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Saturday, January 6, 1996

Mr. John Weinfurter, Administrative Assistant
Congressman Joseph Moakley
235 Cannon House Office Building
Washington, DC 20515-2109

By fax to: 202/225-3984

Dear John,

Thank you very much for all of the advice & expert counsel you offered Mike Ryan and me -- particularly this week -- in making substantive progress in the planning and arrangements for the Jan 16-19 Havana-based Conference on US-Cuba Relations: A New England Perspective.

Attached is a three page overview on the Center For International Policy's Congressional Staff briefing visit to Cuba from January 8-12, which involves 10 House and Senate Staff members (D & R). The US-Cuba Foundation, directed by Gary Jarmin, is hosting a comparable tour in Cuba from January 5-11 for about 5 House GOP Staff members (as written information becomes available on this, we will fax it to you). The information garnered by these Staff members may well impact the Congressional debate and consideration of HR 927.

As you continue to brief Congressmen Moakley and Campbell this week about the January 16th Conference, please consider the possibilities for them to forge a new, bipartisan consensus on effective US policy for Cuba -- first within the House and then among Senators and leading Administration policy makers.

Please consider how the Jan. 16th Conference delegation can be expanded and strengthened prior to Jan. 11. On Jan. 19 about 11-11:30 am when the delegation returns to the Miami Airport on a Gulfstream International Airline charter, could someone assist them with customs reentry?

Prior to Thursday, Jan. 11, if there is any activity by the HR 927 or HR 1561 Conference Committees, or if any Congressional hearings are scheduled on Cuba related issues, could someone please fax a copy of the info to us in Havana? Attached is the Shaw-Pittman Legiwatch Cuba which includes most of the Cuba issues. Another controversial one is the budget item funding Radio Marti's move from DC to Miami which was in the Commerce/Justice/State appropriation bill that the President vetoed.

On Friday morning, Jan. 12 at 9:15 am, we have a meeting scheduled with State & Treasury officials in the OFAC offices to present the requested information for the Conference license. They understand our request that they make a decision about the Conference license before the end on business on Friday, Jan. 12.

We will also have an appointment to meet with Ambassador Ramirez on Friday afternoon, Jan. 12, to finalize Conference discussions with him.

With my very best personal regards, I am

Sincerely yours

A handwritten signature in black ink, appearing to be 'J. Bernard Robinson', written over the typed name.

J. Bernard Robinson
Counsel

cc: Michael J. Ryan



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If you do not receive all pages indicated above, please call us back as soon as possible at (202) 232-3317.

MESSAGE

JAN 05 '96 17:42

P.3/3

**Congressional Delegation to Cuba
January 8-12, 1996**

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Tentative Itinerary

January 8-12, 1996

Cuban government officials:

January 8 7:05AM LEAVE Washington
 9:42AM ARRIVE Miami
 10:15AM check-in at Gulfstream (United Airlines
 counter)

 1:00PM LEAVE Miami
 2:00PM ARRIVE Havana
 5:00PM Ministry of Foreign Relations
 Dinner
 8:00PM Juan Antonio Blanco
 Felix Verla Center

January 9 9:30AM Ministry of the Economy
 11:00AM US Interests Section

 4:00PM National Assembly of the People's Power
 Dinner President of the National Assembly
 Ricardo Alarcon

January 10 AM Ministry of Foreign Investment
 PM Ministry of Comercial
 Dinner Italian Embassy

January 11 AM Ministry of Education
 AM Ministry of Public Health
 2:30 PM Centro Estudios Sobre Americas
 PM Martin Luther King Center
 DINNER

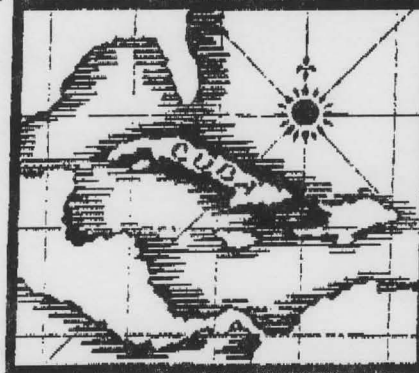
January 12 AM National Council of Churches
 1:00 PM LEAVE Havana
 2:00 PM Arrive Miami
 7:20 PM LEAVE Miami
 9:55 PM ARRIVE Washington National

SHAW, PITTMAN, POTTS & TROWBRIDGE

LEGIWATCH CUBA

January 3, 1996

**FIRST SESSION OF
104TH CONGRESS
ENDS WITH "LIBERTAD"
ACT IN CONFERENCE
COMMITTEE; OTHER
CUBA LEGISLATION
ALSO LEFT PENDING**



The 104th Congress was scheduled to end its first legislative session today with the most significant piece of legislation relating to Cuba, The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act (the "Act"), still in the process of being considered by a House-Senate Conference Committee. Although passing its version of the Act on October 19, 1995 (see *LegiWatch Cuba*, October 20, 1995), the Senate did not appoint its conferees until mid-December. The delay stemmed from Democratic opposition to a separate foreign relations bill, S. 908 ("The Foreign Relations Revitalization Act of 1995") and frustration over the lack of action in the Senate Foreign Relations Committee on the approval of ambassadorial nominations and ratification of pending treaties. On December 12, 1995, an agreement was reached between Republicans and Democrats that cleared the way for passage of S. 908 and permitted action on nominations and treaties, and allowed the approval of conferees for the LIBERTAD Act. On December 14, 1995, the Senate appointed seven conferees to consider the Act together with the nine conferees appointed by the House on November 7, 1995. The Senate

conferees are: Republicans Helms (NC), Coverdell (GA), Snowe (ME), and Thompson (TN); and Democrats Pell (RI), Dodd (CT), and Robb (VA). The House conferees are: Republicans Gilman (NY), Burton (IN), Ros-Lehtinen (FL), King (NY), and Diaz Balart (FL); and Democrats Hamilton (IN), Gejdenson (CT), Torricelli (NJ), and Menendez (NJ). With Congress scheduled to be out of session for most of the month of January, action by the Conference Committee is not expected until February.

**DIFFERENCES BETWEEN
THE HOUSE AND SENATE
VERSIONS OF THE ACT
BEFORE THE
CONFERENCE COMMITTEE**

The House and Senate versions of the Act that the Conference Committee will need to reconcile differ substantially from each other. Most significant is the absence in the Senate version of a Title III (present in the House version) granting a right of action in U.S. courts to U.S. owners of property expropriated by Cuba against third country nationals "trafficking" in such property. Title III was dropped from the Senate version after opposition to it led to a

Democratic filibuster and the bill's sponsors were unable to invoke cloture. Indications are that Title III will be reinserted into the bill when the Conference Committee sends it back to both houses of Congress for final passage. It is unclear whether a bill with such a provision would win approval in the Senate.

Another important provision present (as Title IV) in the House version of the Act, but not in the Senate's, is the exclusion from the U.S. of aliens "trafficking" in the property expropriated from U.S. citizens. Originally in the Senate version, this provision was dropped and inserted in S. 908. Under the agreement reached on December 12, 1995, however, the alien exclusion provision was removed from S. 908 as well. The provision in Title IV of the House version authorizes the Secretary of State to exclude any alien who he determines has confiscated U.S. owned property or "traffics" in confiscated U.S. property. As it now reads, this provision would be applicable to all cases of confiscated U.S. property (whether in Cuba or elsewhere) after January 1, 1959, except for claims arising from an

unsettled dispute over territory as a result of a war between two U.N. member states.

Other differences that must be reconciled in conference are found throughout the Act. Some notable examples are in the areas of indirect financing of Cuba, foreign assistance to countries providing support for the nuclear power plant at Cienfuegos, and requirements for a transition and democratically elected government in Cuba before U.S. assistance is given. Thus, for instance, the Senate version imposes four requirements for a transitional government in Cuba before it qualifies for U.S. assistance, whereas the House version contains nine requirements. The Senate version requires that a transitional government in Cuba: have legalized all political activity; released political prisoners; dissolved the Department of State Security; and committed to holding free and fair elections within two years. The House version includes additional requirements ranging from extradition of individuals sought by the Department of Justice to the exclusion of Fidel or Raul Castro from a transitional government. The Senate and House versions of the Act also differ significantly in regard to requirements for a democratically elected government: the Senate version outlines several non-binding factors to be taken into account in determining whether a democratic government is in power in Cuba; the House version, on the other hand, defines seven specific requirements for a democratically elected government, including that it make demon-

strable progress on addressing the expropriation claims by U.S. citizens.

All of these differences must be resolved by the Conference Committee, which will need to develop a strategy as whether or not to include, or re-write, certain portions of the bill (such as Title III) to insure passage in the Senate and to convince 60 Senators to vote for cloture on the conference bill. Since Title IV regarding the exclusion of aliens trafficking in property expropriated from U.S. nationals was never put to a vote in the Senate, it is unclear how the insertion of that provision would affect the outcome of a cloture motion.

OTHER CONGRESSIONAL ACTION ON CUBA IN 1995

There were a number of bills concerning Cuba besides the LIBERTAD Act that were introduced in the first session of the 104th Congress, reflecting varying Congressional opinions as to the best course for U.S. policy toward Cuba. The legislation ranged from bills that would end the existing trade embargo to attempts to tighten the embargo further and press for its internationalization: Rep. Rangel (D-NY) introduced H.R. 883 to repeal the embargo on Cuba while Rep. Diaz-Balart (R-FL) introduced a concurrent resolution (H. Con. Res. 24) calling on the President to seek a mandatory international embargo on Cuba in the U.N. Security Council. Both of these bills have been stalled in the House International Relations Committee since February 1995. Between these poles of opinion range a wide variety of bills including some calling for the elimination of certain embargo re-

strictions (H.R. 1254, 1700, and 1704), and those advocating a policy of free trade with Cuba following a change of government (S. 146).

Since some of these pending bills are subsumed in the LIBERTAD Act, their fate may well depend on the outcome of the debate on the Act. If the Act passes and is signed by the President, it is likely that these bills will die in committee. On the other hand, if LIBERTAD is defeated, there may be attempts to push through some of the legislation that would implement portions of the Act. At any rate, it is exceedingly unlikely that any legislation aimed at easing the embargo will meet with success in the current Congress.

LEGIWATCH CUBA

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LEGIWATCH CUBA TRACKS PENDING LEGISLATION RELATING TO CUBA: STATUS AS OF 01/03/96

| BILL | SHORT TITLE | RELEVANT PROVISIONS | SPONSOR | CO-SPONSORS | STATUS | DATE OF LAST ACTION |
|-------------------------------|---|---|--------------------------------|----------------------|--|---------------------|
| S. 146 | Americas Free Trade Act | Establish free trade with Cuba once freedom has been restored in Cuba and U.S. property claims have been resolved | Gramm (R-TX) In Senate | No Co-sponsors | Referred to Senate Committee on Finance | 01/04/95 |
| S. 269 | Immigrant Control and Financial Responsibility Act of 1995 | Repeal the Cuban Adjustment Act | Simpson (R-WY) In Senate | 1-R 1-D | Passed as amended by Senate Judiciary Subcommittee on Immigration, referred to full Committee on the Judiciary | 06/14/95 |
| S. 381 (See H.R. 927) | Cuban Liberty and Democratic Solidarity Act of 1995 | Omnibus legislation geared at strengthening the embargo, protecting U.S. property rights abroad, and providing for assistance to a transitional and democratic Cuba | Helms (R-NC) In Senate | 17-R 4-D | Hearings held in Senate Foreign Relations Subcommittee on Western Hemisphere and Peace Corps Affairs | 06/14/95 |
| S. 908 | Foreign Relations Revitalization Act of 1995 | Exclusion of aliens who have confiscated or traffic in property claimed by U.S. nationals | Helms (R-NC) In Senate | No Co-sponsors | Immigration provision dropped from bill; incorporated into H.R. 1561; passed Senate; Conferees appointed | 12/14/95 |
| S. 925 (Same as H.R. 1909) | Congressional notification of contacts with Cuban government officials | Require the President to notify Congress if U.S. government is negotiating with the Cuban government to normalize relations | Mack (R-FL) In Senate | Senate 4-R 1-D | Referred to Senate Committee on Foreign Relations | Senate 06/15/95 |
| | | | Stearns (R-FL) In House | House 7-R 2-D | Offered and withdrawn as an amendment to H.R. 927 | House 09/21/95 |
| H.R. 81 | A Bill to oppose Cuba's admission to international financial institutions | Oppose Cuba's admission to international financial institutions until Cuba holds free and fair elections | Diaz-Balart (R-FL) In House | No Co-sponsors | Referred to House Committee on Banking and Financial Services | 01/04/95 |
| H.R. 82 | Deny visas to aliens trafficking in expropriated U.S. property | Deny visas to aliens involved with or trafficking in Cuba's expropriation of property of United States persons | Diaz-Balart (R-FL) In House | No Co-sponsors | Referred to House Judiciary Subcommittee on Immigration and Claims | 01/04/95 |
| H.R. 83 | Withholding of contributions to certain international financial organizations | Withhold assessed and voluntary contributions of the United States to any international financial institution that furnishes any assistance of any kind to Cuba | Diaz-Balart (R-FL) In House | No Co-sponsors | Referred to House Committee on Banking and Financial Institutions | 01/04/95 |
| H.R. 84 | Prohibit sugar imports from countries that import sugar from Cuba | Countries that import sugar, syrups, and molasses from Cuba shall not be allowed to export such products to the United States | Diaz-Balart (R-FL) In House | No Co-sponsors | Referred to House Committee on Ways and Means | 01/04/95 |
| H.R. 367 | Repeal of the Cuban Democracy Act of 1992 | Repeal the Cuban Democracy Act of 1992 | Serrano (D-NY) In House | 34-D 0-R 2-F | Referred to House Committee on International Relations | 01/04/95 |

| BILL | SHORT TITLE | RELEVANT PROVISIONS | SPONSOR | CO-SPONSORS | STATUS | DATE OF LAST ACTION |
|-----------------|--|---|--------------------------------|----------------|--|---------------------|
| H.R. 519 | Freedom and Self-Determination for the Former Soviet Union Act | Deny foreign assistance to Russia if Russia provides intelligence information to Cuba or technical assistance relating to the signal intelligence facility at Lourdes | Solomon (R-NY) In House | 0-D 12-R | Jointly referred to the House Committee on International Relations and the Committee on Banking and Financial Services | 01/13/95 |
| H.R. 611 | Free and Independent Cuba Assistance Act | Provide assistance to a transitional and democratic Cuban Government | Menendez (D-NJ) In House | 11-D 7-R | Jointly referred to the House Committees on International Relations, Ways and Means, Banking and Financial Services, and Agriculture | 01/20/95 |
| H.R. 883 | Free Trade With Cuba Act | Repeal the embargo on trade with Cuba | Rangel (D-NY) In House | 13-D 0-R | Jointly referred to the Committees on International Relations, Ways and Means, Commerce, and Government Reform and Oversight | 02/09/95 |
| H.R. 927 | Cuban Liberty and Democratic Solidarity Act of 1995 | Omnibus legislation aimed at strengthening the embargo, protecting U.S. property rights abroad, and providing for assistance to a transitional and democratic Cuba | Burton (R-IN) In House | 9-D 34-R | Passed as amended in the House; introduced and passed as amended in Senate; Conferees selected | 12/14/95 |
| H.R. 1254 | Amendment to the Cuban Democracy Act of 1992 | Reduce limitations on exporting food and medicines to Cuba and eliminate denial of foreign tax credit with regard to Cuba | Rangel (D-NY) In House | 2-D 0-R | Jointly referred to House Committee on International Relations and Committee on Ways and Means | 03/15/95 |
| H.R. 1561 | American Overseas Interests Act of 1995 | Place responsibility for TV and Radio Martí under the Department of State and deny aid to foreign governments providing assistance to Cuba | Gilman (R-NY) In House | No Co-sponsors | Passed in House as amended; introduced and passed in Senate; Conferees appointed | 12/14/95 |
| H.R. 1700 | Amendment to the Foreign Assistance Act | Allow for export of medicines and medical supplies, and equipment to Cuba | Nadler (D-NY) In House | 16-D 0-R | Referred to House Committee on International Relations | 05/24/95 |
| H.R. 1703 | Establishment of news bureaus in Cuba and the United States | Allows for the establishment of news bureaus in Cuba and the United States | Serrano (D-NY) In House | 8-D 0-R | Referred to House Committee on International Relations | 05/24/95 |
| H.R. 1704 | Reinstate the authorization of cash remittances to Cuba | Reinstate the authorization of cash remittances to family members in Cuba | Serrano (D-NY) In House | 8-D 0-R | Referred to House Committee on International Relations | 05/24/95 |
| H. Con. Res. 24 | Concurrent Resolution | Calling on the President of the U.S. to seek a mandatory international embargo on Cuba in the United Nations Security Council | Diaz-Balart (R-FL) In House | No Co-sponsors | Referred to House Committee on International Relations | 02/07/95 |

Major Provisions of HR 927 Draft Conference Report

(emphasis on changes from House passed version)

Findings

Standard stuff. No changes from House passed version.

Purposes

Nothing earth shattering. Senate passed language.

Definitions

Reference to Ways & Means eliminated from appropriate congressional committee definition.

Definition of "official of the Cuban government or the ruling political party in Cuba" narrows the property that is subject to the right of action in Title III. Exempts all residential property unless there is a certified claim or it is being used by a high ranking government/party official.

Title I

Sec. 101: House and Senate language nearly identical. One significant change is that it states that any outmigration or any operation of Cienfuegos nuclear facility should be considered an act of aggression by Castro.

Sec. 104: Walks back from House position of supporting Cuban membership in IFIs during a transition. Allows President to support Cuban application during transition as long as it doesn't take effect until a democratically elected government is in power.

Sec. 109: Adds provision mandating that the President take all necessary steps to ensure that democracy assistance does not reach the Castro government. Provision could jeopardize President Clinton's October 6 policy.

Sec. 110: Restores essentially empty rhetoric on Cuban sugar importation. Ways & Means objected to similar language in HR927 when it was being considered in the House.

Sec. 112: Sense of Congress language on restoring unrestricted family travel and remittances. Urges President to demand certain actions by Castro government before restoration.

Sec. 114: Hopelessly complicates the issue of reciprocal news bureaus by insisting that Radio & TV Marti be allowed to operate within Cuba without interference from the Cuban government. In effect makes U.S. once again responsible for blocking establishment of news bureaus.

Title II

Sec. 205: Merges House and Senate constructions on criteria for determining whether a transition government is in power. Sets numerous hard criteria: all political activity legalized; all political prisoners released; security apparatus dissolved; committed to free and fair

elections organized for within ___ years; ceased interfering with the Martis; Fidel and Raul Castro excluded; public commitments and demonstrable progress made to establish independent judiciary, respect internationally accepted human rights, and allow establishment of labor unions; given adequate assurances that it will allow the speedy and efficient distribution of assistance. Sets out further "factors to be considered", including: effective guarantee of freedom of speech; reinstatement of citizenship to Cuban-born national returning to Cuba; assurance of right to private property; taken appropriate steps to return or compensate U.S. citizens for expropriations; extradited all persons sought by U.S. law enforcement; and permitted deployment of human rights monitors.

Sec. 206; Retains conditions in Sec. 205, while adding those found in the House passed Sec. 206. Retaining Sec. 205 means that while the Congress hails the right to self-determination of the Cuban people it won't provide assistance to those people if they were to choose Fidel or Raul Castro as their leader.

Title III

Sec. 302: Contains several modifications that give an advantage to the 5,911 certified claimants in carrying out the right of action:

(1) Rights of action takes effect for certified claimants 6 months from date of enactment, does not take effect for the non-certified until two years later.

(2) Gives certified claimants immediate recourse to treble damages in bringing their right of action, requires non-claimants to give those whom they will sue 30 days prior notice in able to seek treble damages.

(3) Establishes priority payment to certified claimants if courts decide to consolidate judgements;

Establishes \$50,000 threshold of amount in controversy for bringing a case. Does not specify whether the \$50,000 figure is the value at time of expropriation or today.

Allows suspension of right of action once a transition is in power – subject to President's discretion. Terminate right of action, but not pending litigation when a democratic government comes to power.

Mandates the establishment of a filing fee for the exercise of the right of action.

Title IV

still in controversy