

110TH CONGRESS
1ST SESSION

H. R. 1026

To facilitate the sale of United States agricultural products to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2007

Mr. MORAN of Kansas (for himself, Mrs. EMERSON, Ms. HERSETH, and Mr. ROSS) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To facilitate the sale of United States agricultural products to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Agricultural Export
5 Facilitation Act of 2007”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) The export sector of United States agri-
5 culture makes an important positive contribution to
6 this country's trade balance.

7 (2) According to the United States Department
8 of Agriculture, Foreign Agricultural Service, the
9 total value of United States exports of agricultural
10 products shipped to Cuba since 2000 when such
11 sales were first authorized by Congress is approxi-
12 mately \$1,426,300,000, excluding transportation,
13 port fees, and insurance costs beyond the port of ex-
14 portation. In December 2001, Cuba purchased ap-
15 proximately \$4,600,000 in food and agricultural
16 products. In 2002, Cuba purchased approximately
17 \$139,800,000 in food and agricultural products. In
18 2003, Cuba purchased approximately \$247,600,000
19 in food and agricultural products. In 2004, Cuba
20 purchased approximately \$383,900,000 in food and
21 agricultural products. In 2005, Cuba purchased ap-
22 proximately \$346,000,000 in food and agricultural
23 products. Cuba is therefore an important source of
24 revenue for United States agriculture and its affili-
25 ated industries, such as manufacturers and distribu-
26 tors of value-added food products.

1 (3) To be competitive in sales to Cuban pur-
2 chasers, United States exporters of agricultural
3 products and their representatives, including rep-
4 resentatives of United States air or sea carriers,
5 ports, and shippers, must have ready and reliable
6 physical access to Cuba. Such access is currently un-
7 certain because, under existing regulations, United
8 States exporters and their representatives must
9 apply for and receive special Department of the
10 Treasury licenses to travel to Cuba to engage in
11 sales-related activities. The issuance of such licenses
12 is subject to both administrative delays and periodic
13 denials. A blanket statutory authorization for sales
14 and transport-related travel to Cuba by United
15 States exporters will remove the current bureau-
16 cratic impediment to agricultural product sales en-
17 dorsed by Congress when it passed the Trade Sanc-
18 tions Reform and Export Enhancement Act of 2000.

19 (4) On many occasions visas to enter the
20 United States have been delayed and often denied to
21 prospective Cuban purchasers of products authorized
22 under the Trade Sanctions Reform and Export En-
23 hancement Act of 2000. The result has been that
24 family farmers and other small producers and dis-
25 tributors of agricultural products who lack the re-

1 sources to fund sales delegations to Cuba have been
2 denied access to potential purchasers in that coun-
3 try. A simple solution is to issue visas to Cuban na-
4 tionals who demonstrate an itinerary of meetings
5 with prospective United States exporters of products
6 authorized under the Trade Sanctions Reform and
7 Export Enhancement Act of 2000. In addition, visas
8 should be issued to Cuban phytosanitary inspectors
9 who require entry into the United States to conduct
10 on-premise inspections of production and processing
11 facilities and the products of potential United States
12 exporters.

13 (5) The Trade Sanctions Reform and Export
14 Enhancement Act of 2000 requires “payment of
15 cash in advance” for United States agricultural ex-
16 ports to Cuba. Some Federal agencies responsible
17 for the implementation of the Trade Sanctions Re-
18 form and Export Enhancement Act of 2000 have ex-
19 pressed the view that “cash in advance” requires
20 that payment be received by a United States ex-
21 porter in advance of shipment of goods to Cuba. In-
22 deed, in late 2004 payments due United States ex-
23 porters from purchasers in Cuba were frozen in
24 United States banks while the terms of those pay-
25 ments were reviewed unnecessarily. This action by

1 the Department of the Treasury has created a cli-
2 mate of commercial uncertainty that has inhibited
3 agricultural sales to Cuba under the Trade Sanc-
4 tions Reform and Export Enhancement Act of 2000.

5 (6) There is nothing in either the Trade Sanc-
6 tions Reform and Export Enhancement Act of 2000
7 itself or its legislative history to support the view
8 that Congress intended payment to be made in ad-
9 vance of the shipment of goods from the United
10 States to Cuba. It was and is the intent of Congress
11 that a seller of a product authorized under the
12 Trade Sanctions Reform and Export Enhancement
13 Act of 2000 receive payment only before a Cuban
14 purchaser takes physical possession of that product.

15 (7) At present it is the policy of the United
16 States Government to prohibit direct payment be-
17 tween Cuban and United States financial institu-
18 tions. As a result, Cuban purchasers of products au-
19 thorized under the Trade Sanctions Reform and Ex-
20 port Enhancement Act of 2000 must route their
21 payments through third country banks that charge
22 a fee for this service. Allowing direct payments be-
23 tween Cuban and United States financial institu-
24 tions will permit the United States exporters to re-
25 ceive payment directly to their financial institutions

1 within hours instead of days and will eliminate an
 2 unnecessary transactional fee, thereby allowing
 3 Cuban purchasers to purchase more United States
 4 origin agricultural products.

5 (b) PURPOSE.—The purpose of this Act is to restate
 6 the intent of Congress with respect to the Trade Sanctions
 7 Reform and Export Enhancement Act of 2000, to remove
 8 impediments to present and future sales of United States
 9 agricultural products to Cuba under such Act, and to oth-
 10 erwise facilitate such sales.

11 **SEC. 3. TRAVEL TO CUBA IN CONNECTION WITH AUTHOR-**
 12 **IZED SALES ACTIVITIES UNDER THE TRADE**
 13 **SANCTIONS REFORM AND EXPORT ENHANCE-**
 14 **MENT ACT OF 2000.**

15 Section 910 of the Trade Sanctions Reform and Ex-
 16 port Enhancement Act of 2000 (22 U.S.C. 7209) is
 17 amended by adding at the end the following:

18 “(c) GENERAL LICENSE AUTHORITY FOR TRAVEL-
 19 RELATED EXPENDITURES IN CUBA BY PERSONS ENGAG-
 20 ING IN SALES AND MARKETING ACTIVITIES AND TRANS-
 21 PORTATION ACTIVITIES.—

22 “(1) IN GENERAL.—The Secretary of the
 23 Treasury shall authorize under a general license the
 24 travel-related transactions listed in subsection (c) of
 25 section 515.560 of title 31, Code of Federal Regula-

1 tions, for travel to, from, or within Cuba in connec-
2 tion with—

3 “(A) sales and marketing activities of
4 products pursuant to this Act, including the or-
5 ganization and participation in product exhibi-
6 tions; and

7 “(B) transportation by sea or air of prod-
8 ucts pursuant to this Act.

9 “(2) SALES AND MARKETING ACTIVITIES DE-
10 FINED.—

11 “(A) IN GENERAL.—In paragraph (1), the
12 term ‘sales and marketing activities’ means any
13 activity with respect to travel to, from, or with-
14 in Cuba that is undertaken by a United States
15 person in order to explore the market in that
16 country for the sale of products pursuant to
17 this Act or to engage in sales activities with re-
18 spect to such products.

19 “(B) OTHER DEFINITIONS.—In subpara-
20 graph (A)—

21 “(i) the term ‘sales activities’ includes
22 exhibiting, negotiating, marketing, sur-
23 veying the market, and delivering and serv-
24 icing products pursuant to this Act; and

1 “(ii) the term ‘United States person’
2 includes a full-time employee, executive,
3 sales agent or consultant of a producer,
4 manufacturer, distributor, shipper, United
5 States air or seaport, or a carrier of prod-
6 ucts authorized for sale pursuant to this
7 Act, as well as an exhibitor, representative,
8 or member of a national or State trade or-
9 ganization that promotes the interests of a
10 producer, manufacturer, or distributor of
11 such products.

12 “(3) REGULATIONS.—The Secretary of the
13 Treasury shall promulgate such rules and regula-
14 tions as are necessary to carry out the provisions of
15 this subsection.”.

16 **SEC. 4. ISSUANCE OF VISAS TO CONDUCT ACTIVITIES IN**
17 **ACCORDANCE WITH THE TRADE SANCTIONS**
18 **REFORM AND EXPORT ENHANCEMENT ACT**
19 **OF 2000.**

20 (a) ISSUANCE OF VISAS.—Notwithstanding any other
21 provision of law, in the case of a Cuban national whose
22 itinerary documents an intent to conduct activities, includ-
23 ing phytosanitary inspections, related to purchasing
24 United States agricultural goods under the provisions of
25 the Trade Sanctions Reform and Export Enhancement

1 Act of 2000, a consular officer (as defined in section
2 101(a)(9) of the Immigration and Nationality Act (8
3 U.S.C. 1101(a)(9))) may issue a nonimmigrant visa under
4 section 101(a)(15)(B) of such Act (8 U.S.C.
5 1101(a)(15)(B)) to the national, if the national is not in-
6 admissible to the United States under section 212 of such
7 Act (8 U.S.C. 1182).

8 (b) PERIODIC REPORTS.—

9 (1) IN GENERAL.—Not later than 45 days after
10 the date of enactment of this Act and every 3
11 months thereafter the Secretary of State shall sub-
12 mit to the Committees on Finance, Agriculture, Nu-
13 trition, and Forestry, and Foreign Relations of the
14 Senate and the Committees on Agriculture, Ways
15 and Means, and Foreign Affairs of the House of
16 Representatives a report on the issuance of visas de-
17 scribed in subsection (a).

18 (2) CONTENT OF REPORTS.—Each report shall
19 contain a full description of each application received
20 from a Cuban national to travel to the United States
21 to engage in purchasing activities pursuant to the
22 Trade Sanctions Reform and Export Enhancement
23 Act of 2000 and shall describe the disposition of
24 each such application.

1 **SEC. 5. CLARIFICATION OF PAYMENT TERMS UNDER THE**
2 **TRADE SANCTIONS REFORM AND EXPORT EN-**
3 **HANCEMENT ACT OF 2000.**

4 Section 908(b)(4) of the Trade Sanctions Reform and
5 Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(4))
6 is amended—

7 (1) in subparagraph (B), by striking “and” at
8 the end;

9 (2) in subparagraph (C), by striking the period
10 at the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(D) the term ‘payment of cash in ad-
13 vance’ means, notwithstanding any other provi-
14 sion of law, the payment by the purchaser of an
15 agricultural commodity or product and the re-
16 ceipt of such payment by the seller prior to—

17 “(i) the transfer of title of such com-
18 modity or product to the purchaser; and

19 “(ii) the release of control of such
20 commodity or product to the purchaser.”.

1 **SEC. 6. AUTHORIZATION OF DIRECT TRANSFERS BETWEEN**
2 **CUBAN AND UNITED STATES FINANCIAL IN-**
3 **STITUTIONS UNDER THE TRADE SANCTIONS**
4 **REFORM AND EXPORT ENHANCEMENT ACT**
5 **OF 2000.**

6 Notwithstanding any other provision of law, the
7 President may not restrict direct transfers from a Cuban
8 financial institution to a United States financial institu-
9 tion executed in payment for a product authorized for sale
10 under the Trade Sanctions Reform and Export Enhance-
11 ment Act of 2000 (22 U.S.C. 7201 et seq.).

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