

MORE ASSISTANCE PLEASE: LIFTING THE CUBAN EMBARGO MAY HELP REVIVE AMERICAN FARMS

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I. INTRODUCTION

To further its foreign policy goals, the United States' tool of choice seems to be implementing economic sanctions against other countries.¹ The United States legal system allows commercial and trade embargoes to extend to any situation that threatens its national security or the American economy.² "With so many countries under sanctions, the efficacy of using economic sanctions to promote the United States' foreign policy has been called into question."³ Thus, the support for these sanctions has greatly diminished within the international community.⁴

The economic embargo against Cuba "illustrate[s] the ineffectiveness and cost, both politically and economically, of unilateral sanctions."⁵ Basically, the Cuban Embargo reduces Cuba's chances for any possible future development and it unnecessarily prevents American businesses from creating a successful trade relationship with Cuban businesses.⁶

As a result of these sanctions, the American farmer is prohibited from selling its food in the Cuban market. This is senseless because American food producers do not have markets for all of their products and a secure Cuban market actually exists.⁷ Furthermore, Cuba is no longer considered a serious threat to our national security.⁸ Thus, considering that the American farmer is presently experiencing a financial crisis, the embargo should be lifted so American farmers can reduce their financial difficulties.

This note gives an overview of the Cuban Embargo and the farming crisis in the United States and then explores whether lifting the Cuban embargo would be an adequate solution to the farming crisis or at the very least would serve as a kick-start to the American farmers' quest for financial stability.

1. See Natalie Maniaci, *The Helms-Burton Act: Is the U.S. Shooting Itself in the Foot?*, 35 SAN DIEGO L. REV. 897, 897 (1998).

2. See Shari-Ellen E. Bourque, Note, *The Illegality of the Cuban Embargo in the Current International System*, 13 B.U. INT'L L. J. 191, 208 (1995).

3. Maniaci, *supra* note 1, at 897; see also Paul Magnusson, *Business vs. The Righteous: Why Trade Sanctions Are Softening*, BUS. WK., Apr. 10, 1998, at 53.

4. See Maniaci, *supra* note 1, at 897.

5. *Id.* at 898.

6. See Bourque, *supra* note 2, at 193.

7. See Mark Frank, *Shipment of U.S. Food Arrives in Cuba: First Since 1962: Bush Says Sanctions Stand Despite \$30 Million Delivery in Wake of Hurricane*, NAT'L POST, Dec. 18, 2001, available at 2001 WL 31024032.

8. See Bourque, *supra* note 2, at 208.

II. HISTORICAL BACKGROUND OF THE CUBAN EMBARGO

In 1959, the Batista regime possessed sole control of the Cuban Government.⁹ However, when a series of events caused the United States to withdraw its support from the Batista regime, Fidel Castro was able to successfully launch a revolution.¹⁰ After gaining control of Cuba, Castro gave a number of Communist Party member's top positions in the Cuban government, thereby shifting the entire government from a capitalist system to a communist system.¹¹ This ideological shift resulted in the deterioration of the trade relationship between the United States and Cuba, yet it marked the beginning of a massive trade relationship between Cuba and the Soviet Union.¹²

In 1960, Cuba received a large shipment of crude oil from the Soviet Union in exchange for Cuban sugar.¹³ In response to this transaction, the United States ordered the United States oil companies located in Cuba to refuse to refine the Soviet crude oil.¹⁴ Cuba then responded to the United States' reaction by nationalizing certain American properties that were located inside Cuba.¹⁵ Basically, Cuba had seized all United States refineries that refused to process the newly imported Soviet crude oil.¹⁶ As a retaliation measure, the United States Secretary of State, Christian Herter, "appeared before Congress . . . to recommend legislation that would authorize the President to reduce the sugar quota" of the United States in Cuba.¹⁷

9. See *id.* at 195; see generally Raul Moncarz & Leonardo Rodriguez, *Cuba: An Economy in Transition?*, 9 FLA. J. INT'L L. 401, 404 (1994) (discussing Cuba's historical political climate).

10. See Bourque, *supra* note 2, at 195-96; see also Jason S. Bell, Comment, *Violation of International Law and Doomed U.S. Policy: An Analysis of the Cuban Democracy Act*, 25 U. MIAMI INTER-AM. L. REV. 77, 79 (1993) (discussing the Cuban Democracy Act); see also Richard D. Porotsky, Note, *Economic Coercion and the General Assembly: A Post-Cold War Assessment of the Legality of the Thirty-Five-Year Old Embargo Against Cuba*, 28 VAND. J. TRANSNAT'L L. 901, 907-08 (1995) (discussing the Batista regime).

11. See Bourque, *supra* note 2, at 196.

12. See *id.*; see also Bell, *supra* note 10, at 81.

13. See Bourque, *supra* note 2, at 196.

14. See *id.*; see also Bell, *supra* note 10, at 81.

15. See Porotsky, *supra* note 10, at 908-09 (stating that on August 6, 1960, Cuba nationalized private U.S. investments on the island worth \$1 billion and on October 14, all large commercial enterprises were nationalized, which included twenty additional U.S. companies); see also Bourque, *supra* note 2, at 196, 196 n.28 (providing an example of nationalized property as the confiscation of a Texaco oil refinery).

16. See Porotsky, *supra* note 10, at 908-09.

17. *Id.* at 909.

On July 6, 1960, Cuba's sugar quota was substantially reduced when President Dwight D. Eisenhower concealed the remaining 700,000 tons of sugar that was to be delivered to the United States under the Sugar Act of 1948.¹⁸ Cuba then retaliated on the sixth of August by nationalizing one billion dollars of private United States' investment and other large commercial enterprises on the island.¹⁹ This retaliation accelerated the deterioration of the relationship between Cuba and the United States. Thus, after a flurry of retaliatory efforts between both nations, nearly all the trade and business relationships had ceased, thereby creating an economic embargo.²⁰

A. Legal Framework

On February 3, 1962, United States President John F. Kennedy proclaimed a formal economic embargo against all trade with Cuba.²¹ The embargo was initially implemented through the Trading with the Enemy Act of 1917, which extended the presidential powers during times of peace by allowing the president to take emergency measures against a foreign state in an effort to protect national security.²² President Kennedy reasoned that such an embargo was necessary because the Cuban government was at odds with the "principals and objectives of the Inter-American system," and Cuba's alignment with the Soviet powers posed a security risk for the United States as well as the western hemisphere.²³

Section 620(a) of the Foreign Assistance Act of 1961 is the legal authority behind the embargo.²⁴ According to the Department of Treasury, "the [Cuban] embargo prohibits all financial and trade transactions with Cuba by persons subject to U.S. jurisdiction."²⁵ Thus, the exportation of American goods to Cuba was completely banned, as was the importation of Cuban goods into the United States.²⁶

18. See Bell, *supra* note 10, at 81.

19. See Porotsky, *supra* note 10, at 908-09.

20. See Bell, *supra* note 10, at 81.

21. See *id.* at 81; see also Proclamation No. 3447, 3 C.F.R. 157 (1959-1963), reprinted in 22 U.S.C. app. § 2370 (1994).

22. See Bourque, *supra* note 2, at 197.

23. Bell, *supra* note 10, at 81-82.

24. See *id.* at 82; see also Kam S. Wong, Note, *The Cuban Democracy Act of 1992: The Extraterritorial Scope of Section 1706(a)*, 14 U. PA. J. INT'L BUS. L. 651, 651-52 (1994) (noting that the Treasury Department suggested that the embargo could be based on section 620(a)).

25. Porotsky, *supra* note 10, at 906.

26. See James M. Cooper, *Creative Problem Solving and the Castro Conundrum*, 28

After the Cuban-Soviet alignment, their trade relationship continued until the fall of the Soviet Union and the entire eastern bloc in 1989.²⁷ After the demise of the Soviet Union, Cuba went through an economic crisis because the Soviet Union had been the sole importer of approximately eighty percent of all Cuban sugar during the 1980s.²⁸ Because there was such a strong economic reliance on a single crop, “[t]he lack of goods and capital from the Soviet Union since 1990 has contributed to the severe hardships suffered by the Cuban people.”²⁹ In an effort to find an explanation to the suffering of the Cuban people, Castro publicly stated that the Cuban embargo was the cause of his country’s economic and social hardships.³⁰

Without easing the restrictions over time, this thirty-eight year old embargo against Cuba still remains in place today.³¹ In fact, the United States has even enacted new legislation that reinforces the economic embargo against Cuba.³² As the United States perceived that Europe was experiencing a decline in communism and that the Cuban economy was failing, it chose to enact the Cuban Democracy Act in order to tighten the restrictions of the Cuban Embargo.³³

B. *Cuban Democracy Act*

On October 23, 1992, President Bush signed the Cuban Democracy Act into law.³⁴ Now any country that proffers or provides any favorable assistance to Cuba may have sanctions imposed upon them by the President of the United States under the Cuban Democracy Act.³⁵ The United States determined that this decline in communism and the drastic decline in financial assistance from the former Soviet Union and Eastern Europe made the Castro regime politically vulnerable.³⁶ Basically, the United States had hoped to create internal strife within

CAL. W. INT’L L.J. 391, 395 (1998).

27. See Maniaci, *supra* note 1, at 901.

28. See *id.*

29. *Id.*

30. See *id.*

31. See Porotsky, *supra* note 10, at 912.

32. See Wong, *supra* note 24, at 651.

33. See *id.*

34. See Cuban Democracy Act of 1992, Pub. L. No. 102-484, 106 Stat. 2575 (codified at 22 U.S.C. §§ 6001-10 (1994)); see Porotsky, *supra* note 10, at 912.

35. See Wong, *supra* note 24, at 659.

36. See *id.* at 657; see § 1702(6), 22 U.S.C. § 6001(5).

Cuba, thus making the collapse of the Castro government more likely.³⁷ Furthermore, the United States found that the unstableness within the Cuban government served as an “unprecedented opportunity for them and the international democratic community to promote a peaceful transition to democracy in Cuba.”³⁸ Thus, the Act gives incentives to the Cuban government for steps it takes in becoming more democratic.³⁹ Moreover, the United States has publicly proclaimed that it will retract some of the sanctions imposed by the embargo if Cuba progresses towards making the transition to democracy.⁴⁰

III. THE EFFECT OF IMPLEMENTING THE CUBAN EMBARGO

A. *Embargo's Effect on Cuba*

The Cuban embargo has had a drastic effect on Cuba and the Cuban economy.⁴¹ At the outset of the embargo, Cuba was able to avoid economic disaster because it shifted the majority of its imports and exports to the Soviet Union and other socialist trading partners.⁴² The possibility of economic disaster was clearly present because before Cuba shifted its imports and exports, seventy-five percent of Cuba's imports and exports were attributed to the United States alone prior to 1961.⁴³ Before the relationship deteriorated between Cuba and the United States and before the imposition of the economic sanctions, the two countries were vital trading partners.⁴⁴ Prior to the Castro revolution, \$500 million per year in commerce was transacted between businesses in America and Cuba, which is worth about \$2.5 billion in 1994 dollars.⁴⁵

Cuba's economy began to deteriorate in 1961, but the Soviet Union's breakup between 1989 and 1990, worsened the already degenerated situation.⁴⁶

37. See Wong, *supra* note 24, at 657; see § 1702(7).

38. Porotsky, *supra* note 10, at 913; see Wong, *supra* note 24, at 658; see Cuban Democracy Act of 1992, § 1702(1), (4), (7).

39. See Porotsky, *supra* note 10, at 913.

40. See *id.*

41. See generally, Moncarz & Rodriguez, *supra* note 9, at 406 (the Cuban economy went through one of its worst economic periods from 1961 through 1989).

42. See Porotsky, *supra* note 10, at 909-10.

43. See *id.*

44. See generally *id.* at 907 (discussing the United States involvement in Cuban affairs and sugar trade).

45. See *id.*

46. See Moncarz & Rodriguez, *supra* note 9, at 406-07.

After the Soviet breakup, Cuba's socialist partners were no longer able to give Cuba any subsidies and Cuba was unable to keep its major commercial markets.⁴⁷ In 1994, Cuba's gross national product ("GNP") fell from "US\$32.5 billion in 1989 to US\$18.6 billion . . ."⁴⁸ During this same time frame, Cuba's total exports fell to \$1.7 billion from \$5.4 billion.⁴⁹ Even Cuba's main export, sugar, has declined in sales, dropping "from seven million tons in 1991-92 to four million tons in 1993-94."⁵⁰ From 1994-95, the all important sugar crops reached a shocking low of 3.4 million tons, according to Cuban economists.⁵¹

Cuba also has billions of dollars worth of debt that it must repay.⁵² In 1990, Cuba was indebted to the Soviet Union for an amount somewhere between U.S. \$8.7 billion and U.S. \$27.5 billion.⁵³ Cuba is also indebted to the entire eastern bloc, owing U.S. \$ 6.7 billion in hard currency.⁵⁴ Furthermore, Cuba has a shortage of energy and gasoline and the electrical infrastructure is highly unreliable.⁵⁵

B. *Embargo's Effect on United States Farmers*

Not only has the Cuban embargo affected Cuba, it has done its share of damage to several United States farmers' businesses.⁵⁶ From 1960 to 1987, the Cuban embargo cost Cuba \$11.5 billion, but during that same time, it cost the United States \$30 billion.⁵⁷ Moreover, "[i]t is estimated that between 1965 and 1986, the embargo cost the United States nearly \$2 billion in lost export sales of corn, cotton, potatoes, rice, wheat, flour, dry milk, and poultry."⁵⁸

47. *See id.* at 406.

48. *Id.*

49. *See id.*

50. *See id.*

51. *See id.*

52. *See id.*

53. *See id.* at 415.

54. *See id.*

55. *See id.* at 416.

56. *See generally* Wong, *supra* note 24, at 672-81 (discussing the economic ramifications of the Cuban embargo on U.S. businesses).

57. *See id.* at 679.

58. *Id.*

IV. HISTORICAL OVERVIEW OF THE FARMING CRISIS IN THE UNITED STATES

Since this note discusses the possibility of the Cuban market providing emergency aid to American farmers, it is necessary to show the rise and fall of the American farming industry and its present outcry for aid.

A. *Agricultural Beginnings in the United States*

Initially agriculture was the United States' main industry.⁵⁹ In 1790, about ninety-five percent of the American people lived and farmed in rural areas.⁶⁰ The United States expanded so rapidly because American farmers kept pioneering westward during the years preceding the civil war.⁶¹ Consequently, there was an unprecedented surge in agriculture during the decades following the Civil War.⁶² Thereafter, in 1862, the creation of the Homestead Act led droves of American settlers West, stimulating extensive growth in agriculture.⁶³ As a result, "[t]he number of farms grew more between 1860 and 1910 than during any other period in American history."⁶⁴ However, in the twentieth century, the transformation of America into an urban country halted the continued growth of the farming revolution.⁶⁵

B. *Declining Farming Industry in the United States*

During the twentieth century, due to migration into large urban centers, the United States witnessed a dramatic decline in family farming, an institution that was once the cornerstone of the nation.⁶⁶ Today, the farming population continues to plummet; now as little as one percent of the American population resides and operates family farms.⁶⁷ In addition, from 1920 to 1987, the number of American farms dropped from 6.4 million to 2.1 million, a loss of 4.3 million

59. See Carol Ann Eiden, *The Courts' Role in Preserving the Family Farm During Bankruptcy Proceedings Involving FmHA Loans*, 11 LAW & INEQ. 417, 418 (1993).

60. See *id.* at 419.

61. See *id.*

62. See *id.*

63. See *id.*

64. *Id.*

65. See *id.*

66. See *id.* at 418.

67. See *id.*

farms in 67 years.⁶⁸ Consequently, while the number of farms decreased, the number of acres per farm increased, because, when these “family farms fail, . . . their lands are incorporated into larger corporate farms.”⁶⁹ As a result, “[t]he average size of these corporate farms is six times that of the average family farm.”⁷⁰

C. *Some Causes Behind the Crisis*

The American agriculture crisis did not spring from a single source; “there were several reasons for this decay in the economic welfare of the family farm.”⁷¹ The presence of severe debt, poor weather conditions, overproduction, large farming corporations and agri-businesses has placed the family farm in a position where it must struggle to remain in operation.⁷² “From the late 1970s until 1981, land prices rose while interest rates dropped.”⁷³ Therefore, because land prices were continuing to rise, banks viewed this as providing excellent security for providing more money to farmers.⁷⁴ Furthermore, farmers were told that they should expand the production of their goods because the rest of the world was in the midst of a food shortage and a large export boom was on the horizon.⁷⁵ As a result, many farmers ended up borrowing more money than they originally intended to, so they could buy more efficient machinery to maximize their production.⁷⁶ This attempt to maximize production eventually led to overproduction because production outpaced demand; subsequently, crop prices started to plummet, interest rates skyrocketed, land prices drastically fell, and the export market growth collapsed as well.⁷⁷ Now, family farmers are burdened by

68. *See id.* at 420.

69. *Id.*

70. *Id.*

71. Jeffery L. Dull, *Bankruptcy Chapter 12: How Many Family Farms Can It Salvage?*, 55 UMKC L. REV. 639, 640 (1987); *see also* David Ray Papke, *Rhetoric and Retrenchment: Agrarian Ideology and American Bankruptcy Law*, 54 MO. L. REV. 871, 889-90 (1989) (noting that, like the agricultural crisis which began in the 1920s, this crisis did not spring from a single source).

72. Eiden, *supra* note 59, at 417; *see* Barbara J. Greaver, *Corporate Farming Restrictions in California: False Hope for the Family Farm*, 2 SAN JOAQUIN AG. L. REV. 67 (1992); *see generally* William W. Horlock, Jr., *Chapter 12: Relief for the Family Farmer*, 5 BANKR. DEV. J. 229 (1987) (discussing how the bankruptcy code amendment created chapter 12, which is intended to aid financially troubled family farmers).

73. Eiden, *supra* note 59, at 421.

74. *See id.* at 421-22.

75. *See id.* at 422.

76. *See id.*

77. *See* L. Leon Geyer, *Risk Sharing Down on the Farm: A Comparison of Farmer*

large debts and they have been unable to generate enough income with which to pay their obligations.⁷⁸ As a result, many family farmers in the United States have become bankrupt.⁷⁹

V. PAST LEGISLATION USED TO SOLVE THE CRISIS

As the farming crisis continues to destroy family farms, the United States government, local politicians, as well as farmers have struggled to find ways to preserve this endangered institution.⁸⁰ Through a plethora of legislation, the United States has made a good faith attempt to help the farm economy recover.⁸¹ However, many of these methods have not had the effect they were intended to have, and for the most part have been largely unsuccessful.⁸²

A. Bankruptcy Legislation

One method of legislation that was used to help revive and rejuvenate the farm economy was an addition to the Bankruptcy Code.⁸³ On October 27, 1986, President Ronald Reagan signed into law the Bankruptcy Judges, United States Trustees and Family Farmer Bankruptcy Act of 1986.⁸⁴ This Bankruptcy Code Amendment created Chapter 12, which is “a congressional attempt to curb the recent frequency of family farm foreclosures and remedy the shortcomings of Chapter 11 and 13 as they apply to the family farm.”⁸⁵

Chapter 12 has been the topic of discussion in many academic settings, according to Jeffrey Dull, it is difficult to ascertain what impact this legislation will have on the mission to save the family farmer.⁸⁶ Only time will tell how

Bankruptcy and Insolvency Statutes or Selling the Farm, 45 *DRAKE L. REV.* 331, 333 (1997); see also Eiden, *supra* note 59, at 422.

78. See Dull, *supra* note 71, at 639.

79. See generally, Horlock, *supra* note 72, at 229 (discussing how the bankruptcy code amendment created chapter 12, which is intended to aid financially troubled family farmers); see also Dull, *supra* note 71, at 639 (discussing how family farms have been forced into bankruptcy as a solution).

80. See Eiden, *supra* note 59, at 424.

81. See *id.* at 424-27.

82. See *id.* 424-29.

83. See Dull, *supra* note 71, at 639; Horlock, *supra* note 72, at 229.

84. See Dull, *supra* note 71, at 639; Horlock, *supra* note 72, at 229.

85. Horlock, *supra* note 72, at 229.

86. See Dull, *supra* note 71, at 663.

effective or ineffective Chapter 12 will be because it has both advantages and disadvantages.⁸⁷

Chapter 12 may help struggling family farmers only for the time being. Furthermore, this legislation may just be forestalling the ultimate consequence; liquidation of the family farm.⁸⁸ They believe that Chapter 12 prolongs the ultimate liquidation of the farm because economic conditions on today's farms are in a state of despair.⁸⁹ Moreover, "unless farmers are able to get higher commodity prices, stable weather conditions, expanded markets, and higher land values, any debt at all will make it difficult for them to survive."⁹⁰ Thus, bankruptcy legislation may help some farms bounce back from financial hardship and it may prolong others from their ultimate destruction, but unless farming becomes more lucrative, other markets will continue to disappear.⁹¹

B. *Congressional Measures Taken*

Another method that has been used to help the family farm economy has been the implementation of congressional statutes.⁹² The government has passed many statutes aimed at preserving the family farm, thus expressing its concern and support of the struggling institution.⁹³ However, many of the programs have backfired and have failed to relieve the family farmer of the threat of going under.⁹⁴ In fact, these governmental programs have actually strengthened the financial status of the large corporate farms instead of bringing much needed relief to the family farmer.⁹⁵

One such program was the Farmers' Home Administration Act, which was passed in 1946.⁹⁶ This act was created to meet the needs of limited resource farmers; it made loans and grants available to farmers that had the lowest farming incomes.⁹⁷ Basically, these financial assistance programs passed by Congress encourage farmers to increase the size of their farms.⁹⁸ But the true market forces

87. *See id.*

88. *See id.*

89. *See id.*

90. *Id.*

91. *See id.*

92. *See Eiden, supra* note 59, at 422.

93. *See id.* at 422-23.

94. *See id.* at 424.

95. *See id.*

96. *See id.*

97. *See id.*

98. *See id.* at 426.

dictate that farmers should not increase the size of their farms.⁹⁹ Yet, under this Act, the larger farms are rewarded for achieving the biggest sales.¹⁰⁰ Thus, the smaller farms are tricked into overproduction and when it's all said and done, the small family farmers end up bankrupt and have to sell their land or they end up working under contract for large agribusiness corporations.¹⁰¹

C. State Measures Taken

Senator Tom Harkin, from Iowa, introduced a bill to Congress entitled Save the Family Farm Act; however, the bill did not receive favorable support because the act sought to help only family farmers.¹⁰² Eventually, the bill failed to pass through Congress.¹⁰³ Although Senator Harkin's efforts have failed nationally, there are nine states that have enacted legislative regulations limiting the amount of farmland that a corporation can own.¹⁰⁴ These "states have prohibited or restricted corporate farming in the belief that the corporate farm operators harm the land, take competitive advantage over family farmers, and divert farm revenue from rural communities."¹⁰⁵

These state anti-corporate farming statutes have been the most radical, controversial, and direct approach to preserving the institution.¹⁰⁶ There is still widespread speculation as to whether these strict legislative measures are actually helping the family farmer survive or whether these measures are just bad public policy.¹⁰⁷ It is believed that "[w]hen corporations, insurance companies, and other institutions are prohibited from purchasing farmland, prices are artificially depressed."¹⁰⁸ Obviously, low prices will do nothing to help the family farmer get out of financial difficulty.¹⁰⁹

99. *See id.*

100. *See id.*

101. *See id.* at 426, 429.

102. *See id.* at 426-27.

103. *See id.*

104. *See* Steven C. Bahls, *Preservation of Family Farms-The Way Ahead*, 45 DRAKE L. REV. 311, 312 (1997).

105. Greaver, *supra* note 72, at 67.

106. *See* Bahls, *supra* note 104, at 313.

107. *See id.*

108. *See id.*

109. *See id.*

VI. A NEW APPROACH FOR AMERICAN FARMERS

American farmers are at a point where they desperately need to search for new avenues and alternatives to increase their profits and pull themselves out of financial difficulty. I believe that one such way is lifting the highly controversial Cuban embargo, thus granting American farmers entrance into the Cuban market. It is apparent that Cuba has a need for food and American farmers are looking to increase foreign markets. Therefore, lifting the Cuban embargo may help to solve both countries' problems.

VII. SUPPORT FOR LIFTING THE EMBARGO

Recently, there has been widespread support for lifting the Cuban food and medicine embargo by American farmers and Congressmen because it is estimated that Cuba buys a little less than one billion dollars of food annually from countries such as Canada, Europe, and Latin America.¹¹⁰ Any well-trained businessman knows that a billion-dollar market is a gold mine in the world of economics.¹¹¹ And, any well-trained businessman knows that "opening additional export markets," a billion dollar one at that, is vital to any "industry that is in a severe economic crisis."¹¹² Therefore, many American farmers and certain Congressmen have taken steps to open the Cuban market to American Farmers.¹¹³

For example, Representative Nick Lampson of Texas, along with several rice farmers, traveled to Cuba in search of new export markets, in turn, they asked United States lawmakers to lift the restrictions on food and medicine sales to Cuba.¹¹⁴ Representative Lampson believes that "the objectives for which [the embargo] was created no longer makes any sense in either political or economic terms."¹¹⁵ Furthermore, Representative Lampson believes that the economic

110. See George Anthan, *Vote to Lift Cuba Embargo Could Help Farmers*, DES MOINES REG., May 28, 2000, at D3.

111. See Mark Jewell, *Bill Would Open Produce Sales to Cuba*, COLUMBIAN, June 29, 2000, at C2.

112. Anita Snow, *Congressman Urges Easing of Cuban Embargo Sales of Food, Medicine Sought*, ARIZ. REPUBLIC, Sept. 3, 1999, at A18.

113. See Jewell, *supra* note 111; Snow, *supra* note 112; see Linda Robinson & Jeff Glasser, *A Case of Cuba Fatigue: More Americans Than Ever Would Rather Deal With Castro*, U.S. NEWS & WORLD REP., Apr. 24, 2000, at 20.

114. See Snow, *supra* note 112, at A18.

115. *Id.*

sanctions specifically hurt two groups of people, "the Cuban people who need our food, and United States farmers who can produce it in abundance."¹¹⁶

Other Congressmen have also asked for lifting the embargo, mainly because of the rising interest and influence from agricultural and business groups who want to transact business with Cuba.¹¹⁷ For example, in March 2000, Senator Jesse Helms, an outspoken supporter of the embargo, passed a bill that would permit the sale of American food and medicine to the Cuban people.¹¹⁸

It is also believed that the American public is even changing its views about the embargo.¹¹⁹ Several polls showed that the Cuban embargo support of the past was beginning to fade because six of ten Americans backed the sanctions; today, forty-seven percent of the American public feel its time to remove Cuba's sanctions.¹²⁰ Furthermore, at least thirty-eight powerful and influential farm groups and agribusiness companies support lifting the sanctions against Cuba.¹²¹

More support is soon to follow, especially since two ships carrying U.S. chicken arrived in Cuba, completing the first trade between the two nations since the embargo was first implemented.¹²² Moreover at that time, more shipments were expected to bring about \$30 million dollars worth of American wheat, corn, soybeans, rice, and chicken.¹²³

This magnitude of support clearly demonstrates the eagerness of American farmers and businesses to tap into the economic opportunities that are present in Cuba.¹²⁴ But the recent food sales to Cuba will surely fuel the debate in the United States between American farmers and corporations who would like to see an end to the embargo, and Cuban exile groups who would like to make the sanctions tougher.¹²⁵ If the United States government were to lift the Cuban embargo to provide assistance to the American farmer, then such a move will give them access to a new billion-dollar market in which to sell its food. More importantly, this new billion-dollar market will ultimately provide American farmers with some of the aid that they so desperately seek.

116. *Id.*

117. *See* Robinson & Glasser, *supra* note 113, at 20.

118. *See id.*

119. *See id.*

120. *Id.*

121. *See* Anthan, *supra* note 110, at D3.

122. *See* Frank, *supra* note 7, at A12.

123. *See id.*

124. *See* Cargill Eyes Cuba Trade/Country Woos Americans, ST. PAUL PIONEER PRESS, Jan. 25, 2002, at C1.

125. *See* Frank, *supra* note 7, at A12.

A. *Other Countries Are Already Investing*

Clearly, American farmers want, need, and feel that they should have the opportunity to tap into this market, just as farmers and businessmen from other nations have. Presently, other countries have a head start with Cuban investment.¹²⁶ However, as a practical matter, tapping into this market could be beneficial to both countries because Cuba is so close to the United States.¹²⁷ Therefore, this advantage afforded to other countries could shift to the United States simply because of the proximity between the two nations.¹²⁸

B. *The United States' Proximity to Cuba*

Cuba is only ninety miles south of the United States.¹²⁹ Thus, both countries could save considerable amounts of time and money because of reduced transportation costs.¹³⁰ Moreover, American farmers' products could be easily and quickly transported to Cuba if the embargo were lifted.¹³¹

C. *The Cuban Economy*

The Cuban economy is in terrible shape.¹³² Presently, "the Cuban economy has stagnated because its primary benefactor, the former Soviet Union, is no longer able to provide it significant financial support."¹³³ Again, between 1989 and 1990, "Cuba lost its major commercial markets together with the Soviet subsidies it had been receiving."¹³⁴ Moreover, from 1959 to 1994, Cuba's GNP fell from U.S. \$32.5 billion to U.S. \$ 18.6 billion.¹³⁵ During that same time, the total worth of Cuba's exports fell from U.S. \$5.4 billion to U.S. \$1.7 billion.¹³⁶

126. See Micheline Maynard, *Cuba Seeks Partners / U.S. Firms Ready to Tap Opportunity*, USA TODAY, Dec.27, 1994, at 01B.

127. See Wong, *supra* note 24, at 678.

128. See Editorial, *Cuba Policy Helps No One*, TENNESSEAN, Sept. 24, 2000 at 26A.

129. See Moncarz & Rodriguez, *supra* note 9, at 401.

130. See Wong, *supra* note 24, at 678-79.

131. See Gil Klien, *End Cuban Embargo? More Republicans Favoring the Move, Though Leaders Don't*, RICHMOND TIMES-DISPATCH, June 11, 2000, at A6.

132. See Wong, *supra* note 24, at 672-73.

133. *Id.* at 672.

134. Moncarz & Rodriguez, *supra* note 9, at 406.

135. *See id.*

136. *See id.*

However, despite its current economic crisis, investors still see great financial promise in the Cuban market.¹³⁷ Even though Cuba's economy is in shambles, agencies such as the American Farm Bureau Federation believe that Cuba could eventually become a market for American farmers.¹³⁸ Especially because Cuba desperately needs food products, farming tools and machinery.¹³⁹ Thus, the Cuban Government is desperately welcoming foreign investment and commercial trade.¹⁴⁰

Fidel Castro has already initiated some economic reform by allowing foreign investors to partake in all of Cuba's industries.¹⁴¹ Furthermore, other government officials have been campaigning and encouraging foreign investors that Cuba has a bright future ahead of them and that it will be safe for them to invest in Cuba.¹⁴² Many companies and foreign investors seem to agree with the Cuban Vice President's assessment and have taken advantage.¹⁴³ For example, "[c]ompanies from Mexico, Canada, Spain, Great Britain, France, and Australia have all begun to invest in Cuba and support its development."¹⁴⁴

D. *Unnecessary Costs to United States Farmers*

American companies are eager to pounce on the Cuban market as well, but due to the restrictions, they cannot participate in Cuba's investment opportunities.¹⁴⁵ As a result, American companies, farmers, and subsidiaries have become the losers, not Castro.¹⁴⁶ For example, before the restrictions, the United States "was Cuba's biggest source of wheat, rice and dairy products, and its biggest customer for its crucial sugar crop."¹⁴⁷ Given this tremendous opportunity cost, the United States' restrictions make no sense, especially since "none of the export controls [that America uses] for foreign policy or national security purposes

137. See Wong, *supra* note 24, at 675.

138. See Richard T. Estrada, *Farm Bureau Backs Agricultural Trade With Cuba*, THE MODESTO BEE, July 30, 2001, available at 2001 WL 25947483.

139. See Porotsky, *supra* note 10, at 955.

140. See Wong, *supra* note 24, at 675; see also Maynard, *supra* note 126, at 01B.

141. See Porotsky, *supra* note 10, at 952-53.

142. See *id.* at 953.

143. See *id.* at 953-54.

144. *Id.*

145. See Maynard, *supra* note 126, at 01B.

146. See Bell, *supra* note 10, at 129.

147. Maynard, *supra* note 126, at 01B.

has appreciably reduced the total flow of agricultural imports to the target country.¹⁴⁸

VIII. CONCLUSION

American farmers are eager to lift the Cuban embargo because there are millions of people in Cuba who need all kinds of agricultural products.¹⁴⁹ “[L]eading agricultural economists predict that United States exports to Cuba could reach one billion dollars annually if the sanctions were lifted.”¹⁵⁰ Basically, this embargo imposes unnecessary hardships on American farmers who are looking to sell their crops in large export markets.¹⁵¹

American farmers have already lost two billion dollars in lost export sales as a result of the embargo.¹⁵² And now that many of them are in financial difficulty, they realize the need to look for new markets.¹⁵³ “The future of American agriculture depends upon access to foreign markets.”¹⁵⁴ Since Cuba is welcoming foreign investment, the U.S. government should lift the embargo and allow farmers to sell its products to Cuba.

Furthermore, the Cuban embargo has not worked or had that big of an impact on Cuba because other countries supply Cuba with the products that the United States cuts off.¹⁵⁵ As a result, the United States is losing billions of dollars of business to other countries, even though they could deliver its products to Cuba faster and cheaper than the other countries could.

148. Bell, *supra* note 10, at 124.

149. See Maynard, *supra* note 126, at 01B.

150. Andrew Whisenhunt, *Statement of the American Farm Bureau Federation to the Senate Banking Committee Regarding the Export Administration Act*, Congressional Testimony, June 24, 1999.

151. See Klien, *supra* note 131, at A6.

152. See Wong, *supra* note 24, at 679.

153. See Whisenhunt, *supra* note 150.

154. *Id.*

155. See Klien, *supra* note 131, at A6.