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ARTICLES

The Legality of the U.S. Economic Blockade of Cuba Under International Law

by Paul A. Shneyer* and Virginia Barta**

I. INTRODUCTION

ON JANUARY 1, 1959, the rebel army, led by Dr. Fidel Castro Ruiz, marched into Havana as Fulgencio Batista quickly escaped from the Caribbean Island of Cuba. By 1961, the Cuban government, under the leadership of Castro, had declared itself the first Socialist country in the Western Hemisphere and the U.S. Congress had authorized the President to terminate the sugar subsidy which Cuba had been receiving since 1948.¹ Subsequently, diplomatic relations between the Republic of Cuba and the United States were broken.² Through a combination of statutory authorizations and executive orders the United States launched what has been variously labeled by a boycott, embargo and blockade of Cuba which has lasted for almost 20 years. This paper analyzes the legal framework under which the U.S. government has authorized, organized, and implemented the cessation of trade with Cuba and the legality of such action under international law.

Little has been written about the legal relationship between these two neighbors since the 1962 missile crisis and the U.S. quarantine of

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¹ Act to amend the Sugar Act of 1948, as amended, Pub. L. No. 86-592, 74 Stat. 330 (1960) (amending 7 U.S.C. § 1100 *et seq.* (1970) (expired Dec. 31, 1974)).

² Diplomatic ties with Cuba were severed on January 3, 1961. See, 44 DEP'T STATE BULL. 103-04 (1961).

Cuba.³ By focusing on one specific question, the legality of the U.S. economic boycott of Cuba under international law, hopefully this paper will contribute to a beginning of the analysis of the legal relationships between the two States.

The restrictions of trade with Cuba by the United States has been commonly labeled a "blockade" and is referred to as such in the media. Under international law the term "blockade" has a specialized meaning which signifies a belligerent measure taken by a nation at war to prevent an enemy from receiving aid.⁴ Usually a blockade involves a physical interference and a blocking of ships or other transport from reaching the target state.⁵ If taken by a nation not at war, a blockade has been considered an act of war.⁶ Though the U.S. quarantine of Cuba in 1962 has been called both a "blockade" and a "pacific blockade,"⁷ the current restriction on trade between the United States and Cuba is not the belligerent act of war which is traditionally the connotation given the term, blockade.

A boycott under international law is considered a modern form of reprisal whereby a State interrupts and/or terminates its commercial and financial relationships with another.⁸ Historically, the word "embargo" referred to a forcible detention of vessels of the target State which were docked at the port of the State enacting the embargo.⁹ Currently, "embargo" is more correctly used to mean prohibitions on exports between one country and another.¹⁰

The U.S. action against Cuba, while denominated "embargo" in official U.S. publications, can more properly be called an economic blockade: something more than an embargo in that it is extended to imports and more than a boycott, in that the United States attempted to control actions of third party states.¹¹ For this reason, the term "economic block-

³ On October 23, 1962 President Kennedy authorized the Secretary of Defense to "interdict . . . the delivery of offensive weapons and associated matériel to Cuba." Pres. Proc. No. 3504, 27 Fed. Reg. 10,401 (1962). One month later he terminated that authority. Pres. Proc. No. 3507, 27 Fed. Reg. 11,525 (1962). For a range of views on the quarantine see Meeker, *Defensive Quarantine and the Law*, 57 AM. J. INT'L L. 515 (1963); Christol, *Maritime Quarantine: The Naval Interdiction of Offensive Weapons and Associated Matériel to Cuba*, 1962, 57 AM. J. INT'L L. 525 (1963); Wright, *The Cuban Quarantine*, 57 AM. J. INT'L L. 546 (1963). See also, *Legal Impediments to Normalization of Trade with Cuba*, 8 LAW AND POLICY IN INT'L BUSINESS 1007 (1976).

⁴ 10 M. WHITEMAN, DIGEST OF INTERNATIONAL LAW 861 (1968).

⁵ *Id.*

⁶ *Id.* at 869; N.Y. Times, Nov. 25, 1981, at A-22, col. 1.

⁷ See, Meeker, *supra* note 3, at 515.

⁸ J. STONE, LEGAL CONTROLS OF INTERNATIONAL CONFLICT 291 (1954 ed.).

⁹ *Id.*

¹⁰ See, *id.*

¹¹ DuBois, *L'Embargo dans la Pratique Contemporaine*, [1967] ANNUAIRE FRANCAIS DE DROIT INTERNATIONAL 99 (Centre National de la Recherche Scientifique). The term economic

ade" will be employed here.

II. LEGAL FRAMEWORK

The present economic blockade of trade with Cuba was imposed by Presidential Proclamation No. 3447 of February 6, 1962¹² and Cuban Assets Control Regulations of July 8, 1963.¹³ Proclamation 3447 prohibits all trade with Cuba, and gives authority to the Secretaries of the Treasury and Commerce to make exceptions consistent with the general policy of the Proclamation.¹⁴ The Cuban Assets Control Regulations prohibit all currency transactions between the United States and Cuba unless licensed by the Secretary of the Treasury.¹⁵

The statutory authority for both regulations is Section 620 (a) of the Foreign Assistance Act of 1961¹⁶ which provides, in part, ". . . the President is authorized to establish and maintain a total embargo upon all trade between the United States and Cuba."¹⁷ In addition, authority for the Cuban Assets Control Regulations, and perhaps for the economic blockade as well, can be found in Section 5 (b) of the Trading With The Enemy Act of 1917,¹⁸ which gives the President very broad authority to regulate currency "during the time of war or any other period of national emergency declared by the President."¹⁹ Such a period of national emergency was declared by President Truman in 1950.²⁰ The Control Regulations and the declaration of emergency, were based on that statute as well as on Proclamation 3447.

It will be noted that Congress merely *authorized* the President to impose the trade sanctions and the currency regulations; it did not *direct* him to take any action. There is no doubt that the President has the

embargo has begun to receive wider recognition and acceptance in the media recently. See N.Y. Times, Nov. 25, 1981, at 16, col. 1.

¹² 3 C.F.R. 157 (1959-1963 comp.).

¹³ 31 C.F.R. § 515 *et seq.* (1980).

¹⁴ See, 3 C.F.R. at 158 (1959-1963 comp.).

¹⁵ 31 C.F.R. § 515.201 (1980). The State Department recently expelled a Cuban diplomat for attempting to lure American business to Cuba in violation of the Control Regulations. N.Y. Times, Feb. 12, 1981, at A9, col. 1. The Treasury Department has detained Cuban publications which were mailed to residents of the U.S. who did not have licenses. N.Y. Times, Nov. 25, 1981, at 16, col. 1.

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

¹⁷ *Id.*

¹⁸ 50 U.S.C. app. § 5(b) (1976 & Supp. III 1979).

¹⁹ The quoted language has been amended to read, "[d]uring the time of war", thus contracting the very broad grant of power to regulate the currency. 50 U.S.C. app. § 5(b) (Supp. III 1979).

²⁰ In December, 1950 President Truman issued Proclamation 2914 declaring a national emergency due to the situation in Korea. 3 C.F.R. 99 (1949-1953 comp.), reprinted in 50 U.S.C. app., at 1935 (1976).

power to revoke both the trade sanctions of 1962 and the Control Regulations of 1963 by appropriate administrative directives. Until he does so, however, the restrictions remain in effect, with whatever exceptions may be authorized by the State, Commerce or Treasury Departments, unless Congress takes action. Bills to eliminate all restrictions on trade have been introduced into the House of Representatives each year since 1975 but have not passed.²¹

Between 1933 and 1971, the President of the United States had, on several occasions, declared that a national emergency existed, thus giving him the right to exercise certain emergency powers.²² Many of these declarations of emergency had never been terminated.²³ In 1976, Congress passed the National Emergencies Act²⁴ terminating, as of September 1978, proclamations of national emergency which were in effect in September, 1976.²⁵ However, an exception was made with respect to action taken by the President under Section 5 (b) of the Trading With The Enemy Act of 1917.²⁶ Thus the Trade and currency regulations relating to Cuba are still legally in effect.

III. INTERNATIONAL LAW AND PRIOR TRADE SANCTIONS

Concepts of international law date back to the origins of relations between States involved in the exchange of goods and trading as early as the Middle Ages. As with other cultural, political and economic inheritances which shape today's world, the legal ideas of 500 years ago have developed and evolved, albeit more slowly, as the objective economic realities of society have changed. The concepts which molded and formed international law in the 20th century prior to World War II, have their roots in the 19th century industrial revolution in Europe and the concur-

²¹ See, e.g., H.R. 927, 97th Cong., 1st Sess., 127 CONG. REC. H 129 (daily ed. Jan. 19, 1981).

²² E.g., 3 C.F.R. 99 (1949-1953 comp.), reprinted in 50 U.S.C. app., at 1935 (1976); see, S. REP. NO. 95-466, 95th Cong., 1st Sess. 2, reprinted in [1977] U.S. CODE CONG. & AD. NEWS 4540, 4541.

²³ S. REP. NO. 94-1168, 94th Cong., 2d Sess. 9, reprinted in [1976] U.S. CODE CONG. & AD. NEWS 2288, 2295.

²⁴ 50 U.S.C. § 1601 (1976).

²⁵ 50 U.S.C. § 1601(a) (1976).

²⁶ See, 50 U.S.C. § 1651(a)(1) (1976). In December, 1977 Congress repealed the section 5(b) exception, 50 U.S.C. § 1651(a)(1) (Supp. III 1979), in an effort to further "delimit the President's authority to regulate international economic transactions during wars or national emergencies". S. REP. NO. 95-466, 95th Cong. 1st Sess. 2, reprinted in [1977] U.S. CODE CONG. & AD. NEWS 4540, 4541. However, the amending legislation, the War or National Emergency—Presidential Powers Act, Pub. L. No. 95-223, § 101(b), 91 Stat. 1625 (1977), provides that after September, 1978 the President may continue to exercise authority under section 5(b) of the Trading with the Enemy Act for unlimited one year periods upon a determination that such action is in the national interest. *Id.*

rent expansion of trade on a worldwide level. The States involved in developing international law were limited to the Western nations in existence at that time. The law was created for a world in which three continents were controlled by the major colonial powers.²⁷

The composition of the community of States since World War II has changed drastically with the destruction of colonial empires. The United Nations, at the time of its formation, had approximately 50 member States²⁸ and by December 1978 it had over 151 members.²⁹ The underdeveloped nations of the world now represent a majority of the States in the United Nations. They have forced a rethinking and a reconsideration of many questions of international relations, including standards of international conduct and international law.

Within this context of developing and changing norms of international law it is impossible to pinpoint one presently accepted standard of conduct regarding international trade and principles of sovereignty. There is disagreement amongst nations and scholars. The sources referred to in establishing the law include: the express consent of States, as evidenced by treaties and international agreements; tacit consent, reflecting a State's conduct and submission to certain rules of international law; and the writings of legal scholars in the area of international law.³⁰

The discussion below examines the U.S. blockade of trade with Cuba under two distinct theories of international law. The first, herein termed the traditional view, has its roots in the international law of the 19th century regarding reprisals; it is the standard which spokespersons for the U.S. government appear to accept.³¹ The latter is based on the consensus expressed by the majority of States in the last 25 years through the U.N. charter, U.N. resolutions and other international treaties and documents, and has been labeled for purposes of clarification and discussion the contemporary view.³²

Under whichever theory is accepted by the reader, the conclusion as to the legality of the U.S. economic blockade of Cuba is the same: the United States has breached the acceptable standard of conduct between States and is engaging in an illegal economic blockade of the Republic of Cuba.

The 20th century has seen numerous examples of nonwarring nations using or imposing a boycott or an embargo against another State.³³ After

²⁷ J. STONE, *supra* note 8, at 3-25.

²⁸ See [1946-1947] U.N.Y.B. 865-66.

²⁹ DEPT OF PUBLIC INFORMATION, UNITED NATIONS, *EVERYONE'S UNITED NATIONS* 7 (9th ed. 1979).

³⁰ 1 H. LAUTERPACHT, *OPPENHEIM'S INTERNATIONAL LAW* 25 (8th ed. 1955).

³¹ See 10 M. WHITEMAN, *supra* note 4 at 861-68.

³² See section V of text *infra* for a discussion of the "contemporary view".

³³ Muir, *The Boycott in International Law*, 9 J. INT'L L. & ECON. 187, 188-91 (1974).

granting the right to import to foreign nations, China attempted to limit foreign economic domination between the years 1905 and 1933 by encouraging eleven boycotts of foreign goods by its citizens: one against the United States (1905), one against Great Britain (1925-26) and the other nine against Japan.³⁴

In 1951, the British government and seven major international oil companies imposed a boycott on the purchase of Iranian oil after the government of Iran, led by Mossadegh, had nationalized the oil industry. The boycott effectively limited the number of tankers which loaded oil in Iran and contributed to the overthrow of Mossadegh in 1954.³⁵ The Soviet Union and other Eastern European Nations ceased all trade with Yugoslavia between 1948 and 1955 and subsequently refused to trade with Albania in 1961.³⁶ In 1951, the Council of the Arab League began an embargo and boycott against Israel which is still in effect.³⁷

Economic sanctions have at times been instituted and adopted by international bodies. The first involved a decision of the League of Nations to impose selective restraints on trade with Italy after the Italian invasion of Ethiopia.³⁸ The United Nations has invoked sanctions of embargo against South Africa in 1964,³⁹ 1970,⁴⁰ and 1971,⁴¹ and against Rhodesia in 1966⁴² and 1968.⁴³ The Organization of American States (OAS) initiated an embargo of the Dominican Republic in 1960 which eventually extended to arms, petroleum, petroleum products, trucks and spare parts.⁴⁴ Economic sanctions are not unique in contemporary international relations. However, States have attempted to establish and agree on proper norms of conduct in any resort to economic weapons in order to reduce international disputes.

³⁴ Bouve, *The National Boycott as an International Delinquency*, 28 AM. J. INT'L L. 19, 22 (1934).

³⁵ B. NIRUMAND, *IRAN, THE NEW IMPERIALISM IN ACTION* 69-70 (1969).

³⁶ M. DOXEY, *ECONOMIC SANCTIONS AND INTERNATIONAL ENFORCEMENT* 33-34 (1971).

³⁷ *Id.* at 28-29.

³⁸ G. SCHWARZENBERGER, *POWER POLITICS* 383 (3d ed. 1964).

³⁹ S.C. Res. 191, 1964 Resolutions and Decisions of the Security Council, at 13, U.N. Doc. S/INF/19 (1964).

⁴⁰ S.C. Res. 282, 1970 Resolutions and Decisions of the Security Council, at 12, U.N. Doc. S/INF/25 (1970).

⁴¹ G.A. Res. 2671, 25 U.N. GAOR, Supp. (No. 28) 31, U.N. Doc. A/8028 (1971).

⁴² S.C. Res. 221, 1966 Resolutions and Decisions of the Security Council, at 5, U.N. Doc. S/INF/21/Rev. 1 (1966); S.C. Res. 232, 1966 Resolutions and Decisions of the Security Council, at 7, U.N. Doc. S/INF/21/Rev. 1 (1966).

⁴³ S.C. Res. 253, 1968 Resolutions and Decisions of the Security Council, at 5, U.N. Doc. S/INF/23/Rev. 1 (1968).

⁴⁴ M. DOXEY, *supra* note 36, at 37.

IV. PERSPECTIVE UNDER TRADITIONAL INTERNATIONAL LAW

As a starting point for the analysis of the use of economic weapons under the traditional view it is useful to comprehend the general freedom that States have exercised in regulating trade with foreign nations. Professor Eagleton explained a State's power over its foreign trade as follows:

A State is free to set up almost any barrier to trade and intercourse against one or all states. She may prohibit trade entirely, or in certain articles, or with certain states: She may establish high tariffs against some or all states so far as customary international law is concerned (though there are many treaty limitations).⁴⁶

The traditional standard of international law concerning economic coercion has been adopted by the United States in the official Department of State publication, *Digest of International Law*, which discusses boycotts and embargoes under the section labeled "Reprisals".⁴⁶ Citing Lauterpacht, *Oppenheim's International Law*, the Department of State's position can best be stated through a direct quote:

Reprisals are such injurious and otherwise internationally illegal acts of one State against another as are exceptionally permitted for compelling the latter to consent to a satisfactory settlement of a difference created by its own international delinquency . . . [R]eprisals are acts, otherwise illegal, performed by a State for the purpose of obtaining justice for an international delinquency by taking the law into its own hands.⁴⁷

Two limits are placed on a State's response to another's international delinquency: (1) the response must be in proportion to the wrong done and of the compulsion necessary to insure reparations and (2) the reprisal must follow after negotiations have proven fruitless.⁴⁸ Boycotts and embargoes are considered modern forms of reprisals and as such should be evaluated, from a traditional point of view, under the standards articulated for reprisals.⁴⁹ Thus, the United States government, in accordance with the traditional view, has maintained that the blockade of trade with Cuba is in conformity with international law because it was enacted in response to the illegal Cuban expropriation and nationalization of American owned properties in Cuba.⁵⁰

The following discussion first examines whether Cuba had engaged in any illegal conduct which would justify a U.S. reprisal and then examines

⁴⁶ Boorman, *Economic Coercion in International Law*, 9 J. INT'L L. & ECON. 205, 213 (1974) quoting C. EAGLETON, *INTERNATIONAL GOVERNMENT* 86-87 (3d ed. 1957).

⁴⁶ 12 M. WHITEMAN, *supra* note 4, at 321-29.

⁴⁷ 12 M. WHITEMAN, *supra* note 4, at 321.

⁴⁸ 12 M. WHITEMAN, *supra* note 4, at 322.

⁴⁹ See J. STONE, *supra* note 8, at 289-91.

⁵⁰ See, 43 DEP'T STATE BULL. 404 (1960); *id.* at 715, 716.

whether the United States complied with acceptable conduct under the traditional view in imposing the sanctions of reprisal.

A. *Legality of Expropriation*

The international law of expropriation and nationalization is subject to the same metamorphosis between traditional and contemporary standards which the law of reprisals and economic coercion is undergoing again reflecting the present composition of the world community in the latter part of the 20th century.

The traditional standard of international law recognizes the right of a sovereign state to expropriate property for public purposes conditioned on the payment of prompt, adequate and effective compensation.⁵¹ The requirement of compensation is the subject of much debate . . . as the U.S. Supreme Court noted in *Banco Nacional v. Sabbatino*,⁵² one of several cases before the U.S. federal courts which involved the proceeds from the sale of certain sugar by a company nationalized by the Cuban government in 1960.

There are few if any issues in international law today on which opinion seems to be so divided as the limitations on a State's power to expropriate the property of aliens. There is, of course, authority . . . for the view that a taking is improper under international law if it is not for a public purpose, is discriminatory or is without provision for prompt, adequate and effective compensation. However, Communist countries . . . commonly recognize no obligation on the part of the taking country. Certain representatives of the newly independent and underdeveloped countries have questioned whether rules of state responsibility toward aliens can bind nations which have not consented to them and it is argued that the traditionally articulated standards governing expropriation of property reflect 'imperialist' interests and are inappropriate to the circumstances of emergent states.⁵³

The Cuban expropriation in the text that follows is analyzed from both a traditional and contemporary point of view: the former requiring non-discriminatory nationalization for a public purpose and the payment of prompt, adequate and effective compensation, and the latter excluding reference to public purpose, or any aspect of compensation.

In accordance with the traditional view of international law the United States claimed that the Cuban expropriations were violative of said standards because the nationalizations were retaliatory, discrimina-

⁵¹ RESTATEMENT (SECOND) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES §§ 185-90 (1965).

⁵² 376 U.S. 398 (1964).

⁵³ *Id.* at 428-30 (footnotes omitted).

tory and lacking in adequate compensation.⁵⁴ The official government analysis of the Cuban expropriations does not comport with historical events.

The events in Cuba since 1959 reflect the revolutionary transformation of a society from a capitalist to a socialist economy.⁵⁵ Though some readers might not be pleased by these events, in order to evaluate objectively the conduct of both States under international law it is important to recognize and set into a proper historical perspective the Cuban expropriations.

On May 17, 1959, the Cuban government enacted the Agrarian Reform Act⁵⁶ which authorized the nationalization of all large landholdings in Cuba, whether owned by Cuban nationals or aliens.⁵⁷ The Agrarian Reform Act provided for compensation by redeemable bonds issued for 20 years with an annual interest not to exceed 4.5 percent.⁵⁸

The U.S. government sent a note of protest on June 11, 1959, complaining that most of the property was owned by U.S. citizens and was thus subject to expropriation.⁵⁹ In response, Cuba indicated that it could afford only deferred payment terms.⁶⁰

The first properties owned by U.S. citizens were expropriated in October and November, 1959.⁶¹ As reported in the *New York Times* the expropriations then proceeded as follows: property owned by Batista supporters, December 22, 1959;⁶² Cuban owned match factories, January 4, 1960;⁶³ Cuban television and radio stations, February 22 and March 26, 1960;⁶⁴ Cuban molasses industry, February 16, 1960;⁶⁵ Cuban Telegraph Company, March 1, 1960;⁶⁶ hotels owned by Cubans and U.S. citizens, June 11, 1960;⁶⁷ fertilizer plants owned by U.S. citizens, July 16, 1960;⁶⁸

⁵⁴ See, 43 DEP'T STATE BULL. 715 (1960).

⁵⁵ See generally Seers, *The Economic and Social Background, in CUBA: THE ECONOMIC AND SOCIAL REVOLUTION 3* (D. Seers ed. 1964); L. HUBERMAN & P. SWEEZEY, *CUBA: ANATOMY OF A REVOLUTION* (1960).

⁵⁶ N.Y. Times, May 18, 1959, at 8, col. 3; *id.*, May 19, 1959 at 1, col. 6.

⁵⁷ N.Y. Times, May 18, 1959, at 8, col. 3; *id.*, May 19, 1959, at 1, col. 6.

⁵⁸ N.Y. Times, May 18, 1959, at 8, col. 3; *id.*, May 19, 1959, at 1, col. 6.

⁵⁹ 40 DEP'T STATE BULL. 958-59 (1959).

⁶⁰ See, 41 DEP'T STATE BULL. 937-39 (1959).

⁶¹ See generally, HOUSE COMM. ON FOREIGN AFFAIRS, 88TH CONG., 1ST SESS., *EXPROPRIATION OF AMERICAN-OWNED PROPERTY BY FOREIGN GOVERNMENTS IN THE TWENTIETH CENTURY 16-18* (Comm. Print 1963), reprinted in 2 INT'L L. MATERIALS 1066, 1085-87 (1963).

⁶² N.Y. Times, Dec. 23, 1959, at 1, col. 8.

⁶³ N.Y. Times, Jan. 5, 1960, at 10, col. 4.

⁶⁴ N.Y. Times, Feb. 23, 1960, at 3, col. 1; *id.*, Mar. 27, 1960, at 30, col. 1.

⁶⁵ N.Y. Times, Feb. 17, 1960, at 1, col. 4.

⁶⁶ N.Y. Times, Mar. 2, 1960, at 12, col. 4.

⁶⁷ N.Y. Times, June 12, 1960, at 1, col. 7.

⁶⁸ N.Y. Times, July 17, 1960, at 19, col. 1.

Cuban Electric and Telephone Companies, August 1, 1960;⁶⁹ Taiwan owned bank, September 5, 1960;⁷⁰ U.S. banks, September 16, 1960;⁷¹ Cuban tobacco industry, September 16, 1960;⁷² Cuban owned banks, sugar mills, distilleries, chemical companies, textile factories, rice mills, department stores, construction industries, shipping companies, etc., October 13, 1960;⁷³ rental housing, October 19, 1960;⁷⁴ and Canadian banks, December 8, 1960.⁷⁵

Today, substantially all of the means of production, transportation, distribution and communications have been nationalized.⁷⁶ Without discussing the ideological strengths and weaknesses of a socialist economy, the nationalizations completed in the early 1960's resulting in the present economic system in Cuba wherein 95 percent of the economy is controlled by the central government, reflect a public purpose; a taking which inured to no individual's benefit.

The requirement of public purpose or utility can be traced back to Article 1 of the Protocol to the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms signed in Paris, March 20, 1952.⁷⁷ International tribunals have rarely discussed what constitutes "public purpose" and in no case has property been ordered restored to its former owner because the taking was determined not to be for public purpose.⁷⁸ Commentators have suggested that the continued requirement of the concept of public purpose is attributable to its wide recognition, though the phrase is generally thought to be vague and without any operative legal content.⁷⁹ The Cuban nationalization of private property, as part of its economic transformation from capitalist production relations to socialist relations, must be considered nondiscriminatory and within the "public purpose" criteria. The long list and effective dates of the ex-

⁶⁹ N.Y. Times, Aug. 8, 1960, at 1, col. 6.

⁷⁰ N.Y. Times, Sept. 6, 1960, at 18, col. 4.

⁷¹ N.Y. Times, Sept. 17, 1960, at 11, col. 1; *id.*, Sept. 18, 1960, at 39, col. 8. Resolution No. 2, Def. Ex. 22 Gaceta Oficial (Sept. 17, 1960), reprinted in *Banco Nacional de Cuba v. First Nat'l City Bank of N.Y.*, 270 F. Supp. 1004, 1009-10 n.6 (S.D.N.Y. 1967).

⁷² N.Y. Times, Sept. 17, 1960, at 11, col. 1.

⁷³ N.Y. Times, Oct. 15, 1960, at 1, col. 8.

⁷⁴ N.Y. Times, Oct. 20, 1960, at 9, col. 6.

⁷⁵ N.Y. Times, Dec. 9, 1960, at 1, col. 2.

⁷⁶ Nolf, *The New Industrial Organization*, in *CUBA: THE ECONOMIC AND SOCIAL REVOLUTION* 296 (D. Seers ed. 1964); M. ZEITLIN & R. SCHEER, *CUBA, TRAGEDY IN OUR HEMISPHERE* (1963).

⁷⁷ 213 U.N.T.S. 262, amending 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 221.

⁷⁸ See Sohn & Baxter, *Responsibility of States for Injuries to the Economic Interests of Aliens*, 55 AM. J. INT'L L. 545, 555-56 (1961).

⁷⁹ *Id.*; RESTATEMENT (SECOND) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 185 (1965).

propriation of different industries leave no doubt that the Cuban nationalizations were implemented without regard to an owner's citizenship. Properties owned by Cubans, Taiwanese, British, Canadian and U.S. citizens were all expropriated.

Two cases before the federal courts, however, have held that the expropriations by Cuba of properties owned by U.S. citizens to be violative of international law.⁸⁰ Both cases have a long and complicated history in the Courts, having each been before the Supreme Court on two separate occasions. The findings of violations of international law, however, were never reviewed by our highest court.⁸¹

In *Sabbatino* the Court of Appeals for the Second Circuit found the nationalization of the *Compañía Azucarera Vertientes—Camaguey de Cuba (C.A.V.)*, a sugar manufacturer located in Cuba and owned by United States citizens, to have been retaliatory and discriminatory against U.S. nationals, and without adequate compensation.⁸² The determination of a retaliatory purpose was based on the language of the preamble to Cuban Law No. 851⁸³ which authorized the nationalization of properties owned by U.S. citizens.⁸⁴ The preamble recited the amendment to the Sugar Act of 1948 which gave the President of the United States power to lower the quota of Cuban sugar in the domestic market and gave the President and Prime Minister of Cuba authority to nationalize property of U.S. nationals whenever it shall be advisable or desirable for the protection of the national interests.⁸⁵ Though the historical evidence shows unequivocally that the nationalization of private properties in Cuba served to transform its economy to a socialist economy, rather than as individual retaliation against Americans,⁸⁶ the Court of Appeals reaffirmed its holding that the nationalization of C.A.V. violated international law when *Sabbatino* returned to the court in 1967, *sub nom. Banco Nacional de Cuba v. Farr*.⁸⁷

In addition, the fact that Cuban owned sugar enterprises were not expropriated until October 13, 1960, approximately two months after the

⁸⁰ *Banco Nacional de Cuba v. Sabbatino*, 307 F.2d 845 (2d Cir. 1962); *Banco Nacional de Cuba v. First Nat'l City Bank of N.Y.*, 270 F. Supp. 1004 (S.D.N.Y. 1967), *aff'd*, 478 F.2d 191 (2d Cir. 1973).

⁸¹ *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398, 428 (1964); *Banco Nacional de Cuba v. First Nat'l City Bank of N.Y.*, 400 U.S. 1019 (1971), 406 U.S. 759 (1972). For a recent update of the status of the cases arising out of the Cuban nationalizations, *see*, N.Y. Law Journal, Aug. 10, 1981, at 1, col. 2.

⁸² 307 F.2d at 868.

⁸³ Law No. 851, *Gaceta Oficial* (July 7, 1960), Preamble reprinted in *Banco Nacional de Cuba v. Sabbatino*, 307 F.2d at 865 n.14.

⁸⁴ 307 F.2d at 865.

⁸⁵ *Id.*

⁸⁶ *See generally* Seers, *supra* note 55.

⁸⁷ 383 F.2d 166, 183 (2d Cir. 1967).

August 6, 1960 nationalization of C.A.V.,⁸⁸ strongly influenced the court's decision. The peculiar facts of *Sabbatino*, which involved a shipment of sugar on August 9, 1960, during the interim period between the first nationalizations of the sugar industry and its completion in October, 1960, enabled the Court to find that "at least with respect to the shipment of sugar . . . in question, the Cuban government discriminated against United States nationals."⁸⁹

Finally, the Court found the Cuban offer of compensation to be illusory.⁹⁰ In recognition of the dispute within the international community concerning the requirements of compensation, however, the Court declined to decide if compensation was an element of the international law of taking, and did not rest its holding on the finding of inadequate compensation.⁹¹

*Banco Nacional de Cuba v. First National City Bank of New York*⁹² involved an action for the excess of money realized on the sale of collateral for a loan and for money on deposit, and various counterclaims and set-offs based on the confiscation of First National City's Cuban branches.⁹³ The District Court found the nationalization of the banks to be a breach of international law due to the lack of adequate compensation and the retaliatory and discriminatory nature of the expropriations.⁹⁴

Judge Bryan went further than any previous court in discussing the requirement of compensation from the perspective of the United States government's view of international law. Based on the legislative history of the Hickenlooper amendment,⁹⁵ prohibiting federal courts from not adjudicating the merits of a claim of title arising out of a nationalization of property and based on the Act of State doctrine wherein a violation of international law is alleged,⁹⁶ the court found that compensation is required under the "United States parochial point of view on international law".⁹⁷ Judge Bryan found the manifest purpose of the decrees to be "political retaliation of the rankest sort" despite the objective reality of an economic system undergoing a revolutionary transformation, relying on the language of the preamble to Cuban Law No. 851.⁹⁸

The discrimination, which the Court found to be a violation of inter-

⁸⁸ 307 F.2d at 867.

⁸⁹ *Id.*

⁹⁰ *Id.* at 862; see notes 51-53 *supra* and accompanying text.

⁹¹ 307 F.2d at 864.

⁹² 270 F. Supp. 1004 (S.D.N.Y. 1967).

⁹³ *Id.* at 1005.

⁹⁴ *Id.* at 1007-11.

⁹⁵ 22 U.S.C. § 2370(e)(2) (1976).

⁹⁶ *Id.*

⁹⁷ 270 F. Supp. at 1008.

⁹⁸ *Id.* at 1010.

national law, was (1) the failure of the Cuban government to seize Cuban banking properties until almost a month after the expropriation of First National City's branches, resulting in the loss of profit to First National City due to its inability to conduct its business for 30 days, and (2) a distinctive compensation scheme for properties owned by United States nationals, based on trade between Cuba and the United States, which was not the formula used for compensation of Cuban bank owners.⁹⁹ The Court's judgment regarding international law was upheld by the Court of Appeals¹⁰⁰ after six years of extensive litigation, and was never reviewed by the Supreme Court.¹⁰¹

Despite the Supreme Court's appraisal of the international law of taking, neither decision was able to rest on what constitutes the "illusory offer of compensation".¹⁰² Instead, the opinions of both the Court of Appeals and the District Court focus on the preamble of Cuban Law No. 851 to establish a retaliatory motive and, in addition, to find discriminatory treatment in the failure of the Cuban government to expropriate all similarly situated enterprises on the same day in order to support the determination of a violation of international law.¹⁰³ The analytical focus of the courts reflects a myopia caused by the ideological rejection of the Cuban socialist economic organization.

The claim of a retaliatory motive in the nationalization of C.A.V. and First National City Bank is belittled by the fact that extensive properties were nationalized both before and after the promulgation of Cuban Law No. 851 in July of 1960.¹⁰⁴ The expropriations were not limited to properties owned by U.S. nationals but included Cubans, Canadians and Taiwanese as well. The Cuban policy was motivated by the desire to reorganize the economy. In fact, Cuba succeeded in changing its economic system,¹⁰⁵ irrespective of whether one finds such transformation to be a positive or a negative achievement.

The finding of discriminatory treatment premised on a two-month delay in completion of the nationalization program creates a rule of law which would wreak havoc if our courts demanded that domestic govern-

⁹⁹ *Id.*

¹⁰⁰ 478 F.2d 191 (2d Cir. 1973).

¹⁰¹ See *Banco Nacional de Cuba v. First Nat'l City Bank of N.Y.*, 400 U.S. 1019 (vacating and remanding without consideration of the merits); *Banco Nacional de Cuba v. First Nat'l City Bank of N.Y.*, 406 U.S. 759 (reversing on other grounds). For recent developments in the Cuban nationalization litigation, see, *N.Y. Law Journal*, Aug. 10, 1981, at 1, col. 2.

¹⁰² *Banco Nacional de Cuba v. Sabbatino*, 307 F.2d at 862.

¹⁰³ *Id.* at 866-68; *Banco Nacional de Cuba v. First Nat'l City Bank of N.Y.*, 270 F. Supp. at 1008-10.

¹⁰⁴ See notes 61-67 *supra* and accompanying text.

¹⁰⁵ See generally Seers, *supra* note 55.

mental bodies initiate programs and effectuate policies simultaneously for all sectors of the society. Grandparent clauses and effective dates for legislation would fall under the *Sabbatino* and *First National City* findings of discrimination.

The rational relation test is the normal standard of judicial review of governmental action when discrimination is alleged.¹⁰⁶ In applying the "United States parochial view of international law" it is odd that the federal courts would not extend the same amount of sovereign discretion as is allowed in review of municipal governmental action.

Under the traditional view of international law, the Cuban expropriations would not be considered illegal. There is equally no merit to the claim of inadequate compensation. The Cuban compensation formula, contained in Law No. 851 of July 6, 1960, provided for payment for the expropriated property in 30-year bonds bearing interest at the rate of at least two percent.¹⁰⁷ The interest was to be paid out of a fund consisting of 25 percent of the foreign exchange received by Cuba each year from the sale of sugar to the United States in excess of three million tons at a price not less than 5.75 cents per pound.¹⁰⁸ In 1961, the District Court for the Southern District of New York in *Sabbatino* found this offer to be illusory, based on the fact that U.S. purchases of sugar between 1950 and 1959 rarely exceeded three million tons and never accounted for more than 5.5 cents per pound.¹⁰⁹

With the benefit of hindsight, the Cuban offer of compensation contained in Cuban Law No. 851 would not have proved illusory. The United States imported 3.24 million metric tons of sugar from Cuba in 1958.¹¹⁰ Had the United States continued to purchase a proportionate share of its imported sugar during the last 20 years from Cuba the amount of sugar purchased would have exceeded the three million ton minimum in half of the intervening years.¹¹¹

Prior to 1959 the world price of sugar had approached the 5.75 cents per pound figure contained in Cuban Law No. 851 only in 1950, 1951, and 1957.¹¹² Subsequently, the annual average price of sugar exceeded the minimum contained in the formula for compensation in 1963, and in 1972 through 1976.¹¹³ Based on the pre-1959 U.S. imports of sugar from Cuba

¹⁰⁶ *E.g.*, *Semler v. Dental Examiners*, 294 U.S. 608 (1935); *Williamson v. Lee Optical*, 348 U.S. 483 (1955); see L. TRIBE, *AMERICAN CONSTITUTIONAL LAW* 994-99 (1978).

¹⁰⁷ See *Banco Nacional de Cuba v. Sabbatino*, 307 F.2d at 862.

¹⁰⁸ *Id.*

¹⁰⁹ *Banco Nacional de Cuba v. Sabbatino*, 193 F. Supp. 375, 385 (S.D.N.Y. 1961), *aff'd*, 307 F.2d 845, 862.

¹¹⁰ See Appendix A.

¹¹¹ See Appendix B.

¹¹² See Appendix C.

¹¹³ *Id.*

the compensation fund would have contained approximately 19 billion dollars by the end of 1976, enabling the Cubans to compensate adequately the former owners of the expropriated properties.¹¹⁴

Moreover, even without the increase in sugar prices there is precedent to support the adequacy of the Cuban compensation offer. The Cuban expropriations were not the first to face the world community and to be subject to judicial scrutiny. The compensation offered by the Cuban government was no more illusory than the offer of compensation made by the Iranian government for its 1951 expropriation of foreign oil properties,¹¹⁵ which was considered sufficient by the court of Tokyo, Japan¹¹⁶ and the Civil Court of Rome.¹¹⁷ The Indonesian nationalization decrees of Dutch-owned properties in 1958, which provided for no effective means of compensation, were held by the Bremen Court of Germany to be proper and justified under international law.¹¹⁸

B. *Traditional Limitations on Reprisals*

Assume *arguendo*, the the finding of the federal courts that the Cuban expropriations were in violation of international law is correct. Under the traditional view there are two limitations on a State's right to retribution in response to a target State's delinquent acts which need be examined before determining the propriety of the United States economic blockade: (1) the reprisal must be in proportion to the wrong done and of the compulsion necessary to insure reparations, and (2) negotiations must prove fruitless.¹¹⁹

The dollar amount placed on property owned by U.S. citizens and nationalized by the Cuban government has been set at just under two billion dollars.¹²⁰ The pre-1959 Cuban economy was dependent on trade

¹¹⁴ U.S. citizens claimed reparations of \$3,346,406,271.36. [1972] FOREIGN CLAIMS SETTLEMENT COMMISSION, ANN. REP. 412.

¹¹⁵ Article 2 of the Iranian confiscation law provided: "the Government can, by mutual agreement, deposit in the Bank Milli Iran or in any other bank up to 25 per cent of current revenue from the oil after deduction of exploitation expenses in order to meet the probable claims of the Company". See *Anglo-Iranian Oil Co. v. Jaffrate (The Rose Mary)*, 1953 W.L.R. 246, 252 (Sup. Ct. Aden 1953) (quoting article 2).

¹¹⁶ *Anglo-Iranian Oil Co. v. Idemitsu Kosan Kabushiki Kaisha*, 20 I.L.R. 305 (D.C. Tokyo 1953), *aff'd*, 20 I.L.R. 312 (Higher Ct. Tokyo 1953).

¹¹⁷ *Anglo-Iranian Oil Co. v. S.U.P.O.R. Co.*, 22 I.L.R. 23 (Civ. Ct. Rome 1955).

¹¹⁸ *N.V. Verenigde Deli-Maatschappijen & N.V. Senembah Maatschappij v. Deutsch-Indonesische Tabak-Handelsgesellschaft*, 28 I.L.R. 16 (D.C. Bremen, W. Ger. 1959), *appeal dismissed*, 28 I.L.R. 24 (Ct. App. Bremen, W. Ger. 1959). For a discussion of this case, see Domke, *Indonesian Nationalization Measures Before Foreign Courts*, 54 AM. J. INT'L L. 305 (1960).

¹¹⁹ See note 48 *supra* and accompanying text.

¹²⁰ [1972] FOREIGN CLAIMS SETTLEMENT COMMISSION, ANN. REP. 69. The exact amount is \$1,799,548.69. *Id.* at 412.

with the United States.¹²¹ In addition, the major segments of Cuban industry were under North American control.¹²² Between 1950 and 1959, over 70 percent of Cuba's imports and an average of 65 percent of Cuba's exports were from or to the United States.¹²³ Approximately 60 percent of Cuba's sugar crop, the major Cuban export in pre-revolutionary Cuba, was shipped to the United States.¹²⁴ Of the total sugar imported into the United States between 1950 and 1959, 70 percent was grown in Cuba, accounting for approximately 40 percent of the sugar consumed in the United States.¹²⁵

The U.S. economy, being highly industrialized, was obviously not dependent on Cuban trade. Trade with Cuba accounted for only three to four percent of the goods imported and exported by the United States.¹²⁶

The United States has cut off the market which accounted for about 65 percent of Cuban foreign trade because of Cuba's alleged illegal nationalization of property owned by U.S. nationals in Cuba, and claimed to be worth two billion dollars. The annual trade cost to Cuba over 20 years amounts to close to 20 billion dollars based on the pre-1959 trading figures.¹²⁷ This disruptive effect on the Cuban economy in no way contributed to reparations to the expropriated owners.

The effect of the blockade on Cuba was not limited to the loss of its major market. The Cuban economy, due to its dependence on the United States, had grown attached to and was built upon U.S. technology.¹²⁸ The subsequent inability of Cuba to replace spare parts for its industrial machinery has seriously impeded production and economic development since 1959.¹²⁹

Evaluated in the context of the pre-1959 economic relationship between Cuba and the United States, the magnitude of the reprisal taken by the United States against Cuba is out of proportion to the international wrongs which the *Farr* and *First National City* decisions discussed. A judicial forum would be hard pressed to find the two month "discriminatory" delay in nationalizing the Cuban owned sugar industry or the Cuban owned banks and the "retaliatory" language of Cuban Law No. 851, in a society which was undergoing a revolutionary economic transformation as a justification for a total economic blockade of a dependent economy such as Cuba's.

¹²¹ See Seers, *supra* note 55, at 6-19.

¹²² See generally Nollf, *supra* note 76, at 286-95.

¹²³ See Appendix D.

¹²⁴ See Appendix A.

¹²⁵ See Appendix B.

¹²⁶ See Appendix E.

¹²⁷ See Appendix E.

¹²⁸ See generally Seers, *supra* note 55; Nollf, *supra* note 76, at 321-25.

¹²⁹ See Nollf, *supra* note 76, at 321-25.

Historical documents indicate that the Cubans had not closed the door to negotiations. In a note dated June 15, 1959, replying to a U.S. protest against the Agrarian Reform Law, the Cuban government offered to discuss terms of indemnification for U.S. owners of nationalized property.¹³⁰ On January 27, 1960, President Dorticos, in a public address, offered to negotiate any and all differences between the United States and Cuba.¹³¹ In a diplomatic note dated February 22, 1960, Foreign Minister Roa offered to name a commission to discuss all disagreements between the parties.¹³² On July 18, 1960, the head of the Cuban Mission to the United Nations advised the Security Council of the United Nations that Cuba was prepared to settle all differences with the government of the United States.¹³³ On September 26, 1960, Prime Minister Castro, at a meeting of the General Assembly, offered to discuss openly all problems relating to the relationship between the United States and Cuba.¹³⁴

In addition, on October 10, 1961, Foreign Minister Roa, speaking at the General Assembly of the United Nations, offered to negotiate with the United States, suggesting "an open agenda" for such a meeting.¹³⁵ In January 1962, President Dorticos, at the Punta Del Este Conference, stated that Cuba was willing to consider indemnification of U.S. citizens who suffered losses.¹³⁶ On October 8, 1962, President Dorticos, speaking at the General Assembly meeting, again offered to negotiate all differences.¹³⁷

Even assuming that Cuba had been delinquent in its expropriations, the United States government's conduct in instituting the blockade of trade both in terms of its proportion to the Cuban wrong being challenged and the manner of its imposition prior to exhausting all channels of negotiation and compromise contravened the traditional standards of international conduct articulated by the U.S. State Department. The failure of the United States to act in accordance with traditional views of international law, is not an easy case to explore. The relations between the United States and Cuba have been extremely tense and have included attempts to subvert the Cuban government by the use of violent force.¹³⁸ Commentaries, scholarly tracts and court decisions have all been tainted by the ideological orientation and distinctive economic systems to which

¹³⁰ Verified by author.

¹³¹ See 14 U.N. SCOR (874th mtg.) 25, U.N. Doc. S/P.V. 874 (1960).

¹³² See *id.* at 25-26.

¹³³ *Id.* at 27.

¹³⁴ 15 U.N. GAOR (872d plen. mtg.) 113, 117, U.N. Doc. A/P.V. 872 (1960).

¹³⁵ 16 U.N. GAOR (1032d plen. mtg.) 355, 365 U.N. Doc. A/P.V. 1032 (1961).

¹³⁶ Verified by author.

¹³⁷ 17 U.N. GAOR (1145th plen. mtg.) 369, U.N. Doc. A/P.V. 1145 (1962).

¹³⁸ See ALLEGED ASSASSINATION PLOTS INVOLVING FOREIGN LEADERS, S. REP. NO. 94-465, 94th Cong., 1st Sess. 71-179 (1975).

the two nations subscribe. The impropriety of U.S. conduct under a contemporary view of international law is much clearer. The following discussion begins with a definition of the current contemporary standards of conduct between nations regarding economic coercion. It then analyzes the actions of the United States according to such standards.

V. PERSPECTIVE UNDER CONTEMPORARY INTERNATIONAL LAW

In passing the Export Administration Act of 1969¹³⁹ Congress declared it to be U.S. policy: "To use [U.S.] economic resources and trade potential to further . . . [U.S.] national security and foreign policy objectives."¹⁴⁰ The developing nations were well aware of the potentially devastating effects of the manipulation of economic power in furthering such policies could have on their own weaker economics where their national goals conflicted with western interests. These nations have sought recognition of the principle that economic coercion constitutes an illicit use of power in international relations. To achieve this aim they have turned, *inter alia*, to the General Assembly of the United Nations.¹⁴¹ The United Nations has exploded in size in the past 25 years and has become, through its one nation one vote system, the international voice of the developing countries.¹⁴² Two avenues of approach have been taken in this effort: the prohibition of the use of economic power by inserting it into the concept of non-intervention and¹⁴³ two, the attempt to extend the definition of force contained in Article 2 (4) of the U.N. charter to include the idea of economic aggression.¹⁴⁴ The former has been largely successful, while the latter has yet to attain a consensus in the face of western power opposition.

¹³⁹ 50 U.S.C. app. §§ 2401-13 (1976).

¹⁴⁰ *Id.* at § 2402(4).

¹⁴¹ The Conferences of Non-Aligned Nations have served as fora for the developing countries' position that economic coercion is an illicit use of power. The Economic Declaration of the Algiers Conference of Non-Aligned Countries supports the principle that nationalization is an expression of state sovereignty and national legislation controls the amount and mode of compensation. Fourth Conference of Heads of State or Government of Non-Aligned Countries (Algiers, Sept. 5-9, 1973), Economic Declaration, *partially reprinted in*, Haight, *The New International Economic Order and the Charter of Economic Rights and Duties of States*, 9 INT'L LAW, 591, 591 (1975). It is in the General Assembly, however, that the strength of opposing views can be measured accurately.

¹⁴² See Brower & Tepe, *The Charter of Economic Rights and Duties of States: A Reflection or Rejection of International Law?* 9 INT'L LAW, 295, 296 (1975).

¹⁴³ *E.g.*, Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, G.A. Res. 2131, 20 U.N. GAOR, Supp. (No. 14) 11, U.N. Doc. A/6014 (1965).

¹⁴⁴ See Schwebel, *Aggression, Intervention and Self-Defense in Modern International Law*, [1972-II] RECUEIL DES COURS 411, 449-52; Bowett, *International Law and Economic Coercion*, 16 VA. J. INT'L L. 245, 245-46 (1976).

Since the Third World nations have so skillfully used the General Assembly to speak for them, there has been growing debate concerning the juridically binding nature of General Assembly resolutions and declarations.¹⁴⁵ The developing and socialist countries, while not always in complete agreement, would consider most General Assembly resolutions to be a progressive development and codifications of new rules of law, more reflective of post-mid-century socioeconomic and political reality.¹⁴⁶ The Western powers and Japan, as led by the United States, refuse to acknowledge any binding force in General Assembly declarations.¹⁴⁷ They point to the fact that at the San Francisco Conference in 1945, a Philippine proposal to make the General Assembly an international legislative body was overwhelmingly defeated.¹⁴⁸ Further, they argue that resolutions of the General Assembly and other international bodies are not mentioned as sources of International Court of Justice.¹⁴⁹ Finally, they argue that the new principles are not considered international law because they do not reflect customary long-term usage and practice of States.¹⁵⁰

The fact that the United States in particular should insist that no new international law has emerged is not surprising in view of the following observation:

The United States remains, however, without doubt the master of the boycott, including all forms of trade controls and economic coercion. We developed great expertise during World War II. . . . (W)e have used these techniques in peacetime to influence domestic actions in other countries. The problems of the Hickenlooper, the Gonzales and the Jackson—Vanik amendments are akin to boycott issues; all are forms of extraterritorial economic coercion.¹⁵¹

In contrast, the spokesmen for the new standard argue that the changing world situation has caused changes in the activities of the United Nations and that, in spite of the limited role originally envisioned for the General Assembly, it has gradually become a quasi-legislative

¹⁴⁵ J. CASTAÑEDA, *LEGAL EFFECTS OF U.N. RESOLUTIONS* (1966); Falk, *On the Quasi-Legislative Competence of the General Assembly*, 60 AM. J. INT'L L. 782 (1966).

¹⁴⁶ The developing countries are the prime movers in the "trend from consent to consensus" in regard to international legal obligations. Falk, *supra* note 145, at 784-85. See also, Shihata, *Arab Oil Policies and the New International Economic Order*, 16 VA. J. INT'L L. 261, 261 n.2 (1976).

¹⁴⁷ See, e.g., Haight, *supra* note 141, at 597; see also, White, *A New International Economic Order?*, 16 VA. J. INT'L L. 323, 330 (1976).

¹⁴⁸ See Falk, *supra* note 145, at 783.

¹⁴⁹ See I.C.J. STAT. art. 38.

¹⁵⁰ See, e.g., White, *supra* note 147, at 330.

¹⁵¹ Maw, *Historical Aspects of U.S. Involvement in Boycotts*, [1977] PROC. AM. SOC'Y INT'L L. 170, 171-72.

body that has profoundly affected international law.¹⁵² As early as 1948 one writer considered General Assembly resolutions to have a moral force that "is in fact a nascent legal force which may enjoy . . . a twilight existence hardly distinguishable from morality and justice until the time when the imprimatur of the world community will attest to its jural quality."¹⁵³

Some General Assembly pronouncements are recognized as law in certain opinions of the International Court of Justice itself.¹⁵⁴ The argument that resolutions do not have the requisite customary usage to become incorporated in the corpus of international law is self-defeating because it implicitly recognizes the validity of the developing countries' contention that since they were not an independent part of the world of nations their concerns and reality are in no way reflected in what the Western World considers international law. As the Third World implements the principles espoused in U.N. resolutions these new principles will inevitably become new legal norms. Furthermore, to the extent that a majority of nations indicate their rejection of traditional international law, the traditional rule can be said to lack the element of *opinio juris*.¹⁵⁵

Most commentators in developed countries, in spite of vociferous denials of the existence of a new progressive international law, simultaneously concede that General Assembly declarations do represent a consensus among the great majority of nations and constitute, therefore, a political and moral force that must be taken into account.¹⁵⁶ Significantly, in the wake of the Arab destination embargo on oil shipments, several Western commentators readily adopted the positions espoused by the Third World to denounce "economic coercion" and find the embargo illegal under international law.¹⁵⁷ Thus, as Third World countries collectively assert economic interests, the standards they suggest as new legal norms

¹⁵² See J. CASTAÑEDA, *supra* note 145; Castañeda, *The Underdeveloped Nations and the Development of International Law*, 15 INT'L ORG. 38 (1961).

¹⁵³ Sloane, *The Binding Force of a "Recommendation" of the General Assembly of the United Nations*, [1948] BRIT. Y.B. INT'L L. 1.

¹⁵⁴ See Schwebel, *The Effect of the U.N. General Assembly on Customary International Law*, [1979] PROC. AM. SOC'Y INT'L L. 301, 303.

¹⁵⁵ J. CASTAÑEDA, *supra* note 145, at 171.

¹⁵⁶ Bowett, *Economic Coercion and Reprisals by States*, 13 VA. J. INT'L L. 1 (1972); Bowett, *supra* note 144; Lillich, *Economic Coercion and the New International Economic Order: A Second Look at Some First Impressions*, 16 VA. J. INT'L L. 233 (1976); Rozenal, *The Charter of Economic Rights and Duties of States and the New International Economic Order*, 16 VA. J. INT'L L. 309 (1976); White, *supra* note 147.

¹⁵⁷ Brosche, *The Arab Oil Embargo and United States Pressure Against Chile: Economic and Political Coercion and the Charter of the United Nations*, 7 CASE W. RES. J. INT'L L. 3, 11-16 (1974); Paust & Blaustein, *The Arab Oil Weapon: A Threat to International Peace*, 68 AM. J. INT'L L. 410 (1974).

will also be useful to the developed nations in protecting their interests.¹⁵⁸ Therefore, Western commentators have conceded the principle that some forms of economic coercion may be illegal, even while they deny the existence of a new standard in international law.

A. *The Principle of Non-Intervention*

While the concept of economic aggression has yet to be defined clearly, there are numerous U.N. resolutions which indicate that the majority of nations consider the use of economic coercion illegal. The General Assembly declaration on non-intervention adopted in 1965, provides: "No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind."¹⁵⁹

This language was repeated verbatim in the resolution on principles of international law concerning friendly relations¹⁶⁰ which is treated as being an authoritative interpretation of the Charter and declaratory of contemporary international law.¹⁶¹

Further support is found in the resolution on sovereignty over natural resources adopted in 1973 which ". . . (d)eplores acts of State which involve force, armed aggression, economic coercion or other illegal or improper means of resolving disputes . . . [and emphasizes] the duty of all States to refrain in their international relations from military, political, economic or any other form of coercion . . ."¹⁶² The developing countries intended the prohibition to impose a binding obligation on all nations, as indicated in the debates leading to the adoption of the Charter of Economic Rights and Duties of States¹⁶³ in 1974 in conjunction with the Dec-

¹⁵⁸ Brower & Tepe, *supra* note 142. Brower and Tepe warn the developing countries that there is insufficient similarity of economic interests for the developed countries to accept the Third World view of international law, and since the developing nations need Western technology they had better adopt the status quo view of international law. *Id.* at 317-18.

¹⁵⁹ Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, *supra* note 143.

¹⁶⁰ Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, G.A. Res. 2625, 25 U.N. GAOR, Supp. (No. 28) 121, U.N. Doc. A/8028 (1970).

¹⁶¹ Bowett, *supra* note 144, at 245; Lillich, *supra* note 156, at 236.

¹⁶² Resolution on Permanent Sovereignty over Natural Resources, G.A. Res. 3171, 28 U.N. GAOR, Supp. (No. 30) 52, 53, U.N. Doc. A/9030 (1974).

¹⁶³ G.A. Res. 3281, 29 U.N. GAOR, Supp. (No. 31) 50, U.N. Doc. A/9631 (1974). The Charter was adopted by an overwhelming majority of 120 in favor, 6 opposed (Belgium, Denmark, Federal Republic of Germany, Luxembourg, United Kingdom, and the United States), and 10 abstentions (Austria, Canada, France, Ireland, Israel, Italy, Japan, the Netherlands, Norway, and Spain). See 14 INT'L L. MATERIALS 251, 265 (1975) (reprinting the

laration on the Establishment of a New International Economic Order.¹⁶⁴ The idea for the formation of the 1974 Charter was launched by President Luis Echeverria of Mexico in 1972. In his address to the 92nd Plenary Meeting of the United Nations Conference on Trade and Development he suggested that the international economy be placed on a "firm legal footing".¹⁶⁵ Among the principles proposed to be incorporated in the new Charter were the right of every nation to adopt the economic situation it considered most suitable for its needs and the condemnation of the use of economic pressures from other nations.¹⁶⁶ At the opening sessions of the working group charged with drafting the Charter the chairman, Ambassador Jorge Castaneda of Mexico, stated that the purpose of the group was to "enunciate authentic economic rights and duties of States in the only way which it is logically possible to do so: as rights and duties of a juridical nature intended to be binding" and "to formulate legal, and therefore obligatory rights and duties."¹⁶⁷ He particularly stressed that the group would be formulating new rules which would respond to the present and future needs of the world community since "merely to codify existing international economic law would be tantamount to defending the maintenance of the status quo which has certainly not promoted the welfare of two-thirds of mankind."¹⁶⁸

The Western powers immediately objected to any attempt to propose binding rules of law and the language in the drafts,¹⁶⁹ which would have made the binding intention explicit, was modified. Nevertheless, it is still recognized that "the strategy behind the Charter came to be a desire to develop . . . a statement of principles which, even if not binding, could be construed by those States which reject traditional international law as a statement of international law"¹⁷⁰

Subsequently, in 1975, at the Second General Conference of UNIDO, at Lima, Peru, a declaration was adopted by a vote of 82-1-7 which expressed the "need for the international community to comply in full with the precepts contained in the Charter" and urged that it be accepted as

roll call vote).

¹⁶⁴ G.A. Res. 3201, (S-VI), Sixth Special Session, U.N. GAOR, Supp. (No. 1) 3, U.N. Doc. A/9559 (1974).

¹⁶⁵ Summary of Address by Luis Echeverria, 1A UNCTAD Proceedings, Third Session, 184, 186, U.N. Doc. TD/180 (1972).

¹⁶⁶ *Id.*

¹⁶⁷ Statement by the Chairman of the Working Group, U.N. Doc. TD/B/AC.12/R.4 at 2 (1973).

¹⁶⁸ *Id.*

¹⁶⁹ For several views on the events preceeding the adoption of the Charter see Rozental, *supra* note 156; Brower & Tepe, *supra* note 142; Note, *Charter on Economic Rights and Duties of States: A Solution to the Development Aid Problem?*, 4 GA. J. INT'L & COMP. L. 441, 450-57 (1974).

¹⁷⁰ Brower & Tepe, *supra* note 142, at 302.

having binding legal effect on the conduct of international economic relations.¹⁷¹

Article 32 of the 1974 Charter provides: "No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of its sovereign rights."¹⁷² In Article 2, it clearly indicates that the question of the nationalization of foreign corporations and the determination of compensation to be paid were facets of a State's full permanent sovereignty over "all its wealth, natural resources and economic activities".¹⁷³ Specifically, Article 2(2)(c) provides that a State has a right to nationalize property, "in which case appropriate compensation should be paid" according to the laws of the State taking the action.¹⁷⁴ In the words of Ambassador Castaneda:

(I)t should be internal legal order which establishes the procedures and means of compensation. What is not to be tolerated, and what the overwhelming majority of countries have therefore completely rejected, is that instead of or in addition to the national legal system, other bodies or extra-national procedures should be called on to rule on what a State should do in such cases. To accept such a system as binding would be to place States on an equal legal and political footing with foreign corporations, and that would mean that those corporations would receive nothing more or less than the treatment which should be reserved solely for States.¹⁷⁵

The Economic Charter then, in spite of U.S. and Western power opposition, can be considered as a clear rejection of the protection accorded private foreign investment by traditional international law by a majority of the member States.

¹⁷¹ Lima Declaration and Plan of Action on Industrial Development and Co-operation, U.N. Doc. ID/B/155/add.1, at 22 (1975), reprinted in 14 INT'L L. MATERIALS 826, 844 (1975).

¹⁷² G.A. Res. 3281, *supra* note 163, at art. 32.

¹⁷³ G.A. Res. 3281, *supra* note 163, at art 2; see also paragraph 4 of the Declaration of a New International Economic Order which states:

[e]ach State is entitled to exercise effective control over (its natural resources and economic activities) with means suitable to its own situation, including the right to nationalization or transfer of ownership to its nationals, this right being an expression of the full permanent sovereignty of the State. No State may be subjected to economic political or any other type of coercion to prevent the free and full exercise of this inalienable right.

G.A. Res. 3201, *supra* note 164, at para. 4.

¹⁷⁴ G.A. Res. 3281, *supra* note 163, at art. 2(2)(c).

¹⁷⁵ 29 U.N. GAOR (2315 plen. mtg.) U.N. Doc. A/P.V. 2315 (1974).

B. Economic Aggression Prohibited by the U.N. Charter and International Agreements

Many countries argue that the proscription on the use of force contained in Article 2(4) of the U.N. Charter extends to the concept of economic aggression.¹⁷⁶ However, with the adoption of a limited definition of aggression by the General Assembly in 1974, it is apparent that proponents of this view have not yet been able to gain a consensus.¹⁷⁷ Debate on this issue is far from stilled, however, many countries view the adopted definition as only a first step toward an extended definition.¹⁷⁸

In addition to the Charter, it has been suggested that international treaty agreements serve as a legal basis for prohibiting economic aggression.¹⁷⁹ Thus, the Vienna Convention on the Law of Treaties¹⁸⁰ contains a provision specifically condemning

the threat or use of pressure in any form, whether military, political or economic, by any State in order to coerce another State to perform any act relating to the conclusion of a treaty in violation of the principles of the sovereign equality of States and freedom of consent . . .¹⁸¹

More importantly, the General Agreement on Tariffs and Trade (GATT)¹⁸² contains a general prohibition on the use of export and import controls in Article 11¹⁸³ and the implementation of these controls through incorporation of the most-favored-nation requirement of non-discrimination in the clause in Article 1.¹⁸⁴ In addition, Article 23 provides for the authorization of retaliatory action by the contracting parties thereby implicitly precluding such action.¹⁸⁵

¹⁷⁶ For an analysis of whether article 2(4) of the U.N. Charter should be read restrictively or expansively see Comment, *The Use of Nonviolent Coercion: A Study in Legality Under Article 2(4) of the Charter of the United Nations*, 122 U. PA. L. REV. 983, 993-1008 (1974).

¹⁷⁷ G.A. Res. 3314, 29 U.N. GAOR, Supp. (No. 31) 142, U.N. Doc. A/9631 (1974).

¹⁷⁸ See Note, *Defining Economic Aggression in International Law: The Possibility of Regional Action by the Organization of American States*, 11 CORNELL INT'L L.J. 85 (1978).

¹⁷⁹ See Bowett, *supra* note 144, at 247-48; Muir, *supra* note 33, at 200-02; Note, *supra* note 178, at 89.

¹⁸⁰ *Opened for signature*, May 23, 1969, U.N. Doc. A/Conf. 39-27, reprinted in 8 INT'L L. MATERIALS 679 (1969).

¹⁸¹ Final Act of the United Nations Conference on the Law of Treaties, U.N. Doc. A/Conf. 39/26 (1969), reprinted in 8 INT'L L. MATERIALS 728, 733 (1969). See Vienna Convention on the Law of Treaties, *supra* note 180, at art. 52; Boorman, *supra* note 45, at 215-16; Muir, *supra* note 33, at 199.

¹⁸² Done at Geneva, Oct. 30, 1947, 61 Stat. A3, T.I.A.S. No. 1700, 55 U.N.T.S. 266.

¹⁸³ *Id.* at art 11.

¹⁸⁴ *Id.* at art 1.

¹⁸⁵ *Id.* at art 23; see Bowett, *supra* note 144, at 247-48 (discussing GATT as a means to combat economic coercion).

Both Cuba and the United States are signatories to the GATT.¹⁸⁶ The United States never requested authorization for its economic blockade against Cuba, nor did it invoke the security exception contained in GATT provisions. Thus, it may be possible that the U.S. action was taken in violation of GATT. Further research is needed to substantiate this point.

C. *The Parameters of Illegal Economic Coercion*

While the U.N. resolutions clearly indicate that the majority of nations consider economic coercion illegal, the exact parameters of what constitutes illegal coercion have not been defined. Commentators have proposed that the vagueness of present formulations may be reduced by applying a test of unlawful intent.¹⁸⁷ Perhaps those economic measures undertaken primarily "for the purpose of damaging the economy of another nation or as a means of coercing another nation should be acts of unlawful intervention".¹⁸⁸

Second, the act must be of sufficient intensity to have seriously disrupted the victim country's economy. Some authors distinguish between the degree of disruption necessary for determining illegality. Others view any economic intervention that causes some disruption and hence could be considered illegal, to be "aggravated illegality of such proportions as to constitute aggression".¹⁸⁹ Under the former view, no economic coercion could be considered illegal unless it was of severe intensity. The latter view, however, implicitly recognizes the illegality of most interventionist measures, but would only consider intense disruption "aggressive".

Finally, others propose that the aggressive or coercive act need not necessarily be economic in nature. As long as its purpose and result was economic disruption, the act could be condemned as constituting economic aggression.¹⁹⁰

VI. CONCLUSION

Whatever view is adopted, either that of coercion or aggression, it is quite evident that the imposition of the U.S. economic blockade of Cuba constituted an illegal act. Under the contemporary standard, illegality did not occur until the United States reduced the sugar quota in 1960. The United States attempted to justify its modification of the Sugar Act on

¹⁸⁶ GATT, *supra* note 182, at A7.

¹⁸⁷ Bowett, *supra* note 156, at 5; Note, *supra* note 178, at 96-100; Muir, *supra* note 33, at 203-04.

¹⁸⁸ Note, *supra* note 178, at 96-97.

¹⁸⁹ See Note, *supra* note 178, at 96-97 and authorities cited therein.

¹⁹⁰ Note, *supra* note 178, at 96-97.

the grounds that Cuba would no longer be a reliable trading partner because of shifts it intended to effectuate in diversifying its economy and changing its economic structure.¹⁹¹ However, at least one North American court has recognized that the legislative history evidences an intent to retaliate against an "unfriendly county".¹⁹²

At the time of the reduction in the sugar quota, the only "unfriendly" acts committed by Cuba toward the United States was the nationalization of large Cuban land holdings and some U.S. controlled companies.¹⁹³ Under the new standard of international law as outlined in the Economic Charter, this activity is specifically a right reserved to the sovereign power of the States.¹⁹⁴ On the other hand, it is well recognized that Cuba was a one-crop economy, totally dependent on the U.S. economy.¹⁹⁵ Sudden reduction of the U.S. sugar quota was a measure designed to dislocate the entire Cuban economy.¹⁹⁶

Faced with what it characterized as and what contemporary international law would consider "economic aggression," the Cubans proceeded to nationalize the large sugar concerns. Even though the action was in part a retaliatory response to U.S. action, it was primarily the nationalization pursued in accordance with the ultimate goal of Cuba to change its own economic structure.¹⁹⁷ The defensive aspects of the action have been justified in the abstract by commentators.¹⁹⁸ The legality of a change of economic structure is unquestionable.

After these initial acts, the escalation of the U.S. economic blockade can surely be considered economic aggression. The 1962 Senate resolution specifically relates the U.S. economic blockade of Cuba to preventing the extension of Communist influence in the Western hemisphere, and to furthering self-determination by the Cuban people.¹⁹⁹ In other words, the Cuban economic structure was deemed unacceptable to the U.S. government. A clearer statement of illegitimate purpose would be difficult to make.

Further, the United States, as the strongest economic power, was in a position to attempt to eliminate the Cuban State through its use of economic power. Thus, OAS approval of U.S. action was sought and obtained and in turn used to justify the original U.S. action.²⁰⁰ However, justifying

¹⁹¹ 43 DEP'T STATE BULL. 140 (1960).

¹⁹² *Banco Nacional de Cuba v. Sabbatino*, 307 F.2d at 865.

¹⁹³ See notes 61-67 *supra* and accompanying text.

¹⁹⁴ G.A. Res. 3281, *supra* note 163, at art. 2(2)(c).

¹⁹⁵ See notes 121-124 *supra* and accompanying text.

¹⁹⁶ See notes 121-129 *supra* and accompanying text.

¹⁹⁷ See Seers, *supra* note 55.

¹⁹⁸ Note, *supra* note 178, Muir, *supra* note 33.

¹⁹⁹ S.J. Res. 230, Pub. L. No. 87-733, 76 Stat. 697 (1962).

²⁰⁰ See Claude, *The OAS, the United Nations, and the United States*, 547 INT'L CON-

the action is frivolous because the U.S. action antedated OAS action and OAS sanctions have since been removed.²⁰¹

In spite of the reluctance of U.S. authorities to accept the new standards in international law, the fact that U.S. commentators have begun to limit the parameters of illegal economic coercion indicates that the contemporary view is gradually gaining recognition if not acceptance. If there still remains doubt as to the illegality of the economic blockade under the traditional view, there is no doubt that the blockade is a *flagrant* violation of the contemporary standard which is founded on economic principles and sovereign equality between states.

CILIATION 1, 34-43, 53-60 (1964) (discussing the interaction between the United Nations and the OAS over the Cuban situation); DuBois, *supra* note 11.

²⁰¹ Journal of Commerce, July 31, 1975, at 9, col. 1.

APPENDIX A
CUBAN SUGAR PRODUCTIONS AND EXPORT
(In Thousands of Metric Tons)

YEAR	PRODUCTION	TOTAL EXPORT	TO U.S.	PERCENT OF EXPORT
1954		4,226	2,519	59
1955		4,644	2,663	56
1956		5,394	2,881	52
1957		5,307	2,883	52
1958	5,784	5,632	3,241	57
1959	5,964	4,952	2,937	59
1960	5,862	5,635	1,949	35
1961	6,767	6,414		
1962	4,815	5,131		
1963	3,821	3,521		
1964	4,589	4,176		
1965	6,082	5,316		
1966	4,867	4,435		
1967	6,236	5,683		
1968	5,315	4,613		
1969	5,534	4,799		
1970	7,559	6,906		
1971	5,950	5,511		
1972	4,688	4,140		
1973	5,383	4,797		
1974	5,926	5,491		
1975	6,427	5,744		
1976	6,151	5,764		
1977		5,683		
1978		4,613		

SOURCES: INTERNATIONAL SUGAR COUNCIL, SUGAR YEARBOOK (volumes for 1958-1976);
COMMODITY RESEARCH BUREAU, [1978] COMMODITY YEARBOOK, 329.

APPENDIX B
UNITED STATES SUGAR PRODUCTION, IMPORTS & CONSUMPTIONS
(In Thousands of Metric Tons)

YEAR	PRODUCTION	IMPORTS	CUBAN ORIGIN	PERCENT OF IMPORTS	CONSUMPTION
1954		3,510	2,519	71	
1955		3,669	2,663	73	
1956		3,902	2,881	74	
1957		3,914	2,883	74	
1958	4,109	4,374	3,241	73	8,400
1959	4,334	4,188	2,937	71	8,542
1960	4,576	4,637	1,949	48	8,600
1961	4,887	3,988			8,936
1962	4,913	4,248			9,075
1963	5,340	4,168			9,235
1964	5,965	3,295			8,951
1965	5,691	3,653			9,353
1966	5,989	4,077			9,624
1967	5,539	4,357			9,685
1968	5,690	4,655			10,218
1969	5,409	4,432			9,947
1970	5,734	4,804			10,548
1971	5,570	5,069			10,530
1972	5,724	4,952			10,619
1973	5,729	4,835			10,630
1974	5,399	5,250			10,325
1975	5,955	3,515			9,142
1976	6,438	4,228			9,999
1977		4,252			
1978		4,654			

SOURCES: INTERNATIONAL SUGAR COUNCIL, SUGAR YEARBOOK (volumes for 1958-1976);
COMMODITY RESEARCH BUREAU, [1978] COMMODITY YEARBOOK 329.

APPENDIX C

WORLD SUGAR PRICES

(In U.S. cents per pound)

1950	4.98
1951	5.70
1952	4.17
1953	3.41
1954	3.26
1955	3.24
1956	3.47
1957	5.16
1958	3.50
1959	2.97
1960	3.14
1961	2.70
1962	2.78
1963	8.29
1964	5.72
1965	2.03
1966	1.76
1967	1.87
1968	1.85
1969	3.20
1970	3.68
1971	4.50
1972	7.27
1973	9.45
1974	29.66
1975	20.37
1976	11.51

SOURCE: INTERNATIONAL SUGAR COUNCIL, SUGAR YEARBOOK (volumes for 1964, 1968, 1976).

APPENDIX D
CUBA—IMPORTS AND EXPORTS
(In Millions of Cuban Pesos)

YEAR	TOTAL IMPORTS	FROM U.S.	PERCENT	TOTAL EXPORTS	TO U.S.	PERCENT
1950	515.4	407.55	79	642.0	381.23	59
1951	640.2	493.23	77	766.1	417.72	54
1952	618.1	462.73	74	675.3	408.89	60
1953	489.7	370.93	75	640.3	393.00	61
1954	487.9	367.32	75	539.0	368.96	68
1955	575.1	423.25	73	594.2	401.26	67
1956	649.0	487.70	75	666.2	430.84	64
1957	772.8	578.36	74	807.7	467.57	57
1958	777.0	506.6	65	733.5	490.7	66
1959	673.5	458.67	68	637.4	445.3	69
1960	637.9	309.7	48	617.3	328.93	53
1961	702.6	26.1	4	625.9	30.25	4
1962	759.3	0.64	.08	520.6	4.17	.7
1963	867.3			543.8	00	

SOURCE: UNITED NATIONS, YEARBOOK OF INTERNATIONAL TRADE STATISTICS (volumes for 1952-1965).

APPENDIX E
UNITED STATES—IMPORTS AND EXPORTS
(In Millions of U.S. Dollars)

YEAR	TOTAL IMPORTS	FROM CUBA	PERCENT	TOTAL EXPORTS	TO CUBA	PERCENT
1950	8,853	404	4	10,149	454	4
1951	10,921	416	4	14,888	537	3.5
1952	10,815	433	4	15,054	514	3.5
1953	10,874	434	4	15,660	425	3.5
1954	10,319	400	4	14,981	428	3
1955	11,410	417	3.5	15,430	450	3
1956	12,645	458	3.5	18,947	518	3
1957	13,109	478	3.5	20,682	617	3
1958	12,914	518	4	17,697	543	3
1959	15,476	467	3	17,459	437	3
1960	15,071	342	3	20,383	222	1
1961	14,702	35		20,755	14	
1962	16,326	16		21,418	13	
1963	17,076	7		23,102	36	

SOURCE: UNITED NATIONS, YEARBOOK OF INTERNATIONAL TRADE STATISTICS (volumes for 1952-1965).