International Policy BRIEF

News and analysis from the staff of the Center for International Policy

Conference on Expanding Agricultural Trade With Cuba

Sponsored by the Center for International Policy (CIP)

At The National Press Club
Wednesday, April 29, 2009
9:00 a.m. to 12:30 p.m.

Wayne Smith, of CIP, welcomed guests and participants. The purpose of the conference, he said, was to examine ways in which U.S. agricultural sales to Cuba could be significantly increased. Clearly, the Bush Administration had not been enthusiastic about these sales. Some of the measures it had imposed even had the effect of limiting them. The complicated system of payments was one such measure. The Obama Administration could quickly and easily increase sales simply by doing away with this system.

Robert Muse, a Washington D.C. attorney who advises clients on U.S. laws related to Cuba, agreed but noted that rather than simplifying the complex procedures imposed by the Bush administration on Cubans seeking to pay for U.S. agricultural products, the Obama administration's response to congressional action aimed at providing that simplification actually puts U.S. exporters in a worse position than they were in under the previous administration. According to Muse, the problem began with an amendment to a recent budget bill that would have allowed U.S. exporters to receive payment after those goods left the U.S., but before they were handed over to Cuban buyers. (The enabling legislation permitting agricultural sales to Cuba – i.e., the TSRA statute -- requires "payment in advance," but leaves the definition of that term to the Executive Branch).

Muse explained that as Senate Democrats worked in March to get the necessary votes to pass President Obama's $410 billion omnibus spending bill, White House officials assured Democratic Senator Robert Menendez (NJ) – after he threatened to derail the entire bill -- that the amendment that liberalized payment terms for U.S. agricultural exports to Cuba would not be enforced. Menendez therefore agreed to allow the bill to go through, based explicitly on written assurances given to him in a March 5 letter from Treasury Secretary Geithner. White House Chief of Staff Rahm Emmanuel was copied on the letter, underscoring the political nature of the agreement between Menendez and the Obama administration.

In his letter to Menendez, Geithner noted that the Senator was concerned about the section in the budget bill that blocked the Treasury Department from enforcing a

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Bush Administration interpretive rule that required payment for U.S. agricultural sales to Cuba *before* vessels departed the U.S. instead of before the goods were handed over to Cuban purchasers at a Cuban port. But, astonishingly, Geithner said the language that had the clearly intended effect of rescinding the Bush rule did *not* become law when the bill passed:

Thus, he wrote: "Treasury believes that this change will likely have no influence on current financing rules. The term 'cash in advance' is in the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) and therefore private parties are and will continue to be statutorily required to comply with payment terms. Because the bill's language does not modify or negate the…act, exporters will still be required to receive payment in advance of shipment."

Muse noted that this was a clear setback for those involved in sales to Cuba, in that the Obama Administration has now said in writing that TSRA's "cash-in-advance" provision statutorily requires payment before shipment, instead of before the goods are transferred to the Cuban purchaser. But of course, he noted, TSRA had said nothing of the kind. Even the Bush Administration had conceded that Congress left the interpretation of the phrase "cash-in-advance" to the Executive branch. It will now be extremely difficult, Muse noted, for the Obama Administration to revert to the pre-Bush rule on payment terms now that it has taken the position that the Bush interpretation is a *statutory* requirement.

Muse also commented on a letter to Treasury Secretary Geithner from some U.S. Senators from both sides of the aisle, taking issue with him on his letter to Menendez. Treasury's new interpretation of "cash in advance", they said, is contrary to the Congressional intent of the appropriations bill, which was to eliminate use of OFAC's Bush-mandated interpretation. Finance Committee Chairman Max Baucus (D-MT) led the letter, which four Senators co-signed: Blanche Lincoln (D-AR), Christopher Bond (R-MO), Mark Pryor (D-AR) and Mary Landrieu (D-LA). So far, neither Geithner nor anyone else in the Obama administration has replied to the Senators' letter nor answered the questions they raised.

Muse concluded his presentation by noting that in his view the Bush payment rule could have been resolved years back had the formidable farm lobby been determined to bring that about. That it did not seem to have been so determined led Muse to wonder aloud if that had not perhaps been because it was happy enough with the status quo. A concerted effort to remedy the payment problem might inevitably have led to bills seeking to rescind altogether the "cash-in-advance" provisions of TSRA, at a time when some in the farm community may not have been enthusiastic over the prospect of credit sales to Cuba.

Jonathan Coleman, the head of the International Trade Commission's (ITC) agricultural and fisheries division, agreed with the previous speakers that the complicated system of payments imposed by the Bush Administration was a key factor in limiting sales. But travel restrictions were also a limiting factor. An ITC study, he said, had estimated that farm sales to Cuba would have jumped from $707 million to between $925 million and $1.2 billion in 2008 if all trade and travel barriers were removed, and that the U.S. share of the Cuban import market would thus have risen from 38 percent to between 49 and 64 percent.

Coleman said the study assumed the lifting of all the complicated arrangements for payment required under the 2000 law that allowed sales of U.S. agricultural products for the first time since a trade embargo was established in the early 1960s.

Coleman also noted that Cuba would doubtless buy more from the U.S. if the U.S. in turn were buying certain Cuban products. And this was entirely feasible, he said, for there were all kinds of Cuban products that did not compete with American goods – Cuban fruits, for example, that are not grown in the U.S.

Daniel Griswold, of the libertarian CATO Institute, also saw U.S. restrictions on sales to Cuba as counterproductive. Even the ITC estimates noted above, he said, do not capture the long-term potential of exports to Cuba that would result from normalized relations. The Bahamas, Dominican Republic, Jamaica and Guatemala spend an average of 2.8 percent of their GDP to buy farm products from the U.S. If Cuba so spent the same share of its GDP, we could be exporting $1.5 billion a year, more than double our current exports.

If we allowed more U.S. tourists to visit Cuba, and at the same time further liberalized our exports to Cuba, we could reclaim dollars from the Castro regime as fast as it could acquire them. In effect, we would be bartering agricultural products for tourism services, a kind of "bread for beaches," "food for fun" trade relationship.

Meanwhile, the increase in Americans visiting Cuba would dramatically increase contact between Cubans and Americans and thus add to U.S. influence.

And there is the fact that our embargo against Cuba reeks of hypocrisy. Republican advocates of U.S. trade with China and Vietnam correctly argue that trade with those communist countries benefits the U.S. economy while spreading American ideals of democratic capitalism. In a 2002 speech urging Congress to pass trade promotion authority, President Bush said, "Societies that open to commerce across their borders are more open to democracy within their borders. And for those of us who care about values and believe in values—not just American values, but universal values that promote human dignity—trade is a good way to do that." Yet, former President Bush and most other Republicans seem to forget that lesson when they talk about Cuba.

Congress and President Obama should act now to lift the embargo, to allow more travel and farm exports to Cuba. Expanding our freedom to travel, to trade with, and invest in Cuba would make Americans better off and would, Griswold said he believed, help the Cuban people.

Panel on Prospects for Increased Exports of U.S. Products, Chaired by Barry Flinchbaugh, Kansas State and former Chairman of the Commission on 21st Century Agricultural Production.

Flinchbaugh noted that in the past, the U.S. had been the major supplier of agricultural goods to Cuba. If we move away from outdated Cold-War policies that restrict trade, there is no reason that it could not be again. That certainly should be our objective. He then introduced the members of the panel.

Alan Tracy, President of U.S. Wheat Associates. Tracy led off by noting that agricultural trade is helping to bring changes to both U.S. and Cuban policies. He

expressed hope that the recent relaxation of restrictions on Cuban-American travel and remittances would be but a first step, and that the administration would now go on to simplify payments for agricultural sales and end travel controls altogether. As for wheat sales to Cuba, Tracy showed export data compared to the rest of the Caribbean for the past decade. He estimated that were it not for the U.S. embargo and other restrictions, U.S. wheat sales would average at least $100 million more per year than is now the case.

Rosemarie Watkins, Director of International Policy at the American Farm Bureau Federation, noted that increasing exports to Cuba is also a priority for her organization. Roughly 84% of all food consumed in Cuba is imported. Imports totaled more than 1.35 billion in 2006. The U.S. is the closest to Cuba and is a major producer of food products. In 2004, it supplied just over 35% of the food stuffs Cuba imported. Were it not for the restrictions it imposes on itself, through the embargo, the complicated system of payments already mentioned, and the fact that it denies visas to Cuban inspectors who would normally come to the U.S. to meet with U.S. suppliers and tour facilities, as is the custom all over the world, there is no reason that it could not be supplying the great bulk of Cuba's needs

Betsy Ward, President and CEO of the USA Rice Federation, joined earlier participants in saying that U.S. economic sanctions against Cuba probably do more harm to U.S. exporters than to Cuba and should be ended. Trade with Cuba is a high priority of the Rice Federation because Cuba has the highest per capita consumption of rice in the Western Hemisphere – 150 pounds per person annually (more than five times U.S. consumption), yet only produces 20% of its consumption needs. It imports some 600,000 metric tons per year to make up the difference, making it one of the top rice importers in the western hemisphere and one of the largest in the world. The U.S., in turn, is well positioned to be the major supplier of rice to Cuba. It is nearby, thus reducing transportation costs, and Cubans prefer the quality of U.S. long grain rice. Under fair, open, and two-way trade (allowing Cuba to generate foreign exchange) the Rice Federation estimates that Cuba would quickly become the second largest market for U.S. rice and that within a few years the U.S. would again become the dominant supplier to the island, as it was before 1959.

Because of the U.S. trade embargo, the U.S. sold no rice to Cuba between 1961 and late 2001. The Trade Sanctions Reform and Export Act of 2000 (TSRA) then opened the door to U.S. agricultural sales to Cuba. After the first sale of rice in 2002, exports rose for a couple of years, reaching a peak of 176,000 metric tons in 2004, about 30% of Cuba's import needs. But tighter rules, including the more complicated system of payment, imposed by the Bush Administration in 2004/2005, caused exports to fall and by 2008, the U.S. was only exporting some 12,000 metric tons to Cuba. We had hoped, said Ward, that one of the first things the Obama administration would do would be to do away with those restrictions imposed by Bush. So far, however, they have made no move to do so. Disappointing.

Nonetheless, she said, the Rice Federation will continue to work diligently to bring about more sensible terms of trade and a more productive relationship with Cuba.

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