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Should the United States Re-establish Trade with Cuba? An Assessment of the Considerations Involved in the Decision

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NOTE: THE CUBAN ANACHRONISM: A STATIC NATION
IN A DYNAMIC WORLD*

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I. INTRODUCTION

On January 1, 1959, Fidel Castro and his army ousted Cuban dictator Fulgencio Batista from the island of Cuba and established the first Communist regime in the Western Hemisphere.¹ After the United States severed diplomatic relations with Cuba,² President John F. Kennedy imposed an economic trade blockade against Cuba through Presidential Proclamation No. 3447 of February 4, 1962³ and Cuban Assets Control Regulations of July 8, 1963.⁴ The Proclamation prohi-

*Editor's Note: Recently, the Soviet Union announced plans to remove all troops and to stop all economic assistance to Cuba. Therefore, these current events should be taken into consideration when reading this article.

1. Shneyer & Barta, *The Legality of the U.S. Economic Blockade of Cuba Under International Law*, 13 CASE WEST. RES. J. OF INT'L L. 451 (1981).

2. *Id.*

3. 3 C.F.R. § 157 (1959-1963 comp.).

4. 31 C.F.R. § 515 (1980).

bited all forms of trade with Cuba. The Proclamation also authorized the Secretaries of the Treasury and Commerce to make exceptions only when consistent with the general policy of the United States.⁵

Statutory authority for these regulations derive from alternative sources.⁶ First, section 620(a) of the Foreign Assistance Act of 1961 provides that the President is authorized to establish and maintain a total embargo on all trade between the United States and Cuba.⁷ Second, section 5(b) of the Trading With the Enemy Act of 1917 gives the President the authority to regulate the flow of United States currency in times of national emergencies declared by the President.⁸ While Congress authorized the President to impose economic sanctions, it did not require the President to do so.⁹ Therefore the economic trade blockade against Cuba is an executive discretionary device which can be discontinued if no longer considered in the national interest.¹⁰

The United States economic trade blockade against Cuba has been in effect for nearly thirty years. Throughout this time, Soviet economic aid has enabled Cuba to maintain its anti-democratic posture. The world has changed, however, and apparently so have the Soviets.

Responding, in part, to the effects of a stagnant economy, the Soviet Union has increased personal liberties to its citizens, and softened its anti-democratic stance in order to attract western assistance in the revamping of the Soviet economy. The United States has reciprocated by allowing United States companies to set up operations in the Soviet Union. In addition, formerly socialist countries such as Poland have begun to restructure their economic and political systems.

These global events have changed the very context in which Cuba operates. Cuba is no longer aligned with its socialist counterparts. Instead, Cuba remains the exception to the rule, a historical reminder of communism's dark past.

5. Shneyer, *supra* note 1, at 453; *see also* Hammock, *U.S. Prohibitions On Cuban Trade: Are They Effective?*, 1 FLA. INT'L L.J. 61 (1984) (Treasury Department regulates direct financial transactions and importation of Cuban goods while the Commerce Department regulates American exports to Cuba).

6. Note, *Legal Impediments to Normalization of Trade with Cuba*, 8 LAW & POLICY IN INT'L BUS. 1007, 1011 (1976).

7. 22 U.S.C. § 2370(a) (Supp. III 1979).

8. 50 U.S.C. app. § 5(b) (1976 & Supp. III 1979). Section 5(b) was amended to apply exclusively in times of war; however, subsequent legislation grandfathered existing exercises of the President's "national emergence" authorities. *See* Regan v. Wald, 23 INT'L LEGAL MAT. 792, 795 (July 1984).

9. Shneyer, *supra* note 1, at 453.

10. Regan v. Wald, *supra* note 8, at 796.

This article considers the question of whether it is in the United States' national interest to re-establish trade with Cuba. Specifically this note addresses whether the economic blockade should be lifted in light of the economic and political considerations of the day.

II. ECONOMIC CONSIDERATIONS

A. *Potential Benefits to the United States*

In 1975, the United States House of Representatives conducted hearings to determine whether the United States Trade Embargo of Cuba should be lifted.¹¹ Several members of Congress as well as various witnesses testified that the embargo should be lifted because the original purposes of the embargo had failed.¹² The purpose of the embargo as stated in the 1962 Cuban Resolution,¹³ were: (1) to prevent the communist regime in Cuba from extending its influence in Latin America by force; (2) to assist the Cuban people in reaching self-determination; and (3) to deter the creation of an externally supported military capability that would endanger the United States.¹⁴

Despite assertions that the general purposes of the embargo had failed, particular attention was directed towards the deprivation of economic benefits to the United States.¹⁵ The embargo has allowed the replacement of American installations in Cuba by companies from Western Europe, Japan and Canada.¹⁶ Since the Cuban infrastructure had previously depended upon United States products, the effect of the embargo in the view of several analysts was to cause the United States to lose its priority position in the Cuban economy in the event of future trade normalization.¹⁷

In addition to the loss of markets, the Cuban Assets Control Regulations prohibited United States companies within the United States from trading with Cuba, yet simultaneously allowed United States

11. *U.S. Trade Embargo of Cuba: Hearings on H.R. 6382 Before the Subcomm. on International Trade and Commerce and International Organizations of the House Common International Relations*, 94th Cong., 1st Sess. (1975) [hereinafter *Embargo Hearings*].

12. *Id.* at 64.

13. S.J. Res. 230, 87th Cong., 2d Sess., Pub. L. No. 87 733, 76 Stat. 697 (1962).

14. Note, *supra* note 6, at 1007. The intent was to gradually isolate Cuba economically so that the Communist presence in the Western Hemisphere would be minimal.

15. *Embargo Hearings*, *supra* note 11, at 69 (Report prepared by Professor Bertram M. Gross, Distinguished Professor of Urban Affairs, Hunter College and Professor of Political Science, City University of New York).

16. *Id.*

17. *Id.* at 69-75. (Mr. David E. Lefevre, Attorney at Law, stated that Canadian exports to Cuba exceeded \$150 million in 1974, a market that formerly belonged to the U.S.). *Id.* at 75.

subsidiaries in foreign countries to engage in business with the same country.¹⁸ The United States' policy was being undermined because United States products inevitably reached the Cuban market.¹⁹ The practical effect was to afford Cuba the benefit of United States products while denying domestic corporations the profits from those products.²⁰

Because Cuba depends upon imported goods for survival,²¹ the United States could benefit economically from resumed trade with Cuba by supplying the island with those valued imports.²² While Cuba's geographic proximity makes it a natural trading partner of the United States,²³ the potential Cuban market represents only a small fraction of the United States economy.²⁴ From a purely economic standpoint, the Cuban market is desirable to the United States, but not essential.²⁵

B. *Potential Benefits to Cuba*

Cuba has a great deal to gain from trade with the United States.²⁶ The Cuban economy has been in poor condition for a long period of time due to several factors.²⁷ However, most notably, the Cuban economy suffers from two critical afflictions: (1) the lack of "hard currency" to purchase goods on world markets and pay debts, and (2) an extreme dependence on the Soviet Union for economic aid.²⁸

18. Note, *supra* note 6, at 1019.

19. *Embargo Hearings*, *supra* note 11, at 69 (The Cuban government has an interior committee dedicated to breaking the U.S. economic blockade through tactics such as the transshipment of goods, i.e. from the U.S. to Mexico to Cuba.).

20. *Id.* (profits include the failure to use U.S. labor to produce the products).

21. See Zimbalist, *Cuba's External Economy: Reflection on Export Dependence, Soviet Aid and Foreign Debt*, 30 COMP. ECON. STUDIES 21 (1988) (Cuban trade resources are virtually limited to sugar, nickel and tobacco).

22. *Embargo Hearings*, *supra* note 11, at 75.

23. *Id.* at 56 (statement of the Honorable George McGovern, a U.S. Senator from the State of South Dakota; Senator McGovern visited with Fidel Castro immediately prior to the Embargo Hearings).

24. See generally *Embargo Hearings*, *supra* note 11.

25. *Id.*

26. *Id.* at 147 (statement of the Honorable Bill Chappell, Jr., a representative in Congress from the State of Florida; Rep. Chappell stated that Cuba had a great advantage in normalizing trade with the United States, while the United States had nothing to gain).

27. *Embargo Hearings*, *supra* note 11, at 18 (statement of Mr. Jorge Mas Canosa, Member, Executive Committee, Cuban Representation of Exiles (RECE); Sugar production is among the factors contributing to Cuba's weak economy. Despite Castro's efforts to increase sugar production, it has decreased from pre Castro levels because the Cuban working classes have refused to cooperate diligently under the oppressive system).

28. Zimbalist, *supra* note 21, at 31-42.

The majority of scholarly opinion which constitutes the *mainstream Cubanology*, concludes

Were the United States to resume trade with Cuba, both of these factors could change substantially.²⁹ Infusions of dollars would alleviate the currency problems, while trade with the United States would provide a price advantage to Cuba since the geographical proximity of the United States would greatly reduce import costs.³⁰ The trade advantage would lessen Cuban dependence on the Soviet Union because alternative sources of products would be available to Cuba.³¹

Additionally, since the Soviet Union provides such enormous economic support to Cuba in terms of loans and credits, Soviet economic pressures force the Cuban government to compromise foreign policy determinations.³² The Cuban government would welcome an opportunity to rid themselves of this economic leverage.³³ Resumption of trade with the United States would present such an opportunity.³⁴ Re-establishing trade with the United States, however, presents economic hurdles that would have to be surpassed before any meaningful trade could occur.³⁵

C. *Settling the Cuban Claims*

Several obstacles potentially impede any prospect of future trade with Cuba.³⁶ First, virtually all United States-owned property in Cuba was nationalized by 1961 after attempts at expropriation agreements failed.³⁷ In response, the United States Government froze all Cuban nationals' assets on July 8, 1963.³⁸ Reconciliation of these debts is an issue that must be resolved prior to trade normalization.

that Cuban economic policies have virtually failed in the last 30 years. Even Zimbalist, who is generally considered to be a critic of the *mainstream Cubanology* because of its analytical basis concedes that, "Soviet economic aid is enormous and the Cuban economy would scarcely be what it is without it." *Id.* at 31.

For a general discussion of the differing assessments of Cuba's economy, see Hanratty, *Differing Perspectives on Castro's Cuba* (Book Review), 38 PROBS. OF COMMUNISM 108 (1989).

29. *Embargo Hearings*, *supra* note 11, at 88-112 (statement of Mr. Jorge I. Dominguez, Research Fellow of the Center for International Affairs, Harvard University).

30. *Id.*

31. *Id.*

32. *Id.* (Cuban government was forced to endorse the Soviet invasion of Czechoslovakia, because the Soviets froze the level of oil shipments to Cuba).

33. *Id.*

34. *Id.*

35. Note, *supra* note 6, at 1027.

36. *Id.*

37. *Id.* See also *Banco Nacional de Cuba v. Sabbatino*, 193 F. Supp. 375, 376 (S.D.N.Y. 1961).

38. See 31 C.F.R. § 515 (1975).

If amounts of frozen and nationalized assets were similar, a "set-off" of both countries' debts could take place. However, the essential problem with the frozen assets and expropriation claims is the disparity of amounts.³⁹ The Cuban government seized assets valued at almost \$2 billion, while the net value of the frozen assets in the United States is approximately \$30 million.⁴⁰ Before trade can take place between the two nations, a settlement agreement would have to be reached where United States citizens would be adequately compensated.⁴¹

Any agreement reached by the two nations would have to provide for the possibility of expropriation claim holders attempting to attach Cuban assets entering the United States' jurisdiction.⁴² One way to avoid Cuban assets from being attached would be to provide that the transfer of title to traded goods would occur outside the United States.⁴³ Nonetheless, the settlement agreement would need to include provisions allowing United States nationals access to a forum vested with the power necessary to resolve expropriation claim disputes.

The United States economy could benefit from trade with Cuba. However, even if the settlement of Cuban claims could be adequately attained, moral and political obstacles block the path of free trade. Whether the United States should resume trade with Cuba depends upon a balancing between economic interests and moral and political considerations.

III. POLITICAL CONSIDERATIONS

A. *Human Rights*

The Universal Declaration of Human Rights,⁴⁴ approved by the United Nations, recognizes the equal and inalienable rights of all mem-

39. Note, *supra* note 6, at 1028 (some of the outstanding claims have been reduced through the use of income tax writeoffs).

40. *Id.* The exact amount of U.S. assets nationalized was \$1,851,057,358. *Id.* The face amount of the frozen Cuban assets is \$148.8 million, but the actual net worth is much less because part of the assets constitute loans secured by Cuban assets. *Id.*

41. *Id.* See also *Sabbatino*, 193 F. Supp. at 382-6. A prior settlement offer made by the Cuban government was considered illusory by U.S. nationals.

42. Note, *supra* note 6, at 1029.

43. *Id.* Another related problem is the use of Cuban ships or planes for the transport of traded goods. *Id.* Cuban vessels entering U.S. territory could also be seized to repay outstanding claims. *Id.*

44. G.A. Res. 217A, U.N. Doc. A/777, at 71 (1948) [hereinafter *Universal Declaration of Human Rights*].

bers of the human family.⁴⁵ Cuba is a member of the United Nations and has therefore pledged to honor the principles of this proclamation.⁴⁶ Since its inception, the Castro government, however, has violated the human rights of Cubans.⁴⁷

The practice of institutionalized terror and community hate has affected thousands and has resulted in gross human rights violations.⁴⁸ Cuban political prisoners have endured some of the most cruel, inhumane, and degrading prison conditions documented.⁴⁹ Cuban political prisoners have been subjected to murder, physical and mental torture, insufficient and revolting food, denial of mail from relatives, forced labor, repeated beatings, serving their sentences naked, and imposition of political indoctrination.⁵⁰ Some prisoners known as "*plantados*" have refused political indoctrination and have suffered for their beliefs.⁵¹

These *plantados* have refused to work for the Castro government and have refused to embrace the repressive political ideology.⁵² They have suffered through hunger strikes, mutilation by prison guards, torture, and even death through lack of medical attention.⁵³ One prisoner, Clodomiro Miranda, a former member of the Castro army remained in prison with untreated gunshot wounds in his legs.⁵⁴ Within a short time, Mr. Miranda developed maggots in his wounds and had to be executed while lying on the ground because he could not sustain the weight of his body.⁵⁵

45. *Id.*

46. Lillich, *Legal Policy Considerations*, in MERON, HUMAN RIGHTS IN INTERNATIONAL LAW LEGAL AND POLICY ISSUES 127 (1986).

47. *Embargo Hearings*, *supra* note 11, at 25 (Castro's rise to power was immediately signified by televised executions of ex-Batista supporters).

48. A. VALLADARES, CONTRA TODA ESPERANZA (1985) (careless anti-Castro comments to a neighbor could result in midnight arrest and detention; in many instances citizens were dragged off to prison and were never even told what the charges were).

49. *Id.* (families of political prisoners have also been degraded and humiliated by being subjected to strip searches in order to visit their loved ones).

50. *Id.*

51. *Id.* at 27 (these *plantados* had been stripped of everything else but would not give up their dignity and conviction).

52. 87 DEPT. STATE BULL. 2122, at 74 (1987) (statement by Ambassador Vernon A. Walters, U.S. Permanent Representative to the United Nations, at the 43rd Session of the United Nations Commission of Human Rights in Geneva on March 5, 1987).

53. *Id.* Cuba also has the highest per capita number of political prisoners in the world.

54. A. VALLADARES, *supra* note 48, at 24. (Mr. Miranda originally served Castro with the purpose of overthrowing Fulgencio Batista; Mr. Miranda then turned against Castro when he realized the repressive system Castro sought to implement).

55. *Id.* (Armando Valladares, the author, witnessed these events).

The human rights violations are not limited to political prisoners.⁵⁶ Cuba is a state in which basic human freedoms and rights are denied to the majority of the citizenry.⁵⁷ Indeed, no other Latin American nation has seen over fifteen percent of its population flee to surrounding nations in search of basic freedoms.⁵⁸

For nearly thirty years, Castro refused to allow human rights groups to inspect prison conditions on the island.⁵⁹ After a great deal of political pressure, Castro invited the United Nations Human Rights Commission (UN) to observe the human rights situation in Cuba.⁶⁰ In April 1989, the United States Department of State published an update on the condition of human rights in Cuba.⁶¹

The State Department reported that following the initial UN inspection, there had been minor improvements in human rights conditions.⁶² However, the Cuban government nullified these improvements by ordering the harassment and imprisonment of human rights activists who had demonstrated during the visit of the UN commission.⁶³ The Cuban government currently fails to recognize the right to privacy.⁶⁴ Telephones are tapped, mail is censored, and over 80,000 block committees exist to monitor the activities of others and ensure that their actions conform with the ideals of the revolution.⁶⁵

The Castro regime's version of freedom of speech does not extend to protect the rights of citizens to criticize the nation's leadership, and freedom of the press is virtually eliminated since there is only one major newspaper, *Granma*. *Granma* is admittedly a propaganda

56. 87 DEP'T ST. BULL. 2122, at 71-72 (1987).

57. *Id.* at 71. Generally, Cuban citizens cannot travel off the island of Cuba. *Id.* The Cuban government only grants travel permits to citizens that leave their families behind, to ensure the return of the citizen. *Id.*

58. *Id.* at 72.

59. *Id.*

60. 25 U.N. Chron. 65 (June 1988). The Cuban government did not want to be upstaged by the U.S. demands for human rights inspections in Cuba, so the Cubans took the initiative and extended an invitation. *Id.*

61. 89 DEP'T ST. BULL. 2145, at 59 (1989).

62. *Id.* (approximately 250 political prisoners had been released and allowed to emigrate).

63. *See id.* at 60. Reports from prisoners also indicated that the Human Rights Commission had inspected cells and prisons that were cleaned up in anticipation of the inspection. *Id.* Following the inspection, however, conditions returned to their prior status. *Id.*

64. *See id.* at 64.

65. *Id.* *See also* Olivieri, *Los Delitos Contra La Seguridad Del Estado En El Derecho Penal Cubano*, 55 REV. JUR. DE LA UNIV. DE PUERTO RICO, 609, 620 (1986) (discussing the various legal mechanisms used by the Cubans to detect and thwart "counterrevolutionary" activity) [hereinafter *Delitos Contra La Seguridad*].

publication for the Cuban Communist Party.⁶⁶ Therefore, the Cuban population is denied the opportunity to receive objective reporting of international and domestic events.⁶⁷ In an attempt to provide Cubans with different perspectives on international news, the United States has established *Radio Marti*, a radio program which transmits news and information directly to the island of Cuba. While *Radio Marti* supplements the Cuban press, the Cuban judicial system remains grossly inadequate and "due process" is an unknown concept.⁶⁸

Since the beginning of the present communist regime, the Cuban government has systematically abrogated the rights of its citizens to receive a fair trial. In 1959, the Castro regime amended the Cuban Constitution of 1940 to include a provision establishing the death penalty.⁶⁹ The Cuban government also passed legislation providing for the retroactive application of penal laws and the creation of new crimes known as *counterrevolutionary crimes*.⁷⁰ Counterrevolutionary crimes were defined so broadly, that they included virtually any act which would serve to impede the progress of the revolution.⁷¹ The purpose behind these changes was to punish persons "responsible for the tyranny" allegedly present in the pre-Castro era, and to purge those persons opposing the revolution.⁷²

In order to effectuate the new legislation, the Castro regime superseded the existing judicial system with *Revolutionary Tribunals*.⁷³ These tribunals, comprised mainly of members of the military, were

66. *Embargo Hearings*, *supra* note 11, at 120 (interview of Fidel Castro in 1974 where he stated that the newspaper was an instrument of the revolution and that the opposing viewpoints possessed no intrinsic value to the revolution).

67. *But see* Ibarra, *Different from Eastern Europe*, 37 *World Press Review* No. 5, at 35 (May 1990) (where several Cuban journalists claim that never in the history of the revolution has there been any formal censorship of writers).

68. See 89 DEP'T ST. BULL. 2145, at 61 (1989).

69. *Delitos Contra La Seguridad*, *supra* note 65, at 613.

70. *Id.* at 613-614.

71. *Id.* at 616. Counterrevolutionary crimes included the following: crimes against the integrity and stability of the nation; crimes against the powers of the state; publicly inciting treason; rebellion; . . . distributing counterrevolutionary propaganda; and, acts against the national economy which jeopardize human life. *Id.* Cuban socialist thought views as permissible those political crimes committed for the purposes of improving society, and considers unacceptable those crimes that cause society to recede. Ironically, the standard used to determine whether crimes benefit or hurt society is whether they further socialist goals. In other words, acts committed in favor of socialism are acceptable, while acts committed against socialism are called "counterrevolutionary crimes," and punishable by death. *Id.* at 612, 614.

72. *Id.* at 613.

73. *Id.*

given authority to preside over most criminal matters including the new counterrevolutionary crimes.⁷⁴ The tribunals were also authorized to speed up criminal proceedings and order executions based upon these summary proceedings.⁷⁵

In 1973, the revolutionary tribunals were replaced with *Popular Tribunals* comprised primarily of persons elected by workers.⁷⁶ In 1979, a new penal code was enacted that restructured the Cuban judicial system.⁷⁷ While the establishment of the new penal code appeared to be a positive step towards the preservation of human rights, several elements of the old system permeated in the new.

The all-encompassing counterrevolutionary crimes which could easily be used to suppress political opposition, were now labelled *crimes against the security of the state*.⁷⁸ To illustrate, one specific act categorized as a crime against the security of the state is "enemy propaganda."⁷⁹ Article 108 of the Cuban penal code provides a penalty of up to fifteen years imprisonment for anyone convicted of engaging in "enemy propaganda."⁸⁰ Enemy propaganda is defined as any, "oral or written propaganda contrary to the socialist order."⁸¹ Pursuant to this legislative scheme, anyone speaking out against the socialist system of government runs the risk of being imprisoned for fifteen years. Therefore, Article 108 not only creates a "chilling effect" on speech, but through its penal provisions violates the right to freedom of opinion and expression as recognized by the United Nations in the Universal Declaration of Human Rights.⁸²

Article 108 is one example of how the new Cuban penal code affects the substantive criminal law. Procedurally, Cuban criminal defendants are afforded no greater protections than before. In several cases, depending upon the crime, defendants are categorically denied the opportunity to be released on bail, and are tried by tribunals operating

74. *Id.* at 613-14 (citing the *Cuban Social Defense Code*, and the *Gaceta Oficial de la Republica de Cuba*).

75. *Id.* at 615.

76. *Id.* at 619-20.

77. *Id.* at 620-25.

78. *Id.* at 622-25.

79. *Id.* at 623 (citing to the *Cuban Penal Code*, art. 108, title I).

80. *Id.* at 623.

81. *Id.* at 619 (enemy propaganda as defined in the *Cuban Social Defense Code*).

82. *Universal Declaration of Human Rights*, *supra* note 44, at 75. Article 19 provides: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." *Id.*

behind "closed doors."⁸³ These policies also violate rights recognized in the Universal Declaration of Human Rights, and signify the overall status of human rights conditions in Cuba.⁸⁴

To resume trade with Cuba, many improvements in the area of human rights would have to occur. If the United States were to resume trade with Cuba under the present system, the effect would be to recognize a repressive government contrary to American ideals.⁸⁵ President Bush indicated the United States policy toward human rights in Cuba by stating, "there have been slight and superficial improvements. But much more needs to be done before the Cuban people can truly be said to enjoy the rights guaranteed them by the Universal Declaration of Human Rights."⁸⁶

Cuba has attempted to spread its repressive policies elsewhere in the world through subversive tactics that encourage other countries to replace their governments with systems similar to the Cuban Communist model.⁸⁷ Fidel Castro himself has stated that the essence of the Cuban revolution is political change obtained through military force.⁸⁸ The Cuban government targets countries with serious internal problems and then internationalizes what would otherwise be local conflicts within these countries by providing insurgents with military capability.⁸⁹ The process of internationalizing internal domestic problems is referred to as the "export of revolution."

B. *Export of Revolution*

The Cuban government has long promoted armed insurgencies in all parts of the world.⁹⁰ Beginning in the 1960s with Che Guevara, and continuing until the present, Cuba engages in efforts to destabilize

83. *Delitos Contra La Seguridad*, *supra* note 65, at 624.

84. See *Universal Declaration of Human Rights*, *supra* note 44, at 73. The use of "closed door" trials violates article 10 which provides in part, that everyone is, "entitled to full equality to a fair and *public* hearing by an independent and impartial tribunal" (emphasis added). *Id.* The retroactive application of penal laws violates article 11(2) which provides in part: "No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, *at the time when it was committed*" (emphasis added). *Id.*

85. *Embargo Hearings*, *supra* note 11, at 44 (statement by the Hon. Dante B. Fascell, U.S. Representative of Fla.)

86. See 89 DEP'T ST. BULL. 2146, at 83 (1989).

87. 82 DEP'T ST. BULL. 2059, at 68 (1982).

88. *Embargo Hearings*, *supra* note 11, at 120.

89. 82 DEP'T ST. BULL. 2059, at 68 (1982).

90. *Id.*

governments by promoting armed opposition movements.⁹¹ Unlike the rudimentary approach used in Che Guevara's attempts, where power was obtained by arming the peasants, Cuban subversion is now backed by an extensive secret intelligence network.⁹²

Cuba has trained guerrillas, supplied weapons, provided military advisers, and even sent mercenary troops to fight battles in other countries.⁹³ In addition, Cuba offers revolutionary training programs for select foreign students to encourage the implantation of the Cuban ideology in the students' home countries.⁹⁴ The entire spectrum of activities is supported by a complex Communist propaganda network which disseminates the "revolutionary" view of world events.⁹⁵

Perhaps the most important fact that makes Cuba a prime base for subversive activities is its strategic location in the western hemisphere. Being located at the center of the hemisphere, Cuba can ideologically and militarily infiltrate surrounding Latin American countries and isolate the United States.⁹⁶ Since many of the Central American countries suffer from internal economic and social problems, and are geographically proximate to Cuba, the Cuban government is most active in promoting insurgencies in Central America.⁹⁷ The immediate goals of Cuba appear to be the control of the revolution in Nicaragua, and the destabilization of the government of El Salvador.⁹⁸

The Cuban government trained the leadership of the Sandinista National Liberation Front (FSLN) which eventually overthrew the Somoza regime in Nicaragua.⁹⁹ In preparation for the first FSLN offensive in the fall of 1978, arms were first flown from Cuba to Panama, then shipped to Costa Rica, where they were supplied to

91. *Id.* at 69.

92. *Id.* at 68. Insurgents are trained in urban and rural guerrilla warfare, explosives, and even underwater demolition. *Id.* To disguise the true occupations of the intelligence agents, they are also instructed in civilian skills such as automotive mechanics, carpentry and heavy equipment operation which will aid their infiltration in other countries. *Id.*

93. *Id.* at 68-9 (Cuba has used troops extensively in Latin America and Africa).

94. *Id.* at 71 (education of these students is geared towards accepting the Cuban Communist model).

95. *Id.* at 68.

96. *See Embargo Hearings, supra* note 11 (increased communism in the region could compromise valuable sea lanes and trade routes).

97. *See* 82 DEP'T ST. BULL. 2059, at 80 (1982) (statement by Ambassador Thomas O. Enders, Assistant Secretary for Inter American Affairs, before the subcommittee on Western Hemisphere Affairs of the Senate Foreign Relations Committee on December 14, 1981).

98. *Id.* at 68. As of this writing Salvadoran rebels had mounted a large scale offensive against the Salvadoran government. *Id.*

99. *Id.* at 72.

the Nicaraguan guerrillas based in northern Costa Rica.¹⁰⁰ In 1979, Cuba helped organize an international brigade to fight alongside FSLN guerrillas.¹⁰¹ By 1982, Cuba had increased the number of Cuban personnel in Nicaragua to over 5,000.¹⁰² Cuba also utilized Nicaraguan territory to train guerrillas from neighboring countries such as El Salvador.¹⁰³

Cuba's aid to Salvadoran rebels was on a small scale during the Nicaraguan civil war.¹⁰⁴ After the fall of Somoza however, the Cuban government intensified its efforts to help the pro-Cuban rebels come to power in El Salvador.¹⁰⁵ First, the Cuban government attempted to unify El Salvador's leftist groups by sponsoring a December 1979 meeting in Havana to establish a guerrilla coalition.¹⁰⁶ By mid 1980, the Unified Revolutionary Directorate (DRU) had been coordinated.¹⁰⁷ Then, the Cuban government arranged for the acquisition and delivery of arms from Vietnam, Ethiopia, and Eastern Europe to El Salvador.¹⁰⁸ Finally, the Cubans influenced the DRU to launch a general offensive against the government of El Salvador in January of 1981.¹⁰⁹

Cuba's approach in aiding Salvadoran rebels exemplified the formula that Cuba would use elsewhere in promoting insurgencies.¹¹⁰ The process begins by unifying radical groups within the target country.¹¹¹ Next, the groups are trained in guerrilla warfare using arms obtained by the Cuban government.¹¹² Then Cuban military advisors encourage guerrillas to engage in terrorism to undermine existing governments.¹¹³

100. *Id.*

101. *Id.* The international brigade contained mercenaries from all over Latin America. *Id.*

102. *Id.* (Cuban personnel included members of the military, teachers, medical staff, and specialized military advisers).

103. *Id.*

104. *Id.* at 72, 73.

105. *Id.* at 73.

106. *Id.* The meeting in Havana resulted in an initial agreement between the Armed Forces of National Resistance (FARN), the Communist Party of El Salvador (PCES), and the Popular Liberation Forces (FPL). *Id.* In May of 1980, the Popular Revolutionary Army (ERP) also joined the pact. *Id.*

107. *Id.*

108. *Id.*

109. *Id.* The general offensive failed and in February of 1982, the DRU leadership convened in Havana to improve their strategy. *Id.*

110. *See id.* at 71.

111. *See id.* Individually these groups would not have the power to overthrow a government. *Id.*

112. *See id.* (Cuba either sends the arms or arranges for their sale and shipment from other countries).

113. *See id.* (training of these guerrillas is not limited to Latin Americans as Abu Khalaf, a leader of the military branch of Al Fatah in Beirut, confirmed that Palestinian agents have received training in Cuba since the 1960s).

The United States Department of State has issued reports of similar Cuban involvement in Guatemala,¹¹⁴ Costa Rica,¹¹⁵ Honduras,¹¹⁶ and the Caribbean.¹¹⁷ In addition, Cuban interference has been linked to countries in South America as well.¹¹⁸ Several analysts have noted that under these conditions, United States trade with Cuba would serve to subsidize the Cuban export of revolution.¹¹⁹

The Cuban export of revolution is not limited to Latin America. Cuba has sent mercenaries to fight in Angola on behalf of the Popular Movement for the Liberation of Angola (MPLA).¹²⁰ Cuba eventually escalated its presence in Angola to over 50,000 confirmed troops.¹²¹ After tremendous political struggle,¹²² the United States announced in January of 1989, that an agreement had been reached to withdraw Cuban troops.¹²³

While the withdrawal of Cuban troops from Angola is a positive step toward a United States-Cuban trade relationship, the United States probably would not resume trade with Cuba until the export of revolution stops.¹²⁴ Revolution is not the only export Cuba has distributed. The Cuban government has been implicated in international narcotics trafficking, which erects yet another barrier to trade with the United States.

114. *Id.* at 74.

115. *Id.*

116. *Id.* at 75.

117. *Id.*

118. *Id.* at 76-8. Evidence shows that Cuba has been active in Chile, Argentina, Uruguay and most notably Colombia where the Cuban government has supported the M-19 terrorists, a deadly group of extremists. *Id.* President Turbay of Colombia suspended relations with Cuba on March 23, 1981 after discovering that Cuba had trained the M-19 guerrillas to overthrow the Colombian government. *Id.* In a *New York Times* interview (Aug. 13, 1981) President Turbay compared the betrayal to another Pearl Harbor. *Id.*

119. *Embargo Hearings*, *supra* note 11, at 17 (statement by Mr. Jorge Mas Canosa stating that U.S. trade with Cuba would strengthen Cuba's efforts to destabilize governments throughout the world).

120. 89 DEP'T ST. BULL. 2134, at 17 (1989). The MPLA was one of three nationalist movements competing for control of Angola. The National Front for the Liberation of Angola (FNLA) was supported by Zaire while the National Union for the Total Independence of Angola (UNITA) was receiving assistance from China. *Id.* at 16, 17.

121. *Id.* at 14.

122. *Id.* at 17-20.

123. 89 DEP'T ST. BULL. 2142, at 16 (1989).

124. *See Note*, *supra* note 6, at 1043.

C. *The Cuban Drug Connection*

Documented evidence demonstrating Cuba's role in drug trafficking to the United States dates back to 1961.¹²⁵ According to a Drug Enforcement Agency report, Che Guevara and Salvador Allende¹²⁶ participated in a Havana meeting to discuss the creation of a drug network that would extend from Latin America through Cuba to the United States.¹²⁷ Evidence provided by Jose Blandon Castillo, a former aide to indicted Panamanian dictator General Manuel Noriega, linked Fidel Castro to narcotics trafficking.¹²⁸ Castillo met with Castro to arrange for Castro's intervention in a dispute between Noriega and the Medellin drug cartel.¹²⁹

In addition, a federal grand jury in Miami returned a sealed indictment against seventeen people that used Cuba as a station to smuggle narcotics from South America to the United States.¹³⁰ The indictment indicated that Cuban military officials were involved, and that even a Cuban piloted MiG fighter had escorted a drug plane to safety.¹³¹ Major Florentino A. Lombard, a former Cuban intelligence officer who defected in 1987, claimed that Castro provided suspected narcotics trafficker Robert Vesco with a safe haven at Cayo Largo, a small resort island south of Cuba.¹³²

The Cuban government's involvement with Robert Vesco included narcotics trafficking and the smuggling of United States goods to Cuba.¹³³ Planes carrying drugs destined for the United States would return loaded with United States products.¹³⁴ The United States prod-

125. Ehrenfield, *Castro Is Shocked! Shocked! to Find Drug Dealing Comrades*, Wall St. J., June 23, 1989, at A15, col. 3.

126. *Id.* (Salvador Allende was at the time a Senator from Chile).

127. *Id.*

128. *Id.*

129. *Id.* (Castro urged Noriega to settle the dispute as he pointed out that the members of the Medellin Cartel are "serious people").

130. *Id.*

131. *Id.*, see also N.Y. Times, July 5, 1989, at A21, col. 1 (Article by Elliot Abrams which observed that while drifting American yachts are immediately picked up by Cuban authorities, drug-laden planes and boats travel undisturbed through Cuban air space and waters.).

132. Ehrenfield, *supra* note 125. Vesco is only part of the narcotics-trafficking organization. *Id.* Evidence obtained from a Trading With the Enemy Act (TEA) case also linked Vesco with various Canadian organized crime figures. *Id.* After the U.S. began cracking down on the organization several members fled to Yugoslavia; other members called as witnesses in the TEA case mysteriously died and one individual, Paul Volpe, was found murdered in the trunk of his wife's car. *Id.*

133. Frank, *Partners in Crime*, FORBES, Sept. 24, 1984, at 42.

134. *Id.* at 43.

ucts were obtained by Mexican front companies and in one instance involved the smuggling of a United States manufactured machine that would transform waste sugar cane into flammable briquettes which could then be burned for energy.¹³⁵

The Cuban government's connection with the drug trade is logical since it serves a dual purpose: (1) to obtain United States dollars to diminish Cuba's shortage of hard currency,¹³⁶ and (2) to sidestep the United States trade embargo with Cuba.¹³⁷ The United States government staunchly has attempted to stop the flow of narcotics into the United States by increasing its anti-drug forces.¹³⁸ The hard line United States anti-drug policy cannot be reconciled with lifting the trade embargo with Cuba because the Cuban government has repeatedly undermined the United States policy objectives. To lift the embargo would be tantamount to rewarding the Cubans for their illegal activities. Another less volatile political issue remains to be discussed: the United States Naval Base in Guantanamo, Cuba.¹³⁹

D. *The United States Naval Base at Guantanamo*

The United States maintains a naval station at Guantanamo, Cuba as a result of post Spanish-American War treaties with Cuba.¹⁴⁰ Cuba agreed to lease lands "necessary for coaling or naval stations"¹⁴¹ in a 1903 treaty that was subsequently incorporated in the Treaty of Relations in 1934.¹⁴² The Treaty of Relations is presently considered operative by the United States Department of State.¹⁴³

The lease agreement between the United States and Cuba does not have an expiration date.¹⁴⁴ The lease provides that Cuba must assent to the United States exercise of "complete jurisdiction and control" over the area,¹⁴⁵ "so long as the United States of America shall not agree to a modification of its present limits."¹⁴⁶

135. *Id.*

136. Zimbalist, *supra* note 21, at 31-42.

137. Frank, *supra*, note 133, at 43.

138. Ehrenfield, *supra* note 125.

139. Note, *supra* note 6, at 1039.

140. Treaty with Cuba Defining the Future Relations of the United States with Cuba, May 23, 1903, art. VII, 33 Stat. 2248 (1905), T.S. No. 437.

141. *Id.* at 2252.

142. Treaty of Relations, May 29, 1934, art. VII, 33 Stat. 2248 (1934), T.S. No. 437.

143. U.S. DEP'T OF STATE, Publ. No. 8755, TREATIES IN FORCE 62 (1974).

144. *Embargo Hearings*, *supra* note 11, at 101.

145. Lease of Coaling on Naval Stations to the United States, art. III (1903) *Foreign Rel.* U.S. 350.

146. Treaty of Relations, *supra* note 142.

The United States military presence in Cuba is an annoyance to the Cuban government.¹⁴⁷ Therefore, withdrawal of American forces in Cuba is a long-term goal of Cuban foreign policy.¹⁴⁸ Fidel Castro, however, has stated that the Guantanamo issue is not a major impediment to Cuban trade with the United States.¹⁴⁹

While resolution of the Guantanamo issue is not crucial to trade between the countries, the naval base remains a substantial bargaining chip that could be used advantageously by the United States.¹⁵⁰ The lure of a Cuba without an American presence may be sufficient to obtain favorable terms in the event of trade normalization. Guantanamo then, could be an integral part of any future negotiations between the United States and Cuba.

IV. EVENTS POSSIBLY LEADING TO THE REOPENING OF TRADE

When evaluating the economic and political considerations involved in lifting the United States trade embargo with Cuba, it becomes apparent that any economic benefit afforded the United States will be greatly outweighed by the political ramifications. Therefore, the only feasible way to re-establish trade with Cuba would be through fundamental changes in the Cuban ideology. Castro would have to change the nature of his government and allow Cuba to have a government responsive to the will of the people.¹⁵¹

President Bush repeatedly has praised those Latin American nations that have held open, legitimate elections in selecting their leaders in government.¹⁵² The President has even indicated a willingness to have a United States relationship with ideologically socialist countries as long as the form of government was chosen by the people.¹⁵³ The

147. *Embargo Hearings*, *supra* note 11, at 101.

148. *Id.* (The U.S. influence on Cuba has always been a source of deep resentment to Fidel Castro. According to the "Fidelista" approach to Cuban history, it is claimed that Cuba has always been treated as a colony of the U.S. and that only under the Castro regime has Cuba been truly independent. The irony of course, is that now Cuba is more of a Soviet colony than it ever was a U.S. colony.). See also D'Zurilla, *Cuba's 1976 Socialist Constitution and the Fidelista Interpretation of Cuban Constitutional History*, 55 TUL. L. REV. 1223-83 (1981).

149. *Id.* at 116.

150. *Id.* at 101.

151. *Embargo Hearings*, *supra* note 11, at 142 (statement by the Honorable Claude Pepper, a Representative in Congress from the State of Florida; opposing the lifting of the U.S. trade embargo).

152. 89 DEP'T ST. BULL. 2148, at 68-71 (1989).

153. See 89 DEP'T ST. BULL. 2150, at 92 (1989). The President has shown this by the policy towards Nicaragua and the call for free, legitimate elections. *Id.*

focus of the Bush administration in this context has been to promote and strive for democratic elections in the Latin American countries, rather than to promote specific ideological regimes. The Bush policy should dispel Cuban fears that the United States seeks to colonize or control the affairs of Cuba.¹⁵⁴

Legitimate elections in Cuba would be the key to lifting the trade embargo because free elections would induce other changes in Cuba's political situation. Were Cuba to permit legitimate elections, human rights would improve, because of the internal political freedom necessary for a true democratic government. Legitimate elections and human rights reforms would satisfy the internal political issues that would have to be resolved in order to re-establish trade between the United States and Cuba.¹⁵⁵

Regarding Cuba's foreign policy, the world wide export of revolution would have to cease.¹⁵⁶ The United States could not stand idle and allow the future of Latin America to be dictated by the Cuban government.¹⁵⁷ Certainly, the United States would not economically support such subversive activities through the lifting of the trade embargo.¹⁵⁸

With a joint resolution of both Cuban internal and external issues, the United States could then lift the trade embargo, and negotiate a settlement of expropriation claims. The lifting of the trade embargo would in turn alleviate Cuba's desperate need for a hard currency. Cuba could then stop its activities in narcotics trafficking, because the needed hard currency could be obtained through legitimate channels of foreign trade. The Guantanamo naval base could be one of the factors subject to negotiation, and possibly be included in a settlement agreement between the two nations.

Unfortunately, there is no indication that the previously described scenario could occur. First, in thirty years Castro has not allowed the Cuban citizens to democratically elect their leadership. The only "elections" in Cuba have been for minor municipal positions, and have

154. *Id.* See also *Embargo Hearings*, *supra* note 11, at 121.

155. *Embargo Hearings*, *supra* note 11, at 142-143 (legitimate elections are only the beginning, but given the current line of U.S. foreign policy elections would be the quickest way to begin to restore U.S.-Cuban relationships).

156. See *Embargo Hearings*, *supra* note 11.

157. 82 DEPT ST. BULL. 2059, at 81 (1982).

158. *Embargo Hearings*, *supra* note 11, at 142-144.

occurred in a system where one political party exists and opposition to the party is closely monitored.¹⁵⁹

Second, Castro has indicated that the Cuban government will not pursue socialist reforms as the Soviets have done with their policy of perestroika and glasnost.¹⁶⁰ Castro has equated proponents of socialist reform with dissidents and counter-revolutionaries.¹⁶¹ Castro has even banned Soviet publications discussing Socialist reforms as subversive material.¹⁶²

The Cuban drug activities are also profitable for Cuba in two ways. First, they provide a method of obtaining hard currency. Second, Cuba can enrich itself and simultaneously harm the United States. By providing the United States with illegal narcotics, Cuba can help increase the population of drug users and undermine the anti-drug policy of the United States.

The grim view of future trade prospects between the United States and Cuba simply exemplifies the Cuban political reality. Cuba's vehement support of repressive policies stands in the way of future trade between the United States and Cuba. The United States should remain firm in its policies of economic blockade especially in light of recent international events.

V. WHY THE UNITED STATES SHOULD FIRMLY ADHERE TO ITS POLICIES

A. *Cuba's Internal Political Problems*

In June of 1989, eight Cuban officials were arrested and charged with drug-trafficking.¹⁶³ Among the eight Cubans charged were General Arnaldo Ochoa Sanchez¹⁶⁴ and Brigadier General Patricio de la Guardia,¹⁶⁵ both highly respected members of the Cuban military government.¹⁶⁶ The Cuban government then proceeded to hold highly pub-

159. *Id.* at 121 (Castro has referred to these elections as an "experiment" stating that while there has been a 90% voter turn out rate it is not certain whether voting provides the best method of furthering Cuban communist goals. Castro even stated that if the experiment worked, all general elections would then also be held; Castro has never allowed this to happen.).

160. Abrams, *What Are Soviet Intentions in Latin America?*, Wall St. J., Aug. 18, 1989, at A7, col. 5.

161. *Id.*

162. *Id.* (As one analyst interestingly noted, under Castro's view of those who advocate socialist reforms, Gorbachev would have to be purged as a dissident and counter revolutionary.).

163. Ehrenfield, *supra* note 125.

164. *Id.* (a Cuban war hero in Ethiopia, Nicaragua, and Angola).

165. *Id.* (commander of an elite Special Forces brigade answering directly to Fidel Castro).

166. *Id.*

licized "show trials."¹⁶⁷ Cuba convicted the officials for betraying their country and the Cuban Communist revolution.¹⁶⁸ The officials were executed and Cuba rid itself of "moral traitors."¹⁶⁹

Several analysts, however, have stated that the true purpose behind these drug trials was to purge potential opponents of Castro from the political arena.¹⁷⁰ General Ochoa was a very popular and respected war hero that was openly cheered in public.¹⁷¹ The popularity enjoyed by General Ochoa was apparently very disconcerting to Fidel Castro who publicly accused Ochoa of behaving with "unbraked populism."¹⁷²

Castro may have also feared a situation arising in Cuba similar to the 1974 insurrection in Portugal.¹⁷³ Disgusted Portuguese soldiers returning from an unpopular war in Africa overthrew the dictatorship to improve political and economic repression.¹⁷⁴ Evidence suggests that General Ochoa was acting as a sounding board to returning Angola veterans unhappy with the state of affairs in Cuba.¹⁷⁵ General Ochoa may have been the likely candidate to lead an insurgency against the Castro regime.¹⁷⁶

In addition, a successor to Fidel Castro would have to be protected from others attempting to obtain control of the government.¹⁷⁷ Fidel Castro's designated successor is his brother Raul.¹⁷⁸ Whether Raul

167. Abrams, *Castro Looks to the Future — Nervously*, N.Y. Times, July 5, 1989, at 21 (stating it is unlikely that anyone in the Stalinist regime of Cuba could have engaged in narcotics trafficking without the knowledge of Castro himself).

168. *Id.* (officials admitted at their trials that they had betrayed Cuba; Gen. Ochoa stated he had no reason to live).

169. *Id.* See also Ehrenfield, *supra* note 125 (official Cuban newspaper, "Granma," stated that moral treason would sooner or later lead to political treason).

170. *Id.* (statement by Pamela Falk, a Cuban scholar at Columbia University in New York). See also Abrams, *supra* note 167.

171. *Id.* Abrams, *supra* note 167 (statement by Enrique Baloyra, a University of Miami Cubanologist).

172. *Id.* (Analysts have also pointed out that since General Ochoa spent so much time abroad, it is very unlikely that he could have organized and participated in any drug smuggling organizations based in Cuba.)

173. *Id.*

174. *Id.*

175. *Id.*

176. Abrams, *supra* note 167 (more likely that Castro was clearing the ground for his brother Raul's planned succession).

177. *Id.*

178. *Id.* (Reports have also indicated that there was friction between General Ochoa and Raul Castro, with the latter feeling threatened by the former's greater popularity and charisma.). See also Mesa-Lago, *The Cuban Economy in the First Two Decades of the Revolution: Policies and Performance*, B:5 Estudios Ibero-Americanos 19 (1982). Mesa-Lago esti-

could carry on the regime in a bankrupt, isolated country is uncertain.¹⁷⁹ The chance of success is increased, however, if Cuba's internal political opposition (possibly to have been headed by Ochoa) is eliminated.¹⁸⁰

In light of the evidence linking Fidel Castro to narcotics trafficking, the show trials to Cuban officials appear to be an exercise in hypocrisy.¹⁸¹ Nevertheless, the show trials serve two important political functions for Cuba.¹⁸² First, they provide a method of eliminating potential rivals for governmental power.¹⁸³ Second, Fidel Castro can distance himself from long standing accusations of Cuban complicity in the drug trade and hope to thaw United States-Cuban relations by appearing to crack down on drugs.¹⁸⁴

Regardless of the precise theory, the facts support a conclusion that Cuba suffers from intense internal problems. Economic and social problems have historically plagued Cuba, but now an additional factor has entered the picture — Cuba's changing relationship with the Soviet Union.

B. Cuba's Political Isolation

The Soviet-Cuban relationship has been suffering because of a divergence in political ideology.¹⁸⁵ The Soviet Union has sought and obtained various Socialist reforms through its policy of perestroika and glasnost.¹⁸⁶ Cuba has instead vehemently opposed any changes in the Cuban government indicating that they are unnecessary on the

mated that the current Soviet-Cuban trade war was approximately equal to pre-Castro U.S.-Cuban trade and noted that, despite the Soviet's replacement of the U.S. or Cuba's trading partner, Cuba has been unable to use the Soviet aid to establish a self-sustaining economy. *Id.* at 28.

179. Abrams, *supra* note 167. (While Fidel Castro has been a forceful, imposing public figure it is unclear whether Raul Castro possesses those leadership qualities. Raul Castro is better known as Cuba's "man in Russia," preferring adherence to the Soviets whenever possible instead of independent action.). *But see Graham, Twilight of the Revolution*, 37 *World Press Review* No.5, at 33 (May 1990) (where a Soviet official stated that Soviet aid to Cuba amounted to between \$2 billion and \$3 billion, "lower than the Americans think"). *Id.* at 34.

180. Abrams, *supra* note 167.

181. Ehrenfield, *supra* note 125 ("revelation" that Cuban military officials were involved in narcotics trafficking contradicts thirty years of persistent denial by Fidel Castro that any Cubans were involved in this form of immorality).

182. *Id.*

183. Abrams, *supra* note 167.

184. Abrams, *supra* note 160.

185. *Id.*

186. *Id.* The Soviets have realized that economically they could not survive under the former political infrastructure. *Id.*

island of Cuba.¹⁸⁷ Castro has also criticized Cuban supporters of Gorbachev stating that, "we are not going to tolerate this deviationism within the ranks of our party."¹⁸⁸

The Soviet Union and Cuba recently signed a treaty that redefined the relationship between the two powers.¹⁸⁹ Gorbachev stated in a speech in Havana, that he was categorically opposed to the export of revolution.¹⁹⁰ However, the Soviet Union continues to economically support Cuba, the most prolific exporter of revolution. Analysts have interpreted this dichotomy to mean that Gorbachev can only do so much at one time.¹⁹¹ Given Gorbachev's priorities and political constraints in Moscow, a public fight with Castro would be adverse to his long-term interests.¹⁹² Ironically, however, with all of the political issues involved, the ultimate critical danger to the Cuban government is economics.

C. Cuba's Economic Isolation

The Cuban government isolated itself economically from the United States when it declared a communist regime in Cuba.¹⁹³ Part of the Cuban insurgents' reasons for rebelling against Batista were to free themselves from "Yankee Imperialism" and establish a truly independent state.¹⁹⁴ Yet, in effect, the Cubans "broke away" from the United States only to deliver themselves into the hands of the Soviets.¹⁹⁵

The Soviets contribute approximately between five and eight billion dollars a year to the Cuban economy.¹⁹⁶ The Soviets supply Cuba with

187. *Id.* Castro has attributed the Soviet need for reform to the vast cultural diversity prevalent in the Soviet Union. *Id.*

188. *Id.* Castro's regime has been labeled a Stalinist movement, an accusation that Castro laughs off by saying that in contrast his victims are all in perfect health. *Id.*

189. Keller, *Gorbachev Signs Treaty with Cuba*, N.Y. Times, Apr. 5, 1989, at A8, col. 5.

190. *Id.*

191. Abrams, *supra* note 160.

192. *Id.* (The author indicated that since one of the reasons for socialist reform in the Soviet Union was for economic growth, the Soviets may want to cease footing the bill for the stagnant Cuban economy. Several analysts even believed that the Soviets would suspend Cuban aid in the recent meeting between the two nations.)

193. Shneyer, *supra* note 1, at 453 (noting that the United States was one of Cuba's largest trading partners and the U.S. influence abroad served to cut off significant trade with Cuba from other countries; Castro considers the U.S. economic blockade an act of aggression against the Cuban government).

194. *Embargo Hearings*, *supra* note 11, at 116.

195. *Id.* at 27 (statement by Jorge Mas Canosa).

196. Abrams, *supra* note 160.

oil at substandard prices¹⁹⁷ and purchase Cuban sugar at prices way above the world market price.¹⁹⁸ In effect, the survival of the Cuban Revolution has depended upon Soviet aid.¹⁹⁹

Even with this enormous amount of Soviet aid, the standard of living in Cuba has remained barely tolerable.²⁰⁰ If the Soviet Union were to abandon Cuba, the Cuban government would be on the brink of disaster since the Cuban economy cannot function in the future without the vital Soviet aid.²⁰¹ Economic dependence on the Soviet Union places Cuba in a position of submission under Soviet economic leverage.²⁰²

The Soviets previously used their economic leverage in the Cuban-Soviet confrontation of 1968-1969.²⁰³ The Soviets slowed oil and arms shipments to Cuba and succeeded in obtaining Cuba's endorsement of the Soviet invasion of Czechoslovakia.²⁰⁴ One analyst has stated that the Soviets could use their economic leverage again in the face of widening political differences with Cuba.²⁰⁵

If glasnost is legitimate, then the Soviet Union and Cuba are on a collision course.²⁰⁶ Alternatively, Cuba and the Soviets could be partners in a system where the Soviets handle state-to-state affairs, and Cuba handles the guerrillas.²⁰⁷ Whichever the situation, Cuba is maintaining a precarious position in the world by politically distancing itself from the nation that supports it.

197. Shneyer, *supra* note 1, at 453 (Cuba obtains its oil at approximately one third of the price on world markets).

198. *ECONOMIST*, vol. 312, Aug. 5, 1989, at 42.

199. Abrams, *supra* note 160 (This dependency will not cease in the future according to Carmelo Mesa-Lago and Fernando Gil of the University of Pittsburgh. As former assistant secretary of state for Inter-American Affairs Elliott Abrams noted, "Cuba remains a basket case, and the U.S.S.R. is holding the basket.").

200. Abrams, *supra* note 160 (rationing that was supposed to be temporary at the inception of the Communist government, has continued for the past thirty years).

201. *Id.*

202. *Id.*

203. *Id.*

204. *Id.* (Soviet Union attempted to muscle Fidel Castro and it worked).

205. *Id.*

206. *Id.* (Since Castro has refused to implement these changes and has continued to export revolution in Latin America, perhaps Fidel Castro considers Latin America to be the final place from which to obtain economic aid.).

207. *Id.* The Soviet Union has stated that they have ceased sending arms shipments to other Latin American countries. *Id.* Analysts attribute current Soviet arms received by Latin American guerrillas to Cuban transshipment of Soviet arms intended to be used by the Cubans. *Id.*

VI. CONCLUSION

The potential economic benefits to the United States that could accrue from a lifting of the trade embargo with Cuba are greatly outweighed by the political impediments that currently exist. Violations of human rights permeate a society that has been compared to the oppressive regime of Stalin. For over thirty years, Cubans have been denied the basic human rights guaranteed by the Universal Declaration of Human Rights.

In addition, the Cuban government seeks to spread similar repressive regimes to countries throughout the world. Financing for these insurgencies has been obtained in many instances through the illegal trafficking of narcotics. If the United States were to lift the embargo with Cuba, the ensuing trade would serve to subsidize the Cuban export of revolution and terror so fervently opposed by the government of the United States.

The original purposes of the embargo were: (1) to prevent the communist regime in Cuba from extending its influence in Latin America by force; (2) to assist the Cuban people in reaching self-determination; and (3) to deter the creation of an externally supported military capability that would endanger the United States. The United States purposes, while not entirely fulfilled, have come closer to being accomplished in light of recent international events. Socialist reforms in Eastern Bloc countries have returned some level of autonomy to its citizens.

The Soviet Union, Cuba's guardian, has been at the forefront of these reforms. Yet Cuba remains adamant in its stance embracing repressive policies. As a result, Cuba has become economically and politically isolated. The United States should not lift the trade embargo because the message to Cuba is clear: *Perestroika or Perish*.

Manuel A. Mesa