forward, it seems that recent events foreshadowing a post-Castro Cuba may act as “a wake up call to policy makers to expand the interests that are being represented in US-Cuba policy, and move towards a more constructive engagement with what hopefully will be a transition on the island.”<sup>82</sup> Ultimately, one thing seems clear: “at the end of the day, it’s up to Cubans to determine how this transition will take place and what Cuba’s national future will be.”<sup>83</sup>

---

*Cuban Dissidents*, MSNBC, Aug. 2, 2006, <http://billnelson.senate.gov/news/details.cfm?id=260729&>.

78. *Congress Seeks Money for Cuban Dissidents*, *supra* note 77; see also *Senators Press for Aid to Cuban Dissidents*, *supra* note 77.

79. *Senators Press for Aid to Cuban Dissidents*, *supra* note 77.

80. *World Today: Castro Hands Reins of Power to Raul*, *supra* note 64.

81. Warren Richey, *How Should US Prepare for a Post-Castro Cuba?*, CHRISTIAN SCI. MONITOR, Nov. 23, 2005, at 1.

82. *World Today: Castro Hands Reins of Power to Raul*, *supra* note 64.

83. Eric Green, *State Dept.: Lifting Embargo on Cuba ‘Still on the Table,’ U.S. Official Says*, US FED. NEWS, Aug. 18, 2006.

