

The original documents are located in Box 11, folder “Cuba - Trade Liberalization” of the John Marsh Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE
WASHINGTON



Jack -

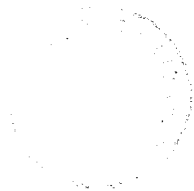
Attached is the
Dave Macdonald item
I mentioned to you.

Because of the
obvious problems to
which this situation
may give rise, I would
suggest that you mention
the problem at Monday's
Senior Staff meeting and
alert Nessen today;
also provide copies

THE WHITE HOUSE
WASHINGTON

to Brent Scowcroft.
(copies attached)

Russ





DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

MAR 26 1976

ASSISTANT SECRETARY

MAR 25 1976

MEMORANDUM FOR: John O. Marsh, Jr.
Counsellor to the President

FROM: David R. Macdonald *DRM*
Assistant Secretary (Enforcement,
Operations, and Tariff Affairs)

SUBJECT: Inquiry on Cuban Trade by Senators
Jackson and Bentsen

I believe you should be aware of this information which we supplied in response to the Senators' requests, since they may use it to criticize the Administration's policies with respect to Cuba.

We have explained to the extent possible that the liberalization stemming from State Department recommendations following the OAS meeting last summer has resulted in transactions beneficial to U. S. firms without being of strategic benefit to Cuba. We have also sought to establish on the record the fallacies in drawing unqualified conclusions from the data.



Copies to Nessen & Cowcroft - 3/26/76 - FYI/RTag.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

MAR 24 1976

Dear Senator Jackson:

I am pleased to send you, in response to a recent request from your office, data regarding licenses authorizing trade with Cuba by foreign affiliates of American firms, covering the period since the policy change of August, 1975.

In your interpretation of these data you should be aware of a number of qualifications. First, licenses are not approved for the sale to Cuba of strategic commodities under international (NATO) embargo. Also, licenses are not issued for the sale to Cuba of United States-origin production technology. These policies are set forth in the licensing guidelines published on October 8, 1975 (Sec. 515.559 of the Regulations, copy enclosed).

In many instances, too, proposals are discussed with Treasury, in advance of filing, by U.S. firms whose foreign affiliates may be considering trade with Cuba. To a substantial extent, therefore, applications for licenses are filed only in cases where the U.S. firm feels it probable that the application meets the published guidelines and will be approved. Thus, the percentage of licenses approved may not accurately reflect responsiveness to the interest of U.S. firms in potential Cuban trade by subsidiaries, or the number of cases which might have been denied for strategic reasons if filing had occurred.

Of the licenses which have been issued, licenses for \$98.5 million involved sales of foreign rice, corn and flour to Cuba. In these cases, the U.S.-controlled foreign firm was a commodity broker, rather than a manufacturer. The Cubans could just as readily have purchased these grains from competitive commodity brokerage firms which are not U.S.-controlled.




The dollar value datum is also subject to qualification. In some cases applications specified a quantity (such as 17,000 tons of flour) rather than a dollar value for the transaction. In other cases, applications requested authorization for expenditures in Cuba incidental to a salesman's travel there, and no dollar value was specified. Again, the dollar value specified in some applications was variable, dependent on the size of the final order received. None of these cases is included in the dollar value datum in the enclosure.

Finally, the total dollar value of licenses issued does not necessarily equate with the actual trade transactions consummated, which may be less. We try to issue licenses for exports only in cases where there is a firm agreement for a transaction; nevertheless, license transactions may ultimately not be consummated, often for purely commercial reasons. As an example, a license was issued for a \$13 million sale of steam generating boilers to Cuba, but a non-American competitor eventually received the order.

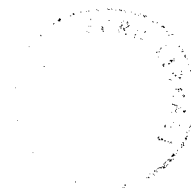
I hope that, notwithstanding these limitations, you will find the enclosed data useful for your purposes.

Sincerely yours,


Assistant Secretary
(Enforcement, Operations
and Tariff Affairs)

The Honorable
Henry M. Jackson
United States Senate
Washington, D. C. 20510

Enclosure



Licenses for U.S.-Controlled Subsidiaries to Trade with Cuba
October 8, 1975 - January 31, 1976

Applications filed		121
Approved	83	
Denied <u>a/</u>	5	
No action <u>b/</u>	31	
Cancelled by applicant	2	
Total value of transactions for which licenses approved		\$166,500,000
Number of U.S. parent firms which applied for licenses		95
Number of third countries involved		23

a/ These cases were denied for one of the following reasons:

- (1) U.S. citizens were to travel to Cuba;
- (2) Goods were to be imported from Cuba into a country other than the country where subsidiary was located;
- (3) American parent arranged the transaction;
- (4) Involved travel to negotiate sale of strategic goods.

b/ No action taken on application because no license was required for the proposed transaction (in negotiating stage only) or application was filed incorrectly (wrong applicant or incomplete information).





DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

MAR 24 1976

Dear Senator Bentsen:

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I hope that, notwithstanding these limitations, you will find the enclosed data useful for your purposes.

Sincerely yours,



Assistant Secretary
(Enforcement, Operations
and Tariff Affairs)

The Honorable
Lloyd Bentsen
United States Senate
ATTN: Ms. Sally Shelton
Washington, D. C. 20510

Enclosure

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October 8, 1975 - January 31, 1976

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duo: 9/3 [1975]

THE WHITE HOUSE
WASHINGTON

Jack,

May I have your concurrence
on the attached NSDM which
reflects the President's
decision per the attached memo.

Les Janka

approve
gm

for

called 9/3
9:45_{al}

THE WHITE HOUSE

WASHINGTON

National Security Decision Memorandum

TO: The Secretary of the Treasury
 The Secretary of Defense
 The Secretary of Agriculture
 The Secretary of Commerce
 The Deputy Secretary of State
 The Administrator, Agency for International Development

SUBJECT: Termination of U.S. Restrictions on Third Countries
 Trading with Cuba

Following the meeting of the Organ of Consultation of the Organization of American States in San Jose which terminated mandatory prohibitions against trade and other contacts with Cuba, the President reviewed recommendations concerning U.S. legislation and regulations relating to other countries' contacts with Cuba. He has decided that in view of the OAS action, the U.S. should take such actions as are necessary to terminate its restrictions on third countries that trade with Cuba. The steps should include the licensing of subsidiaries abroad of U.S. companies to trade with Cuba when it is the policy of the local government to do so and when the goods involved are non-strategic and do not contain a substantial proportion of component parts manufactured in the U.S.; relief from legislation requiring termination of assistance or provision of PL 480 Title I programs to countries permitting their ships or planes to engage in trade with Cuba; and modification of regulations prohibiting bunkering in U.S. ports of ships engaged in Cuba trade.

The Under Secretaries Committee should be responsible for coordination of the implementation of this NSDM. When appropriate it should make clear that the actions taken are in conjunction with the OAS Resolution rather than our bilateral policies towards Cuba. All actions taken by the Under Secretaries Committee under this NSDM should be reported to the President through the Assistant to the President for National Security Affairs.

cc: Director, Central Intelligence Agency
 Chairman, Joint Chiefs of Staff
 Chairman, Under Secretaries Committee

(H.A.K.)

THE WHITE HOUSE

WASHINGTON

August 19, 1975

MEMORANDUM FOR: THE PRESIDENT

FROM: HENRY A. KISSINGER *HK*

SUBJECT: Third Country Sanctions against Cuba

HK

With the deterioration in our relations with Castro in the early 1960's, we began to impose a series of restrictions on trade and travel between the U.S. and Cuba. Then, in 1962 and 1964, the OAS at our urging passed resolutions obliging its members to place similar sanctions on contacts with Cuba. Partly on the basis of the OAS action, the U.S. imposed further punitive measures against these countries which engaged in trade or permitted their ships or planes to be used in transport to or from Cuba.

These third country sanctions consist of the following measures:

- Executive regulations prohibiting trade with Cuba by subsidiaries abroad of U.S. companies;
- Legislation requiring the Executive to terminate economic and military assistance to any country permitting its ships and planes to engage in the transfer of goods to or from Cuba;
- Legislation denying PL 480 Title I programs to countries permitting their vessels or planes to trade with Cuba or engage in government trade with it;
- Executive regulations prohibiting the bunkering in U.S. ports of ships engaged in the Cuba trade.

On July 29, the OAS conference meeting in San Jose, Costa Rica, voted by two-thirds majority, including the U.S., to permit its members to terminate the obligatory sanctions on trade, travel and diplomatic contact with Cuba, and allow each nation to follow its own policies in this matter. As a result, the political and legal

DECLASSIFIED
E.O. 12355, Sec. 3.4.

MR 89-40, #16 State Hr. 12/26/89
By KBH NARA, Date 2/1/90



CONFIDENTIAL
SECRET ATTACHMENT

justification for our sanctions against those countries deciding to trade with Cuba has been removed. Furthermore, our support for the resolution carried with it a presumption that we will refrain from taking punitive action against a country which takes an action based on it. We have also found that our regulations prohibiting trade with Cuba by foreign subsidiaries of U.S. companies in countries where such trade is permitted create resentment and friction with otherwise friendly countries and place U.S. investors abroad in a difficult position between conflicting policies and regulations. Friendly foreign governments point out that the extraterritorial application of U.S. laws and regulations to prevent trade with Cuba violates their sovereignty.

I therefore propose that we take steps to modify those regulations and laws imposing sanctions on third countries as soon as possible in order to make clear that we are implementing an OAS action passed by the overwhelming majority rather than taking a step towards Cuba. I believe, however, these steps will be recognized as constructive ones by Castro and will put the onus on him to take the next conciliatory gestures towards us. Our purely bilateral sanctions would be left intact.

Attached at Tab A is a Department of State memorandum recommending that you approve the termination of U.S. third country sanctions by modifying current regulations and laws relating to third country trade with Cuba. The proposed modifications are laid out in the Under Secretaries Memorandum to you of February 25, 1975 (also at Tab A).

In brief, the specific steps which I would propose taking now are the following:

1. Licenses for U.S. subsidiaries. It is our current policy to consider each application for a license to permit a foreign subsidiary of a U.S. company to trade with Cuba on a case-by-case basis, and for the most part, to refuse to issue them. As a result of threats to nationalize U.S. subsidiaries in Argentina if they did not conform with Argentine policy of trading with Cuba, President Nixon authorized exceptions in the case of Argentine subsidiaries of U.S. automobile manufacturers in early 1974. A few other exceptions have been made in the case of Canadian and Mexican subsidiaries of U.S. firms. These exceptions have received considerable publicity and, as a result, more applications have been submitted which are now pending.

The Under Secretaries Committee, including representatives of State, Defense, Commerce, Treasury and CIA has met to review this problem and is unanimous in recommending that we begin issuing licenses permitting subsidiaries to trade with Cuba when it is the policy of the local government to do so. We would continue to deny licenses for strategic goods or for goods in which there was a substantial proportion of component parts manufactured in the United States. The licensing of American banks located abroad also would continue to be more stringently restricted than that of non-banking firms in order to avoid providing U.S. financial assistance to Cuba.

2. Assistance to countries trading with Cuba. The Foreign Assistance Act contains a waiver provision. The proposal therefore is that, as Secretary of State, I would waive the suspension of assistance under the Foreign Assistance Act for countries which permit their ships and aircraft to carry goods to or from Cuba, when that becomes necessary. This was done recently with Argentina, without public attention having been called to it. It may become necessary with Panama, but not until they actually engage in the trade.

3. PL 480 Title I. We would begin informal discussions with appropriate members of Congress aimed, at a minimum, at seeking broader waiver authority of the requirement to suspend PL 480 Title I food shipments to countries trading with Cuba.


4. Bunkering. The Commerce Department would take the necessary action to change their regulations to lift bunkering restrictions on non-U.S.-flag vessels in the Cuba trade.

These actions would be taken in as low-key a manner as possible. The changes in regulations involved in issuing the waiver and licenses to subsidiaries of U.S. companies and permitting bunkering would be published in the Federal Register. We would advise countries like Canada, Britain and a few others which have been pressing us to permit U.S. subsidiaries located within their boundaries to trade with Cuba, and we would issue licenses for applications which are pending. A low-key press statement tying the actions to implementation of the OAS decision at San Jose would have to be made. It would be made clear at the same time, however, that restrictions on U.S. trade and travel remain in effect as long as outstanding problems with Cuba remain unresolved.



RECOMMENDATION

That you approve modifying those regulations and laws imposing sanctions on third countries that trade with Cuba.

Approve  Disapprove _____



THE WHITE HOUSE

WASHINGTON

February 5, 1963

NATIONAL SECURITY ACTION MEMORANDUM NO. 220

TO: The Secretary of State
The Secretary of Defense
The Secretary of Agriculture
The Secretary of Commerce
The Administrator, Agency for International
Development
The Administrator, General Services Administration

SUBJECT: U.S. Government Shipments by Foreign Flag Vessels
in the Cuban Trade

At its meeting on February 5, 1963, the Executive Committee of the National Security Council considered United States policy with respect to shipments financed by the Departments of State, Defense, and Agriculture, General Services Administration, and the Agency for International Development on foreign flag ships engaged in the Cuba trade. The President approved the recommendation that such cargoes should not be shipped from the United States on a foreign flag vessel if such vessel has called at a Cuban port on or after January 1, 1963. The President agreed that an exception may be made as to any such vessel if the persons who control the vessel give satisfactory assurance that no ships under their control will, thenceforth, be employed in the Cuba trade so long as it remains the policy of the United States Government to discourage such trade. The Secretary of State is to be consulted on the form and content of any such assurances.

The Secretaries of State, Defense, and Agriculture, the Administrator of AID, and the Administrator of GSA were directed to take such steps as may be necessary to carry out this policy.

The Secretary of Commerce is to make available to the appropriate Departments current pertinent information which he may have on ships engaged in the Cuba trade.

McGeorge Bundy
McGeorge Bundy

cc: Members of the Executive

December 16, 1963

MEMORANDUM TO HOLDERS OF NSAM 220

SUBJECT: Amendment to NSAM 220 of February 5, 1963 Relating to United States Government Shipments by Foreign-Flag Vessels in the Cuban trade.

The following amendment to NSAM 220 has been approved:

An exception to the prohibitions stated in NSAM 220 may be made as to any vessel or vessels if the persons who control the vessel or vessels give satisfactory assurance

- (a) that no ships under their control will thenceforth be employed in the Cuba trade, except as provided in paragraph (b); and
- (b) that vessels under their control which are covered by contractual obligations, including charters, entered into prior to the date of this directive under which their employment in the Cuba trade may be required, shall be withdrawn from such trade at the earliest opportunity consistent with such contractual obligations.

The assurance given hereunder shall contain an undertaking that any ships covered by paragraphs (a) or (b) will not thereafter be employed in the Cuba trade so long as it remains the policy of the United States Government to discourage such trade. No vessel described in paragraph (b) will be eligible to carry any cargo sponsored or financed by any of the agencies listed herein until such vessel has actually ceased to engage in the Cuba trade and has ceased to be under obligation to engage in such trade.

The Secretary of State is to be consulted on the form and content of any assurances given in accordance with this directive. If any assurance given in accordance with this directive is determined to be untrue or has not been complied with, all ships owned or controlled by persons making such assurance may be declared ineligible for the carriage of cargo sponsored or financed by any of the agencies listed herein.

/s/

McGeorge Bundy