



*The European Anchoring of Cuba:
From Persuasion and Good Intentions
to Contradiction and Frustration*

-Joaquín Roy



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The European Union at the University of Miami

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The European Anchoring of Cuba: From Persuasion and Good Intentions to Contradiction and Frustration

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THE EUROPEAN ANCHORING OF CUBA: FROM PERSUASION AND GOOD INTENTIONS TO CONTRADICTION AND FRUSTRATION⁺

Introduction

The commemoration of the one hundredth anniversary of the birth of the Cuban Republic on May 20, 2002, has provided an opportunity to review not only the survival of the Cuban regime but the whole history of the Cuban nation.¹ This event coincided with the historical visit of former President Jimmy Carter to Havana² and the reiteration of the unwillingness of the United States to terminate its embargo on Cuba, as expressed by President Bush in an unprecedented speech in Washington and a trip to Miami.³ At the same time, there has been increased friction between Cuba and some influential Latin American countries, such as the special case of Mexico. The tension generated in the aftermath of the vote taken in the United Nations Commission for Human Rights in Geneva in April of 2002 revealed a crack in the comfortable linkage enjoyed by Castro with most of the hemisphere. In this context, Cuba's relationship with Europe has acquired a new profile. It is time for a historical review and a consideration of the most salient aspects of European-Cuban relations and some of its pending issues.

Five main currents of influence and pressure contributed to the anchoring of Cuba in the international scene in the last century: the United States, Spain, the Caribbean and Latin American regional linkages, the Soviet Union during its three decades as a superpower, and

⁺ Paper presented at the conference on "Cuba: integration into the international system," organized by the Pell Center for International Relations and Public Policy, Newport, Rhode Island, March 22-24, 2002. My gratitude is extended to Richard Nuccio and Alberto Coll for the kind invitation and to Aimee Kanner for editing the final manuscript.

¹ As samples of some thought-provoking articles: Guillermo Cabrera Infante, "La efemérides," *El País*, 20 mayo 2002; Antonio Elorza, "Cuba cumple cien años," *El País*, 14 mayo 2002; Carlos Alberto Montaner, "Por qué fracasó la República," *El Nuevo Herald*, 19 mayo 2002, 33A; Alberto Muller, "Centenario de la 'República fracasada,'" *Diario las Américas*, 21 mayo 2002, 5A; Ariel Hidalgo, "Hacia una nueva República," *El Nuevo Herald*, 28 mayo 2002, 19A.

² For a sample of media impact: *The Economist*, "Playing softball in Havana," May 18, 2002; Juan Aznárez, "La visita de Carter a Cuba abre una tímida esperanza de reformas," *El País*, 19 mayo 2002; "Carter en Cuba," *El País*, 15 mayo 2002; Max Castro, "A tale of two presidents: two approaches to Cuba," *The Miami Herald*, May 21, 2002; Jorge Domínguez, "Decisions to make: Cuba's elite must consider life without Castro," *The Miami Herald*, May 29, 2002, 7B. See also, Carter's column published upon his return: "Openings to Cuba," *The Washington Post*, May 24, 2002, A35.

³ For speech excerpts: *The Miami Herald*, May 21, 2002, 10A; for a complete text of the speech in Spanish: "Por la plena libertad de Cuba," *El Nuevo Herald*, 21 mayo 2002. For a sample of media repercussions: Edward Alden, "Bush rejects calls," *The Financial Times*, May 21, 2002; ABC, "Cuba más isla que nunca," 21 mayo 2002.

Europe at large. The first anchoring was by the United States when it intervened in what was essentially an internal affair between Spaniards and Cubans. More precisely, this was a conflict between interests that wanted to maintain the solid political link with Madrid and the ones that envisioned a path similar to the one taken almost a century earlier by the rest of the nascent Spanish American republics. Almost simultaneously to the United States pulling Cuba into its sphere of influence and making the nature of becoming Cuban synonymous with adopting U.S. customs,⁴ Spain's civil society reacted rather unconsciously. Expelled as a political power, Spain refused to be off the map in Cuba and answered the American challenge the only way it could –by massive migration to the island, in a unique case in contemporary history in which a colonial power sent more emigrants to its former colony than in earlier times.

While the linkage with the United States is an unavoidable subject of research and meditation, less attention has been given to the interest expressed by Europe in maintaining a relationship with Cuba, especially after the triumph of the Cuban Revolution. Evidence shows the presence of European interests in Cuba (both Spain and the rest of Europe) remained steady throughout the twentieth century and constituted a solid line of international anchoring without noticeable breaks. The bondage with the Soviet Union appears to be an exception, especially when comparing Cuba's heavy dependency during the heightened years of the Cold War and its irrelevancy today. A Europe in transformation has added another factor to Cuba's international linkages: the institutional collective framework of the European Union, as the sixth factor in the overall global anchoring of Cuba.

Spain's relationship with Cuba can be subdivided into a set of attitudes or modes illustrated by a series of words that in Spanish (and often in English) end in "ion". In the colonial period they are obviously of a different nature: occupation, evangelization, colonization, exploitation, immigration, importation (of slaves), fusion (of races), repression, re-concentration (Weyler's policy) and late military and political reaction. During the later stages, Spain had to endure the policy of pressure (presión) and later of intervention by the United States, provoked by an explosion (the Maine). After the defeat of 1898 (el Desastre), Spain reacted first with deep commotion, followed by resignation. This was illustrated by a still popular phrase: "Más se perdió en Cuba", which captured a permanent place in the language to depict the relative value of any loss compared to the importance of what happened in 1898. Internally, politicians and intellectuals reacted with an agenda dominated by a deep sense of meditation (the role of the Generation of 98) along with a sense of "regeneración". The negative consequence was the substitution of Africa for Cuba and the result (among others) was the colonial war in Morocco, the dictatorship of Primo de Rivera and the tragic path to the Spanish Civil war.⁵

During the first decades of the Twentieth Century, Spain's new agenda in Cuba was dominated by a compulsive and involuntary "policy" of migration, propelled by hunger, avoidance of the draft and family links. It was maintained by a sense of historical

⁴ Louis A. Pérez, On Becoming Cuban, Chapel Hill: University of North Carolina Press, 2000.

⁵See my book entitled La siempre fiel: un siglo de relaciones hispano-cubanas, Madrid: La Catarata/Universidad Complutense, 1998.

obligation towards the former colony despite the difficulties caused by official measures (law of 50%) and Franco's affinity with the Batista regime. After 1959, Cuba (as well as some other countries in the Americas, such as Argentina) became part of a "foreign policy of substitución", characterized by the Spanish regime filling its limitations in the European scene with a feeling of autonomy. A sort of mutual cautious admiration and respect between the Cuban and Spanish leaderships solidified diplomatic relations between two very distinct regimes, and an era of normalization in spite of ideological differences. Franco maintained relations with Castro for a variety of reasons (expecting to receive compensation for expropriations, paying off the trade debt, and most importantly in order to avoid isolation from Latin America).⁶ Ironically, it has been in more recent years when there was confrontation caused by the expropriations of Spanish interests in Cuba and the expulsion of religious orders. This was followed by an incident prompted by Spanish Ambassador Juan Pablo de Lojendio, protesting Castro's accusations. Clashes have been replicated between the Cuban leadership and the Spanish democratic administrations of Felipe González and José María Aznar. In essence, the official attitude of Spain's democratic leaders towards Castro has not changed dramatically since 1976. Cordial relations mixed with persuasion to reform have been the norm, only exacerbated in tone by Aznar's public demands on Castro. A popular word of contemporary Spanish language seems to very aptly illustrate these cyclical incidents: a policy of "follón" (brawl), considered to be "low intensity". After all, fights like these happen in families.

After the end of the Cold War and the disappearance of the Soviet subsidies, a Cuban policy of luring foreign investment through joint ventures resulted in a notable increase in European and especially Spanish investment. "Inversión" was the fitting label for this new aggressive attitude of Spanish interest in Cuba in highly visible sectors such as tourism with the construction of hotels. The survival of the Cuban regime after the first half of the 1990s led the United States to harden measures discouraging foreign investment on the island. The result has been frontal clashes between European interests and the United States over the extraterritorial aspects of U.S. legal initiatives.⁷

Meanwhile, the rest of what used to be Western Europe proceeded to normalize relations (although conditioned to each case), pretending that the Cuban regime was normal by liberal democratic standards. Simultaneously, the European Union integration process had produced an elaborate set of institutional procedures, rules of law and protocols. Jealously preserving the most sensitive areas of foreign policy for themselves, the different governments of the EU member states maintained autonomous attitudes towards Cuba. In each case they took into account special interests, were inspired by good intentions⁸ (in the best tradition of development aid), and shared a minimum of common ground in the institutional framework of the EU. The overall result, using labels similar to those of the

⁶ Manuel de Paz-Sánchez, Zona de guerra: España y la revolución Cubana (1960-1962), Tenerife: Casa de la Cultura Popular Canaria, 2001.

⁷ For a review of European attitudes previous to the 1996 events (Brothers to the Rescue shot down, passing of Helms-Burton and EU's Common Position), see IRELA, "Cuba: Economic transformation and cooperation with the European Union", Havana, 4-7 December 1995.

⁸ For a classic study, see Sherman Forman and Steward Patrick, Good Intentions: Pledges for Aid for Postconflict Recovery, Boulder: Lynne Rienner, 2000.

Spanish case, is a policy that paradoxically combines notable contradiction (if not violation of common regulations) and obvious confusion, with a profile of cohesion and a strategy of persuasion. A policy of carrot is the best illustration, as opposed to the stick used by the United States. The EU, as a whole, has seldom crossed the line to the point of applying pressure (presión). However, at the end of the day, it shares one characteristic with the Spanish policy: frustration, a feeling also suffered by the United States (although in this case it is elevated to the category of irritation). Although a planned policy of confrontation with the United States has not been a fixed part of the script, in certain episodes concrete measures of the European Union and individual member states have been in response to U.S. actions. In Cuba, the Europeans have encountered the only business terrain on earth where they do not have to compete with U.S. economic interests. Pretending that the United States does not exist in the Cuban scenario (even in its political dimension), Europeans have had their finest hour of cooperation when confronting U.S. policies, in contrast to the difficulties of crafting a common strategy towards the Cuban regime.⁹

The official European attitude towards Cuba and its problems with the United States can be illustrated by three fragments of three distinct declarations of the European Union: (1) "The European Union condemns the repeated violations of human rights in Cuba, in particular in the political field. The EU believes that the U.S. trade embargo against Cuba is primarily a matter that has to be resolved bilaterally."¹⁰ (2) "The U.S. has enacted laws that purport to regulate activities of persons under the jurisdiction of the member states of the European Union; this extra-territorial application violates international law and has adverse effects on the interest of the European Union."¹¹ And (3) "If Cuba wishes to receive a favorable treatment through a cooperation agreement, it must show progress in the democratic process."¹²

However, trade and economic relations with Cuba have been developing at a pace autonomous from the collective attitude towards the Cuban regime and independently of the constraints imposed by the United States, and more importantly, as a reaction to U.S. measures. In Europe, while the reactions of different governments revealed an impressive unity in its opposition to the Helms-Burton law, individual countries such as the UK and Spain show distinctive attitudes according to their special relationships with the U.S. and Cuba respectively. The European Union is the institutional framework that has been the most reactive source. The EU has provided the most effective answer to the U.S. law to date, and at the same time has coordinated the machinery for a compromise with the United States to avert a trade war of serious consequences.

Ironically, what was originally a U.S.-Cuban conflict that had escalated into a wider confrontation of transatlantic consequences has given way to an isolated compromise issued

⁹ This section, as well as most parts of this monograph, draws heavily on the content of my book entitled, Cuba, the United States and the Helms-Burton Doctrine: international reactions, Gainesville: University Press of Florida, 2000, and related articles.

¹⁰ European Union, Explanation of Vote, United Nations General Assembly, New York, October 26, 1994.

¹¹ European Council Regulation, November 1996.

¹² European Council Common Position, 1996.

from Washington regarding the Cuban revolutionary process. Significantly, while the Monroe Doctrine was prompted by the insertion of Russia into the American continent, the Helms-Burton corollary was developed when the Soviet Union disappeared and Cuba lost its most important supporter and the cause of its conflict with the United States.

Europe's Relations with Revolutionary Cuba

U.S.-EU Conflict and Cooperation.

Since the mid 90s the Helms-Burton law caused damage to the public opinion of trans-Atlantic relations at a time when any trade disagreement could unleash a serious confrontation in the restructuring of economic blocs. Between the end of the Cold War and the crisis of September 11, Europeans had come to terms with accepting U.S. leadership in difficult scenarios such as the Persian Gulf War and the pacification of the former Yugoslavia. France had shown willingness to reinsert itself into the European security network, especially in the context of NATO. A consensus had been reached regarding economic and military cooperation with Russia. A future North-Atlantic free trade agreement was always feasible by the simple fact of the similarities between the U.S. and the European economies. In contrast, the dispute over Cuba has been an anomaly.

It is true that discrepancies have existed between the United States and Europe.¹³ Because of the technical profile of most of the areas of disagreement (before September 11) and the fact that they indeed involve substantial economic and financial interests, the conflict over Cuba and Helms-Burton presented a contradiction. On the one hand, the topic of the Cuban embargo receives disproportionate attention in the media and political circles. On the other hand, Cuba's relative importance only occupies a small portion of the scholarly global analyses on EU-U.S. relations.¹⁴

Cuba's Trade Tilting Towards Europe

Simultaneously with the economic reforms that were taking place in Cuba after the end of the Cold War, the former Cuban dependency on the Soviet bloc began to shift to a sort of normalization of relations with members of the European Union. The history of relations between revolutionary Cuba and what was called Western Europe during the Cold War provides some of the clues for the lack of agreement between the United States and Europe in the 1990s. Although in the 1960s and 1970s there was nothing to compare with today's incipient EU's Common Foreign and Security Policy, a pattern of similarities was revealed

¹³ Francesc Granell, "Conflicto y cooperación entre Europa y EE. UU.," in Política Exterior 60, no. 11, Nov.-Dec. 1997, p. 35-53.

¹⁴See, as an example, the same article by Granell. The topic of Helms-Burton occupies only one of the eighteen pages of the text.

in the manner that different European states were dealing with Cuba. Each one maintained a link in clear violation of U.S. pressures and admonitions. While Federal Germany's moderate linkage contrasted with the intimate relationship between the communist German Democratic Republic (GDR), Britain (under conservative or labor governments) and France (under De Gaulle) provided Cuba with the necessary industrial products to keep part of its economy afloat. However, in global terms the figures of Western Europe-Cuba trade were modest in comparison to Cuba's dependency on the Soviet bloc. Yet, in strategic terms, some observers considered that "without European links the Revolution might well have floundered."¹⁵

At the end of the 80s Cuba's trade with today's European Union member states was only 6 percent of the total trade between Havana and the rest of the world. By the mid 90s, 38 percent of Cuban imports and 29 percent of its exports were with the European market¹⁶. More than half of all joint ventures in Cuba were established with European investments.¹⁷ Aid funding came from Europe also, from 6 million ECUS in 1993 to a high of 15 million in 1995.

In recent years, the European reactions to Helms-Burton can be divided into the moves by the most influential countries, and the collective measures of the European Union institutions.¹⁸ Individually, European countries showed a remarkable consensus in opposition to the Helms-Burton law. "Special relationships" (such as in the case of the UK) with the United States seemed not to be an obstacle to creating appropriate protective mechanisms against the effects of the successive measures leading to the Torricelli and Helms-Burton laws.

For example, as early as 1992 (before the Torricelli and Helms-Burton bills) the United Kingdom was the first European state to enact a very specific mechanism, the "Protection of Trading Interests (United States Cuban Assets Regulations),"¹⁹ as a shield against damages caused by the U.S. unilateral embargo. Crafted in the same spirit as the Canadian protective measures, this British regulation ordered that no person would comply or permit compliance with any requirement or prohibition associated with the U.S. Cuban assets regulations. The blocking regulation and the critical commentaries on the U.S. measures were the culmination of a steady British policy of opposing U.S. demands, an attitude that goes back to the very beginning of the Cuban Revolution. London maintained cordial profitable relations with Cuba while the UK decolonized its Caribbean islands.²⁰

¹⁵ Alistair Hennessy and George Lambie, The Fractured Blockade: West Europe-Cuban Relations during the Revolution, London: Macmillan, 1993, p. 11-63.

¹⁶Data from IRELA and European Commission.

¹⁷ For a listing of foreign investment in Cuba, see table of U.S.-Cuba Trade and Economic Council: <http://www.cubatrade.org/foreign.html>. For a sample of foreign companies in Cuba: <http://www.cubatrade.org/nonus.html>

¹⁸"Spat over Cuba," The Economist, May 25, 1996.

¹⁹Order No. 2449, 1992.

²⁰For a comprehensive treatment of this relationship, see: George Lambie, "Anglo-Cuban Commercial Relations in the 1960s: A Case Study of the Leyland Motor Company Contracts with Cuba," in Alistair Hennessy and George Lambie (eds.), The Fractured Blockade: West Europe-Cuban Relations during the Revolution, London: Mcmillan, 1993, p.163-197. For a shorter view on the same topic: Gareth Jenkins, "Trade Relations Between Britain and Cuba," in Donna Kaplowitz (ed.), Cuba's Ties to a Changing World, Boulder

Sensitive areas such as the selling of Sea Furies military airplanes to Cuba and the transportation of Soviet crude oil caused some friction with the United States. Temporary friction between Havana and London over Cuba's support of the Argentine invasion of the Malvinas/Falklands was not a major obstacle. At the end of the 80s Cuba occupied the sixth place in Latin America as a destination of British products. In the early 1990s UK-Cuba trade was the fifth in EU-Cuba transactions, but in recent years it has fallen behind the commercial links with other EU states. At the end of the 90s Cuba's debt to the UK reached the modest figure of \$198 million.

French leaders of all political parties have been expressing displeasure with Helms-Burton. This is simply a confirmation of a long pattern of independent policy espoused by Paris in many scenarios partially or mostly dominated by the United States, illustrated by the renewed grandeur brandished by De Gaulle in the 60s. The activities of Fidel Castro's armies in Africa and Cuban support for Algerian independence raised the concerns of French authorities, but with the passing of time this isolated source of confrontation gave way to very cordial relations.

With the end of the Cold War France became Cuba's second EU trading partner. An impressive 22.3 percent of European exports to Cuba were French, while 18.8 percent of all Cuban imports originated in France. The benefits for France are represented in the fact that while in the 80s only a maximum of 1.5 percent of the total French trade was with Havana, in recent years this has increased to 4 percent. Economics, culture, and politics go hand in hand. French cultural activities are today well established in Cuba.²¹

The traditionally excellent French-Cuban relationship received an impressive boost during the mandates of President François Mitterrand. Foreign Minister Claude Cheysson was the crafter of the ambitiously autonomous French policy in the Caribbean and Central America, a design that he duplicated when he was appointed EU commissioner in charge of North-South relations. It is not surprising that Mitterrand called the Helms-Burton law "stupid" and gave Castro a warm state reception when he visited Paris for a function of the United Nations Education, Scientific and Cultural Organization (UNESCO). Although Mitterrand's successor, the conservative President Jacques Chirac, adopted a more cautious policy towards Cuba and gave an award to Cuban dissident leader Elizardo Sánchez, France reaffirmed its independent policy.

When the EU and U.S. signed the compromise agreement to avoid confrontation in the WTO, this decision did not seem to slow down the bilateral activities of France. The

and London: Lynne Rienner, 1993. For a more recent review, see: Wolf Grabendorff, "The Relationship between the European Union and Cuba," in Joseph S. Tulchin, Andrés Serbín, and Rafael Hernández, (eds.), Cuba and the Caribbean: Regional Issues and Trends in the Post-Cold War Era, Washington, D.C.: Latin American Program, the Woodrow Wilson International Center for Scholars, 1997, p. 207-42.

²¹See Grabendorff, "The Relationship between the European Union and Cuba." For a standard view of Cuba in academic and general public books, see: Jean Lamore, Cuba, Paris : Presse Universitaire de France (PUF), 1970, 1997; Monroe Leigh, "Sabbatino's [Banco Nacional de Cuba v. Sabbatino, 84 S. Ct. 923 (1964)] Silver Anniversary and the Restatement: No cause for Celebration," in International Lawyer, no.24, Spring 1990, p. 1-20.

French government had earlier crafted a commercial agreement with Cuba to protect investments. It was signed in April of 1997 by Franck Borotra, French Minister of Industry, and Ibrahim Ferradaz, Cuban Minister for Foreign Investment and International Cooperation.²² This was interpreted as "a new European challenge to the Helms-Burton" law, resulting in displeasure in Washington. The U.S. government commented that it was expecting "equal activism" from the French government in its actions "for the protection of human rights in Cuba." The French government responded by reviewing the recent history of similar agreements accorded by other foreign states. In fact, no less than eighteen countries already had similar arrangements. Germany, the UK, Italy, and Spain were the European states that preceded France. The French minister then took the opportunity to issue a critical assessment of "extraterritorial measures," such as Helms-Burton, which try to curtail foreign investment in Cuba. The agreement also includes clauses in case of expropriations and the appropriate compensation, in order to assure investors feel protected even in the event of a political change.²³

Among the many French companies with substantial interests in Cuba are Alcatel, Pernod, Pierre Cardin, and Rhone-Poulenc. In harmony with the symbolism of French culture, a group of French enterprises led by the gas and electric public conglomerate (EFDF-GDT) coordinated under the Lyon-Havana agreement, have financed the nightlight system for the waterfront of the Cuban capital, centering on the Morro Castle, the jewel of colonial architecture.²⁴ Another important French enterprise with investment in Cuba is the oil conglomerate Total. This company has been the source of a major disagreement between the U.S. and France with the potential for seriously damaging world commercial networks. However, the main reason for the confrontation is not over investment in Cuba, but in Iran. The French government elected to link the extraterritoriality of the Helms-Burton Act and the Iran-Libya Sanctions Act of 1996 (ILSA) and not only threatened to veto the planned transatlantic free-trade arrangement, but put pressure on the European Commission to make the suspension of both laws mandatory for participation in the discussions of the Multilateral Agreement on Investment (MAI).²⁵ Incidentally, the opposition to the free-trade pact is not solely linked to the Helms-Burton controversy but to the French government's displeasure over the European Commission decision to discuss a matter that France considers the exclusive prerogative of the European Council.²⁶ The most recent expression of France's attitude towards Cuba was made in the aftermath of President Bush's speech of May 20, 2002, reiterating the French government's policy of opposition to the U.S. embargo, while siding with the rest of EU members in the UN Human Rights Commission.²⁷

The attitude of the Federal Republic of Germany, before the collapse of the Berlin Wall, was reticent and cautious toward Cuba because of Cuba's close relations with the

²²AFP and other news agencies, April 25; Octavi Martí, "Francia reta a EE.UU," *El País*, 26 abril 1997.

²³Associated Press, April 4, 1997.

²⁴AFP, November 17, 1997. Following in the steps of different French publications led by *Le Monde*, the weekly *L'Express* dedicated a special issue to Cuba with a full disclosure of the numerous links between France and Cuba: *Cuba: The Treasure Island*, December 5, 1997.

²⁵*The Washington Post*, "France Threatens to Veto Free-Trade Pact," March 13, 1998.

²⁶Comments made by French Embassy sources during interviews on March 13, 1998.

²⁷"Response du porte-parole aux questions du point de presse, Ministère des Affaires étrangères, 21 mai 2002.

communist German Democratic Republic.²⁸ The GDR controlled more than 5 percent of total Cuban trade, surpassed in volume only by the Soviet Union. As a result of this intimate relationship, Cuba and West Germany did not maintain diplomatic relations between 1963 and 1975. Bonn held a respectful wait-and-see attitude. When the Cold War ended, with the country reunited, German policy towards Cuba reveals a sort of double track. On the one hand, Germany has become one of Cuba's standard trading partners by virtue of Germany's industrial power and strong presence in Latin America. German business people have been cautious, but an Investment Promotion and Guarantee Agreement signed in 1996 has helped to promote new activities. German companies operating in Cuba include Mercedes-Benz, BASF, Bayer, LTU and Lufthansa. German tourists in Cuba rank among the top spenders. German hotel investment is only surpassed by Spain. On the other hand, the German government implemented a policy of restraint concerning human rights and democratization. German requirements for granting Cuba a cooperation agreement have been criticized by Cuban observers as a double standard, comparing them to the guidelines for agreements with Asia and possibly Latin America. While the concepts of democratization and human rights are inserted into the conditions for development aid to Latin America (with a special focus on Cuba), they are absent in documents outlining the relations with Asian countries. While Cuba appreciates Germany's opposition to Helms-Burton and the consistent voting pattern of the Bonn government at the United Nations regarding the embargo, Germany's conditionality for aid is attributed to U.S. influence.²⁹

Italians have become the leaders in tourism in Cuba, while commercial links between the two countries have become very strong.³⁰ The fashionable Benetton stores are an ideal target for legal suits under Helms-Burton, because of their visibility in tourist zones. Italian investment has also shown a certain degree of autonomy when compared to the rest of European involvement in Cuba. For example, the Italian cruise industry (along with its U.S. and Norwegian counterparts, the most important in the world) demonstrated a keen interest in expanding traditional Caribbean circuits by covering Cuban ports of call. Infrastructure projects were planned for Havana piers, but were later put on hold.³¹ This contradictory signal matches the characteristics of the most recent episode of serious confrontation with the U.S. over the guidelines of Helms-Burton.

While commercial and investment arrangements depend on the continuous implementation of the compromise crafted by the European Union and the U.S. government, the prospects of a confrontation in the WTO remain a perturbing possibility with

²⁸For a commentary on this relationship, see the section on Germany included in the article by: Wolf Grabendorff, "The Relationship Between the European Community and Cuba," in Donna Rich Kaplowitz, (ed.), Cuba's Ties to a Changing World, Boulder and London: Lynne Rienner, 1993.

²⁹See: Florentino Graupera, "Cuba and Germany in the 1990s: Towards a New Opening?," in Revista de Estudios Europeos, no. 41, Jan.-March 1997, p. 19-51; and Wolf Grabendorff, "Germany and Latin America," in Susan Kaufman Purcell and Françoise Simon (eds.), Europe and Latin America in the World Economy, Boulder, Colorado: Lynne Rienner, 1994.

³⁰For a complete review from a Cuban perspective, see: Nelson Roque Valdés, "Las relaciones Italia-Cuba en los noventa," Revista de Estudios Europeos, 42, abril-junio de 1997, and "La cooperación no gubernamental italiana hacia Cuba," Mensaje de Cuba, No. 39-40, 1997.

³¹Since Costa Cruise Line was bought by the US company Carnival, Costa ships no longer visit Cuban ports.

unpredictable consequences for new ventures.³² This is the reason that some companies have elected to follow a safe route, just in case. An example was the deal crafted between ITT and the Italian company STET (since mid-1997, Telecom) apparently under the impact of the pressures exerted by the U.S. State Department. Taking over about 30 percent of the shares of the Cuban telephone system that the Mexican company Domos elected to abandon, the Italian company agreed to pay ITT (the U.S. former operator of the Cuban telephone network) an undisclosed amount, rumored to be about \$300 million,³³ although the figure was also quoted as being only \$30 million.³⁴ The U.S. State Department issued statements praising the negotiation.³⁵ The Cuban-American National Foundation (CANF) expressed satisfaction, but raised its concerns over the continuation of a business link with Cuba.³⁶ This decision raised eyebrows in diplomatic, business, and political circles in Europe as a sign that the Italian company elected to protect its investments in the U.S. by paying the price demanded by Washington. This constituted a dangerous precedent in view of the explicit policy announced by the European Commission, but the executive body of the EU elected not to counteract, claiming that STET's move was not a violation of the regulations.³⁷

Ironically, what may be viewed as a victory for the backers of Helms-Burton, has caused other side-effects. In the first place, the original political arguments of the law are mixed with the topic of compensation for former U.S. properties. Then the aura of principles, human rights, and democracy faded away. Some European circles began to treat the U.S. imposition as hypocritical. The deal between ITT and STET reveals an unethical contradiction to U.S. policy. By paying a fee, the previously labeled "trafficker" may now be a legal partner of the Marxist, totalitarian, human rights violator, Fidel Castro. The difference is not based on principles, but money. The U.S. hard-line attitude is therefore weakened by this pragmatic policy.³⁸ It reveals the worst stereotype of the U.S. in world perceptions, subject to puns, jokes, and old-fashioned anti-imperialist postures. Ironically, this pragmatic policy has also expanded the coalition of opposition against the Helms-Burton law in other countries, especially Spain, where the Socialist opposition has been eager to use any opportunity to confront the conservative government and denounce unethical U.S. actions. Critics now also include many sectors of the Cuban exile community who understandably are incensed by the fact that collaborating with Castro is a sin that can be redeemed at an affordable price. Finally, the STET negotiation generated extreme concern if taken as a dangerous precedent in similar cases that have been affected by the

³²Juan Tamayo, "Talks to deter Cuba investment falter," The Miami Herald, August 17, 1997; AFP, "EU y Europa en nueva ronda sobre ley Helms," El Nuevo Herald, 15 octubre 1997.

³³Juan O. Tamayo, "Firma italiana se burla de ley Helms," El Nuevo Herald, 6 marzo 1997; Christopher Marquis, "New test looms in wrangle over property Cuba seized," The Miami Herald, April 26, 1997; "Empresa podría evitar efecto de ley Helms", El Nuevo Herald, 26 abril 1997.

³⁴The New York Times, "ITT in Deal for Property Cuba Seized in '61," July 24, 1997.

³⁵AP, April 28, 1997.

³⁶"CANF statement on STET-ITT settlement announcement," July 23, 1997.

³⁷EFE, "Comisión Europea no actuará contra STET por compensación a ITT," 25 julio 1997.

³⁸As an example of the justifications endorsed by the main advocates of the law and its consequences, see the statement by Bill McCollum, president of the Judicial Subcommittee of the House, "El cumplimiento de la ley Helms-Burton", El Nuevo Herald, 13 octubre 1997.

D'Amato law, such as Total's agreement for oil exploration in Iran, a decision contested by the United States.³⁹

An added dimension related to this arrangement has contributed further to the confusion, confirming that the Cuban-American hopes of receiving proper restitution or compensation through the Helms-Burton act have been unfounded. According to the logic neatly expressed by The New York Times' correspondent Floyd Norris, whatever was the exact figure that the Italian conglomerate agreed to pay ITT for the privilege of dealing with the Cuban telephone system, the final result was that all the compensation was solely enjoyed by ITT.⁴⁰ The problem is that the original property was distributed into common and preferred stock. ITT only owned 65.6 percent of the common stock. In other words, most of the stock was owned by other shareholders who were originally Cubans.⁴¹ However, when in 1970 the United States Foreign Claims Settlement Commission decided the number of claimants of expropriated properties and how much they were entitled to, the result was that ITT and the U.S. owners were due U.S.\$ 130 million. The Commission, understandably, could not award any claim to non-U.S. citizens at the time of the expropriations. The Italian company followed the U.S. law and agreed to pay a compensation to a minority of the stockholders of the Cuban telephone company. The majority, as they were not U.S. citizens in 1960, would not be able to receive anything. And, while Title III of the Helms-Burton law is suspended, they cannot sue in U.S. courts against anybody "trafficking" in the original property. This makes the parallel with the Bacardí case obvious. Relying on an activated Title III, the major owners, unable (as a non-U.S. company) to be in the original list of claimants, were expecting to sue against "traffickers," and in addition receive (as individual U.S. citizens and former Cuban citizens) compensation from the "traffickers."

Moreover, the STET-ITT deal became the first practical case that confirmed some warnings made by Congress. Ironically, instead of deepening the embargo, the Helms-Burton law might be encouraging more foreign investment in Cuba. Some claimants of expropriated property may find it more profitable to take a portion of the profits of the operation rather than litigate against the "traffickers." What the law has accomplished is creating a loophole to violate the permanent U.S. embargo. Potential foreign investors may find this system, conditioned to profits, safer than venturing into Cuba on their own.⁴²

³⁹Granell, "Conflicto y cooperación," 49.

⁴⁰"What ITT and Castro Have in Common," December 7, 1997, p. B1.

⁴¹This may seem to contradict Cuban-American sources who claim that the whole Cuban-American system was owned by U.S. interests. The reality is that the predominantly U.S. ownership was backed with individual Cuban capital.

⁴²For a complete review of this logic, see the lucid article by Susan Long, "A Challenge to the Legality of Title III of LIBERTAD and an International Response," in Indiana International and Comparative Law Review 7, no. 2, 1997, p. 467-96.

Early EU Warnings

As a reflection of the attitudes of the member states to the announcement of the Torricelli law, the main EU institutions issued declarations and approved resolutions⁴³ extremely critical of the policies of the United States, leading to the finale of the Helms-Burton. Concurrently, it must be stressed, the EU has systematically denounced violations of human rights in Cuba.⁴⁴ Representative of the official EU attitude towards the embargo were the words issued in 1994 by Ambassador Gerhard Henze, Germany's representative to the General Assembly of the United Nations, acting as president of the EU: "Because of its choices in economics and politics, the Cuban government is largely responsible for the deterioration of the situation in the country; the EU condemns the repeated violations of human rights in Cuba, in particular in the political field; we have opposed U.S. legislative initiatives, including the CDA, designed to further tighten the unilateral trade embargo against Cuba by the extraterritorial application of U.S. jurisdiction. We believe that such measures violate the general principles of international law and sovereignty of independent states; the EU believes that the U.S. trade embargo against Cuba is primarily a matter that has to be resolved bilaterally."⁴⁵

This two-pronged approach has been consistent over the years - opposing the U.S. unilateral measures and at the same time conditioning EU humanitarian aid delivery, commercial preferences, and comprehensive cooperation agreements. In this specific terrain, Cuba still is the exception in the Western Hemisphere. The political and human rights profile of the Cuban regime is the main obstacle to the implementation of a global package. However, the European Commission held the hope that by applying a simultaneous dual-track approach (trade and investment with Cuba, while applying pressure for human rights), Brussels would obtain better results than the U.S. stick policy. However, inexorable events detoured the path towards an agreement.

The Failure of the Cooperation Agreement

The shooting-down of the "Brothers to the Rescue" planes on February 23, 1996, and the subsequent approval of the Helms-Burton law forced the discontinuation of a cooperation agreement between Brussels and Havana. These two crucial events also formed the background for the subsequent measures taken by the EU, the approval of a statute blocking Helms-Burton, and forming a Common Position on Cuba, a condition for future arrangements.

⁴³Normally very tamed in language, the EU declarations have generally referred to the U.S. measures against Cuba as "embargo." On at least one occasion the term "blockade" has been used by the European Parliament. See, as an example, the Resolution of September 29, 1994.

⁴⁴See resolutions of the European Parliament of 1987, 1988, 1990, 1992, 1993 and 1996. For a complete, chronological review see the compilation published by IRELA (1996, pp. 769-803) of documents generated in the last twenty years of European Union-Latin American relations.

⁴⁵Agenda Item 24, "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba," "Explanation of Vote," New York, October 26, 1994.

However, the abrupt ending of negotiations for the cooperation aid agreement revealed the arduous and difficult path that was doomed to failure. Following the recommendation of the European Commission made on June 28, 1995, a delegation of the Troika (France, Spain and Italy) traveled to Havana from November 6-10, 1995, for exploratory conversations. The European Council (under the Spanish presidency) held in Madrid on December 15, 1995, gave the Commission the duty of presenting a draft of a cooperation agreement to be ready during the following semester. With this purpose, Manuel Marín, the senior Spanish commissioner and the Vice President of the European Commission, visited Havana from February 8-10, 1996, when he met with Fidel Castro and other Cuban leaders. While he was leaving Havana, the Cuban government arrested leading dissidents, sending a message rejecting the call to reform human rights policies. Just a few days later, the Cuban Air Force MiGs shattered all plans.

While protesting the approval of Helms-Burton, the European institutions condemned the violent act against the unarmed planes. The incident received a double answer: the U.S. government reinforced the embargo and the EU slammed the brakes on the cooperation agreement. In any event, the possibilities of an EU-Cuba agreement based on the conditions of Brussels were slim, just considering the fragility of the internal political conditions at the time. The reform of the Cuban penal code and the recognition of the internal opposition were the basic requirements for the signing of the cooperation package. This was a serious obstacle to Cuban approval.⁴⁶ Castro considered it a humiliation and in turn elected (as usual) to take advantage of the situation, claiming to be the target of harassment and international conspiracy.

This lack of understanding between the EU and Cuba is still the subject of debate. According to one line of interpretation the disdain professed by Havana was the straw that broke the camel's back for the EU. Manuel Marín, the seasoned EU leader, demonstrated that he tried until the last minute and finally (in the words of insiders) "threw in the towel." Another interpretation is that Marín, in reality, had set the bar too high on purpose.⁴⁷ Knowing that the Cuban leader would become increasingly reluctant and would show even more resistance to change, the European conditions were placed at a higher level.⁴⁸ The imminent change of government in Madrid as a result of the March 1996 elections was as coincidental as the change of leadership in Paris, in both cases from a Socialist government to a conservative one. In more strategic terms, the pact failed because it was interpreted as an offer from a coalition with the U.S., something that Castro was not ready to allow.⁴⁹

⁴⁶See the essay by Angel Viñas, "La Unión Europea y Cuba: Historia de una acción de estrategia exterior en la post guerra fría," in Teodoro Flores Gómez, (ed.), Temas de economía internacional: Volumen de homenaje a Rafael de Juan y Peñalosa, Bilbao: Universidad del País Vasco, 1996, p. 311-59.

⁴⁷Richard Nuccio, Cuba special adviser to President Clinton at the time, put the blame exclusively on Castro in an article published in The Los Angeles Times on January 17, 1998, widely distributed to other media (See, for example, "Es Castro quien aísla al país", El Nuevo Herald, 22 enero 1998).

⁴⁸The Spanish expression to illustrate this would be: "Si no quieres caldo, toma dos tazas." Roughly translated into English would be "the less you want to accept, the more we are going to demand." (Interpretation from anonymous sources of the EU Commission and Parliament).

⁴⁹See paper by Richard Nuccio, "Cuba: A U.S. Perspective," paper presented at the conference on "Transatlantic Tensions: The Challenge of Difficult Countries," Brookings Institution, Washington, D.C., March 9-10, 1998, in Richard N. Haass, (ed.), Transatlantic Tension: The United States, Europe, and Problem Countries, Washington, D.C.: Brookings Institution, 1999, p. 7-28.

Although the meeting of the minds between Brussels and Washington at that time was impressive, and frequent consultations between U.S.-Cuba policy protagonists and Spanish, Italian and French counterparts were carefully undertaken, a pact between Europe and the U.S. on Cuba was publicly known. However, the Cuban government suspected that a sort of cooperation was in the works. Finally, on a personal level, the bold move failed because of a lack of calculation on the part of Manuel Marín, a thesis that is contradicted by the usually impressive skillful tactics exerted by the young, but veteran, Vice President of the European Commission. In any event, it is hard to believe that the attempt to win an agreement with Castro was executed without close consultation with the rest of the Commission and influential sectors in Spain, especially in his own political party, the PSOE, still led by Felipe González. Propelled by a high degree of good intentions and a sense of a historic opportunity, Marín was convinced that he could obtain what others had failed. At the end he felt that he was taken by Castro's apparent willingness to negotiate. This experience left a traumatic, indelible mark in the mind of Manuel Marín who decided to maintain a distance from direct negotiations with Cuba.⁵⁰ With the "Latin American option" of a cooperation agreement closed to Cuba, the alternative route of the ACP Lomé Convention was left open. This alternative ("backdoor," according to a cynical view) was going to be energetically explored by the Cuban government. Incidentally, the record of attempts to influence the evolution of the Cuban regime in the early 90s include triangular diplomacy involving the cooperation of Latin American figures, such as writers García Márquez and Carlos Fuentes.

Once the rapprochement failed, the second hard-line response from Brussels would come as a supplement to the EU criticism against Helms-Burton. While the planned blocking statute was a first in EU activities, a critical Common Position on Cuba, taken for the first time on a Latin American country, would also have a place in the annals of the European Union's incipient foreign policy.⁵¹ The spirit and the letter of the Common Position have been maintained to date, with the expected protests of the Cuban government. The renewal of this policy took place during the Council of Ministers meeting held in Brussels on December 9, 1997,⁵² and it was confirmed after the signing of the May 1998 truce between the U.S. and the EU.

The Blocking Statute and the First Understanding

Meanwhile, evidence of an under-the-table compromise between the EU and the U.S. surfaced in the media. "The U.S. is asking for a gesture from the European Union to delay the execution of the Helms-Burton law," an article said. It elaborated: "Washington wants the European Union to make a 'political gesture' regarding the Cuban regime to allow Clinton to concentrate on the electoral campaign and to help him suspend the application of the Helms-Burton law." Among the conditions of this "gesture" it was mentioned that investments should benefit the whole of Cuban society and that companies should not be

⁵⁰From EU Commission sources.

⁵¹For a detailed review of these events, see: IRELA, Cuba y la Unión Europea: Las dificultades del diálogo, June 17, 1996.

⁵²EFE and other news wires, "Firme la UE frente a Cuba," reprinted in Diario las Américas, 9 diciembre 1997.

forced to deal directly and exclusively with the Cuban government.⁵³ The intermediaries in this "negotiation" might have been the members of a delegation of Europarliamentarians who visited Washington, among them some members of the Spanish Partido Popular who had direct knowledge of the Cuban problems and, more broadly, European-Latin American relations, including Carlos Robles Piquer, Guillermo Galeote, José Ignacio Salafranca, and Gerardo Fernández Albor. Even though it was not exactly what may have been expected, the suspension of the negotiations for the cooperation and aid agreement between Brussels and Havana certainly seemed to have fit the bill as the awaited "gesture."

Some other ambivalent decisions were also taken within the context of the EU actions, all dictated by the constraints of the forums in which the Spanish government and the leaders of the party in power had to act. For example, during its May 1996 meeting, the Organization for Economic Cooperation and Development (OECD) avoided issuing a condemnation of the United States for its retaliation against Cuba and China, while discouraging measures in opposition to the agreements emanating from the World Trade Organization (WTO).⁵⁴

Under the Damocles threat of the Helms-Burton law, the EU decided to denounce it in the WTO, stating that the procedure would not wait until after the U.S. elections. During the second half of 1996, the U.S. government made a considerable effort to convince the EU to find an elegant face-saving solution. However, the European governments had their hands tied by a new measure adopted by the Council of Ministers (also known as the Council of the European Union) in November. They could not afford to appear to be negotiating under the threat of retaliation. The Parliament and the Commission had already issued sufficient signs of protest.⁵⁵ It was now the turn (by Spanish initiative) of the Council to counteract the consequences derived from the U.S. law.

The Council's Regulation against the application of the law was published on November 22, 1996.⁵⁶ It is significant that the mechanism chosen was the highest in the ranking of EU legislation. When regulations are issued by the Commission they are mostly administrative and technical in detail. Regulations given by the Council are concerned with important, broader, controversial matters. Regulations are binding on all member states and do not need to be translated or interpreted into national law. This specific Regulation contains protective measures against the extraterritorial effects of the Helms-Burton law.

First, the EU Council established its justification for opposing this and other laws. The EU has had (since the foundation of the European Community, as its predecessor) as one of its objectives the contribution to "the harmonious development of world trade and to

⁵³ABC, 9 marzo 1996.

⁵⁴"La organización se limita a pedir," Expansión, 23 mayo 1996; "Matutes critica la actitud de Washington sobre Cuba," La Gaceta de los Negocios, 23 mayo 1996.

⁵⁵See the resolutions of the European Parliament of 1992, 1993 and 1996, and the declarations of the Council and the Presidency of the European Union of 1995. Complete texts are available in the compilation by: IRELA, Europa-América Latina: veinte años de documentos oficiales, Madrid, 1996.

⁵⁶Council Regulation (EC), No. 2271/96. Earlier in the process, the Canadian and British press were following the preparations. As a sample, see: "Europe's Cuba law," Maclean's, Nov. 11, 1996, p. 36; "A facade of unity: Europe's foreign policy," The Economist, Nov. 2, 1996, p. 49.

the progressive abolition of restrictions on international trade." Moreover, the EU "endeavors to achieve to the greatest extent possible the objective of free movement of capital between Member States and third countries, including the removal of any restrictions on direct investment - including investment in real estate, establishment, the provision of financial services, or the admission of securities to capital markets." In accordance with these goals, the EU Council Regulation's main objectives were set: "The U.S. has enacted laws [the Torricelli and Helms-Burton laws⁵⁷] that purport to regulate activities of persons under the jurisdiction of the member states of the European Union; this extra-territorial application violates international law and has adverse effects on the interest of the European Union;... Therefore, the Regulation provides protection against the extra-territorial application of these laws and binds the persons and interests affected to inform the Commission;... No judgment of a court outside the European Union regarding the effects of these U.S. laws will be recognized and no person shall comply with any requirement or prohibition derived from them; [in consequence] Any person affected shall be entitled to recover any damages caused by the application of these laws."⁵⁸

With the measures taken by the European institutions, especially the Commission and the Council of Ministers, the EU aimed to concentrate on removing what they perceived to be the most adverse effects of Title III and Title IV of the Helms-Burton law. More than anything else, the blocking statute supplied protection against the extraterritorial application of the U.S. laws.

The Council was then confronted with a choice. The first option was to restrict the scope of the Regulation to the objective of the commercial policy which is an exclusive EC competence. In other words, the EU should stick to trade issues. As a second option, the EU measures should not limit its actions to merely commercial ventures, but include other objectives. Consequently, it was clear that the measures proposed went far beyond the common commercial policy. Measures adopted under article 113 of the EC Treaty must deal specifically with international trade. The proposed measures did not. So, Huber reasons, "rather than limit its actions to the objectives covered by the exclusive EC competence under the common commercial policy, the Council added the objective of Article 73c, concerning the free movement of capital."⁵⁹ The dilemma is "that assessing whether action is necessary is partly a legal and partly a political matter,"⁶⁰ with the result of finding the borderline between the regulation and the Joint Action. The consequences of the decision are that the "member states have to take measures themselves by legislating in order to implement the Joint Action and to determine the sanctions to be imposed in the event of a breach of the provisions of the regulation. Predicting what many observers are still asking, the EU jurist answered that it may be 'too early to assess how provisions on authorizations

⁵⁷An Annex specifically listed all US legal measures that the European Union considers unacceptable. It also includes the "Iran and Libya Sanctions Act" of 1996. See: Marc C. Hebert, "Unilateralism as Defense Mechanism: An Overview of the Iran and Libyan Sanctions Act of 1996," Year Book of International Law, University of Miami Law School, no.5, 1996-97, p.1-28.

⁵⁸Jürgen Huber, "The Helms-Burton blocking statute of the European Union," Fordham International Law Journal, Vol. 20, no. 3 (1997), pp. 701, 702, 706.

⁵⁹Ibid., 710.

⁶⁰Ibid.

for compliance will operate, how many persons will ask for such authorization, and how many authorizations will be granted.”⁶¹

Incidentally, there is another interesting detail in the text and spirit of the EU Regulation that makes it suspect to being part of a "conspiracy." A close comparative analysis of Canadian, Mexican, and European anti-Helms-Burton measures reveals a pattern of striking but unsurprising similarities. It looks like the drafters of the corresponding legislatures and agencies were in close contact. While the EU officials may claim to have approved the most comprehensive blocking statutes, the British certainly were first, even before the enactment of Helms-Burton.

As a result of successive warnings⁶² demanding a U.S. rectification that never materialized, the path taken by the actions and reactions of Brussels and Washington led to a dead-end street. On February 3, 1997, a definitive legal initiative against the United States was intended to be debated within the framework of the WTO. The EU had warned that the temporary suspension of Title III was not sufficient. The rest of the law was still considered a violation of the principles of commercial exchange guaranteed by the WTO. As a first action, therefore, the organization had to form a panel charged with producing an opinion within six months. The U.S. countered that the Helms-Burton law was not an issue of concern to the WTO, since the limitations imposed on trade with Cuba were a matter of national security. Ironically, this amounted to an explicit admission that the law has a political objective, as its most ardent advocates had made abundantly clear all along.

This give-and-take between Europe and the U.S. continued. It appeared that the EU left the sensitive issue of Cuba untouched and seemed not to be concerned with the political and social evolution (or lack of it) of the Cuban regime. Brussels wanted to set the record straight.

A Spank on Cuba: the 'Common Position'

On December 2, 1996, the powerful Council of Ministers of Economy and Finance (also known as ECOFIN) approved a Common Position on Cuba. Its objective was "to encourage a process of transition to pluralist democracy and respect of human rights and fundamental freedoms."⁶³ Normally, such action would be buried in the hundreds of documents approved by the EU institutions. This was a novelty, however, for different reasons. First, it was about Cuba, the country that was the center of the Helms-Burton controversy. Second, the measure came just after the European Union issued the Regulation and the Joint Action opposing the U.S. law. Third, it was also the first to be applied to a Latin American country, specifically the only one that still does not enjoy a cooperation agreement with Brussels. Finally, it was the first of such actions under the newly inaugurated Common Foreign and Security Policy (CFSP, or better known as PESC in French and other languages). However, any observer of the EU's relations with Cuba was able to detect that the Common Position did not have any

⁶¹Ibid., 716.

⁶²"EU to Move Helms-Burton to WTO Dispute Settlement Panel," European Union News, October 1, 1996.

⁶³For a detailed analysis of the evolution of this US measure, see IRELA, The EU's Common Position on Cuba.

spectacular revelations. It was the confirmation of a well-established policy. Due to the fact that such measures are binding in all EU member states, in a way critics of Helms-Burton must admit that the EU had also codified its foreign policy towards Cuba. However, in contrast to the U.S. policy, the EU made it clear that it wanted to continue a dialogue with Cuba.⁶⁴

The Common Position on Cuba can be traced back to a Resolution of the European Parliament of 1993, a document of the European Commission of June 28, 1995, and petition of the European Council meeting in Madrid on December 15-16, 1995. When negotiations ceased in 1996 due to the combined events of the Brothers to the Rescue attack and the passing of Helms-Burton, with the new government in power in Madrid, Spain presented the initial proposal on November 14. It was processed through the scrutiny of the Political Committee of the EU Council on November 25. Some members considered the wording too close to the U.S. thesis and demands. While the UK sided with Spain, most of the influential members (Germany, Belgium, France, Italy and the Netherlands) asked for changes. Rejected were: the project to name one representative in each embassy in Havana to contact dissidents, cooperation with the UN Rapporteur for Cuba, and the demand that all Cubans be allowed to travel.⁶⁵ The final document included some main items.

First, the EU stated that it was encouraging a peaceful transition in Cuba to a pluralist democracy. The EU prefers this to come from the initiation of the Cuban government, not by coercion from outside. Second, if Cuba wishes to receive favorable treatment through a cooperation agreement, it must show progress in the democratic process. This progress should be reflected in periodic semester reports submitted by the Commission to the Council. The reports should include respect for human rights, the release of political prisoners, a reform of the criminal code, and ending the harassment of dissidents. Third, the EU wants to maintain the dialogue not only with the Cuban government but with all sectors of the Cuban society. Fourth, on the other hand, the EU recognizes the progress made in economic reforms and is willing to offer economic cooperation through the member states. And finally, humanitarian aid will continue through appropriate NGOs.⁶⁶

The Common Position would also have a place in the annals of the EU's incipient foreign policy.⁶⁷ The spirit and the letter of the Common Position have been maintained to date, with the expected protests of the Cuban government. Havana claimed that the Common Position was intimately linked to a May 25 visit by Al Gore to Madrid, the announcement of the termination of Spanish humanitarian aid to Cuba, links between Aznar and the CANF, and the establishment of a Hispano-Cuban Foundation in Madrid.⁶⁸ In any event, the EU's condition loomed in the background of the negotiations of the failed Lomé Convention membership, resulting in the Cuban government abandoning the negotiations in April 2000. According to most observers (EU institutions, ACP structure,

⁶⁴ Juan Tamayo, "Europeans Get Tough in Policy on Cuba," The Miami Herald, December 3, 1996.

⁶⁵ IRELA, "The EU's Common Position on Cuba," 13 December 1996.

⁶⁶ See IRELA's "The EU's Common Position," pp. 2-3.

⁶⁷ For a detailed review of these events, see: IRELA, Cuba y la Unión Europea: Las dificultades del diálogo, Madrid: IRELA, June 17, 1996.

⁶⁸ IRELA, "The Common Position," p. 4.

individual governments⁶⁹), Havana's view was that the high political price to be paid (political requirements, especially in the human rights area) was not worth the economic benefits to be gained.

Understandably, this set of conditions was not well received by the Cuban regime. Conditions imposed by the EU contrasted with the lack of similar requirements in other cases, such as Morocco, Israel and Guatemala, and the fact that it is "implementing a customs union agreement with Turkey and signed four cooperation agreements with China, accused of human rights violations."⁷⁰ All this aptly explains that, in revenge for the public humiliation of being subject to conditions, the Cuban government expressed that the political conduct of the regime would not be subordinated to the terms of the EU report. Moreover, Spain became the object of retaliation in the form of withdrawing the placet for the new ambassador, unleashing one of the most serious diplomatic crises between the two countries just months before the commemoration of the 1898 war of independence. Also understandably, the Common Position was extremely well appreciated by the State Department.⁷¹ As promised, as a reward for the European gesture, a more concrete and positive U.S. response was forthcoming from the White House.

In spite of all the friction, and in compliance with the terms of the 'Common Position,' the EU has maintained its humanitarian aid to Cuba through programs administered by ECHO. Since 1993, the EU has granted U.S.\$ 64 million to cover damage by storms and flooding, and for diverse medical programs. Funds are distributed through European NGOs. As an added sign of willingness to cooperate Cuba has welcomed the euro, the European common currency, to be mandated in different operations on the island as announced by the president of Cuba's Central Bank, Francisco Soberón.⁷² Cuban authorities are in favor of the new European money "because it threatens to reduce the power of the dollar, and that is good for the world and it is good for Cuba."⁷³ Among the financial reasons, he listed the end of the dependency on the monetary system of one country, and the fact that more than 50 percent of Cuba's tourism is of European origin and 44 percent of Cuba's trade is with the European Union.

Clinton's Suspension of Title III, and the Second "Understanding"⁷⁴

In an effort to diffuse tensions and as an apparent counter gesture to the European concessions as expressed by the Common Position on Cuba, on January 3, 1997, President

⁶⁹ Interviews held in Brussels and Madrid during the months of June and July of 2000.

⁷⁰ Perera Gómez, *ibid.*, 113.

⁷¹ State Department Communiqué, December 3, 1996.

⁷² In fact, the euro is said to be in competition with the dollar in tourist resorts (Reuters, "El euro desafía al dólar en Varadero," El Nuevo Herald, 25 mayo 2002.

⁷³ EFE, "Banco de Cuba, con grandes expectativas ante el euro," El Nuevo Herald, 1 enero 1999.

⁷⁴ This part expands a topic treated in my book Cuba, the U.S. and the Helms-Burton "Doctrine": International Reactions, Gainesville: University Press of Florida, 2000. Research was undertaken during the summers of 2000 and 2001 (as a follow up of interviews carried out in the summer of 1998) in Brussels and Madrid under the partial sponsorship of a grant awarded by the North-South Center.

Clinton suspended Title III of the Helms-Burton law for the second time.⁷⁵ This second step taken by President Clinton (the first was executed the previous June), coupled with renewed talks emphasizing support for a democratic transition in Cuba, diffused tensions with the European Union and mildly changed U.S. perceptions in the international arena. Welcoming the move, the U.S. media commented that the change shifted the blame from the U.S., "as an international bully and embargo tightener to Castro, as a democracy and human rights laggard."⁷⁶

On May 18, 1998, at the conclusion of the E.U.-US Summit held in London under the chairmanship of UK Prime Minister Tony Blair (as EU president) and U.S. President Bill Clinton, the European Union and the United States announced a new agreement. Both parties declared that they had reached a new Understanding that in essence would freeze the application of the controversial Helms-Burton and D'Amato Acts in reference to investment in Cuba, Libya and Iran.⁷⁷ The agreement was a confirmation and an expansion of the spirit and the letter of the previous 1997 Understanding.⁷⁸

The 1998 agreement marked a major milestone in the evolution of EU-U.S. relations. It confirmed the 1997 promise by the EU not to pursue retaliatory measures against the United States in the WTO. Surprisingly, and resulting in protests by numerous observers and governments, the EU accepted the U.S. assessment that some of the Cuban past expropriations might have been executed in violation of international law. The White House, in exchange, promised to pressure the U.S. Congress to further neutralize the application of the Helms-Burton legislation. The United States and the European Union agreed to establish a Registry of Claims and to work jointly in the negotiation of the Multilateral Agreement of Investment (MAI), a negotiation that appeared at that time to be on track to yield a successful agreement. The United States agreed to respect the current status of foreign investment in Cuba and not to make pre-May 1998 expropriations the target of legal suits under Title III of the Helms-Burton law; future expropriations and subsequent investment in such properties would be mutually scrutinized. In a most controversial move, the EU agreed to discourage post-1998 investments in properties whose ownership was questionable by denying the customary diplomatic protection, insurance, commercial and tax incentives, and other support. Investment in properties illegally expropriated after May 18, 1998, would be prohibited. In sum, the agreement confirmed the approach laid out a year earlier. EU insiders have branded this agreement as an example of "creative conflict management."⁷⁹ However, the agreement was not free of problems. It was reluctantly accepted by some of the EU member states,⁸⁰ different commentators,⁸¹ and U.S.

⁷⁵President Clinton's Statement on the Helms-Burton Waiver, January 3, 1997.

⁷⁶The Washington Post, January 5, 1997.

⁷⁷"Understanding with Respect to Disciplines for the Strengthening of Investment Protection," The European Union News, May 18, 1998. For a detailed analysis of the evolution of the content and language of the agreement, see Inside U.S. Trade, May 1, 1998, and May 15, 1998; and Americas Trade, May 15, 1998.

⁷⁸Interviews held in Brussels, July 5-9, 1998.

⁷⁹Horst G. Krenzler and Gunnar Wiegand, "EU-U.S. Relations: More than Trade Disputes?," European Foreign Affairs Review, 4: 153-180, 199.

⁸⁰AFP, "Francia y España obstaculizaron trato," El Nuevo Herald, 18 mayo 1998; Inside U.S. Trade, "Member States Poised in Fight to Accept U.S.-EU Agreement on Helms-Burton", May 22, 1998; José Miguel Larraya, "Duro ataque de los socios del gobierno al acuerdo UE-EE.UU. sobre Cuba", El País, 4 junio 1998.

sources.⁸² Understandably, Cuba opposed the arrangement.⁸³ Moreover, its implementation was conditioned on hard-to-get congressional cooperation.⁸⁴ The deal was linked to the overall development of policies regarding sensitive European interests in Libya and Iran.⁸⁵

A combination of time restrictions and the need to adopt language pleasing to all parties generated a very confusing document. The EU position stressed the "political" nature of the agreement, denying legally binding status, explicitly stating that the implementation of the Understanding was void until evidence of a waiver on Title IV was in hand. Moreover, the EU declared that it was not obliged to follow the U.S. position on the questionable legality of the Cuban expropriations, with the clarification that investment in Cuba was still possible, and that the denying of official support was at the discretion of EU governments. Finally, guidelines pointed out that any prohibition of investment in Cuba would only apply to expropriations that would take place after May 18, 1998, the date of the agreement, but not to any of the controversial expropriations that took place before. Finally, the EU Commission advised its diplomatic representations to highlight that the accord rested on the good faith of the U.S. Congress waiving Titles III and IV; only if the latter occurred would the deal be effective.⁸⁶

The Understanding was immediately criticized by several governments. Belgium explicitly claimed that article 73C of the Maastricht Treaty prohibits limitations to capital movement and investment.⁸⁷ The French representatives insisted that the "ball is in the U.S. court," and that the EU simply had to wait for the U.S. legal modifications and waivers.⁸⁸ Legal commentators pointed out the apparent contradiction between the new political Understanding and the strict legality of the previous measures taken by the EU, especially the Council Regulation and the Joint Action of November 1996.⁸⁹ On the political level, critical voices stressed that the new Understanding violated the spirit of

⁸¹Hermenegildo Altozano, "España, la ley Helms-Burton y el Acuerdo Multilateral de Inversiones", Expansión, 14 mayo 1998.

⁸²Thomas W. Lippman, "Politicians at Odds on Sanctions as Policy," The Washington Post, May 19, 1998; Jonathan Miller, "How Europe forced Cuba deal," The Miami Herald, May 24, 1998.

⁸³"Castro insta a la UE a rechazar el acuerdo sobre la ley Helms-Burton," Expansión, 20 mayo 1998; AP, "Castro condemns agreement," The Miami Herald, May 20, 1998; AFP, "Castro califica el acuerdo entre EE.UU. y la UE de 'amenazante y no ético'," May 20, 1998; Mauricio Vicent, "Castro advierte que ningún entendimiento entre la UE y EE.UU. puede realizarse a costa de Cuba," El País, 25 mayo 1998.

⁸⁴"Helms Tells European Union: 'No Deal'," Committee on Foreign Relations, May 18, 1998; "Helms Aide Tells EU to 'Drop Dead' on Request for Helms-Burton Fix," Inside U.S. Trade, May 29, 1998; "Congress Strongly Criticizes U.S.-EU Agreement on Helms-Burton Law," Inside U.S. Trade, May 22, 1998; "Gingrich critica acuerdo de Clinton con Europa," El Nuevo Herald, 23 mayo 1998.

⁸⁵"Senators Urge Albright Not to Grant ILSA Waivers for Libya Projects," Inside U.S. Trade, May 29, 1998. For a comparative review of the Helms-Burton and ILSA controversies regarding "problem" countries, see the volume edited by: Richard N. Haass, Transatlantic Tensions: The United States, Europe, and Problem Countries, Washington, D.C.: Brookings Institution, 1999.

⁸⁶From European Commission sources and classified documents, June and July 1998.

⁸⁷Confidential notes of COREPER meeting, June 23, 1998.

⁸⁸Ibid.

⁸⁹See the paper by Hermenegildo Altozano, "Consideraciones sobre el entendimiento UE-EE.UU. de 18 de mayo de 1998 respecto a medidas (disciplinas) para fortalecer la protección de inversiones." Seminario sobre "Cuba: Nuevas perspectivas tras el acuerdo sobre la Ley Helms y el relajamiento del embargo," Cuba Negocios, Madrid, 3 julio 1998.

the Regulation because it recognized the political aim of the Helms-Burton law in implementing restrictive economic measures with the objective of producing a change in the Cuban regime.⁹⁰ A contrast became evident between the explicit declarations of the European Union's Regulation (away from interference in the internal affairs of Cuba) and the explicit aim of the Helms-Burton law (conditioning the end of the embargo on the termination of the current regime). Regarding the EU constitutional field, observers questioned the competence of the sole EU negotiator, Commission Vice President Leon Brittan, to sign agreements that transcend the commercial boundaries of the explicitly pooled sovereignty and, in contrast, pertain to the foreign policy and security sector that is still the prerogative of the member states.⁹¹

Spanish negotiators in Brussels admitted that the agreement was imperfect. In particular, they stressed that the new Understanding had only political value and lacked juridical force. On the one hand, they pointed out that the Helms-Burton law had acted as a deterrent to Spanish investments in Cuba. The Understanding extended the freeze of U.S. retaliation from the six-month Presidential waiver to an indefinite term. They also were pleased by the fact that no investors in "illegally" expropriated properties would be under the threat of U.S. penalties and that only official incentives would be denied. With the new deal, only certain investments would be subject to discussion. In sum, the new pact created a climate of lessened tensions; a potential environment of permanent conflict with the United States had disappeared.

On the other hand, Spain's diplomats noted that Commissioner Brittan had acted not only in representation of the Commission but also on behalf of the European Union, in matters that exceeded the strictly commercial boundaries. Second, they expressed concern about the fact that the final text apparently granted former Cuban citizens the right to have access to a future register of illegal expropriations under the setting of the MAI, a major contention point of Helms-Burton. And third, the Understanding added confusion to the concept of covered transactions.⁹²

The absence of an additional agreement with a more convincing legal status reduced the Understanding to a temporary – though hopefully permanent -- truce between Washington and Brussels. In fact, from the U.S. point of view, the only decision that still matters is the execution of the "escape hatch" waiver provision granted to the President in the U.S. legislation for the suspension of Title III. Title IV can still be potentially activated as was demonstrated by the frequent demands made by Senator Helms to pressure the State Department for the denial of visas to executives of "traffickers" (most noticeably, Sol Meliá of Spain).

The ambivalent atmosphere of the agreement was lost on Spanish critics, who disagreed with the Spanish government regarding its claim that current and future

⁹⁰This view is shared by numerous sources in the Permanent Representations of the member states in Brussels. Interviews held July 5-9, 1998.

⁹¹Subsequent drafts of the "side letter" signed by Brittan show that a statement stating that the Commission was representing the European Union was finally deleted.

⁹²From confidential documentation dated May of 1998 and interviews conducted in July of 1998.

investments in Cuba were better protected than before the Understanding. During the parliamentary debate, Congressman Ignasi Guardans described the prospects of Spanish investment in Cuba as a higher risk than "opening a hotel in Rwanda."⁹³ Sharing the views of most of his colleagues, he protested the right that Commissioner Brittan had to enter into agreements involving issues of national sovereignty (diplomatic protection) that were not within the realm of the Commission. The fact that this parliamentarian was the spokesman for the center-right Catalan party that had insured the survival of the Spanish government with its congressional backing since the election of 1996, exemplifies the use of the Helms-Burton law in the internal politics of Spain and a confirmation that a political line-up is not a guaranteed boundary when Cuba is the subject.⁹⁴

The language in the congressional debate over the Understanding was colorful and full of expressions that were normally not present in the tamed vocabulary of the Minister of Foreign Affairs. For example, he said that the displeased backers of the D'Amato law (sanctioning investment in Libya and Iran) had stated that the U.S. negotiators had caved under pressure from the EU, and ---using an expression that today is empty of its original connotation-- "se han bajado los pantalones." He also added that Republican leader Gingrich expressed himself in similar terms.⁹⁵

Some Conclusions

The EU-U.S. Understanding earned a place as an example of diplomatic negotiation. The agreement can be considered a case of a successful arrangement (regardless of the negative labels), among other reasons because it fulfilled the main objective sought by its parties: it averted a serious confrontation. In other words, the EU has refrained from initiating a process against the United States in the WTO, and the United States has maintained the partial freezing of the Helms-Burton law. Many observers agree that in effect the Understanding confirmed the death of the Helms-Burton law, although the Understanding by itself has not been the only cause for its virtual termination.

There may be some arguments for identifying the major factors behind the agreement and the subsequent neutering of the most damaging aspects of the Helms-Burton law. For example, the Understanding was possible mainly because Cuba is not worth a commercial war between the two major world economies. The Helms-Burton law was in effect stillborn with the inclusion of the clause that allowed the President of the United States to suspend Title III, its most internationally controversial ingredient. In any event, from the point of view of the theory of negotiations, the Understanding is a model

⁹³See complete texts of the debates: Congreso de los Diputados. Boletín Oficial de las Cortes Generales. 3 junio 1998. No. 107. Comisión Mixta para la UE. pp. 2211-2227. Acuerdo entre los Estados Unidos y la UE; Congreso de los Diputados. Boletín Oficial de las Cortes Generales. 10 junio 1998. No. 167. Pleno del Congreso. Efectos del Acuerdo entre la UE y los Estados Unidos.

⁹⁴For a panoramic review of Spain's relations with Cuba, see my book entitled La siempre fiel, Madrid: Universidad Complutense, 1999.

⁹⁵Congreso de los Diputados, 3 junio 1998, p. 2221.

because it granted both parties a sense of success. The more time passes without conflict, the more successful the parties will feel.

For the continued success of the agreement, a policy plan was recommended for the European front. However, while maintaining in force all the previously approved measures, a cautious attitude (both on Cuba and U.S. policies) continued through inertia. For example, the 1996 Council Regulation, giving legal guarantees and protections to European companies investing in Cuba while mandating the prohibition of accepting the U.S. demands, should be seen as needing full implementation. The EU Common Position and Joint Action of 1996 imposed on Cuba as conditions for better economic and aid relations, have remained, but they have not been energetically enforced.

Common sense recommends that coordination of policies (especially within the EU structure) should be a priority to avoid U.S. and Cuban protagonists taking advantage of divisions on the European side. When possible, contradictions or violations of EU mandates should be avoided, as was the case of the STET-ITT deal, by which the Italian company compensated the U.S. communication conglomerate for the use of the previously-owned Cuban phone system. This is not an easy task. It is impaired by the fragile EU Common Foreign and Security Policy (CFSP) and the tenuous Common Position on Cuba. The latter is described by cynics as one that is neither “common” (unified and shared) nor a “position” (in means and ends).⁹⁶

An Overall Assessment of EU’s Relations with Cuba⁹⁷

A National Profile

Variation seems to be the order of the day regarding national European attitudes towards Cuba, explaining the lack of a cohesive, well-coordinated policy. While Belgium can be labeled as a neutral observer, more critical when led by conservatives than by Social Democrats, Austria prefers a cultural approach, and the most critical states are led by Sweden’s “Nordic fundamentalism” based on pressures to respect human rights. Germany has opted for a gradual rapprochement and the UK tilts towards change through trade and cooperation. The special relationship between Spain and Cuba has neutralized most of the hard line attitude tested by Prime Minister José María Aznar after coming to power in 1996. Italy has replicated the engagement policy of France, while Portugal has inserted Cuba into its Latin American foreign policy. Direct government contacts have

⁹⁶ For an updated review of the EU’s relations with Cuba, see IRELA’s Special Report, Revision of European Policy on Cuba? Perceptions and Interests of EU Member States, Madrid, April 2000.

⁹⁷ This section reflects parts of the content of an article by Susanne Gratius, entitled “Cuba: un caso aparte en la política exterior de la Unión Europea”, published as a chapter in the book entitled Las relaciones exteriores de la Unión Europea, Mexico: UNAM, 2000, Joaquín Roy and Roberto Domínguez, eds.

multiplied and only Finland does not have an embassy in Havana (for economic reasons).⁹⁸

The European media has ceased to look at Cuba through the lenses of the Cold War, which has resulted in mixed views in the political analyses of the Castro regime. In general, European newspapers seem to recognize the advances of the Cuban Revolution, while they are more critical of the human rights violations and economic weaknesses of the regime. In terms of volume, Cuba seems to enjoy disproportionate attention in the European media considering the relative value of the country in global trade and economic interests. While the British press seems to be more objective, in Spain, Cuban affairs can turn into the subject of debate at the level of internal politics. Political parties are equally subdivided into ultra conservatives rejecting direct contact with Castro, far left nostalgics retaining loyalties to the Cuban Revolution, and the majority of the rest favoring a critical dialogue as the best way to guarantee a peaceful transition. Most lively on Cuban affairs are the European NGOs (Church, universities, companies) dealing with Cuba, as well as regional and local governments, especially in Spain and Italy.⁹⁹ Pax Christi, one of the most vocal and influential church-related NGOs, has issued critical reports on the European involvement in Cuba.¹⁰⁰

Bilateral development aid and tourism are two of the most important sources of European involvement in Cuba. Almost 70% of cooperation assistance comes from Europe, led by Spain (16.8%), followed by the Commission. Italian tourists are the leaders (13%), while direct investment seems to be a contest between Spain and Italy.¹⁰¹ Considering this impressive level of engagement, it is not surprising that only Sweden does not have a bilateral cooperation agreement with Cuba, and ten European countries have investment protection agreements with Havana. Spain leads the European pack with the number of agreements of different kinds with the Cuban government, followed by Italy, the country that in 1993 inaugurated the investment protection pacts.¹⁰²

The ACP: a Back Door to the EU?

No matter how we see the close relationship between Cuba and the European countries, the stark reality is that Cuba is the only Latin American country that does not enjoy a bilateral cooperation agreement with the EU. A search through the official EU web pages can generate a sense of confusion and frustration because Cuba does not have a place like any other Latin American country in the External Relations structure and it does not occupy a specific place in the framework of the Development directorate general.¹⁰³ With

⁹⁸ IRELA, "Revision of European Policy on Cuba," pp. 17-21.

⁹⁹ IRELA, "Revision," pp. 25-26.

¹⁰⁰ The European Union and Cuba: Solidarity or Complicity?, September 2000. http://www.cubacenter.org/media/recent_briefs/paxchristi.html

¹⁰¹ IRELA, "Revision," pp. 27-34.

¹⁰² IRELA, "Revision," p. 34.

¹⁰³ <http://www.imf.org/external/country/index.htm>

the derailment of the process towards the signing of the post-Lomé agreements, EU officers dealing with the Cuba dossier used to joke that they were commissioned to take care of the ACP... and Cuba, with no documents, while all the files were frozen in External Relations, and the Mexican delegation was in theory accredited to Havana.

This anomaly was further complicated when Cuba became a member of the ACP countries without being a signatory of the Cotonou agreements, successor of Lomé. Nonetheless, as we have seen, Europe as a whole is Cuba's most important trade and investment source. Europe has replaced the Soviet Union as Havana's main commercial partner. With the vanishing of the Soviet Bloc, Europe can afford to accept Cuban exceptionalism and has developed what can be labeled as "conditioned constructive compromise" based more on the carrot than the stick. But Brussels has not used its economic leverage to pressure Cuba on a political level. The peculiar political structure of the EU has helped reinforce this weakness. European persuasion is reduced to the spirit and the content of the Common Position of 1996, which in turn owes its development to the aftermath of the confrontation over Helms.¹⁰⁴ The Common Position, renewed every six months, is a pre-condition for a bilateral agreement between the EU and Cuba, a clause that has been explicitly rejected by Havana.¹⁰⁵ It calls for a pacific transition to a pluralist democracy, preferably led from the top, with the benefit of development aid being channeled through European and Cuban NGOs. Observers have noted that this Common Position is void in view of the volume of bilateral relations with the majority of the most important member states. It is basically violated by Cuba's most important partner, Spain, both in terms of trade and aid, under both socialist and conservative governments. Only the Nordic countries seem to respect the terms of the position.

A rough picture of the attitudes of the different member states on Cuba shows a southern bloc composed of Spain, Portugal, Italy and France acting as main political and economic allies. In contrast Germany, the UK and Sweden seem to distance themselves in the political dimension. Less influential in world affairs, Austria, Belgium and Finland don't have much at stake in the Caribbean and Latin America. A group of "blockers" (Finland, the Netherlands, Sweden, and the UK) seem to slow down the process of the post-Lomé arrangement, while "openers" (France, Portugal, Spain and Italy) favor a positive approach. "Mediators" (Austria, Belgium and Germany) remain ready to serve accordingly.¹⁰⁶

It is also a fact that institutional relations have been difficult for two sets of reasons. The first is composed of uncomfortable personal linkages and references, not by chance implicating Spanish officials. When a deal seemed to be closer, the insistence of Commissioner Manuel Marín on the human rights issues became an insurmountable

¹⁰⁴ Richard Nuccio, "The USA and Cuba", in Richard Haas (ed.), Trans-Atlantic Tensions: The United States, Europe and Problem Countries. Washington, D.C.: Brookings Institution, 1999, pp. 7-29.

¹⁰⁵ Eduardo Perera, "Condicionabilidad y condicionamientos previos en la cooperación al desarrollo de la Unión Europea" en Revista de Estudios Europeos, La Habana, núm. 53/54, 2000, pp. 3-33.

¹⁰⁶IRELA, "Revision of European Policy on Cuba?", p. 1.

obstacle.¹⁰⁷ The cloudy atmosphere has worsened since the new Commission was established, and the new High Representative for the Common Foreign and Security Policy, Javier Solana, was insulted by the Cuban leadership and there appeared to be friction between the EU officers and Cuban ministers during the Lomé negotiations. The second origin of difficulties seems to derive from external crises. As seen above, one was the shooting down of the Brothers to the Rescue planes. The second was the Elián González crisis.

The road to a post-Lomé deal was on a sure path, initiated in Brussels in September 1998¹⁰⁸ and culminating in the signing of the new agreement on June 23, 2000, in Cotonou. Havana was not dealing now with one office in Brussels but with a multilateral outfit of 77 countries. However, Castro rejected the procedure claiming the Resolution issued by the Human Rights Commission was one-sided, and suspended the scheduled visit of the Troika.¹⁰⁹ Ironically, the climate for Cuban membership in Lomé was positive, shifting towards a normalization of the EU-Cuba relationship, this time anchored in the ACP multilateral context.¹¹⁰ Only some European governments seemed to oppose, led by the UK, the Netherlands and Sweden. The UK apparently threatened to veto the arrangement once it would come to the Council. Cuba branded the EU conditions as “arrogant”, “unacceptable”, and dependent on the “U.S. policy”.¹¹¹ Supporters of Cuba’s membership and most neutral observers considered the Cuban reaction as unexpected and violent. In fact, the decision was a slap in the face of ACP members that advocated Cuba’s membership. ACP diplomats in Brussels confessed on the record to being surprised, although off-the-record seasoned ambassadors suspected the outcome and were not caught off guard.¹¹² EU Commission officers expressed tongue-in-cheek satisfaction for what they feared was the result of hard work with high expectations. Evidence shows that the decision was taken after a complete internal debate on the cost and benefits. The Cuban government figured the economic benefits were not an adequate compensation for the loss of political independence and the insertion into a multilateral dialogue of unforeseeable consequences when dealing with democracy and human rights. In a gathering of high government officials of the Caribbean and Central America, off the record, Castro called the deal “demasiado fastidio para tan poca plata” [too big of a nuisance for so little money].¹¹³

In the sequel to this mini-drama, some months later, on December 14, 2000, Cuba became the 78th member of the ACP group. The oddity of the event is that Cuba joined the ACP without signing the Cotonou convention.¹¹⁴ For the confusion of experts and unguarded observers, this anomaly led some to believe that Cuba had in fact obtained the

¹⁰⁷ Nuccio, *Op. Cit.*

¹⁰⁸ Francesc Granell, “Cuba y la Unión Europea: del encuadre latinoamericano al ACP caribeño”, in *Revista Española de Desarrollo y Cooperación*, núm. 3, Madrid 1998.

¹⁰⁹ Resolution on Cuba presented by Poland and the Czech Republic.

¹¹⁰ IRELA, *Revision of the European Policy towards Cuba: Perceptions and Interests of the EU Member States*, Madrid, 2000.

¹¹¹ *Granma*, 29 abril de 2000.

¹¹² Interviews carried out in Brussels and the Caribbean during the months of July and August 2000.

¹¹³ Literal quote from a Caribbean high government official.

¹¹⁴ See statement in ACP web: <http://www.acpsec.org/gb/press/146b034e.html>

same benefits. The charter of this organization (in essence an international organization as any other) had to be amended to provide for a new member that will not use the only and unique service of the organization: the trade and cooperation benefits from EU member states. In comparative terms, Cuba's membership in the ACP is like belonging to an exclusive golf club without being able to play golf, only watching others play and walking around the facilities.¹¹⁵ Seasoned observers may point out that this is another example of an EU compromise to accommodate for difficult circumstances and give the impression to the three parties (the EU member states, the ACP countries and Cuba) that they have won something in the preparation of Cuba becoming a full member some day.

The EU and the U.S. Policies Towards Cuba

While the EU considers the U.S. policy of isolation antagonistic, counterproductive, and dominated by domestic politics, others in the United States consider the European attitude to be immoral and motivated by economic benefits. Susanne Gratius, a leading analyst in the field, and main author of most research developed by IRELA in recent years, has outlined the main axis of conflict.¹¹⁶

Regarding the means employed, the EU prefers to use an open economic and diplomatic avenue, while the United States opts for isolation and sanctions. The reality is that neither policy has been successful and they have neutralized themselves. Instead of fostering change in Cuba, they have actually contributed to the political status quo. The EU policy of "constructive compromise" has not resulted in reforms because it has been neutered by sanctions from the United States, with the result of circling-the-wagon around Castro. In turn, the U.S. embargo is neutralized by the EU's economic cooperation with Cuba. On the objectives to be obtained, it is obvious that the EU seeks a gradual and pacific transition piloted from the top of the system. Helms-Burton aims at a sudden collapse and conditions all future help on the disappearance of the current leadership. The EU promotes Cuba becoming a regional partner, a move that the United States opposes. On sovereignty, the EU accepts Cuba's right to choose its own system and recognizes its leadership, while the United States prefers to deal with sectors of the exile community. While Europe recognizes the nationalization of properties in Cuba, the United States considers them illegal and demands their return. Gone the ideological purposes of the Cold War, EU-U.S. disagreement over Cuba centers around economic interests: to impede a European presence in Cuba is the main objective of U.S. laws. While the EU deals with the Cuban leadership as main interlocutor and respects the accomplishments of the revolution, the United States prefers to negotiate with the opposition seeking the destruction of the system.

In this confusing panorama, Europe has been proceeding with the dual approach of economic engagement and political conditionality, which was hardened after the fiasco over the post-Lomé membership. This dimension would bring the EU position closer to

¹¹⁵ Georgetown Agreement of 1992.

¹¹⁶ "Cuba: un caso especial en la política exterior de la UE," Joaquín Roy and Roberto Domínguez, Las relaciones exteriores de la Unión Europea (México: UNAM, 2001), pp. 261-272.

the U.S. attitude in the event of a combination of developments: the bad experience over Lomé, the convenience of reaching a permanent settlement on Helms-Burton, the conviction that change would not come through a carrot policy, a sort of alliance between the United States and Spain, similar to the arrangement made for the approval of the Common Position, and the help of what is called “Nordic fundamentalism” on human rights.

In summary, EU policy on Cuba differs from the U.S. attitude in accepting Havana’s sovereignty, the election of political actors and the recognition of the accomplishments of the Revolution. It is expected that the EU will continue to play a double standard, combining supranational conditioning with the “bilateral constructive compromise”.

Observers think that a complete normalization of relations with Cuba would require not only a consensus inside the institutional framework, but also a leader in the mediation in order to obtain a common ground. When Spain changed political leadership in 1996 this role vanished, creating a chasm between economic engagement and political divorce with Cuba. Gratius refers to those who fear that in the long run, this division of labor would leave Cuba under the influence of the United States once the transition is completed.

Common sense, espoused by independent think-tanks and EU officials in off-the-record declarations, offers a composite of a potential EU common policy to be effective in conflict prevention. It must be based on the strengthening of a political dialogue, coordinated by a special observer in the framework of the CFSP (a move that faces financial difficulties), using a “Cuba initiative” (following the lines of a British idea), and a clear coordination of national policies and programs with special attention given to the outstanding debt problem.¹¹⁷

Current Symptoms

Some Considerations

Predictions of future EU moves with regard to Cuba may be based on a reading of several recent events and announcements. It is reasonably expected that the EU will continue the policy of persuading Cuba towards a political reform. Brussels will also maintain a limited profile of normalcy with Havana in the diplomatic field, stressing that the door of opportunity regarding the ACP deal is open. In any event, European actions will be always cautious of a potential novel U.S. response and the subsequent, highly expected, Cuban reactions.

¹¹⁷ IRELA, “Revision of European Policy on Cuba?,” p. 2.

As a sample of the obvious contradiction between bilateral engagement and supranational conditioning, the record shows that the EU demonstrates impressive coherence on two fronts in the context of the United Nations. On the one hand, the EU bloc has opposed the embargo and Helms-Burton. This is a sign of the slow but steady build up of an incipient EU common foreign policy. Europe can muster a much superior solidarity than the one that seems to be absent in Latin America. Moreover, in the annual conference of the Human Rights Commission, Europe is highly unified, while Latin American countries seem to go their separate ways, although there was an improvement in the 2002 vote. Since 1996, the year of the approval of Helms-Burton and the subsequent passage of the Common Position on Cuba, the European states have maintained a solid bloc attitude on both items. Not only have the EU members voted in unison, but they have done so in conjunction with the candidate countries that expect to join the Union in the near future, in compliance with the rule of coherence to foreign policy. It would be a sign of bad initiation rites if candidates voted differently in international settings than the EU member states. In contrast, Latin American governments seem to have at least three fronts regarding Cuba. Some vote for, some abstain, and some others oppose, according to circumstances or changes in the executives.¹¹⁸

Other diplomatic moves show a certain degree of ambivalence and contradiction depending on the prevailing circumstances, who is holding the EU presidency and what kind of individual conflicts and priorities member states have regarding Cuba. For example, in one of the latest attempts to speed up the process of a closer relationship with Cuba, Belgium Vice Premier and Foreign Minister Louis Michel, holding the presidency of the EU, visited Havana in August of 2001, raising expectations in EU circles and irritation in Cuba, as well as concerns in the U.S. Department of State. The Cuban government officially considered the visit in its Belgium dimension, while Spain demoted its representation in the Troika (as next EU presidency) to the minimum. The visit, announced to the EU Commission with barely five days notice, served to somewhat smooth the friction between Brussels and Havana caused by the Geneva ballot. The EU wanted to send a message of holding the door open and the Cuban government managed to show that it counted with Brussels, especially during the Belgium presidency. This linkage was predicted to be more difficult during the Spanish presidency in the first semester of 2002, with Madrid heavily pressed by crucial EU pending issues, such as the debate of the future of Europe, the plans for enlargement, and economic dimensions in the new euro era. A new run of disagreement with Brussels while Spain was at the wheel of the EU might not have been the most beneficial outcome for any party, but it might have tactically helped Castro as it has on other occasions.¹¹⁹

Some EU Current Fronts

In the absence of the standard bi-national cooperation agreement, the standing EU policy towards Cuba can be subdivided into three main areas. The first one is a relationship

¹¹⁸ See my column "Coherencia europea, vacilación latinoamericana," El Nuevo Herald, 18 abril 2001.

¹¹⁹ See my column entitled "Cuba y la Unión Europea," Diario16, 5 setiembre 2001.

based on humanitarian grounds; the second is an attitude towards the anchoring of Cuba in its natural habitat; the third, and most complex, is the setting of the ACP framework.

Regarding humanitarian assistance, the EU record shows that the funds provided by the Commission have increased in the line of cooperation assistance delivered through NGOs during the past five years: from 0.6 M€ in 1997 to 5.4 M€ in 2001, with a peak of 8.2 M€ in 2000. Waiting for quality proposals, the Commission considers it essential to ensure that NGO projects meet the criteria of financial and institutional sustainability, to allow for long-term impact at the beneficiary level. In the view of Brussels, if properly conducted and monitored, NGO cooperation may therefore effectively contribute to the development of the incipient civil society in Cuba.¹²⁰

With respect to humanitarian aid and development assistance, this variance on a programmable basis was phased out. A comprehensive evaluation conducted in April/May 2000 concluded that Cuba is no longer in a state of emergency. A final humanitarian aid allocation of € 8 million was channeled through the 2001 European Community Humanitarian Office (ECHO) funds. In addition, the Commission allocated € 0.5 million to address the emergency needs of the affected population in the region of Matanzas, in the wake of Hurricane Michelle (November 4, 2001). In sum, since 1993 the EU has financed close to € 125 million of assistance measures, of which nearly two thirds have been in the field of humanitarian aid. It is estimated that some 16% of the Cuban population has benefited from this aid. Following the Commission decision to phase out humanitarian aid, measures supporting economic reform and civil society development have been increasing. Assistance to Cuba has been financed in the past, and will continue as long as programmable funds are not available. It is expected that on average between € 15 and 18 million will be used for environmental programs in Cuba.¹²¹

The exception made for this line of assistance is based on the logic of the seriousness of Hurricane Michelle's destruction, estimated at \$ 1.8 billion, considered as the worst natural calamity in Cuba in fifty years. Thus the justification for the use of € 0.5 million earmarked to provide medical and other emergency supplies for affected persons. As far as disaster prevention is concerned the Commission, in December 2001, approved funding for Cuba in the amount of € 0.92 million in the context of a regional program for the Caribbean.

The EU Commission and other EU entities are aware of the seriousness of the Cuban economic situation. In addition to the damage caused by natural disasters, the Cuban government has seen a severe drop in fiscal revenues and foreign exchange because of consequences of the September 11 attack. Tourism decreased by 13% and 20% in September and October 2001 respectively, and U.S. remittances were reduced by 60%. On top of that Russia's decision to close its Cuban 'spy station' represented an annual loss of some \$200 million. In this dark setting, Cuba must look for its natural geographical habitat. In consequence, the EU Commission is clearly in favor of promoting the regional integration of Cuba in the Caribbean, Latin American and ACP

¹²⁰ From EU Commission sources.

¹²¹ Data and considerations from EU Commission sources.

context. In this connection the opportunities that the follow-up to the I EU-Latin America-Caribbean Summit held in Rio in 1999 provide in terms of support measures and partnerships, should be fully exploited. The Commission is also willing to facilitate Cuba's participation in regional measures under the auspices of CARIFORUM (of which Cuba is a member since October 2001) through relevant budget lines. A financial proposal under the 2002 budget is set foreseeing Cuba's participation in a regional Caribbean project to fight swine fever.

A more complex pending issue is the consequences of the impasse regarding the application for the Cotonou agreement. Following the 9th Evaluation of the Common Position the Council concluded on 25 June 2001, that the EU would welcome a constructive dialogue with Cuba on a future cooperation framework based on the respect for democratic principles, human rights and the rule of law. This conclusion was reiterated by the Council in its 10th Evaluation of the Common Position on 10 December 2001. The Council deliberately chose this formulation as an implicit reference to Cotonou since the same text is contained in Art 9 of the Agreement. Cuba has so far not submitted any request for membership. It must be understood that it is not EU policy to take an official position on a matter such as the admission of a new member to Cotonou unless the interested third party has formally introduced a membership request. The EU will therefore not be in a position to pronounce itself on Cuba's eventual membership in Cotonou before being in possession of the Cuban request. In consequence, if Cuba were to approach the ACP-EU Council of Ministers with a new request for accession to Cotonou "the competent bodies would have to assess the matter on the basis of the relevant Art of the Cotonou Agreement (Art 94) as any other third party request."¹²²

However, Cuba, if accepted by the ACP-EU Council of Ministers as a new member and subject to the conclusion of the ratification process in the Member States, would not automatically be in a position to enjoy the financial benefits under the Agreement since Art 94 also stipulates that Cuba's eventual accession would not infringe on the benefits enjoyed by the ACP States signatory to this Agreement under the provisions on development cooperation. Since the allocations for the 77 ACP Cotonou members have already been distributed on an indicative basis, Cuba would not receive monies under the present 9th EDF. It is however important to recall that the EU could decide to add a specific budget line, as was the case with South Africa, in order to finance cooperation measures benefiting Cuba under this Agreement. It is equally important to recall in this connection that Cuba, once a member, would have to meet the essential elements of the Cotonou acquis (as in the case of EU membership) in order to enjoy the eventual financial and commercial benefits under the Agreement.¹²³

An intriguing subject related to this complex membership procedure is the attitude of some individual member states. It is a fact, never confirmed in public, that some EU Member States continue to object to Cuba's accession to Cotonou at this stage because Cuba, allegedly, has not made progress in human rights improvements. EU officials are careful to differentiate some issues. They point out that Art 94 sets out the formal

¹²² From commentaries given by EU Commission sources.

¹²³ Opinions and interpretations of EU Commission sources.

requirements for membership to Cotonou. Eligible is any "independent State whose structural characteristics and economic and social situation are comparable to those in the ACP States". It is interesting to note that no other conditions are mentioned. If Cuba submits a request for accession this request will be assessed on no other grounds than the ones contained in the Cotonou Agreement.

However, the question if and to what extent Cuba meets the democracy and human rights criterion, as defined in Art 9, is to be discussed only once Cuba is a member of the Agreement. The award of financial and commercial benefits under the Agreement is subject to fully respecting the stipulations of Art 9. This, however, is not an issue while Cuba is not a Cotonou member state. It needs to be pointed out that while the Common Position is a unilateral foreign policy statement of the EU, Cotonou is a multilateral partnership agreement constituting mutual rights and obligations under international law. This is separate from the annual UN Geneva evaluation of human rights, although it would be strange to note that while the EU Member States and candidates vote solidly to censure Cuba, it would look inconsistent if they would approve Cuba's credentials for Cotonou.

On a more politically-oriented level, during the EU Spanish presidency of the first semester of 2002, relations with Cuba reflected an impasse of the attempts made during the previous Belgian presidency. The end balance was mixed. What was perceived by Cuba as a "window of opportunity" (the following presidencies of Spain, Denmark and Greece would not make Cuba-EU relations a priority in the sense expected by Havana) did not materialize beyond the trip taken by Belgian Foreign Minister Jean Louis Michel to Cuba in August of 2001, or the low level troika trip of December 2001.¹²⁴

While Brussels believes that Cuba is still interested in joining Cotonou, according to signals received from Havana the Cuban government will not take the initiative in submitting an official request for admission without having received a prior "green light" of the Council that the EU supports such an application. The EU acknowledges that if Cuba were to submit a formal request for membership, such a request could only be assessed on the basis of the relevant Article of the Cotonou Agreement (Art 94). Cuba-specific conditions may not be applied when the EU at large or any particular member state has to pronounce itself on a request made by Cuba. Cuba, if accepted by the EU-ACP Council of Ministers as a new member, would however not be able to enjoy the financial benefits under the Agreement since Art. 94 also regulates that its accession "would not infringe on the benefits enjoyed by the ACP States signatory to this Agreement under the provisions on development co-operation". Since the allocations for the 77 ACP Cotonou members have already been distributed on an indicative basis, Cuba could not receive funds from the 9th EDF. However, if the EU were to accept Cuba as a new Cotonou member and agree to set up a separate Cuba-specific budget line, possibly along the lines already decided for South Africa, Cuba would be able to enjoy development assistance under the Agreement.¹²⁵

¹²⁴ Mauricio Vicent, "La UE cree insuficiente," El País, 9 diciembre 2001.

¹²⁵ Based on commentaries given by EU Commission sources and other experts.

The decision on whether Cuba enjoys any financial or commercial benefits under Cotonou, e.g. preferential trade arrangements, economic partnership agreement, is a separate process and can only be dealt with once Cuba's request for membership has been endorsed by the Council of Ministers. It is only then that Cuba, as any other Cotonou member, would have to meet the full Cotonou acquis, in particular Art 9 (democracy, human rights, rule of law). EU officials point out that failure to meet Art 9 would immediately trigger the procedure foreseen under Art 96 (launching of consultations to suspend financial assistance or commercial benefits as long as the EU is convinced that Art 9 is violated). As mentioned above, it is therefore important to underline that as far as the Cotonou Agreement is concerned, one has to clearly distinguish between an eventual accession to Cotonou and the granting of financial and/or commercial benefits under the Agreement. The latter can only be discussed and decided once an applying State has actually become a member.

Other Actors to be Considered

The other possible source of EU reactions to external events regarding Cuba may come from a much-heralded (especially after September 11) new policy of the United States. As in the past, European attitudes towards Cuba seem to be sometimes reactive to what the United States does (Helms-Burton) or does not (abstaining from trade with Cuba). In the post-September 11 world, rumors were that President Bush had decided to place Cuba in the overall picture of states and governments that need to be confronted, perhaps not as directly as the “axis of evil” formed by North Korea, Iran and Iraq, but to the point of addressing the transition or forcing it in the direction most favorable to Washington or the influential sectors of the Cuban exiles. Using concrete incidents (detention of a U.S. diplomat in the Havana airport, friction with Latin American countries, and especially with Mexico that led to a scandal of the taping of conversations between Castro and President Fox, dissident unrest), the “new” policy would consist of the coordinated efforts of several agencies spear-headed by the new team of Cuban affairs in the State Department and the Security Council that would provide support for the rather weakened members of Congress in the fight against the softening of the embargo. Although the use of force was not contemplated, attempts to activate Helms-Burton were said to be included in a theoretical wide road map, in clear violation of the 1998 “understanding.” The novelty of the new policy lied in the identification of international terrorism as the new enemy and the unstoppable abandonment of multilateralism. This picture seemed to match the apparent conciliatory attitude of Castro after some contradictory declarations in the aftermath of the September 11 attacks and his subsequent pledge to cooperate over the use of Guantánamo. However, when President Bush made an announcement on May 20, 2002, the anniversary of the birth of the Cuban Republic, in a speech given at the White House and later in the day during a fundraising trip to Miami, the new policy was reduced to a confirmation of the continuation of the embargo, conditioned to the calling for elections in 2003. This event was in contrast with a more news-making visit of former President Jimmy Carter to Havana, where he lectured Castro on democracy and human rights.¹²⁶

¹²⁶ See my commentary, “Bush, Carter, Castro: el lastre de la Enmienda Platt”, La Opinión de los Angeles, 23 mayo 2002.

Naturally, this new scenario has to take into account two other actors. The first is the Cuban government, always ready to follow the “road less traveled,” as accurately portrayed by Michael Erisman.¹²⁷ The second is a conglomerate of some international interests (in the Caribbean vicinity and in Europe) which may consider that a sudden destabilization of the Cuban regime is not in the best interest of all. Recent signs point out that the weight of Cuba’s international activity and concerns have tilted towards the Western Hemisphere, away from Europe, perceived as concentrating on more pressing issues such as enlargement, the rise of the right, and immigration. This thesis is confirmed by the absence of Castro in the II EU-Latin American-Caribbean Summit held in Madrid on May 17-18, 2002, replicating his decision of not attending the Ibero-American Summit held in Lima in 2001, a yearly event where the Cuban leader has been the main protagonist of polemics.¹²⁸ Among the reasons behind his decision was his calculation of not reaping the expected benefits and risking a losing confrontation with his counterparts, most especially Spain’s Prime Minister José María Aznar.

It remains to be seen if an (unlikely) activation of Title III of Helms-Burton would cause a European reaction that would endanger the future of the World Trade Organization (WTO) besieged by a politically-loaded litigation, the main reason for the crafting of the 1997 and 1998 understandings. But all of this reasonable logic seems to belong to the pre-September 11 world scene. After that historical event, all seems to be as predictable as unimaginable. Since the fall of the Berlin Wall “the future is not what it used to be,” but apparently it is now even more unpredictable. The future of Cuba, and hence the European attitude fall under the constraints of too many variables.

All things considered, in the event that the U.S.-Cuba relationship continues to follow the impasse of 43 years while the inexorable biological transition proceeds in Havana, it is expected that the European attitude will not drastically change. The EU as an entity will continue to act in a fashion of conditioning a bilateral agreement to a minimum of progress in the political field, while the Common Position will be reduced to an endorsement of this policy. In the aftermath of Carter’s visit to Cuba, this attitude was confirmed by EU Commissioner Chris Patten in the context of the II EU-Latin American Summit, when he qualified Cuba’s respect for human rights as lacking.¹²⁹ The bulk of the available assistance will be dedicated to a minimum of anchoring Cuba in the market economy.¹³⁰ At the same time, a sense of moderate frustration, combined with some resignation will be the common denominator of the European attitude. This perception will survive provided the Cuban internal situation does not worsen beyond the tolerable limits of international impact. In the event that during the path to a definite transition the European policy of economic engagement renders the expected results, a sense of

¹²⁷ Cuba’s Foreign Relations in a Post-Soviet World (Gainesville: University Press of Florida, 2000).

¹²⁸ Peru Egurbide, “Fidel Castro pide visado,” El País, 15 mayo 2002; Pablo Alfonso, “Castro decide no asistir,” El Nuevo Herald, 17 mayo 2002.

¹²⁹ “EU would help Cuba more if it saw better respect for human rights,” Sources Say (Brussels), May 16, 2002.

¹³⁰ Confirmed in a recent meeting between EU Commissioner Poul Nielson and Cuban Vice Minister for Foreign Investment and Economic Cooperation, Rodrigo Malmierca (Agence France Press, “Europa ayudará a la economía de mercado,” El Nuevo Herald, 5 marzo 2002, 17A).

satisfaction will be visible. Meanwhile, each one of the member states will continue to proceed in the defense of their best interests and historical obligations. Frustration will diminish as long as the emphasis is put on lessening the tensions in preparing the way for a peaceful transition, under the assumption that the future of Cuba is, after all, in the hands of the Cubans. A Declaration of the EU Spanish presidency welcoming the “Varela Project,” was explicit in this line of thought widely shared by a majority of the decision-making and opinion circles of the EU: [The project] “will succeed in opening a debate in favor of the process of a peaceful transition towards a pluralist democracy and reconciled Cuban society.”¹³¹

¹³¹ Declaration by the EU regarding the “Varela Project” (May 20, 2002).

Annex I

General Affairs Council Conclusions on Cuba 10 December 2001

The Council took note of the tenth evaluation of the EU Common Position on Cuba and acknowledged the efforts made in recent months to open a constructive and frank dialogue on all issues of common interest, in keeping with its conclusions on the ninth evaluation of the Common Position last June.

The Council reiterated that the objectives of the European Union towards Cuba remain the encouragement of a process of transition to pluralist democracy and respect for human rights and fundamental freedoms, a lasting economic recovery and a rise in living standards for the population.

Following a detailed examination and exchanges of information – notably during the recent political dialogue between the EU Troika and Cuba – the Council observes that the situation in that country is still seriously wanting as regards the recognition and application of civil and political freedoms and the refusal of the Cuban authorities to contemplate reforms leading to a political system based on those values.

However, it notes that there are a few signs of movement: greater religious freedom, the fact that the death penalty has not been carried out for two years, a marked decrease in the number of political prisoners and an increase in the number of United Nations human rights instruments ratified.

The Council also welcomes the decision taken by the Cuban Parliament at its sitting on 4 October to approve Cuba's accession to all the UN Conventions on terrorism.

The Council therefore considers that the Common Position is still valid and remains the basis of the European Union's policy towards Cuba. The Council considers it essential to continue the dialogue in order to produce tangible results, particularly as regards future cooperation based on respect for democratic principles, human rights, fundamental freedoms and the rule of law. In that context, the Council would point out that it expects to see meaningful indications from the Cuban Government that it is moving to achieve the Common Position's objectives.

The Council points out that it is extremely important to the EU that Cuba should abide by the principles of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. It hopes that Cuba will be able to sign these two Covenants at the earliest opportunity.

In connection with Cuba's current economic difficulties, the Council underlines the importance of the increased economic links, trade and tourism between the EU countries and Cuba in helping to improve the situation in the country. Accordingly, the Council urges Cuba to extend and develop the economic and legal reforms it has begun. In that connection, the Council considers that the EU must step up cooperation in Cuba, in particular through civilian and non-governmental organisations.

Annex II

Table EC Co-operation with Cuba 1997-2001 (commitments)

EC Co-operation with Cuba 1997 - 2001 (in M€)

Budget line	Sector	1997	1998	1999	2000	2001
B-210	Humanitarian aid	10.3	9.8	11.4	2	8.5
B-219	Disaster prevention					0.9
B-20	Food security	0.2	0.2	0.7	1	0
B-6000		0.6	2.4	2.8	8.2	5.4
B-311	Economic co-operation with LA countries	1.1	2	2.1	5.8	4.9
B-310	Financial & technical co-operation with LA countries	0	0	0	0	0
B-6200	Environment/tropical forests	0	0	0	0	0
Total		12.2	14.4	17	17	19.2