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NORMALIZING RELATIONS WITH CUBA

Summary

It is the conventional wisdom on both sides that normalization will be a lengthy process of working through a complex agenda toward the ultimate goal of diplomatic relations. That process would almost surely become mired in the issue of compensation for expropriated property. Our interests is in getting the Cuba issue behind us, not in prolonging it indefinitely.

In all relevant cases, including the recent PRC and East German agreements, the compensation issue has been left for later. This paper suggests that we reestablish diplomatic and consular relations as part of an initial bargain including a partial lifting of the "blockade" and mutual commitments on non-intervention and negotiations to settle claims.

Background

The most authoritative statement we have from the Cubans on the scenario for normalization remains the Foreign Ministry's communique of January 10, 1974

That document envisages a process beginning

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with the U.S. lifting its embargo and going on to talks about the "differences" between us, including the status of Guantanamo. The implication is that diplomatic relations would come last. Nothing the Cubans have said before or since suggests a disposition toward any other order of precedence.

The usual Washington assumption has been that diplomatic relations would be the climax to successful negotiations in which the Cubans made fundamental concessions. That kind of thinking arose naturally from a situation in which we could make the final decision on the OAS sanctions. Obviously, the Cubans would have to settle across the board with the hemisphere before the sanctions could be lifted. There would be no reason for the U.S. to anticipate such a settlement -- and the settlement would have to meet our minimum terms.

As it became clear that the OAS sanctions could not be sustained, we shifted to the contemplation of a step-by-step approach designed to provide inducements for the Cubans to negotiate with us. As we pointed out last summer, a strategy of that kind had to be based on movement in the OAS; i.e., we

would take the first critical step and position ourselves for negotiations by doing the necessary to lift the OAS sanctions. ~~[We foresaw phased accompanying measures for negotiations by doing the necessary to lift the OAS sanctions.]~~ We foresaw phased accompanying measures to clear the rest of the underbrush -- the third-country restrictions and travel controls in particular. The thought was that it would then be possible to sit tight for a time on the key element of direct export controls, awaiting Castro's response to the invitation.

The Current Problem

Castro now has no apparent reason to concern himself further about the OAS sanctions. In fact, he has already succeeded in breaking the inter-American "blockade" without making a single significant concession and without ever having to deal with us. He may believe that a little patience will bring him the same happy result with respect to the U.S. sanctions. (His latest statement at Tab B suggests an attitude of benign quiescence in waiting for the U.S. to get around

in good time to "recognizing" Cuba.) In brief, from where he sits, and from what he can see of the course of U.S. politics, there is not much to negotiate about.

Senator Kennedy and others propose to recognize this seeming state of affairs by simply lifting our controls, thus meeting Castro's primary pre-condition for "discussions". (The Cubans never refer to "negotiations"). Again, diplomatic relations would presumably come as the end result, with at least the "people issues" (e.g. reunification of families and political prisoners) disposed of first.

A more common approach is to think in terms of a negotiating scenario which would focus on an end to the embargo in return for agreed compensation of expropriated property. The sequence would begin with minimal unilateral concessions on our part (perhaps an end to shipping and third-country sanctions), proceed to a joint political statement of principles (non-intervention, "mutuality of obligation and regard") and go on to the extensive agenda of bilateral issues. Diplomatic relations would seal the final bargain.

The argument against Kennedy's approach is that

we throw away our only real negotiating card. The problem with the second scenario is that it would probably never play out. The negotiations would almost inevitably sink into the mire of ^{the} compensation question while pressures on the embargo intensified. It is simply much easier for Fidel to resist paying compensation than it is for us to maintain export controls when our corporations are losing business.

Concessions Realistically Seen

A reappraisal should start by looking at what we might now reasonably expect from Fidel and what we could bearably give him in return.

Castro has said repeatedly that he will make no political concessions. He means it in the sense that he will not specifically renounce "revolutionary solidarity" (with the Puerto Rican ~~P~~atriots" as well), or promise any modification in his relations with the Soviets. But it is not inconceivable to envisage a joint statement in which both sides renounce "any right to intervene directly or indirectly in affairs related to the sovereignty of Latin American nations" (Cuba's own formulation ^{Tab A}). Nor can we rule out a similar formulation on the use of either country's

territory as a base for armed aggression against the other. Thus, there is some possibility for minimal accommodation of our traditional political concerns.

On one of his, we could agree without any great cost to discuss the status of Guantanamo at some unspecified date in the future. The base is now more of a burden than a blessing to the Navy.

With respect to the "people's issues", release of the eight political prisoners who claim American citizenship should be assumed as a prerequisite to any agreement. We might also get some commitment to consult on the status of the 800 dual nationals who remain in Cuba. Reunification of families and visitation rights would probably have to be subjects for informal discussion at a considerably later stage.

As Dave Gantz points out (Tab C), we cannot be certain precisely what Fidel means by "lifting the blockade". He might find himself able to accept less than a total elimination of our controls if the rest of the package was attractive and if the prospects for trade down the road were promising enough.

Compensation

We could maintain some elements of the embargo as leverage, but would probably have to license limited trade with Cuba to achieve a breakthrough of consequence.

The claims against Cuba have been adjudicated by the Foreign Claims Settlement Commission (The total is almost \$1.8 million; claims amounting to \$3.3 billion were filed.) The Commission's findings are final; the law makes no provision for appeal or any other method of re-opening adjudicated claims.

The recent Czechoslovakia case is an instructive example of how the Congress can be expected to approach the Cuban problem. We reached agreement with the Czechs to settle for approximately 42 cents on the adjudicated dollar. Strong opposition developed in the Senate Finance Committee from Senators Long and Gravel who objected to anything less than 100 cents -- and who asked Bob Ingersoll specifically if the Department looked on the Czech agreement as any kind of precedent for the Cuba claims. Finally, Gravel successfully amended the Trade Reform Act to scuttle the agreement by stipulating full/^{Czech}payment of principle (~~and~~ ^{but} not interest) as a condition precedent for extension of MFM and access to Ex-Im.

The working paper at Tab D outlines the professed Cuban position against compensation but speculates that the regime must realize how important it is to settle the claims issue if Cuba is to derive significant benefits from the resumption of bilateral relations. Such a realization may dawn in time, but Castro will take some convincing. We can, in any case, expect Cuban counter-claims to compensation for damages done by the "blockade", "CIA raids" and the like. No other reasonable prospect than the most protracted and difficult negotiations is evident -- and 100 cents on the dollar is inconceivable.

Conclusion

If there is benefit to us in an end to the state of "perpetual antagonism" it lies in getting Cuba off the domestic and inter-American agendas -- in extracting the symbolism from an intrinsically trivial issue. This paper suggests that the generally accepted scenario for change would not serve that purpose.

In the real world normalization means diplomatic relations. If those relations are to await resolution of the compensation problem we can look forward to endless domestic and international debate. (Which

of the parties is more guilty? Who started the fight? Did expropriation lead to aggression, or vice versa?)

Our past practice in all relevant cases has been to leave the compensation issue for later, as most recently in the PRC and East German agreements. (The Czech negotiations have gone on for almost 30 years; discussions on claims with the Soviets were suspended before World War II and have never been resumed.) Once the OAS sanctions are lifted we could reasonably argue that Cuba merits neither more nor less than the precedents establish.

The magnitude of the Cuba claims and the emotions at play would, however, require a clear Cuban commitment to compensation negotiations. Castro's political interest in claiming against us should permit a formulation along the lines of the East German agreement by which either side is entitled to raise the questions of interest to it (Tab C). Moreover, a number of inducements for a genuine Cuban effort toward resolution would remain, including access to some forms of USG credit, and end to limited export controls and, most critically, protection against attachment of Cuban trade goods in this country.

The initial bargain then would look something like this:

(1) The U.S. would lift all third-country shipping and subsidiary controls.

(2) The U.S. would permit licensed direct exports of a limited nature, maintaining at a minimum restrictions on technology, strategic materials, bank financing, and the freeze on Cuban assets now held in this country.

(3) The U.S. would agree to discuss the status of Guantanamo at some time in the future.

(4) Cuba would agree to joint commitments on non-intervention and pacific intentions.

(5) Cuba would agree to negotiate the settlement of claims; and

(6) Both sides would agree to establish diplomatic and consular relations.

As unilateral actions we would eliminate travel controls and the Cubans would release the eight political prisoners with a claim to U.S. citizenship.

Castro has much the best of this bargain, but he holds most of the cards. Over the longer term, normalization may not prove so pleasant for him as the end of isolation produces its inevitable pressures.

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Tab A - Cuban Foreign Ministry Statement

Tab B - Castro Interview

Tab C - Gantz Memorandum

Tab D - Working Paper on Compensation of Claims

Tab E - Cuba Check List

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