COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

SUBCOMMITTEE ON TRADE

May 4, 1998

Memorandum

TO: Members of the Subcommittee on Trade

FROM: Subcommittee Staff

RE: May 7th hearing on U.S. Economic and Trade Policy Toward Cuba

On Thursday, May 7, the Subcommittee on Trade will hold a hearing on U.S. economic and trade policy toward Cuba. The hearing will take place in 1100 Longworth House Office Building and will begin at 1:00 p.m.

Background

Since the early 1960's, U.S. policy toward Cuba has consisted largely of attempting to isolate the island nation through a comprehensive economic and trade embargo. The authority for these sanctions was included in section 620(a) of the Foreign Assistance Act of 1961 (P.L. 87-195). In 1992, the sanctions were strengthened with the enactment into law of the Cuban Democracy Act (P.L. 102-484). In particular, the Act extends the prohibitions on transactions with Cuba to subsidiaries of U.S. firms in third countries. At the same time, the Cuban Democracy Act directs the President to take steps to end the trade embargo and to assist a freely and democratically elected Cuban government, should one come to power. Another component of U.S. policy under the Act consists of support measures for the Cuban people, including U.S. pirvate humanitarian donations, U.S. Government support for democracy-building efforts, and U.S.-sponsored radio and television broadcasting to Cuba (Radio and TV Marti).

In 1996, the Cuban Liberty and Democratic Solidarity Act (P.L. 104-114), often referred to as the "Helms-Burton" legislation, was enacted to further strengthen U.S. sanctions against Cuba. Among other things, Helms-Burton codified all Cuban embargo executive orders and regulations in force on March 12, 1996. In addition, the Act denies admission into the United States to certain aliens involved in the confiscation or trafficking of U.S. property in Cuba. Finally, the Act allows U.S. nationals to sue for monetary damages in U.S. Federal court those persons who traffic in property confiscated from such U.S. nationals. Under the Act, the President has the authority to waive this provision in periods for up to six months if he determines that such a delay would be in the national interest and expedite a transition to democracy in Cuba. Since enactment, the President has utilized this waiver authority four times, most recently on January 16, 1998. In the President's July 16, 1996 waiver announcement, he indicated that the liability of foreign companies under Helms-Burton would be established during the suspension period and that legal action could be taken immediately upon the lifting of the suspension.

Following the enactment of Helms-Burton, many U.S. trading partners, including the European Union (EU), Canada, Mexico, and Japan, strongly criticized the legislation, arguing that it constitutes an extraterritorial application of U.S. law contrary to international principles. On November 20, 1996, the World Trade Organization (WTO) agreed to a request from the EU calling for the formation of a dispute resolution panel on Helms-Burton. The EU notified the WTO on April 21, 1997, that it was suspending the dispute panel, pursuant to an understanding reached with the United States to develop join disciplines on dealings in property confiscated by Cuba and other governments in contravention of international law. Under WTO rules, dispute panels can be suspended for only 12 months, after which time they lapse or must be reactivated. On April 21, 1998, the EU announced that it would allow its suspended case to expire but warned that it would immediately file a new WTO complaint if companies in EU member states were penalized under Helms-Burton or the Iran-Libya Sanctions Act (P.L. 104-172).

The visit of His Holiness Pope John Paul II to Cuba on January 21-25, 1998, focused public attention on U.S. economic and trade sanctions against Cuba and their effect on the Cuban people. At present, U.S. sanctions do not allow commercial food exports to Cuba, and while commercial medical exports are allowed, there are several restrictions on such exports as set forth in the Cuban Democracy Act of 1992.

Following the Pope's visit, President Clinton announced four changes in U.S. policy toward Cuba on March 20, 1998. Specifically, the President announced: (1) the resumption of licensing for direct humanitarian charter flights to Cuba (which had been curtailed after the February 1996 shootdown of two U.S. civilian planes), (2) the resumption of cash remittances up to $300 per quarter for the support of close relatives in Cuba (which had been curtailed in August 1994 in response to the migration crisis with Cuba), (3) the development of licensing procedures to streamline and expedite licenses for the commercial sale of medicines and medical supplies and equipment to Cuba, and (4) a decision to work on a bipartisan basis with Congress on the transfer of food to the Cuban people.

Legislation in the 105th Congress

In the 105th Congress, a number of bills have been introduced which would alter U.S. economic and trade policy toward Cuba. Specifically, H.R. 284 was introduced by Mr. Serrano on January 7, 1997, and was referred to the Committee on International Relations, to repeal the Cuban Democracy Act of 1992 and the Helms-Burton legislation. On June 18, 1997, H.R. 1951 was introduced by Mr. Torres, Mr. Rangel, Mr. McDermott et alia to make an exception to the U.S. embargo on Cuba for food and medical exports. The Committee on Ways and Means has received a sequential referral of H.R. 1951 due to the provisions of the bill which would amend the Internal Revenue Code of 1986 to clarify that the denial of foreign tax credit in section 901 of the Code shall not apply to Cuba with respect to income attributable to articles permitted to be exported to Cuba.

In addition, Mr. Nadler introduced H.R. 2904 on November 7, 1997, to make an exception to the U.S. embargo on trade with Cuba for the export of medicines or medical supplies, instruments, or equipment. This bill has been referred to the Committee on International Relations. On February 5, 1998, Mr. Rangel introduced H.R. 3173, the Free Trade with Cuba Act, to lift the trade embargo on Cuba. This legislation has been referred to the Committee on International Relations with sequential referrals to the Committees on Ways and Means, Commerce, and Government Reform and Oversight.

In the Senate, Senator Dodd et alia introduced the Cuban Women and Children Humanitarian Relief Act, S. 1391, on November 6, 1997, to authorize the President to permit the sale of food, medicine, and medical equipment to the Cuban people. This legislation has been referred to the Senate Committee on Banking, Housing, and Urban Affairs. Another initiative, endorsed by Senator Helms, but not yet introduced as legislation, reportedly would focus on expanding humanitarian aid to the Cuban people by channeling such assistance through the Cuban Catholic Church.

Attachments

1. Tentative Witness List
2. CRS Issue Brief entitled "Cuba: Issues for Congress"
3. CRS Report entitled "Cuba: Initiatives to Ease Restrictions on U.S. Food and Medical Exports"