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Some Comments on the Relations between Cuba and the EU

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Some Comments on the Relations between Cuba and the EU¹

Karl Buck

1. This article, based on twenty years of experience with the issue in the EU Council of Ministers, gives a short overview of the evolution of relations, major events, chances and obstacles. I consider such an effort necessary since recently, from various political backgrounds not just in Cuba, statements are made which in my view are based on incorrect or incomplete knowledge, or on ideological considerations which do the EU policy no justice. Politics are politics – but distorting facts is never a good base.

In particular, I contest affirmations by “friends of Cuba” like:

- the EU is “dependent of the US policy towards Cuba”
- the EU has “accepted the interventionist US policy in favour of the transatlantic partnership”
- the Common Position of the EU tries to force system change in Cuba”²

Ideological positions are always more at ease with black-and white visions than with the usually more complex real world which requests more thorough analysis but offers also more possible ways out of challenges. At times, Cuban authorities were more pragmatic than their followers in Europe or LA.

2. Besides ideological “escaramuzas”, it has become fashionable, by a strange coalition of Cuban and EU hardliners as well as by some European analysts³ favourable to closer relations (les extrêmes se touchent), to (mis-)interpret the Common Position of the EU (hereafter referred to as CP) as essentially “conditioning”, an obstacle, inappropriate or superfluous. Cuba and its “frontline NGOs”, but also such analysts meanwhile request the elimination of the CP as condition for or step towards negotiations on contractual relations. I shall deal with this at the end.

3. Mainly due to Cuba’s geographical situation, relations and cooperation with Cuba have particular features and fate, with considerable political influence. A Cuba situated in the Indian Ocean would probably stand a chance to be seen as one of the EU’s less problematic ACP partners. The US policy towards Cuba is important, but the transatlantic partnership has not prevented the EU or most of its member states (MS) to make their own analysis, and to act in accordance with their own norms, interests and capacities. Divergent national positions are simply to be expected in a community of 27 with considerably varying political systems and historical background. Assessment and changes of US policies show similar divergence and evolution, including positions and influence of the Cuban exile community: economic interests forced President G.W. Bush to allow US agricultural exports to Cuba.

The collapse of communism had dramatic impact on Cuba’s economy and daily life. Soviet aid to Cuba between 1960 and 1990 is estimated at 65 billion \$. It was mostly free, and only 0.6% of loans was repaid. The Club of Paris calculates the Cuban debt at 380% of its exports, an

¹ Disclaimer: From 1990- 2009, the author was in charge of relations with Latin America and Cuba at the EU Council’s General Secretariat. However, the views expressed are purely those of the writer and may not in any circumstances be regarded as stating an official position of the Council.

² All quotes from the brief on Neuber’s contribution in the introductory brochure of the Univ.of Cologne Latif conference 2009, p.23 (publication forthcoming)

³ E.g.Gratius, Susanne, ¿Es la posición común de la UE sobre Cuba una estrategia válida? *FRIDE*,Madrid 2006.

unsustainable situation which cannot simply be blamed on the US embargo policy.⁴ From the early days, Cuba was highly vulnerable and dependent of important external assistance. Thus, humanitarian aid dominated early EU assistance which contrary to US aid is normally given free of political considerations.

The EU has become Cuba's largest trading partner with a third of all trade, almost one half of foreign direct investment and more than half of all tourists coming from Europe. 42% of Cuban exports to developed countries (1.8 billion \$) go to the EU, some 65% of Cuban imports from these (3.5 billion \$) come from Europe. Of course, these figures are changing with the growing presence of countries like Brazil, Venezuela, China etc, but also of the USA (agricultural exports to Cuba of 0.7 billion \$). Spain is the only EU country among the top five trading partners. Spain and the Netherlands (historically important for the Nickel trade) account for 60% of EU trade with Cuba. Ten MS signed an investment protection agreement with Havana. Cuba benefits from the Generalised System of Preferences by which the EU unilaterally grants tax-free access for many products on its market.

4. The Common Position vs. the US Helms-Burton law

EU relations with Cuba are based on the CP adopted by the Council in late 1996; it is a rarely used legal instrument of the CFSP binding all member states⁵. It was adopted by consensus – as all of its consecutive evaluations or related Council conclusions -, but with visible traces of different positions among MS, even before the accession of ex-Communist states.

It is true that the initiative for a CP was launched jointly by Spain under Aznar and US Ambassador Eisensztat,⁶ but the approach in the CP has many fathers and is clearly different from the objectives, tone and means of the US Helms-Burton and related embargo legislation.⁷ Discussions and contacts started earlier, with a letter by Cuban Foreign Minister Robaina in late 1987 suggesting political dialogue. On 30 May 1994, the EU agreed guidelines to engage in a continuing dialogue with all sectors of the Cuban society and Cuban authorities. A Commission communication (see EU Council doc. 8792/95) and EU Council conclusions of 17 July 1995 finally led to Council conclusions on 2 October 1995 (Council doc. 10204/95) “to establish a dialogue with its Cuban interlocutors in order to determine the appropriate framework and level for future relations...” A troika at political directors’ level visited Cuba in November 1995, saw numerous Cuban ministries, the Central Bank, met with Fidel as well as with representatives of the opposition and reported back, at this stage in a rather promising tone. The Madrid European Council of 14-15 December 1995 asked the Commission to present draft negotiating directives for an economic and trade cooperation agreement. On his own, Commissioner Marín went to Cuba trying to harvest further progress. These contacts were not fruitful. Marín felt rebuffed by Fidel and decided not to submit draft negotiating directives to the Council, reduced the so far generous humanitarian aid and took the competence for Cuba out of DG “External relations” and placed it under DG “Development.” Also, the “avioneta-” incident of February 1996 – rumours have it might have been provoked by hardliners on both sides to disturb the process (as happened later again) - made negotiations as planned impossible. However, Marín suggested deepening the

⁴ Debts in convertible currencies were estimated by BIS (2004) at 13.3 billion \$, in non-convertible ones over 22. Figures vary considerably according to the methods. See an overall economic picture by Mesa Lago, Carmelo, *La economía cubana en la encrucijada*, in: *Boletín Elcano*, Madrid (2008), vol.102.

⁵ *Official Journal of the EU*, series L nr.322, 12.12.1996,p.1

⁶ See the interesting comparison in *El País*, 17.11.1996.

⁷ On EU and US positions and their evolution see Joaquín Roy (Prof. EU Center of Excellence, University of Miami) and his numerous publications; recently: *The Cuban Revolution (1959-2009): Relations with Spain, the EU, and the US*. 2009. Among the many critical assessments of the “Helms-Burton Act” of 1996 and the US trade embargo since 1962, see also Erikson, Daniel, *The Cuba Wars*, 2009; Colvin, Jake, *The case for a new Cuba policy*, 2009; Perl, Shoshana, *Transatlantic dispute settlement: two-level games and the Helms-Burton Act*. LSE Ph.D. June 2005

dialogue (see Council doc. 7500/96). The European Council of 21-22 June 1996 in Florence regretted that the political circumstances in Cuba had not allowed to advance relations, but expressed hope the necessary conditions would be created. The next European Council in Dublin, on 13-14 December 1996, right after the adoption of the CP, expressed its wish to see progress towards a *peaceful* transition to pluralist democracy, respect for human rights and fundamental freedoms in Cuba, as well as economic policies to bring about a sustainable recovery and an improvement in the living standards of the Cuban people. It supported a “result-oriented dialogue” and considered the negotiation of a cooperation agreement possible. “Any agreement would, in accordance with EU practice, contain a suspension clause in the event of serious breach of the human rights provisions.”

Hence, critique -yes, but no threat, no singling out of Cuba (except by the instrument of a CP), plus offer to support efforts. It was the unsatisfactory situation in Cuba which led to the CP. This is not the place to extend on all aspects of the US policy meant to isolate and bring down the Cuban leadership, and force system and regime change notably by economic embargo measures. The EU considers such legislation as bilateral matter between the USA and Cuba, but it explicitly opted for “constructive engagement” and like nearly all countries of the world, it has strongly reacted against aspects which the EU considers incompatible with international norms, including through consistent voting in the UNGA on anti-Helms-Burton resolutions.

Inter alia, Helms-Burton tries to prevent any trade with Cuba by firms of whatever origin doing business in the US, and allows US citizens to file lawsuits for damages against foreign companies investing in confiscated US (including Cuban-American) property in Cuba. Absurdities went to threatening hotel chains which hosted Cuban delegations at international conferences. Entry to the US of key executives and shareholders of such companies is refused or sanctioned.

The EU considers these measures as contrary to US obligations under the WTO Agreements, and notably rejects their extraterritorial effects in contradiction with international law. To resolve the dispute, at the 18 May 1998 EU-US Summit in London, the EU and the US reached a precarious understanding:

The EU suspends its WTO case, as long as the US abstain from taking action against EU companies or individuals, through waivers from Title IV (visa restrictions) and Title III (waivers from lawsuits against “trafficking in expropriated property”). Successive waivers from Title III have regularly been granted, but neither a permanent waiver nor waivers from Title IV. Resistance in Congress was too strong. At times European firms were indeed victims of financial sanctions by US authorities, most of them did not want to raise the issue with the European Commission, though the EU had immediately adopted legislative measures to protect its firms and citizens and even prohibiting them to obey to US sanctions.⁸ Some took actions: Austria intervened successfully when the US tried to force the BAWAG bank to cancel accounts of Cuban embassies.

The EU reserves its right to re-launch the WTO procedure

Besides critique of some aspects of the internal situation in Cuba⁹, the CP is a typical instruments of a soft power which has no Cuban diaspora with strong political influence as in the USA: prevalence of explicit non-interference, instead of threats an offer of dialogue and cooperation. Sanctions are not really part of the EU’s political culture, different interests among 27 MS make

⁸ Joint action and Regulation (EC) No.2271/96 adopted by the Council on 22 November 1996 that is before the CP.

⁹ See the former head of the Commission’s office in Cuba, Kühn von Burgsdorff, Sven, *Promoting democracy and respect for human rights in authoritarian regimes- lessons for the CFSP policy of the EU*, EU fellow 2008 at the U. of Miami.

such decisions difficult. Anyway, history shows that most sanctions have little effect.¹⁰ And, to use a pun: whereas the US demonised Cuba as part of an “axis of evil”, the EU’s approach towards difficult partners is more to get “access to evil”.

To interpret a text, it is always best to read its essential messages and terms. For the CP, these are (italics added):

1. “The objective of the EU...is to *encourage* a process of transition to pluralist democracy and the respect for human rights and fundamental freedoms, as well as a sustainable recovery and improvement in the living standards of the Cuban people. A transition would most likely be *peaceful* if the present regime were itself to initiate or permit such a process. It is *not the policy of the European Union to try to bring about change by coercive measures* with the effect of increasing the economic hardship of the Cuban people.

2....The EU considers that *full* cooperation with Cuba will depend upon improvements in human rights and political freedom...

3. In order to *facilitate peaceful change* in Cuba, the EU

a) will intensify the present dialogue with the Cuban authorities and with all sectors of Cuban society...

c) will *encourage* the reform of internal legislation concerning political and civil rights....

d) will evaluate developments in Cuban internal and foreign affairs according to the *same standards* that apply to EU relations with other countries...

e) will *remain willing in the meantime...to provide ad hoc humanitarian aid...*

f) will *remain willing... also to carry out focused economic cooperation actions*”

The EU commitments under point 3 of the CP are better characterised as aims-oriented than as “conditional”. While one may understand that Cuba does not appreciate the critique of some internal aspects, this text is a far cry from “interference” and clearly not of the same nature as the US approach. There are clear *offers* of dialogue and cooperation: in particular, only *full* cooperation is linked to, some say “conditioned by”, reforms and advance in Cuba - and what is less than “full” cooperation is a matter of definition. Chaotic changes were never on the agenda.¹¹ The CP also avoids for example the term “market economy” and refers in a more neutral way to (indispensable) economic reforms. Of course, the EU insisted regularly on granting civil liberties and releasing all political prisoners.

Dialogue turned out to be difficult. In 1999, a new troika mission was suggested, but postponed to march 2000 after the Ibero-American Summit. This mission was cancelled by Cuba in the very last moment. It took Belgium’s traditionally good contacts and skills to renew: Vice-president and Foreign Minister Louis Michel held exploratory talks in August 2001; at contacts in November between the EU Troika and Cuban FM Perez Roque in the margin of UNGA in New York, agreement to resume dialogue was reached. The Belgian Secretary General of Foreign Affairs led a troika to Havana for talks on 1-2 December. Both sides “welcomed an enlarged political dialogue, open and without conditions, in the respect of respective differences, and future-oriented.” A ministerial meeting was held on 4 December 2002 in Copenhagen. The events in spring 2003 put an end to dialogue.

¹⁰ General assessment on EU sanctions policy in my EU Council colleague’s excellent study Hazelzet, Hadewijch, *Carrots or sticks? EU and US reactions to human rights violations (1989-2001)*, European University Institute PH.D. dissertation, Fiesole 2001; and Kreutz, Joakim, *Hard measures by a soft power? Sanctions policy of the EU 1981-2004*, Bonn International Centre for Conversion paper 45, 2005

¹¹ Commissioner Patten stated that promoting democracy is not like making instant coffee nor can it be imposed by force. Commissioner Ferrero-Waldner underlined it takes patience, and genuine transition can only come from within. Quoted in: Criado Alonso, F., La política de democratización del la UE y el caso de Cuba, in: *Revista de estudios políticos*, (142:2008), p.19f.

In bilateral ministerial contacts in 2005, FM Perez Roque suggested to replace the CP by such political dialogue as first step towards an agreement – it was not taken up seriously.

5. Cuba and the EU-ACP framework

Cuba had been observer to the ACP group (Africa, Caribbean, Pacific) since 1998. On 14 December 2000, the ACP Council of Ministers accepted Cuba as 78th member of the ACP group, the first not to be also party to the ACP-EU agreements. The ACP supported a Cuban demand to adhere to the EU-ACP Cotonou agreement. This would have been somewhat in line with Commissioner Marín's decision to place Cuba under DG DEV. Yet, accession must be approved by the ACP-EC Council of Ministers by common agreement,¹² and the EU Council acts by unanimity. Some MS blocked this, arguing that Cuba does not fulfil the Human Rights and democracy clause of the agreement; some observers asked if all other ACP do, and if Cuba does not stand out at least as concerns access of citizens to health and education? EU representatives have indeed recognised this in their contacts. Also, the procedures in the agreement's art. 9 and 96 procedures are only applicable once it is a member. Cuba had insisted that the EU establish no pre-conditions to a possible request to accession. It withdrew its candidature in April, faced with opposition by some MS.

End of 2002, Cuba requested to assist the EU-ACP negotiations as an observer, again with an intention to become member. Again, no unanimity within the EU Council who however "had no objections" to Cuba participating, as special guest of the ACP presidency at the EU-ACP Council June 2002 in the Dominican Republic, as well as at the opening of negotiations in September.

These may have been missed occasions to integrate Cuba in a framework of the EU with similar countries, and an example of inconsistency: in the 14th evaluation of the CP in June 2004, the Council reiterated the EU's constructive engagement and rejected *isolation* of Cuba since it would not contribute to this effort. (Council doc.10183/04). Cuba continued to be the only LAC country with which the EU has no contractual relations. But from the start of EU-LAC summits 1999, it participated; Fidel himself spoke at the first such summit in Rio (and respected the 7 minutes granted for each head of state and government).

6. EU cooperation with Cuba until 2003

The Common Position sets as a major objective of the EU to encourage sustainable recovery and improvement in the living standards of the Cuban people.

a) Bases, principles and procedures of EU cooperation¹³

EU cooperation has undergone changes to adapt to new situations and challenges, and to improve coordination with MS and international donors. According to art.177 ECT, the European Community (EC) shall foster sustainable economic and social development, smooth and gradual integration into the world economy and support the campaigns against poverty, and contribute to

¹² See art. 94 and Art. 15.3 of Cotonou, as well as Art. 3 of the Rules of Procedure of the ACP-EC Council of Ministers (O.J. L 43 of 14.2.2001, p.20)

¹³ See for more details: European Commission, *EC-LA development cooperation guide 2008-09*; EP, *The effectiveness of EU development cooperation with LA- assessment and perspectives*. PE 385.570, April 2008; *Joint statement by the Council and the Representatives of the Governments of the MS meeting within the Council, the EP and the Commission on EU Development Policy- "The European Consensus"*, Council doc. 14820/05; the various annual reports submitted by the Commission, e.g. in Council doc. 11863/09, information on aid for trade in Council doc. 8695/09, or on non-state actors' involvement in EC development assistance (Council doc. 10415/09). Such documents are in principle accessible, in accordance with the EU's transparency regulation (EC) no.1049/2001, in *Official Journal* L145 of 31.5.2001, which the EUCJ interprets in a very liberal way, including classified information.

consolidating democracy and the rule of law, and respect of human rights and fundamental freedoms. Main guidelines are also the UN Millennium Development Goals. The EU as a whole is the first global donor with 57% of official development aid flows. The European Commission is mandated to manage the EC assistance budget. Programming is done in close collaboration with beneficiary countries and regions, which retain full sovereignty in co-deciding on priorities and funding; the principle of their “ownership” of the whole process is essential. MS are involved, they must agree to projects above a threshold with qualified majority, and the European Parliament plays a decisive role in the fixing of overall funds for development assistance, in discussing priorities and in the audit procedure. The process is thus subject to complex and lengthy decision, accountability and transparency rules – not comparable for example to personal, spontaneous decisions on aid Venezuela’s President Chavez can give on the spot e.g. in Bolivia’s regions.

b) EU cooperation with Cuba until 2002¹⁴

Between 1993 and 2002, the EC alone financed € 145 million of assistance measures in Cuba, with 90 million in humanitarian aid. In the mid-90’s, Cuba asked for considerable EU support to the limited reforms which Raúl pushed through. Since 1998 the budget lines “Co-financing of NGOs” and “Economic co-operation with Latin American countries” became more used, with 18.9 M€ and 14.8 M€ 1998-2000. Successful economic reform and enhanced trade and investment flows depend on an efficiently operating public service both at central and local levels. Thus, EU economic co-operation contributed to labour laws, fiscal reforms, and financial management, introducing international accountancy standards, strengthening the financial sector through capacity building at Central Bank and commercial bank level, to enhanced business administration skills of Cuban executives and to contacts between European and Cuban firms. NGOs supported projects and partners in sectors like agriculture, health and education. The food security programme provided funds of some 20 M€, reaching half a million people.

Assistance covered also participation in programmes like INCO (network of research institutes), ALFA (network of universities), URBAL (network of cities) and AL-INVEST, and the @lis programme to support ICT development in LA, as well as urban waste management and a regional Caribbean project on fight against swine fever.

Bilateral MS co-operation focused on support in the social sector, health, education and scientific co-operation, social housing, urban and rural development, environmental protection, humanitarian and food aid, plus public administration and trade and investment promotion, cultural activities and scholarships.

EU development assistance was thus widespread, even beyond sectors covered by the CP. A large amount of both bilateral and Community co-operation was channelled through international NGOs. They had developed particular know how and built up local partner structures. Yet, they reported problems in identifying relatively independent and competent actors amongst Cuba’s infant civil society organisations. Working with local partners became very difficult after 2003.

7. The rupture in 2003

From 2003 till early 2005, the legal CP was complemented by a political decision with rather mild, diplomatic “measures.” After the summary, arbitrary and severe sentences in spring 2003 of

¹⁴ The following is based on a number of internal papers of the EU-Commission or the EU Council, which in principle should also be accessible, such as Council doc. 10736/96 or Council AMLAT group meeting documents 117/05, and 14/06; some of these are even found on the Commission’s website.

75 dissidents to 1800 years imprisonment for simply expressing their different political ideas and claiming certain constitutional rights (which does not justify the term “mercenaries” usually reserved for armed aggressors), on 5 June 2003 the EU Council decided to :

- Limit (i.e. not *exclude*) bilateral high-level governmental visits
- Reduce the profile (level) of member states' participation in cultural events
- invite Cuban dissidents at national days celebrations. (Council doc. 9661/03, p.12)

These measures were adopted without considering Clausewitz' warning, “before entering in a conflict, consider how and what to get out of it.”¹⁵ Fidel immediately retaliated and announced countermeasures: freezing any contact with Cuban authorities for those embassies who would invite the opposition to their National Days. The “cocktail party war” brought embassies in an embarrassing situation and paralysed their activities.

The Council's 13th evaluation of the CP adopted shortly after, stated “Funding should be channelled through governmental institutions *only* if a direct benefit for the population or meaningful contribution towards economic opening and reform in Cuba is ensured” (Council doc.11401/03) . Fidel Castro (quoted to have said: “tanto fastidio por tan poca plata”) reacted by unilaterally suspending practically all aid managed directly from the EU (Commission and MS), thus interrupting some 22 projects from the EC alone. Only aid channelled through UN agencies , foundations, NGOs, solidarity movements, autonomous regions, local governments, private companies, etc. would be able to continue – if Havana so accepted. Project visits were no longer possible. Havana refused to negotiate with the EU any development co-operation aspects and only accepted to deal with NGOs. But it became nearly impossible to find NGOs daring to act or fulfilling EU legal norms for cooperation.

In reality, very few EU countries known for more “cooperative behaviour” were allowed to continue. A major victim of Cuban authorities was the EC-DEADE project with MBA courses through the University of Havana. It was one of the most successful projects that the Commission had developed in Cuba, managed by a consortium of European Business Schools (Barcelona, Paris, London, Madrid, Lisbon, Milan and Copenhagen). Its cancellation was likely to have an effect on Cuba alone...Already in the 1990's , Cuba had radically and without pre-warning changed its position e.g.on cooperating with European firms, by ending contracts with smaller firms. Such decisions are of course a sovereign right of a government, but one is entitled to wonder if it is in the interest of its citizens. The projects were the opposite of “injerencia” (interference), they would simply have contributed to the wellbeing of citizens and the improvement of economic and administrative performance.

8. The suspension of the 2003 measures in early 2005

The Cuban “bloqueo” made it very difficult to pursue the objectives of the CP, including interventions on behalf of political prisoners , or to do normal business for which an embassy is established. Thus, following intensive internal discussions, in early 2005 Council unanimously took the political decision to suspend all the measures (Council doc. 5444/1/05 REV1). Council added that at the occasion of high-level visits, the human rights situation and the position of the dissidents will be raised with the Cuban government and civil society, and that meetings with the peaceful opposition *can* be part of high-level visits. (NB. This was, and continues to be at the discretion of visitors)

¹⁵ Habana had first rejected two EU demarches, the first non-public, and reacted with insults and threats; see Council documents 8443/03, 9961/03, 10586/03 and the 13th re-evaluation of the CP on 21 July in 11401/03. Note that a year earlier, Fidel had personally called EU ambassadors for support to Pres. Chavez against the attempted coup in February 2002 (only Aznar had hastily recognised the putschists)

The suspension of the 2003 measures should be reviewed before July 2005, in the light of the evolution towards democratic pluralism and the respect of human rights in Cuba. Council took also note of the conditional release of a limited number of the 75 political prisoners, but continued to urge Cuban authorities to release unconditionally all political prisoners still detained.

The EU also undertook more intense relations with the *peaceful* political opposition and broader layers of civil society in Cuba. A comment is necessary on this cooperation: In some public comments and articles, misplaced emphasis was put on the importance of invitations of dissidents to National Day celebrations. These certainly more visible contacts should not overshadow the many other ways by which the EU holds contacts with the peaceful opposition. EU embassies agreed on guidelines for more regular meetings between their Human Rights Group and dissidents. The fact of these meetings was made public. Embassies would request access to prisons, improve access of dissidents to sources of information, reinforce relations with local independent media and libraries, and invite dissidents to cultural and social events, and to Europe. The EU would insist that Cuban authorities will not prohibit this, as had occurred.

It must be stressed that the EU has always taken a strong stand on the situation in Cuba in the Commission on Human Rights, while it also regularly supported the annual resolution in the UNGA against the US embargo – together with all but 2-3 countries of the world .

9. The failure of a mid- and long-term strategy towards Cuba

Efforts to establish a European “mid and long-term strategy”, as envisaged in the 16th evaluation in June 2006 (Council doc.10210/06) failed and were abandoned in 2007. “Confidential” discussions in the Council working group were regularly leaked to news agencies and Cuba with considerable details, even the same day, and Cuba reacted with threats. In such circumstances it made no sense to proceed. During discussions, two aspects were obvious:

- the essential aims and means of the CP were to be maintained
- like many in the US¹⁶, most in the EU expected no short-term or chaotic, violent evolution, nor made it sense for them to provoke it.

This failed effort can be seen as a reaction to US policy: The Commission for assistance to a free Cuba set up by President George W. Bush had previously made two reports with recommendations for measures in line with tough US positions; the first looked rather like a shopping bag with sometimes absurd details and conclusions.¹⁷

10. The Spanish unilateral initiative and its impact

The CP has been re-evaluated regularly since 1996. EU-internal divergence made this exercise more and more cumbersome, mainly but not only because some of the ex-communist MS are closer to US positions on how to bring about democratic transitions.

N.B: Some analysts tend to overestimate Cuba’s importance for most European governments, others underestimate the need by some to take into account internal pressure to

¹⁶ Even “tougher” ministries like Defence and Homeland Security spoke publicly out against evolutions which might lead to (another) mass exodus of Cubans to the US; note that at other occasions , numerous criminals ,disabled or disturbed persons were said to be among those allowed to leave Cuba..

¹⁷ The first report was submitted in May 2004, the second in July 2006 . I made résumés of both; the first report included the expected saving of four endangered cave animal species, after “transition”.

do more for the Cuban people. Not only in the USA is Cuba an issue of internal politics. Also, policies are highly influenced by subjective interpretations of dramatic national events like system change and transition. Some new EU member states claimed that “their” transition process from communism and the US role in it alone were the path to follow (read: privileging civil society contacts over official ones like Brandt’s Ostpolitik). They were recalled that others like Spain, Greece and Portugal had made their own, each very different and successful transition. As a former Cuban official of the Ministry of the Interior said: “historical analogies are an expression of intellectual laziness. If you want to analyze Castro, you analyze Castro in the context of his own unique features... It’s wrong to compare him to... Stalin.”¹⁸

There is another problem: the EU’s credibility had suffered from inconsistent behaviour of some MS which had hard positions on the EU level, but maintained well-functioning bilateral trade relations (e.g. the Netherlands, second trade partner among the EU). Also, at times hardliners on both sides behaved in a way to provoke rupture.

Madrid was certainly frustrated with the quarrel at EU level and looked for alternatives. When a Czech Foreign Minister twice publicly denounced the Council conclusions as somehow irrelevant for his country’s policies – shortly after having them approved -, Spain chose to go alone, a calculated risk. Madrid did not abandon the principles of the CP, but refused to have it mentioned. The Council conclusions on Cuba adopted in June 2007 did no longer refer to the CP¹⁹, and Cuba was invited to come to Brussels to sound out future steps. (Council doc. 10758/1/07 REV1).

As the Spanish unilateral approach has been discussed elsewhere, I shall not deal with it here.²⁰ The moment had come when some called the CP “a common position as expression on no common policies.”²¹ I still consider this overstated, the essentials are pursued by all, with different emphasis. Many are not unhappy with Spain going ahead.

10. The way towards the resumption of dialogue and cooperation

When in 2007 Fidel stepped back and put Raul in place, both sides gave signals that relations could resume. However, self-confident Cuba²² at first put forward various “conditions”. Clearing the way from unnecessary propagandistic weeds has certainly helped preparing a less loaded terrain for real discussions. Some “conditions” were abandoned and “obstacles” removed through patient but clear informal dialogue by some EU officials undoing certain arguments as unjustified, unhelpful, double-edged or arbitrary. For example, “respeto” must be valid for both sides, insulting the EU as “lacayo” of the US is unhelpful. Or, when the EU was accused of double standards in human rights by singling out Cuba, reference was made to the farce some countries including Cuba made of the UN Council on Human Rights, or to similar “double standards” by the absence of e.g. a Cuban UN resolution against the Zimbabwean regime’s destroying its country’s potential and starving its people.

Many analysts, parliamentarians, journalists and even some Commissioners have come to “copy” Cuba in calling the 2003 diplomatic measures “sanctions”. A sober look shows that it is

¹⁸ Quoted in Erikson, Dan, *The Cuba wars*. 2009, p.302

¹⁹ By compromise it was maintained in the non-public PSC minutes

²⁰ Roy (2009)

²¹ Criado, p. 25.

²² Cuba has reliable international support. In 120 of the 192 UN member states, Cuba has diplomatic representation, 103 embassies are accredited in Havana. It was elected member of the UN Council on Human Rights, presidency of the 118-nation non-aligned movement, as well as member of the RIO Group. LA countries with little exceptions are rather unwilling to engage in concrete discussions on improving the internal situation in Cuba. Its support to decolonisation in Africa and external aid are legend in developing countries: more than 30 000 Cuban medical staff are present in 72 countries, 20 000 foreign medical students are trained at no charge in Cuba. Within Venezuelan funds, Cuban doctors carried out 750 000 free operations abroad. Keeping a blind eye on this is counterproductive.

normal practice for Cuban embassies in our countries to invite also fundamental opponents to Western democracies or capitalism to receptions -without any protest by EU. By the way, in a pragmatic way Cubans apply different standards in this: the high US official Bisa Williams recently had no problem meeting with opponents - this was simply “not negotiable”-, whereas EU politicians and officials are requested to abstain from such actions. The days are forgotten when Fidel invited the first EU Troika to lunch in 1995, immediately after their meeting with the opposition. Also, Canada – whose position is similar to the EU - could open various information centres on the island, contrary to the EU or most MS.

Cuba insisted that the already suspended 2003 measures be definitely eliminated. This was indeed agreed in the Council conclusions of mid- 2008 I admit against my expectations; I saw the suspended measures as a “political zombie” which could neither die nor live. Cuba knew that the suspended measures could never be revived! It is important to note that different Council procedures apply: to modify or eliminate the *legal* instrument “Common Position”, the necessary “*unanimity*” can be reached by “*constructive abstention*”²³. For the 2003 measures, which are a *political* decision, Council needs *consensus*, all must approve any change. Thus, the more far-reaching CP could, in principle, be more easily modified than the limited 2003 measures.

As requested in the 2007 conclusions, preliminary discussions had taken place, also at Ministerial level and at various places, between the EU, some MS and Cuba. Council Conclusions of 23 June 2008 reiterated “the right of the Cuban citizens to decide independently about their future.” The Council “agreed to the lifting of the already suspended 2003 measures as a means to facilitate the political dialogue process and enable the full use of the instruments of the 1996 Common Position.” Dialogue “should include the whole range of potential fields of cooperation including the political, human rights, economic, scientific and cultural spheres”. As part of a very difficult compromise, some MS had added, in a ministers-only session, “... the Council will proceed in June 2009 to an evaluation of its relations with Cuba including the effectiveness of the political dialogue process. Following that date, the dialogue will continue *if* the Council decides that it has been effective, taking into account in particular the elements contained in para 2 above.”²⁴. This was *de facto a veto* possibility: a single MS could have stopped continuation of dialogue!

Following contacts at ministerial level with the EU Troika and visits by Commissioners L.Michel and later K.de Gucht (both Belgian), resumption of cooperation was agreed in 2008, envisaging 30-40 Mio. Euros. Raúl again acted in a more pragmatic way than Fidel, he saw necessity of some economic reforms and advantage in cooperation. Although a tropical country, Cuba needs to import 80% of its food, and compares badly with a near desert state like Israel. In addition, cooperation shall also cover now infrastructure reconstruction, disaster relief, and support other reforms to improve efficiency and delivery. Both sides also agreed on cooperation in research and technology – a field where even center-right Länder governments like Bavaria saw advantage: it concluded cooperation agreements of more than 300 million Euros

²³ In another context I experienced legal “unanimity” by one MS saying “yes”, and the other 14 abstaining.

²⁴ The text in para 2 requested Cuba to “improve effectively the human rights situation by, inter alia, releasing unconditionally all political prisoners... This remains a key priority for the EU. It also calls on the Cuban Government to facilitate access of international humanitarian organizations to Cuban prisons. The Council further called upon the Cuban authorities to ratify and implement the recently signed International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights and urged again the Cuban Government to make real the commitment to human rights it has demonstrated through the signing of these two human rights covenants...”

with the rather well developed Cuban research capacities, notably in biotech and medical technology.

Finally, the possibility of triangular cooperation in third countries is explicitly mentioned. It could add value, but some may see it difficult to strengthen Cuba's image abroad with EU money.

Emergency and humanitarian assistance of €4 million were immediately made after hurricanes Gustav and Ike, and Paloma²⁵. An additional amount of €36 million was committed in 2009 for cooperation in the fields of post-hurricane reconstruction and rehabilitation, food security, culture, climate change, renewable energy and business management. Cooperation on the management of prison systems, to which Foreign Minister F. Perez Roque had (somewhat surprisingly) been open, was shortly after flatly rejected by his successor.²⁶

11. Which way ahead?

As said above, it has become fashionable, by Cuban and EU hardliners as well as by some European analysts favourable²⁷ to closer relations, to (mis-)interpret the CP as essentially "conditioning", an obstacle or superfluous. Cuba now requests the elimination of the CP as "injerencia", before negotiations on contractual relations.

Sine ira et studio: an elimination of the CP probably does no harm in itself. But let's be clear: it does not avoid upcoming problems which could arise in negotiations on contractual relations. Consider three cases:

- a simple trade agreement would neither fulfil mutual expectations nor correspond to the real potential of relations.
- for a more elaborate agreement covering dialogue, cooperation, and trade(though probably not free trade), usually the EU must insist on a number of clauses some of which Cuba is unlikely to enter into or to fulfil. Might the EU be flexible notably on the usual obligatory clause on democracy and human rights as in EU discussions on South-Correa? Changing this for Cuba is unlikely; the EU Council would need unanimity. And: EU trade interests in Cuba are not comparable to those in South Correa.
- coverage by the EU's GSP- *Plus* scheme? The GSP scheme was unilaterally granted and thus did not offer long-term security for investors, and was not the contractual scheme Cuba looked for. Again, in GSP-*Plus* there would be problems with conditionality by the EU insisting on ratification of various international conventions by beneficiary countries.

Yet, in the light of unexpected EU flexibility on the 2003 measures, nothing can be excluded, and interim or gradual solutions may be imaginable. As concerns an agreement, M. Perez-Stable comments: "... Vietnam accepted the democratic clause, taking in stride occasional reprove on human rights and even making some changes ...Ordinary Vietnamese have greatly benefited while economic interests, not ideological crusades, guide foreign policy. Cuba can't or won't do the same. Unlike Vietnam, Cuba offers little in terms of trade and investment." She also hints that insulting President Obama or the EU may win plaudits in Caracas but not in too many other quarters.²⁸

For the record: There was a rare moment in 2009 when all member states from both ends might have wished to abolish the CP: as said, in the 2008 Council conclusions, hardline member states had succeeded in entering the possibility of a veto on the continuation of dialogue with Cuba in 2009. In a somewhat unexpected move, in 2009 experts made clear that

²⁵ In October 2008, Cuba relaunched discussions on cooperation with MS, but rejected humanitarian aid by the Czech Republic, with which relations are particularly sour. It is however noteworthy that Prague exerted its Council presidency in the first semester 2009 with laudable neutrality.

²⁶ He also refused to accept an EU list of political prisoners in poor health.

²⁷ out of various articles, see Gratius, 2006.

²⁸ Perez-Stable, *ibid*.

conditioning or ending political dialogue with Cuban authorities is inconsistent with the CP – it would need to be changed or eliminated to do so. Thus even hardliners might have seen advantage in abolishing the CP- but such considerations need time to sink in.

12. Final comments

Raúl Castro moves in a so far stable international and internal situation, but there is irrepressible need for deep economic reforms, to start with. With all their courage, the Cuban opposition is still divided, atomised, infiltrated and cannot be compared to Solidarnosc or Charter 77 etc; there are various protagonists, but no Lech Walesa for example.

Partisans of a tougher, “conditional” line oversee that the EU maintains full relations – often for economic self-interest – with some countries which do by no means better.²⁹ By a CP, the EU does indeed single out Cuba, and this makes it easy for Havana to denounce such a policy together with many countries which reject moral(istic), norm-setting efforts by the West as interference with their national sovereignty. On the other hand: does the Cuban leadership its country a favour by looking for the worst possible interpretation of a text or situation to create a Manichean situation, or by setting always new “obstacles” or “conditions”?

It is common wisdom that neither the US embargo policy nor the EU’s critical engagement has led to any substantial change. Future “mutual irrelevance” at EU-Cuba level and “dedramatisation by bilateralisation” are possible evolutions. Governments in the EU or the US are not keen to jeopardise political support they may need on other policies, by controversial change in policies towards Cuba. There still seems considerable space for interpretation and executive decision in the US, but for both the US and the EU, and possibly even LA countries, there are “limits of constructive engagement” in Cuba for the EU.³⁰

The Common Position’s fate is *mostly* in Cuba’s hands, maybe even “exclusively”, as Chancellor Merkel said to Zapatero³¹ following some Cuban moves which Berlin considered unfriendly . “Cuba is not exactly a top EU priority. Cuba nonetheless struts around with an illusory sense of self-importance.”³² The 2009 conclusions on Cuba were marked by anger about lack of reforms. Cuba has international support , but it is also weak by depending on one major source, Venezuela’s President Chavez, who supports Cuba with some 2 billion \$ per year, partially in exchange for medical and educational services.³³

Finally, Cubans’ nationalist feelings -maybe more than political convictions- are an important fact to be taken into account for any approach; but so is generational change: the majority of Cubans in both Miami and on the island are too young to have reminiscence of the glorious days of revolution, or any feelings of reconquista resp. irredentismo.

²⁹ US historian and ex- political advisor Arthur Schlesinger, “La baie des cochons-retour sur un échec parfait”, in: *Le Monde-Hors-série Archives* (Février-mars 2008),p.8f.

³⁰ Erikson, Dan, Europe’s Cuba problem- the limits of constructive engagement, *Inter-American Dialogue* Sept. 15, 2009. However, this article is not at ease: various recommendations are already reality, others contradict each other or seem unrealistic.

³¹ Quoted in Pérez-Stable, Marifeli, Europe might take another step back, *Miami Herald* Feb.11, 2010). The author fully supports critical engagement!

³² Ibid.

³³ China follows national interests more than ideological ones. However, without fanfare, Cuba’s Central Bank listed as “dry runs” two bonds of €400 and 200 million at the London Stock exchange in 2006/07; for more see Morris, Emily, Cuba’s new relationship with foreign capital: economic policy-making since 1990, *Journal of LA Studies*(2008), vol.40, p.769-792. China, Brazil, Iran and more offered credit lines (Lauper, Richard, A revolution to repair, *Financial Times* August 19,2008,p.7)- a reason more to reject the recent Cuban term of an US-“bloqueo” which would imply successful full-blown isolation as during the missile crisis ; “embargo” is adequate. Meanwhile analysts question Cuba’s “exceptionality”, see Kapcia, Antoni, Does Cuba fit yet or is it still ‘exceptional’?, *Journal of LA Studies*(2008), vol.40, p.627-650, and Hoffmann,Bert and Whitehead, Laurence ,(eds), *Debating Cuban exceptionalism*. (2008) London.

To conclude: the EU is aware that cooperation with countries like Cuba can be interpreted as stabilising the authorities - but we trust that economic development, influx of money, goods, and ideas does have a long-term impact favouring well-being, pluralism and a more democratic evolution.

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