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Cuba: Issues and Actions in the 114th Congress

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Summary

Cuba remains a one-party communist state with a poor record on human rights. The country's political succession in 2006 from the long-ruling Fidel Castro to his brother Raúl was characterized by a remarkable degree of stability. In 2013, Raúl began his second and final five-year term, which is scheduled to end in February 2018, when he would be 86 years of age. Castro has implemented a number of market-oriented economic policy changes over the past several years. An April 2016 Cuban Communist Party congress endorsed the current gradual pace of Cuban economic reform. Few observers expect the government to ease its tight control over the political system. While the government has released most long-term political prisoners, short-term detentions and harassment have increased significantly over the past several years.

U.S. Policy

Congress has played an active role in shaping policy toward Cuba, including the enactment of legislation strengthening and at times easing various U.S. economic sanctions. U.S. policy over the years has consisted largely of isolating Cuba through economic sanctions, while a second policy component has consisted of support measures for the Cuban people, including U.S. government-sponsored broadcasting and support for human rights and democracy projects.

In December 2014, President Obama announced a major shift in U.S. policy toward Cuba, moving away from a sanctions-based policy toward one of engagement and a normalization of relations. The President maintained that the United States would continue to raise concerns about democracy and human rights in Cuba, but he emphasized that the United States could do more through engagement than isolation. The policy change included the restoration of diplomatic relations (July 2015); the rescission of Cuba's designation as a state sponsor of international terrorism (May 2015); and an increase in travel, commerce, and the flow of information to Cuba. In order to implement this third step, the Treasury and Commerce Departments eased the embargo regulations five times (most recently in October 2016) in such areas as travel, remittances, trade, telecommunications, and financial services. The overall embargo, however, remains in place, and can only be lifted with congressional action or if certain conditions in Cuba are met, including that a democratically elected government is in place. With the goal of advancing the normalization process, President Obama visited Cuba in March 2016, the first visit of a U.S. President to Cuba in almost 90 years. On January 12, 2017, President Obama announced a change in U.S. immigration policy by ending the special treatment for undocumented Cuban migrants entering the United States.

Legislative Activity

The Obama Administration's shift in Cuba policy has spurred strong interest in Congress. Some Members lauded the initiative as in the best interest of the United States and a better way to support change in Cuba, while others criticized the President for not obtaining more concessions from Cuba to advance human rights and protect U.S. interests. In the 114th Congress, numerous legislative initiatives were introduced on both sides of the policy debate.

In 2015, five FY2016 House appropriations bills had Cuba provisions that would have blocked some of the Administration's policy changes and introduced new economic sanctions, and one Senate appropriations bill had provisions that would have eased certain economic sanctions. Ultimately, none of these provisions were included in the FY2016 omnibus appropriations measure, P.L. 114-113.

In 2016, three FY2017 House appropriations measures (Commerce, H.R. 5393; Financial Services, H.R. 5485; and Homeland Security, H.R. 5634) had provisions that would have blocked

some of the Cuba policy changes, and one FY2017 Senate appropriations measure (Financial Services, S. 3067) had provisions lifting restrictions on travel and financing for agricultural exports. In addition, the Senate version of the FY2017 State Department and Foreign Operations appropriations bill, S. 3117, would have funded U.S. diplomatic facilities in Cuba and additional personnel costs and would have fully funded the $15 million request for democracy programs. In contrast, the House version of the bill, H.R. 5912, would have prohibited assistance for expanding the U.S. diplomatic presence in Cuba and provided $30 million for democracy programs. The 114th Congress did not complete action on FY2017 appropriations, but it did approve a continuing resolution (P.L. 114-254) in December 2016 funding most programs at the FY2016 level, minus an across-the-board reduction of almost 0.2% through April 28, 2017. The 115th Congress will face completing action on FY2017 appropriations.

With regard to the U.S. Naval Station at Guantánamo Bay, both the FY2016 and the FY2017 military construction appropriations measures, P.L. 114-113 and P.L. 114-223, have provisions prohibiting funding for the station's closure. Both the FY2016 National Defense Authorization Act (NDAA), P.L. 114-92, and the FY2017 NDAA, P.L. 114-328, also have prohibitions on funding for the closure of the U.S. Naval Station at Guantanamo Bay, Cuba. P.L. 114-328 also restricts FY2017 funding for Cuba's participation in certain joint or multilateral exercises or related security conferences. (See **Appendix A**.)

Several other bills introduced in the 114th Congress would have lifted or eased sanctions: H.R. 274, H.R. 403, and H.R. 735 (overall embargo); H.R. 634, H.R. 664, and S. 299 (travel); H.R. 635 (agricultural and medical exports and travel); S. 491 and S. 1543/H.R. 3238 (some embargo restrictions); S. 1049 (financing of agricultural sales); S. 1389/H.R. 3055 (telecommunications); H.R. 3306 (energy resources and technologies); H.R. 3687 (agricultural exports and investment); and S. 2990 (foreign carriers traveling to or from Cuba). Other bills would have increased restrictions on engagement with Cuba: S. 1388/H.R. 2466 (travel and trade); S. 1489/ H.R. 2937 (Cuban military and intelligence); and H.R. 4772 and H.R. 5728/S. 3289 (U.S. flights). For more on these on other bills and resolutions, see **Appendix C**.

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Recent Developments

On January 16, 2017, U.S. and Cuban officials signed a memorandum of understanding to deepen bilateral law enforcement cooperation and information sharing. (See "Advancing Engagement," below.)

On January 12, 2017, the Obama Administration announced a major change in U.S. immigration policy by ending the so-called wet foot/dry foot policy in which thousands of undocumented Cuban migrants have entered the United States in recent years. The Administration also announced it was ending the 10-year-old Cuban Medical Professional Parole program, which allowed Cuban medical professionals in third countries to be approved for admittance into the United States. (See "Migration Issues," below.)

On January 9, 2017, U.S. and Cuban officials signed an oil spill preparedness and response agreement for cooperation and coordination to prevent, contain, and clean up marine oil and other hazardous pollution. (See "Advancing Engagement," below.)

On January 5, 2017, the Cuban Commission for Human Rights and National Reconciliation (CCDHRN) reported that there were at least 9,940 short-term detentions for political reasons in 2016, higher than annual levels over the past several years. (See "Human Rights," below.)

On December 23, 2016, President Obama signed into law the National Defense Authorization Act for FY2017 (P.L. 114-328), which continued prohibitions on funding for the closure of the U.S. Naval Station at Guantanamo Bay, Cuba, and restricted FY2017 funding for Cuba's participation in certain joint or multilateral exercises or related security conferences. (See "Diplomatic and Military Engagement" and **Appendix A**, below.)

On December 10, 2016, President Obama signed into law a continuing resolution (P.L. 114-254) providing FY2017 appropriations for most programs at the FY2016 level, minus an across-the-board reduction of almost 0.2% through April 28, 2017. This law affects human rights and democracy funding for Cuba, as well as funding for the Office of Cuba Broadcasting, both of which are funded through Department of State, Foreign Operations, and Related Programs appropriations. The 115th Congress will face completing action on FY2017 appropriations. (See "U.S. Funding to Support Democracy and Human Rights" and "Radio and TV Martí," below.)

On December 7, 2016, the United States and Cuba held a fifth Bilateral Commission meeting in Havana, with the objective of advancing the normalization process. (See "Advancing Engagement," below.)

On November 25, 2016, Cuba's former long-time ruler Fidel Castro died at 90 years of age. (See "Death of Fidel Castro," below, and CRS Insight IN10616, *Fidel Castro's Death: Implications for Cuba and U.S. Policy*.)

On October 26, 2016, the U.N. General Assembly approved (as it has since 1991) a resolution urging the United States to lift the embargo on Cuba. For the first time, the United States abstained (along with Israel) and 191 other nations voted in favor. (See "Cuba's Foreign Relations," below.)

On October 14, 2016, President Obama issued a presidential policy directive on the normalization of relations with Cuba, which set forth medium-term objectives and the roles and responsibilities

for various U.S. departments and agencies to move forward in the normalization process.[1] (See "Advancing Engagement," below.)

On October 14, 2016, the Treasury and Commerce Departments announced a sixth round of regulatory changes to the Cuban Assets Control Regulations and the Export Administration Regulations that further eased certain economic sanctions. Among the changes were removal of the value limit for the importation of Cuban products (including cigars and rum) by authorized travelers as accompanied baggage for personal use; general authorization waiving the restriction prohibiting foreign vessels from entering a U.S. port for trade for 180 days after calling on a Cuban port for trade purposes; general authorizations for transactions incident to obtaining U.S. Food and Drug Administration (FDA) approval of Cuban-origin pharmaceuticals and for the importation of such pharmaceuticals into the United States; and general authorization to enter into contingent contracts for transactions currently prohibited by the embargo. (See "Increase in Travel, Commerce, and the Flow of Information," below.)

On September 14, 2016, the House Committee on Agriculture held a hearing on "American Agricultural Trade with Cuba."[2] (See "U.S. Exports and Sanctions," below).

On September 29, 2016, President Obama signed into law a full-year FY2017 military construction appropriations measure (Division A of P.L. 114-223, H.R. 5325, approved by the Senate and House on September 28, 2016) with a provision continuing a prohibition against funding to carry out the closure or realignment of the United States Naval Station at Guantánamo Bay, Cuba. (See **Appendix A**.)

On September 27, 2016, President Obama nominated Jeffrey DeLaurentis, the current chargé d'affaires of the U.S. Embassy in Havana, to be U.S. ambassador to Cuba. (See "Diplomatic and Military Engagement," below.)

On August 31, 2016, the Department of Transportation finalized a decision for eight U.S. airlines to provide up to 20 regularly scheduled roundtrip flights between Havana and 10 U.S. cities. Regular flights from the United States to Cuban cities other than Havana began in late August, and American Airlines reportedly will be the first to begin direct flights to Havana from Miami in late November. (See "Restrictions on Travel and Remittances," below.)

Introduction

Political and economic developments in Cuba and U.S. policy toward the island nation, located just 90 miles from the United States, have been significant congressional concerns for many years. Especially since the end of the Cold War, Congress has played an active role in shaping U.S. policy toward Cuba, first with the enactment of the Cuban Democracy Act (CDA) of 1992 (P.L. 102-484, Title XVII) and then with the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (P.L. 104-114). Both measures strengthened U.S. economic sanctions on Cuba that had first been imposed in the early 1960s but also provided roadmaps for a normalization of relations dependent upon significant political and economic changes in Cuba. A decade ago, Congress partially modified its sanctions-based policy toward Cuba when it enacted the Trade Sanctions Reform and Export Enhancement Act of 2000 or TSRA (P.L. 106-387, Title IX) allowing for U.S. agricultural exports to Cuba.

[1] White House, Office of the Press Secretary, "Presidential Policy Directive—United States-Cuba Normalization," October 14, 2016, at https://www.whitehouse.gov/the-press-office/2016/10/14/presidential-policy-directive-united-states-cuba-normalization.

[2] For hearing testimony and transcript, see http://agriculture.house.gov/calendar/eventsingle.aspx?EventID=3512.

Over the past decade, much of the debate in Congress over U.S. policy has focused on U.S. sanctions, especially over U.S. restrictions on travel to Cuba. In 2009, Congress took legislative action in an appropriations measure (P.L. 111-8) to ease restrictions on family travel and travel for the marketing of agricultural exports, marking the first congressional action easing Cuba sanctions in almost a decade. The Obama Administration took further action in April 2009 by lifting all restrictions on family travel and on cash remittances by family members to their relatives in Cuba. In January 2011, the Administration announced the further easing of restrictions on educational and religious travel to Cuba and on non-family remittances. In December 2014, just after the adjournment of the 113th Congress, President Obama announced a major shift in U.S. policy toward Cuba, moving away from a sanctions-based policy aimed at isolating Cuba to a policy of engagement and a normalization of relations.

This report is divided into three major sections analyzing Cuba's political and economic environment, U.S. policy, and selected issues in U.S.-Cuban relations. Legislative initiatives in the 114th Congress are noted throughout the report, and four appendixes provide a listing of enacted measures and approved resolutions (**Appendix A**), bills receiving some action in 2015 and 2016 (**Appendix B**), and additional bills and resolution introduced in the 114th Congress (**Appendix C**). For more on Cuba from CRS, see

- CRS In Focus IF10045, *Cuba: U.S. Policy Overview*, by Mark P. Sullivan;
- CRS Insight IN10616, *Fidel Castro's Death: Implications for Cuba and U.S. Policy*, by Mark P. Sullivan;
- CRS Insight IN10466, *President Obama's Historic Visit to Cuba*, by Mark P. Sullivan;
- CRS Insight IN10369, *Pope Francis in Cuba*, by Mark P. Sullivan;
- CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*, by Dianne E. Rennack and Mark P. Sullivan;
- CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*, by Mark P. Sullivan;
- CRS Insight IN10514, *Financing U.S. Agricultural Exports to Cuba*, by Mark A. McMinimy;
- CRS Report R44119, *U.S. Agricultural Trade with Cuba: Current Limitations and Future Prospects*, by Mark A. McMinimy;
- CRS Legal Sidebar WSLG1586, *House Approves Measure to Prevent Return of GTMO to Cuba without Congress's Say So*, by Jennifer K. Elsea;
- CRS Report R44137, *Naval Station Guantanamo Bay: History and Legal Issues Regarding Its Lease Agreements*, by Jennifer K. Elsea and Daniel H. Else;
- CRS Legal Sidebar WSLG1405, *Can Creditors Enforce Terrorism Judgments Against Cuba?*, by Jennifer K. Elsea; and
- CRS Report R44714, *U.S. Policy on Cuban Migrants: In Brief*, by Andorra Bruno.

Figure 1. Provincial Map of Cuba

Source: Congressional Research Service (CRS).

Notes: This map shows 15 provinces and the special municipality of Isla de la Juventud. See a current interactive provincial map of Cuba, showing municipalities and other information, from *Juventud Rebelde* (Cuba), available at http://www.juventudrebelde.cu/multimedia/graficos/nueva-division-politico-administrativa/.

Cuba's Political and Economic Environment

Brief Historical Background[3]

Cuba became an independent nation in 1902. From its discovery by Columbus in 1492 until the Spanish-American War in 1898, Cuba was a Spanish colony. In the 19th century, the country became a major sugar producer, with slaves from Africa arriving in increasing numbers to work the sugar plantations. The drive for independence from Spain grew stronger in the second half of the 19th century, but it only came about after the United States entered the conflict when the USS *Maine* sank in Havana Harbor after an explosion of undetermined origin. In the aftermath of the Spanish-American War, the United States ruled Cuba for four years until Cuba was granted its independence in 1902. Nevertheless, the United States still retained the right to intervene in Cuba to preserve Cuban independence and maintain stability in accordance with the Platt Amendment[4] that became part of the Cuban Constitution of 1901. The United States subsequently intervened militarily three times between 1906 and 1921 to restore order, but in 1934, the Platt Amendment was repealed.

Cuba at a Glance

Population: 11.4 million (2015, WB)

Area: 109,884 sq. km, slightly smaller than Pennsylvania

GDP: $83.51 billion (2015, current U.S. $, EIU)

Real GDP Growth: 4.3% (2015, EIU); 0.5% (2016 est., EIU, although the Cuban government reportedly said the economy shrunk 0.9%)

Key Trading Partners: Exports (2014): Venezuela, 42.6%; Canada, 10.8%; the Netherlands, 9.6%; China, 6.2%. **Imports** (2014): Venezuela, 39.8%; China, 10.2%, Spain, 7.9%; Brazil, 4.5%; Mexico, 3.4%; Canada, 3.1% (ONEI)

Life Expectancy: 79 years (2014, WB)

Literacy (adult): 99.8% (2013, UNDP)

Legislature: National Assembly of Peoples Power, 612 members

Sources: World Bank (WB); National Office of Statistics and Information (ONEI), Republic of Cuba; U.N. Development Programme; Economist Intelligence Unit (EIU).

Cuba's political system as an independent nation was often dominated by authoritarian figures. Gerardo Machado (1925-1933), who served two terms as president, became increasingly dictatorial until he was ousted by the military. A short-lived reformist government gave way to a series of governments that were dominated behind the scenes by military leader Fulgencio Batista until he was elected president in 1940. Batista was voted out of office in 1944 and was followed by two successive presidents in a democratic era that ultimately became characterized by corruption and increasing political violence. Batista seized power in a bloodless coup in 1952, and his rule progressed into a brutal dictatorship. This fueled popular unrest and set the stage for Fidel Castro's rise to power.

Castro led an unsuccessful attack on military barracks in Santiago, Cuba, on July 26, 1953. He was jailed, but subsequently freed and went into exile in Mexico, where he formed the 26th of July Movement. Castro returned to Cuba in 1956 with the goal of overthrowing the Batista

[3] Portions of this background are drawn from U.S. Department of State, "Background Note: Cuba," April 28, 2011. For further background, see Rex A. Hudson, ed., *Cuba, A Country Study*, Federal Research Division, Library of Congress (Washington, DC: GPO, 2002); "Country Profile: Cuba," Federal Research Division, Library of Congress, September 2006, available at http://lcweb2.loc.gov/frd/cs/profiles/Cuba.pdf; Leslie Bethell, ed., *Cuba, A Short History* (Cambridge, UK: Cambridge University Press, 1993); and Hugh Thomas, *Cuba: The Pursuit of Freedom* (New York: Harper & Row, Publishers, 1971).

[4] U.S. Senator Orville Platt introduced an amendment to an army appropriation bill that was approved by both houses and enacted into law in 1901.

dictatorship. His revolutionary movement was based in the Sierra Maestra mountains in eastern Cuba and joined with other resistance groups seeking Batista's ouster. Batista ultimately fled the country on January 1, 1959, leading to 47 years of rule under Fidel Castro until he stepped down from power provisionally in July 2006 because of poor health.

While Castro had promised a return to democratic constitutional rule when he first took power, he instead moved to consolidate his rule, repress dissent, and imprison or execute thousands of opponents. Under the new revolutionary government, Castro's supporters gradually displaced members of less radical groups. Castro moved toward close relations with the Soviet Union while relations with the United States deteriorated rapidly as the Cuban government expropriated U.S. properties. In April 1961, Castro declared that the Cuban revolution was socialist, and in December 1961, he proclaimed himself to be a Marxist-Leninist. Over the next 30 years, Cuba was a close ally of the Soviet Union and depended on it for significant assistance until the dissolution of the Soviet Union in 1991.

From 1959 until 1976, Castro ruled by decree. In 1976, however, the Cuban government enacted a new Constitution setting forth the Cuban Communist Party (PCC) as the leading force in state and society, with power centered in a Political Bureau headed by Fidel Castro. Cuba's Constitution also outlined national, provincial, and local governmental structures. Since then, legislative authority has been vested in a National Assembly of People's Power that meets twice annually for brief periods. When the Assembly is not in session, a Council of State, elected by the Assembly, acts on its behalf. According to Cuba's Constitution, the president of the Council of State is the country's head of state and government. Executive power in Cuba is vested in a Council of Ministers, also headed by the country's head of state and government, that is, the president of the Council of State.

Fidel Castro served as head of state and government through his position as president of the Council of State from 1976 until February 2008. While he had provisionally stepped down from power in July 2006 because of poor health, Fidel still officially retained his position as head of state and government. National Assembly elections were held in January 2008, and Fidel Castro was once again among the candidates elected to the 614-member legislative body. (As in the past, voters were offered a single slate of candidates.) On February 24, 2008, the new Assembly was scheduled to select from among its ranks the members of the Council of State and its president. Many observers had speculated that because of his poor health, Fidel would choose not to be reelected as president of the Council of State, which would confirm his official departure from heading the Cuban government. Statements from Castro himself in December 2007 hinted at his potential retirement. That proved true on February 19, 2008, when Fidel announced that he would not accept the position as president of the Council of State, essentially confirming his departure as titular head of the Cuban government.

Political Conditions

After Fidel stepped down from power, Cuba's political succession from Fidel to Raúl Castro was characterized by considerable stability. After two and a half years of provisionally serving as president, Raúl Castro officially became Cuba's president in February 2008, when Cuba's legislature selected him as president of the 31-member Council of State.[5] While Raúl Castro began implementing economic reforms in 2008, there has been no change to his government's

[5] For more on Cuba's political succession, see CRS Report RS22742, *Cuba's Political Succession: From Fidel to Raúl Castro*, by Mark P. Sullivan. For background discussion of potential Cuban political scenarios envisioned in the aftermath of Fidel Castro's stepping down from power in 2006, see CRS Report RL33622, *Cuba's Future Political Scenarios and U.S. Policy Approaches*, by Mark P. Sullivan.

tight control over the political system, and few observers expect such changes to occur with the government backed up by a strong security apparatus.

The Cuban Communist Party (PCC) held its sixth congress in April 2011. While the party concentrated on making changes to Cuba's economic model, some political changes also occurred. As expected, Raúl became first secretary of the PCC, officially replacing his brother Fidel. Most significantly, Raúl proposed two five-year term limits for top positions in the party and in the government, calling for systematic rejuvenation, a change that was confirmed by a January 2012 national PCC conference. Also at the 2012 conference, the PCC approved a resolution by which its Central Committee would be allowed to replace up to 20% of its 115 members within its five-year mandate.[6]

In February 2013, Cuba held elections for over 600 members of the National Assembly of People's Power, the national legislature, as well as over 1,600 provincial government representatives, both for five-year terms. Under Cuba's one-party system, the overwhelming majority of officials elected are PCC members. Critics maintain that elections in Cuba are a sham and entirely controlled by the PCC. The new National Assembly selected Raúl Castro for a second five-year term as president of the Council of State (Cuba's head of government). In conformity with the new two-term limit for top officials, Castro indicated that this would be his last term, which means that he would serve until February 2018, when he would be 86 years of age.

Most significantly, a much younger official, Miguel Díaz-Canel Bermúdez (currently aged 56), was selected to serve as first vice president of the Council of State, replacing then 82-year-old José Ramón Machado, part of the older generation of so-called *históricos* of the 1959 Cuban revolution. The position of first vice president is significant because, according to the Cuban Constitution, the person holding the office is the official successor to the president. Prior to his appointment, Díaz-Canel—an engineer by training—was serving as one of the Council of State's six other vice presidents. His appointment as the official constitutional successor to Castro represents a move toward bringing about generational change in Cuba's political system. Díaz-Canel became a member of the Politburo in 2003 and also held top PCC positions in the provinces of Villa Clara and Holguín. He became education minister in 2009 until he was tapped to be a vice president of the Council of State. Díaz-Canel has been described in media reports as an experienced manager with good relations with the military and as someone that worked his way up through the party.[7]

Some Cuba watchers maintain that Díaz-Canel is still very much in the shadow of Raúl, and has not yet taken on a prominent role, and contend that the Cuban military is perhaps the most important institution to watch as the transition to a post-Castro government unfolds.[8] Under Raúl, who served as defense minister from the beginning of the Cuban revolution until 2008, the Cuban military has played an increasing role in government, with several military officers and confidants of Raúl serving as ministers.

[6] Juan O. Tamayo, "Cuban Communists OK Term Limits for Party and Government Officials," *Miami Herald*, January 29, 2012, and "Cuba's Communists Meet to Update Party, Not Much Buzz on Street," *Miami Herald*, January 28, 2012; Patricia Grogg, "Cuba: Party Aims for Efficient, Inclusive Socialism," Inter Press Service, February 1, 2012.

[7] Damien Cave and Victoria Burnett, "As Castro Era Drifts to Close, a New Face Steps in at No. 2," *New York Times*, February 28, 2013; Marc Frank, "Castro Successor Lacks Charisma But Is Experienced Manager," Reuters, February 26, 2013.

[8] Tracy Wilkinson, "New Face Waits in Cuba," *Los Angeles Times*, February 7, 2015.

Speaking on the 60th anniversary of the start of the Cuban revolution on July 26, 2013, President Castro asserted that a generational transfer of power had already begun, stating that "there is a slow and orderly transfer of the leadership of the revolution to the new generations."[9] In October 2015, however, Castro stayed with the historical leadership when, after the resignation of 76-year-old Minister of the Interior (MININT) General Abelardo Colomé Ibarra because of health reasons, he replaced Colomé with 77-year-old MININT First Vice Minister General Carlos Fernández Gondín. In September 2015, the Council of State had given Fernández the honorific title of Hero of the Republic because of his role fighting in Angola.

April 2016 Communist Party Congress

The PCC's seventh party congress was held April 16-19, 2016. Few details were made public ahead of the congress, prompting criticism over the lack of information and consultation compared with the 2011 party congress.[10] While some observers expected there to be a preview of forthcoming economic changes, no new reform measures were announced. Raúl Castro noted, however, that Cuba must reestablish a single currency as soon as possible in order to resolve wage and other economic distortions. Castro reported that just 21% of the more than 300 economic guidelines adopted at the 2011 party congress had been implemented. He said that for the 2016-2021 period, 268 guidelines were being proposed for updating the country's economic model, including 193 modified since the 2011 party congress, 31 the same, and 44 new guidelines.[11] Castro reasserted that Cuba would move forward updating its economic model "without haste, but without pause." The slow pace of Cuba's economic reform process, however, demonstrates the government's extreme cautiousness in taking economic actions could have negative social or political consequences.

Castro also proposed 60 years of age as the maximum age to join the Central Committee and 70 years of age as the maximum age to assume a leadership position in the party and in state and government institutions and mass organizations. He noted that these changes would be implemented through future reforms to the constitution and that there would be a five-year period of transition for the introduction of these age limits for top positions. In contrast, on the last day of the congress, Castro (currently 85 years of age) and José Ramón Machado Ventura (currently 86 years of age) were reelected as first and second secretaries of the PCC. Both will continue to serve on the 17-member Political Bureau (Politburo)—10 other Politburo members will continue to serve on the ruling body, while 5 new members, including 3 women, were elected, bringing the total number of women to 4.[12] The membership of the Central Committee grew from 116 to 142, with 55 new members younger than 60 years of age.[13] While Castro reiterated his intention to step down as President in February 2018, at this juncture it appears that he will retain his position as first secretary of the PCC.

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[9] Marc Frank, "Cuba's Raúl Castro Promises Succession Has Started," Reuters, July 26, 2013.

[10] "Party Congress Less Than a Month Away," Granma, March 30, 2016; "Andrea Rodriguez and Michael Weissenstein, "Unusual Dissent Erupts Inside Cuban Communist Party," World Politics Review, March 30, 2016; and "Cuba Politics: Uncertainty Surrounds Upcoming PCC Congress," EIU ViewsWire, April 8, 2016.

[11] Raúl Castro Ruz, "Full Text of Central Report: The development of the national economy, along with the struggle for peace, and our ideological resolve, constitute the Party's principal missions," *Granma*, April 18, 2016, available at http://en.granma.cu/cuba/2016-04-18/the-development-of-the-national-economy-along-with-the-struggle-for-peace-and-our-ideological-resolve-constitute-the-partys-principal-missions.

[12] "Raúl Present New Politburo of the CC of the PCC," *Cubadebate*, April 19, 2016.

[13] William M. Leogrande, "Updating the Party: Cuba's New (and Not So New) Leaders," *Huffington Post*, April 23, 2016.

Death of Fidel Castro

Cuba's former long-time ruler Fidel Castro died on November 25, 2016, at 90 years of age. Although Fidel Castro's historical legacy is significant—regardless of whether one views him positively or negatively—he has not held formal power since he stepped down in 2006. After stepping down, Fidel continued to author essays published in Cuban media that cast a shadow on Raúl's rule. Many Cubans reportedly believe that Fidel encouraged so-called hardliners in Cuba's Communist Party and government bureaucracy to slow the pace of reforms. With Fidel's passing, some Cuban entrepreneurs hope that the pace of reforms might accelerate. Fidel's death points to the generational change that has already begun in the Cuban government and a passing of the older generation of the 1959 revolution.

Upon Fidel's passing, President Obama issued a statement extending condolences to Fidel's family and extending "a hand of friendship to the Cuban people." He said that "history will record and judge the enormous impact of this singular figure on the people and world around him." The President acknowledged that while the United States and Cuba have had profound political disagreements, his Administration has "worked hard to put the past behind us, pursuing a future in which the relationship between our two countries is defined not by our differences but by the many things that we share as neighbors and friends...."[14]

Human Rights

The Cuban government has a poor record on human rights, with the government sharply restricting freedoms of expression, association, assembly, movement, and other basic rights since the early years of the Cuban revolution. The government has continued to harass members of human rights and other dissident organizations. These include the Ladies in White (*Damas de Blanco*), currently led by Berta Soler, formed in 2003 by the female relatives of the so-called "group of 75" dissidents arrested that year; and the Patriotic Union of Cuba (UNPACU), led by José Daniel Ferrer García, established in 2011 by several dissident groups with the goal of fighting peacefully for civil liberties and human rights. Two Cuban political prisoners conducting hunger strikes have died in recent years, Orlando Zapata Tamayo in February 2010 and Wilman Villar Mendoza in January 2012. Tamayo died after an 85-day hunger strike that he had initiated to protest inhumane conditions in Cuba's prisons. Villar Mendoza died following a 50-day hunger strike after he was convicted of "contempt" of authority and sentenced to four years in prison. Other hunger strikers have included Vladimir Morera Bacallao, discussed below, who conducted a hunger strike for more than 80 days in late 2015, and Guillermo Fariñas, who ended an almost two-month hunger strike in October 2016.

While the human rights situation in Cuba remains poor, the country has made some advances in recent years. In 2008, Cuba lifted a ban on Cubans staying in hotels that previously had been restricted to foreign tourists in a policy that had been pejoratively referred to as "tourist apartheid." In recent years, as the government has enacted limited economic reforms, it has been much more open to debate on economic issues. In January 2013, Cuba took the significant step of eliminating its long-standing policy of requiring an exit permit and letter of invitation for Cubans to travel abroad. The change has allowed prominent dissidents and human rights activists to travel abroad and return to Cuba.

Political Prisoners. The Cuban government has released a number of political prisoners in recent years. With the intercession of the Cuban Catholic Church, the Cuban government released some 125 political prisoners in 2010 and 2011, including the remaining members of the "group of 75"

[14] White House, "Statement by the President on the Passing of Fidel Castro," November 26, 2016.

that were still in prison. In the aftermath of the December 2014 shift in U.S. policy toward Cuba, the Cuban government released another 53 political prisoners (although as noted below, six were rearrested in 2015).[15]

Among the 53 released were five jailed dissidents whom Amnesty International (AI) had named as prisoners of conscience in 2013[16] as well as several other dissidents whose cases AI was following. Two of the five prisoners of conscience, Emilio Planas Robert and Iván Fernández Depestre, had been imprisoned since September 2012 and July 2013, respectively, and had been convicted of "dangerousness" (a preemptive measure defined as the special proclivity of a person to commit crimes). The other three "prisoners of conscience," brothers Alexeis, Django, and Vianco Vargas Martín, were members of UNPACU. They were detained in late 2012 and convicted in June 2014 after a summary trial in which they were charged with "public disorder."[17] Three other dissidents whose cases were followed by AI were released from prison on December 9, 2014—Ladies in White member Sonia Garro Alfonso; her husband, Ramón Alejandro Muñoz González; and a neighbor, Eugenio Hernández. They had been held since March 2012.[18]

In 2015, the Cuban government released two additional political prisoners named as prisoners of conscience by Amnesty International, but one of them was rearrested in late 2016. Ciro Alexis Casonova Pérez, who had been placed under house arrest in June 2014 after demonstrating in the streets, was convicted in December 2014 of public disorder and sentenced to one year in prison. In April 2015, AI declared Casonova Pérez a prisoner of conscience, and he was ultimately released in June 2015.[19]

Danilo Maldonado Machado (known as El Sexto), a graffiti artist, was unconditionally released from prison in October 2015, after almost 10 months in prison. Although he was never formally charged, Maldonado reportedly was accused of "aggravated contempt" for painting the names Fidel and Raúl on two pigs that he intended to release in Havana's Central Park as part of an art show. Maldonado, who had attended Miami Dade College in 2014 on a scholarship program, went on a hunger strike before his release. On November 26, 2016, however, Maldonado was arrested again after he made a video celebrating the death of Fidel Castro, and he was subsequently again declared a prisoner of conscience by AI, which has called for his immediate and unconditional release.

As noted above, 6 of the 53 political prisoners released in December 2014 at the time of the improvement in U.S.-Cuban relations were rearrested in 2015. One of the prisoners, Vladimir Morera Bacallao, detained in April 2015 for hanging a sign outside his home in protest of municipal elections, began a hunger strike in early October 2015 that endured more than 80 days.

Going beyond AI's narrow definition of prisoners of conscience, the Cuban government has held a larger number of political prisoners, generally defined as a person imprisoned for his or her

[15] The list of 53 prisoners reportedly had been drawn up by the Obama Administration and included those jailed for having peacefully exercised their rights of freedom of expression and assembly. David Adams, Matt Spetalnick, and Lesley Wroughton, "How Prisoners Names Were Drawn Up in U.S.-Cuba Secret Talks," Reuters News, January 12, 2015.

[16] AI defines prisoners of conscience as those jailed because of their political, religious, or other conscientiously held beliefs, ethnic origin, sex, color, language, national or social origin, economic status, birth, sexual orientation, or other status, provided they have neither used nor advocated violence.

[17] AI, "Prisoners of Conscience Released in Cuba," January 9, 2015.

[18] AI, "Government Critics Under House Arrest," December 15, 2014.

[19] AI, "Political Dissident Must Be Released," April 2, 2015; "El Régimen Excarcela al Opositor Ciro Alexis Casanova Pérez," *Diario de Cuba*, June 11, 2015.

political activities. In April 2016, the Havana-based Cuban Commission for Human Rights and National Reconciliation (CCDHRN) estimated that the Cuban government held 82 people imprisoned for political motives (up from 60 people in June 2015), with 11 others released from prison but still on parole—for a total of 93 convicted for political reasons. CCDHRN's report includes dozens of opposition activists, a number of whom are members of UNPACU, as well as those convicted on such charges as hijacking, terrorism, sabotage, other acts of violence, and espionage.[20]

The State Department's human rights report on Cuba covering 2015 stated that it was difficult to determine an accurate number of political prisoners because of the Cuban government's lack of transparency, its systematic violation of due process rights, and its continued denial of access to Cuban jails to independent monitors. The report noted, however, that two independent organizations estimated that there were 60 to 70 political prisoners.[21]

Short-Term Detentions. Short-term detentions for political reasons have increased significantly over the past several years, a reflection of the government's change of tactics in repressing dissent away from long-term imprisonment. The CCDHRN reports that there were at least 2,074 such detentions in 2010, 4,123 in 2011, 6,602 in 2012, and 6,424 in 2013. For 2014, the group reported that there were at least 8,899 such detentions, almost 39% higher than the previous year. In 2015, the CCDHRN reported at least 8,616 short-term detentions, with 1,447 in November alone. In 2016, there were at least 9,940 short-term arbitrary detentions for political reasons, higher than annual levels over the past several years. In March 2016, for example, there were 1,416 detentions, including almost 500 detentions during President Obama's visit.[22]

Bloggers and Civil Society Groups. Over the past several years, numerous independent Cuban blogs have been established that are often critical of the Cuban government. Cuban blogger Yoani Sánchez has received considerable international attention since 2007 for her website, *Generación Y*, which includes commentary critical of the Cuban government. In May 2014, Sánchez launched an independent digital newspaper in Cuba, *14 y medio*, available on the Internet, distributed through a variety of methods in Cuba, including CDs, USB flash drives, and DVDs.[23]

The Catholic Church, which, as noted above, played a prominent role in the release of political prisoners in 2010 and 2011, has been active in broadening the debate on social and economic issues through its publications *Palabra Nueva* (New Word) and *Espacio Laical* (Space for Laity).[24] The Church has also played an increasing role in providing social services, including soup kitchens, services for the elderly and other vulnerable groups, after-school programs, job training, and even college coursework. In 2014, the two former editors of *Espacio Laical*, Roberto Veiga and Lenier Gonzalez, launched an online forum known as *Cuba Posible*.[25]

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[20] Comisión Cubana de Derechos Humanos y Reconciliación Nacional (CCDHRN), "Comunicado," April 25, 2016, available at http://www.14ymedio.com/nacional/LISTA-PRESOS-COMUNICADO2_CYMFIL20160425_0001.pdf.

[21] U.S. Department of State, *Country Reports on Human Rights Practices for 2015*, April 13, 2016.

[22] CCDHRN, "Cuba: Algunos Actos de Represion Politica en el Mes de Diciembre de 2016," January 5, 2017.

[23] Sánchez's website, which has links to numerous other independent blogs and websites, is available at http://generacionyen.wordpress.com/, and her online digital newspaper is available at http://www.14ymedio.com/.

[24] See http://www.palabranueva.net/newPage/index.php and http://www.espaciolaical.org/.

[25] Marc Frank, "Cuba's Catholic Church May Restrict Rare Forum for Open Debate," Reuters, June 16, 2014; Daniel Trotta and Rosa Tania Valdés, "Cuban Editors, Pressured to Leave Magazine, Announce New Venture," Reuters, July 1, 2014. The Cuba Posible website is available at http://cubaposible.net/.

Estado de SATS, a forum founded in 2010 by human rights activist Antonio Rodiles, has had the goal of encouraging open debate on cultural, social, and political issues.[26] The group has hosted numerous events and human rights activities over the years, but has also been the target of government harassment. In November 2012, Rodiles was arrested and held for 19 days on charges with "resisting authority," but he was released after Amnesty International issued an urgent appeal on his case. In early July 2015, Rodiles was severely beaten for attempting to participate in the weekly protest march of the Ladies in White.[27]

Human Rights Reporting on Cuba

Amnesty International (AI), Cuba, https://www.amnesty.org/en/countries/americas/cuba/.

Cuban Commission for Human Rights and National Reconciliation (Comisión Cubana de Derechos Humanos y Reconciliación Nacional, CCDHRN), the independent Havana-based human rights organization produces a monthly report on short-term detentions for political reasons.

CCDHRN, "Cuba: Algunos Actos de Represion Politica en el Mes de Diciembre de 2016," January 5, 2017.

CCDHRN, "Comunicado" April 25, 2016 (list of political prisoners), available at http://www.14ymedio.com/nacional/LISTA-PRESOS-COMUNICADO2_CYMFIL20160425_0001.pdf.

14ymedio.com, independent digital newspaper, based in Havana available at http://www.14ymedio.com/.

Human Rights Watch (HRW), https://www.hrw.org/americas/cuba.

HRW's 2017 World Report maintains that "the Cuban government continues to repress dissent and punish public criticism," available at https://www.hrw.org/world-report/2017/country-chapters/cuba.

Inter-American Commission on Human Rights, Annual Report 2015, March 17, 2016, Chapter IV has a section on Cuba, available at http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-Cap4-Cuba-EN.pdf.

U.S. Department of State, Country Report on Human Rights Practices for 2015, April 13, 2016, available at http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=253005.

Trafficking in Persons. The State Department released its *2016 Trafficking in Persons (TIP) Report* on June 30, 2016, and for the second consecutive year Cuba was placed on the Tier 2 Watchlist (in prior years, Cuba had Tier 3 status).[28] Tier 3 status refers to countries whose governments do not fully comply with the minimum standards for combatting trafficking and are not making significant efforts to do so. In contrast, Tier 2 Watchlist status refers to countries whose governments, despite making significant efforts, do not fully comply with the minimum standards and still have some specific problems (an increasing number of victims or failure to provide evidence of increasing anti-trafficking efforts) or whose governments have made commitments to take additional anti-trafficking steps over the next year.

The State Department maintained in its 2015 report that Cuba was upgraded to Tier 2 Watchlist status because of its progress in addressing and prosecuting sex trafficking, including the provision of services to sex trafficking victims, and its continued efforts to address sex tourism and the demand for commercial sex.

In its 2016 report, the State Department maintained that Cuba remained on the Tier 2 Watchlist for the second consecutive year because the country did not demonstrate overall increasing anti-trafficking efforts compared to 2015. Nevertheless, the 2016 report noted that the Cuban government continued efforts to address sex trafficking, including prosecution and conviction,

[26] See the group's website at http://www.estadodesats.com/.

[27] Nora Games Torres, "Cuban Dissidents Report Being Attacked by Government Security Forces," *Miami Herald*, July 6, 2015.

[28] U.S. Department of State, Trafficking in Persons Report 2016, pp. 146-147, at http://www.state.gov/documents/organization/258876.pdf.

and the provision of services to victims. The State Department noted that the Cuban government released a report on its anti-trafficking efforts in October 2015; that multiple government ministries were engaged in anti-trafficking efforts; and that the government funded child protection centers and guidance centers for women and families, which served crime victims, including trafficking victims. However, the report also noted that the Cuban government did not prohibit forced labor, report efforts to prevent forced labor, or recognize forced labor as a possible issue affecting Cubans in medical missions abroad.

Economic Conditions

Cuba's economy is largely state-controlled, with the government owning most means of production and employing a majority of the workforce. Key sectors of the economy that generate foreign exchange include the export of professional services (largely medical personnel to Venezuela); tourism, which has grown significantly since the mid-1990s, with 3.5 million tourists visiting Cuba in 2015; nickel mining, with the Canadian mining company Sherritt International involved in a joint investment project; and a biotechnology and pharmaceutical sector that supplies the domestic health care system and has fostered a significant export industry. Remittances from relatives living abroad, especially from the United States, have also become an important source of hard currency, amounting to some $3 billion in 2015. The once-dominant sugar industry has declined significantly over the past 20 years; in 1990, Cuba produced 8.4 million tons of sugar, while in 2016 it produced just 1.6 million tons (compared to 1.9 million tons in 2015).[29]

Cuba is highly dependent on Venezuela for its oil needs. In 2000, the two countries signed a preferential oil agreement that until recently provided Cuba with some 90,000 barrels of oil per day, about two-thirds of its consumption. Cuba's goal of becoming a net oil exporter with the development of its offshore deepwater oil reserves was set back significantly in 2012, when the drilling of three exploratory oil wells was unsuccessful. The setback in Cuba's offshore oil development combined with political and economic difficulties in Venezuela have raised concerns among Cuban officials about the security of the support received from Venezuela. Cuba is increasingly focusing on the need to diversify its trading partners and to seek alternative energy suppliers in the case of a cutback or cutoff of Venezuelan oil.[30]

Over the years, Cuba has expressed pride for the nation's accomplishments in health and education. According to the United Nations Development Program's 2015 Human Development Report, Cuba is ranked 67 out of 188 countries worldwide and is characterized as having "high human development," with life expectancy at 79.4 years and adult literacy estimated at almost 100%.

In terms of economic growth, Cuba experienced severe economic deterioration from 1989 to 1993, with an estimated decline in gross domestic product ranging from 35% to 50% when the Soviet Union collapsed and Russian financial assistance to Cuba practically ended. Since then, however, there has been considerable improvement. From 1994 to 2000, as Cuba moved forward with some limited market-oriented economic reforms, economic growth averaged 3.7% annually. Economic growth was especially strong in the 2004-2007 period, registering an impressive 11%

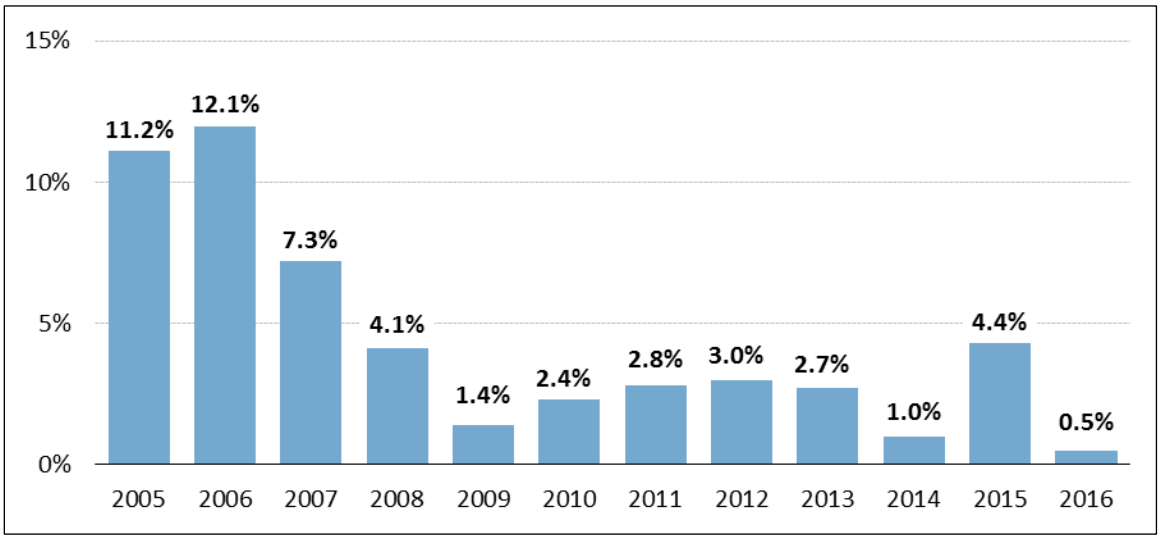
[29] Information and statistics were drawn from several sources: U.S. Department of State, "U.S. Relations with Cuba," September 7, 2016; Oficina Nacional de Estadísticas e Información, "Turismo Internacional Indicadores Seleccionados, Enero-Diciembre 2015, March 2016; Marc Frank, "Cuba 300,000 Tonnes Short of Raw Sugar Goal as Harvest Ends-Sources," Reuters News, June 9, 2016.

[30] For example, see "Cuba, Economy, Seeking New Partners," *Latin American Caribbean & Central America Report*, May 2013.

and 12%, respectively, in 2005 and 2006 (see **Figure 2**). The economy benefitted from the growth of the tourism, nickel, and oil sectors and support from Venezuela and China in terms of investment commitments and credit lines. However, the economy was hard hit by several hurricanes and storms in 2008 and the global financial crisis in 2009, with the government having to implement austerity measures. As a result, economic growth slowed significantly. Growth improved modestly from 2010-2014, averaging 2.4% annually during the period, although growth was just 1% in 2014 because of Cuba's challenges in shifting from a centrally planned to a more decentralized economy.

Stronger growth of 4.4% returned in 2015, but the Economist Intelligence Unit (EIU) maintains that economic growth dropped to an estimated 0.5% economic growth in 2016 because of austerity measures, lower export earnings, and reduced support from Venezuela. (At the end of 2016, Cuba's economic minister reportedly said that the economy had shrunk 0.9% during the year.)[31] The economic crisis in Venezuela has affected Venezuela's oil exports to Cuba. Looking ahead, the EIU forecasts economic growth of 1% in 2017 and 2.4% in 2018, far less than the 5% that the government and some economists maintain is needed to develop the economy and create new jobs.[32]

Figure 2. Cuba: Real GDP Growth (%) 2005-2016



Source: Economist Intelligence Unit, Country Data Tool, 2017.

The government of Raúl Castro has implemented a number of economic policy changes, but there has been some disappointment that more far-reaching reforms have not been forthcoming. As noted above, the government employs a majority of the labor force, almost 80%, but it has been allowing more private sector activities. In 2010, the government opened up a wide range of activities for self-employment and small businesses. There are now almost 200 categories of work allowed, and the number of self-employed has risen from some 156,000 at the end of 2010 to some 507,000 in 2016.[33]

[31] Sarah Marsh and Marc Frank, "Cuba Says Economy Shrank This Year in Wake of Venezuela Crisis," Reuters News, December 27, 2016.

[32] "Cuba Country Report," Economist Intelligence Unit (EIU), October 2016.

[33] "Background 10 Years, 10 Reforms form Cuba's Raúl Castro by DPA Correspondents," Deutsche Press-Agentur, August 1, 2016.

Analysts contend, however, that the government needs to do more to support the development of the private sector, including an expansion of authorized activities to include more white-collar occupations and state support for credit to support small businesses. A major challenge for the development of the private sector is the lack of money in circulation. Most Cubans do not make enough money to support the development of small businesses; those private sector activities catering to tourists and foreign diplomats have fared better than those serving the Cuban market.

Among Cuba's significant economic challenges are low wages (whereby workers cannot satisfy basic human needs) and the related problem of how to unify Cuba's two official currencies circulating in the country.[34] Most people are paid in Cuban pesos (CUPs), and the minimum monthly wage in Cuba is 225 pesos (U.S. $9),[35] but for increasing amounts of consumer goods, convertible pesos (CUCs) are used. (For personal transactions, the exchange rate for the two currencies is CUP24/CUC1.) Cubans with access to foreign remittances or who work in jobs that give them access to convertible pesos are far better off than those Cubans who do not have such access.

In October 2013, the Cuban government announced that it would move toward ending its dual-currency system and move toward monetary unification, but the action has been delayed for several years. In March 2014, the government had provided insight about how monetary unification would move forward when it published instructions for when the CUC is removed from circulation; no date was provided, but it was referred to as "day zero." Currency reform is ultimately expected to lead to productivity gains and improve the business climate, but an adjustment would create winners and losers.[36] As noted above, at the PCC's April 2016 Congress, Raúl Castro called for moving toward a single currency as soon as possible to resolve economic distortions.

A significant reform effort under Raúl Castro has focused on the agricultural sector, a vital issue because Cuba reportedly imports some 70%-80% of its food needs according to the World Food Programme.[37] In an effort to boost food production, the government has turned over idle land to farmers and given farmers more control over how to use their land and what supplies to buy. Despite these and other efforts, overall food production has been significantly below targets.

In March 2014, Cuba approved a new foreign investment law with the goal of attracting needed foreign capital to the country. The law cuts taxes on profits by half, to 15%, and exempts companies from paying taxes for the first eight years of operation. Employment or labor taxes are also eliminated, although companies still must hire labor through state-run companies, with agreed-upon wages. A fast-track procedure for small projects reportedly will streamline the approval process, and the government has agreed to improve the transparency and time of the approval process for larger investments.[38] It remains to be seen to what extent the new law will attract investment. Over the past several years, Cuba has closed a number of joint ventures with foreign companies and has arrested several executives of foreign companies reportedly for

[34] For more on Cuba's currency problem, see "Replacing Cuba's Dual Currency System: What Are the Issues That Really Matter?" *Latin American Economy & Business*, July 2013.

[35] U.S. Department of State, "Country Reports on Human Rights Practices for 2015, Cuba," April 13, 2016.

[36] "Cuba: Exchange Rate Unification Approaching," *Latin America Regional Report: Caribbean & Central America*, March 2014.

[37] "Cuba, Current issues and what the World Food Programme is doing," World Food Programme, available at https://www.wfp.org/countries/cuba.

[38] "Cuba Approves New Foreign Investment Law," *Latin American Regional Report: Caribbean & Central America*, April 2014; "What's Changed in Cuba's New Foreign Investment Law," Reuters News, March 29, 2014.

corrupt practices. According to some observers, investors will want evidence, not just legislation, that the government is prepared to allow foreign investors to make a profit in Cuba.[39]

In October 2014, the Cuban government issued a list of some 246 projects in which it was seeking some $8.7 billion in investment in such sectors as energy, tourism, agriculture, and industry.[40] Cuban Minister of Foreign Trade and Investment Rodrigo Malmierca reportedly maintained in November 2015 that 40 of these projects were in "advanced negotiations" and that Cuba has signed 36 foreign investment projects since the 2014 investment law was approved, but did not indicate the value of these projects. In November 2015, Malmierca announced a list of 326 projects in which it is seeking $8.2 billion in foreign investment, including new opportunities in health care, tourism, transportation, construction, agriculture, and renewable energy.[41]

In December 2015, Cuba reached a Paris Club arrangement with a group of 14 creditor countries to forgive $8.5 billion out of $11.1 billion of debt owed, including late interest. Pursuant to the agreement, Cuba will pay $2.6 billion over a period of 18 years. The creditor countries include Australia, Austria, Belgium, Canada, Denmark, Finland, Italy, Japan, the Netherlands, Spain, Sweden, Switzerland, and the United Kingdom.[42] The agreement resolves an outstanding economic challenge for the Cuban government and could make it easier for Cuba to gain access to credit and attract investment.[43] (In 2014, Russia wrote off 90% of Cuba's $32 billion Soviet-era debt. See "Cuba's Foreign Relations" below.)

As noted above, no new economic measures emanated from the PCC's seventh party congress held April 16-19, 2016. After the party congress, press articles reported that one of Cuba's leading advocates for economic reforms, Omar Everleny Pérez, was dismissed from his position at the Center for the Study of the Cuban Economy, spreading concern about the Cuban government's retrenchment from its commitment to reform.[44]

A number of Cuba's economists are pressing for the government to enact more far-reaching reforms and embrace competition for key parts of the economy and state-run enterprises. They criticize the government's continued reliance on central planning and its monopoly on foreign trade.[45] Cuba's economic potential, according to one analysis, is held back by several factors, including the lack of political will; dilapidated infrastructure; a transportation sector in need of repair and modernization; an inefficient and poorly resourced construction sector; and a government bureaucracy that suffers from morale problems, a weak decisionmaking process, and a lack of familiarity with international practice.[46]

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[39] Marc Frank, "Cuba Plans Big Tax Breaks to Lure Foreign Investors," Reuters News, March 26, 2014; and Daniel Trotta, "Cuba's Past Raises Skepticism About New Foreign Investment Law," Reuters News, March 31, 2014.

[40] "Cuba Seeks $8.7 Bn in Foreign Investment," EFE News Service, November 4, 2014.

[41] "Cuba Seeks $8.2 Billion in Foreign Investment for 326 Projects," Reuters News, November 3, 2015.

[42] Paris Club, "The Group of Creditors of Cuba and the Republic of Cuba Agree to Clearance of All Arrears," press release, December 12, 2015.

[43] "Cuba Seals 'Historic' Debt Pact with Paris Club," Agence France Press, December 14, 2015.

[44] Andrea Rodriguez, "Renowned Cuban Pro-Reform Economist Fired as Chill Set In," *World Politics Review*, April 21, 2016.

[45] Marc Frank, "As Cuban Economy Stagnates, Economists Press for Deeper Reforms," Reuters News, October 24, 2014.

[46] Fulton Armstrong, "Cuba's Limited Absorptive Capacity Will Slow Normalization," Center for Latin American & Latino Studies, Cuba Initiative, American University, October 20, 2015.

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Richard E. Feinberg, *The Cuban Economy Could Sing—with a Stronger Score*, October 13, 2016, available at https://www.brookings.edu/blog/order-from-chaos/2016/10/13/the-cuban-economy-could-sing-with-a-stronger-score/.

Richard E. Feinberg and Ted Piccone, eds., *Cuba's Economic Change in Comparative Perspective*, November 2014, available at http://www.brookings.edu/research/papers/2014/11/cuba-economic-change-comparative-perspective.

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The Cuban Economy, La Economia Cubana, website maintained by Arch Ritter, from Carlton University, Ottawa, Canada, available at http://thecubaneconomy.com/.

Revista Temas (Havana), links to the Cuban journal's articles on economy and politics, in Spanish available at http://temas.cult.cu/.

Oficina Nacional de Estadísticas e Información, República de Cuba (Cuba's National Office of Statistics and Information), available at http://www.one.cu/.

Cuba's Foreign Relations

During the Cold War, Cuba had extensive relations with and support from the Soviet Union, with billions of dollars in annual subsidies to sustain the Cuban economy. This subsidy system helped fund an activist foreign policy and support for guerrilla movements and revolutionary governments abroad in Latin America and Africa. With an end to the Cold War, the dissolution of the Soviet Union, and the loss of Soviet financial support, Cuba was forced to abandon its revolutionary activities abroad. As its economy reeled from the loss of Soviet support, Cuba was forced to open up its economy and economic relations with countries worldwide. In 2014, Cuba's leading trading partners in terms of Cuban exports were Venezuela (almost 43%), Canada, the Netherlands, and China, while the leading sources of Cuba's imports were Venezuela (almost 40%), China, Spain, Brazil, Mexico, Canada, Italy, the United States, Argentina, and Germany.[47]

Russia. Relations with Russia, which had diminished significantly in the aftermath of the Cold War, have been strengthened somewhat over the past several years. In 2008, then-Russian President Dmitry Medvedev visited Havana, while Raúl Castro visited Russia in 2009 and again in 2012. Current Russian President Vladimir Putin visited Cuba in July 2014 on his way to attend the BRICS[48] summit in Brazil. Just before arriving in Cuba, Putin signed into law an agreement writing off 90% of Cuba's $32 billion Soviet-era debt, with some $3.5 billion to be paid back by Cuba over a 10-year period that would fund Russian investment projects in Cuba.[49] In the

[47] Statistics drawn from Oficina Nacional de Estadística e Información, República de Cuba, Anuario Estadístico de Cuba 2014, Capítulo 8: Sector Externo, Edición 2015.

[48] The BRICS is an association of five major emerging economies: Brazil, Russia, India, China, and South Africa.

[49] That agreement had been discussed in a 2013 visit by now Prime Minister Medvedev to Cuba, and had been announced in December 2013. Anna Andrianova and Bill Faries, "Russia Forgives $32B of Debt, Wants to Do Business in Cuba," Bloomberg News, July 13, 2014; Marc Frank, "Russia Signs Deal to Forgive $29 Billion of Cuba's Soviet-Era Debt–Diplomats," Reuters, December 9, 2013; "Castro Declares He Had a Good Visit with Russia's Medvedev," Agence France Presse, February 23, 2013.

aftermath of Putin's trip, there were press reports alleging that Russia would reopen its signals intelligence facility at Lourdes, Cuba, which had closed in 2002, but President Putin denied reports that his government would reopen the facility.[50]

While trade relations between Russia and Cuba are not significant, two Russian energy companies have been involved in oil exploration in Cuba, and a third announced its involvement in 2014. Gazprom had been in a partnership with the Malaysian state oil company, Petronas, that conducted unsuccessful deepwater oil drilling off Cuba's western coast in 2012. The Russian oil company Zarubezhneft began drilling in Cuba's shallow coastal waters east of Havana in December 2012, but stopped work in April 2013 because of disappointing results. During President Putin's July 2014 visit to Cuba, Russian energy companies Rosneft and Zarubezhneft signed an agreement with Cuba's state oil company CubaPetroleo (Cupet) for the development of an offshore exploration block, and Rosneft agreed to cooperate with Cuba in studying ways to optimize existing production at mature fields.[51] Some energy analysts are skeptical about the prospects for the offshore project given the unsuccessful attempts by foreign oil companies drilling wells in Cuba's deepwaters.

In January 2015, as U.S.-Cuba normalization talks were beginning in Havana, a Russian intelligence ship docked in Havana. U.S. officials downplayed the arrival of the ship, maintaining that it was legal and not out of the ordinary.[52] Russian officials publicly welcomed the improvement in U.S.-Cuban relations, although the change in U.S. policy could be viewed as a potential setback for Russian overtures in the region.

In early October 2016, a Russian military official maintained that Russia was reconsidering reestablishing a military presence in Cuba (and Vietnam), although there was no indication that Cuba would be open to the return of the Russian military.[53]

China. Relations with China have also strengthened in recent years. During the Cold War, the two countries did not have close relations because of Sino-Soviet tensions, but bilateral relations have grown close in recent years, with Chinese trade and investment in Cuba increasing. Chinese President Hu Jintao visited Cuba in 2004 and again in 2008, while Chinese Vice President Xi Jinping visited Cuba in June 2011 and again in July 2014, this time as China's president, after attending the BRICS summit in Brazil. Raúl Castro had also visited China in 2012 on a four-day visit, in which the two countries reportedly signed cooperation agreements focusing on trade and investment issues. During Xi Jinping's 2014 visit, the two countries reportedly signed 29 trade, debt, credit, and other agreements. While in Cuba, the Chinese president said that "China and Cuba being socialist countries, we are closely united by the same missions, ideals, and struggles."[54]

European Union. The European Union (EU) and Cuba held seven rounds of talks—two in 2014, four in 2015, and one on March 3-4, 2016—on a Political Dialogue and Cooperation Agreement covering political, trade, and development issues. Ultimately, an agreement was reached after the

[50] "Putin Denies Russia to Reopen Soviet-Era Spy Post in Cuba," Reuters News, July 17, 2014.

[51] "Russia Cements Energy Ties with Latin America," *Oil Daily*, July 15, 2014.

[52] "Russian Spy Ship Arrives in Havana Ahead of U.S.-Cuba Talks," Radio Free Europe Documents and Publications, January 21, 2015.

[53] Andrew Roth, "Russia Has Its Permanent Air Base in Syria; Now It's Looking at Cuba and Vietnam," *Washington Post*, October 8, 2016; and Mimi Whitefield, "Russian Media Report: Kremlin Considering Reopening Bases in Cuba, Vietnam," *Miami Herald*, October 7, 2016.

[54] Marc Frank, "Chinese President Ends Regional Tour in Cradle of Cuban Revolution," Reuters News, July 23, 2014.

last round of talks and initialed by Cuba and the EU in Havana on March 11, 2016.[55] In 1996, the EU adopted a Common Position on Cuba, stating that the objective of EU relations with Cuba included encouraging "a process of transition to pluralist democracy and respect for human rights and fundamental freedoms." The position also stipulated that full EU economic cooperation with Cuba would depend upon improvements in human rights and political freedom.[56] The new cooperation agreement, which has to be officially approved by EU governments, would replace the 1996 Common Position. It includes political dialogue and a framework to deepen relations in a number of areas, including trade.

Venezuela and Other Latin American Countries. For more than 15 years, Venezuela has been a significant source of support for Cuba. Dating back to 2000 under populist President Hugo Chávez, Venezuela began providing subsidized oil (some 100,000 barrels per day) and investment. For its part, Cuba has sent thousands of medical personnel to Venezuela. In the aftermath of Chávez's death in March 2013, Venezuela's mounting economic challenges since mid-2014 because of the rapid decline in oil prices, and the defeat of the ruling party in Venezuela's December 2015 legislative elections, Cuba has been concerned about the future of Venezuelan financial support. Cuba's economic growth has slowed to a projected 0.5% in 2016, to a large extent due to the decrease in Venezuelan support.[57]

With El Salvador's restoration of relations with Cuba in June 2009, all Latin American nations now have official diplomatic relations with Cuba. Cuba has increasingly become more engaged in Latin America beyond the already close relations with Venezuela. Cuba is a member of the Bolivarian Alliance for the Americas (ALBA), a Venezuelan-led integration and cooperation scheme founded in 2004. In August 2013, Cuba began deploying thousands of doctors to Brazil in a program aimed at providing doctors to rural areas of Brazil, with Cuba earning some $225 million a year for supplying the medical personnel.[58] Brazil also has been a major investor in the development of the port of Mariel west of Havana. Since 2012, Cuba has hosted peace talks between the Colombian government and the Revolutionary Armed Forces of Colombia. In early November 2015, Raúl Castro visited Mexico on a trip designed to warm relations and increase economic linkages.

Community of Latin American and Caribbean States (CELAC). Cuba became a full member of the Rio Group of Latin American and Caribbean nations in November 2008, and a member of the succeeding CELAC that was officially established in December 2011 to boost regional cooperation, but without the participation of the United States or Canada. In January 2013, Raúl Castro assumed the presidency of the organization for one year, and Cuba hosted the group's second summit in January 2014 in Havana, attended by leaders from across the hemisphere as well as United Nations Secretary General Ban Ki-moon. The Secretary General reportedly raised human rights issues with Cuban officials, including the subject of Cuba's ratification of U.N. human rights accords and "arbitrary detentions" by the Cuban government.[59]

Summits of the Americas. Cuba had expressed interest in attending the sixth Summit of the Americas in April 2012 in Cartagena, Colombia, but ultimately was not invited to attend. The

[55] European Union, External Action, "EU Relations with Cuba," at http://eeas.europa.eu/cuba/index_en.htm.

[56] European Union, Official Journal of the European Commission, "Common Position of 2 December 1996, Defined by the Council on the Basis of Article J.2 of the Treaty on European Union, on Cuba," (96/697/CFSP), December 2, 1996.

[57] "Cuba Country Report," Economist Intelligence Unit (EIU), October 2016. Also see William M. Leogrande, "Venezuelan Contagion Hits Cuba's Economy, Putting Reforms in Jeopardy," August 1, 2016.

[58] Anthony Boadle, "Cuban Doctors Tend to Brazil's Poor, Giving Rousseff a Boost," Reuters News, December 1, 2013.

[59] "UN Chief Pushes Cuba on 'Arbitrary Detentions,'" Agence France Presse, January 28, 2014.

United States and Canada expressed opposition to Cuba's participation. Previous summits were limited to the hemisphere's 34 democratically elected leaders, and the Organization of American States (OAS) (in which Cuba does not participate) has played a key role in summit implementation and follow-up activities. Several Latin American nations vowed not to attend the seventh Summit of the Americas to be held in Panama on April 10-11, 2015, unless Cuba was allowed to participate, and as a result, Panama announced in August 2014 that it would invite Cuba to attend. Cuba's participation was a looming challenge for the Obama Administration, but in December 2014, when President Obama announced a new policy approach toward Cuba, he said that the United States was prepared to have Cuba participate in the summit. Cuba ultimately participated in the summit in Panama, with a historic sidelines meeting between President Obama and President Raúl Castro. (For more on the summit, see CRS Report R43952, *Seventh Summit of the Americas: In Brief*, by Peter J. Meyer.)

OAS. Cuba was excluded from participation in the OAS in 1962 because of its identification with Marxism-Leninism, but in 2009, the OAS overturned the 1962 resolution in a move that could eventually lead to Cuba's reentry into the regional organization in accordance with the practices, purposes, and principles of the OAS. While the Cuban government welcomed the OAS vote to overturn the 1962 resolution, it asserted that it would not return to the OAS.[60]

International Organizations. Cuba is an active participant in international forums, including the United Nations (U.N.) and the controversial United Nations Human Rights Council. Cuba also has received support over the years from the United Nations Development Programme (UNDP) and the United Nations Educational, Scientific, and Cultural Organization (UNESCO), both of which have offices in Havana. The U.N. has played a significant role in providing relief and recovery from Hurricane Sandy that struck in October 2012.

Since 1991, the U.N. General Assembly has approved a resolution each year criticizing the U.S. economic embargo and urging the United States to lift it. In 2015, the vote calling for the United States to lift the embargo occurred on October 27, with 191 votes in favor and 2 votes (Israel and the United States) against.[61] Leading up to the vote, there had been speculation that the United States would abstain. In 2016, the vote on the U.N. resolution took place on October 26, with 191 votes in favor and—for the first time—the United States (and Israel) abstaining. In remarks at the U.N. General Assembly session, Ambassador Samantha Power, the U.S. Permanent Representative to the United Nations, stated that the resolution was "a perfect example of why the U.S. policy of isolation toward Cuba was not working" and that U.S. policy instead had isolated the United States, including at the United Nations. She stated, however, that "abstaining on the resolution does not mean that the United States agrees with all the policies and practices of the Cuban government," adding that the United States was "profoundly concerned by the serious human rights violations that the Cuban government continues to commit with impunity against its own people."[62]

Among other international organizations, Cuba was a founding member of the World Trade Organization, but it is not a member of the International Monetary Fund, the World Bank, or the

[60] For further background, see section on "Cuba and the OAS" in archivedCRS Report R40193, *Cuba: Issues for the 111th Congress*, by Mark P. Sullivan; also see CRS Report R42639, *Organization of American States: Background and Issues for Congress*, by Peter J. Meyer.

[61] U.N. General Assembly, 70th Session, Resolution No. A/RES/70/5, "Necessity of Ending the Economic, Commercial and Financial Embargo Imposed by the United States of America Against Cuba," October 27, 2015, available at http://research.un.org/en/docs/ga/quick/regular/70.

[62] U.S. Department of State, United States Mission to the United Nations, Ambassador Samantha Power, "Remarks at a UN General Assembly Meeting on the Cuba Embargo," October 26, 2016.

Inter-American Development Bank. In January 2016, the executive president of the Development Bank of Latin America (CAF) stated in an interview that the bank was in the process of looking at a way for Cuba to become a member; the CAF's current membership includes 17 Latin American and Caribbean countries as well as Spain and Portugal. In September 2016, Cuba signed a memorandum of understanding with the CAF with the objective of supporting technical cooperation programs for Cuba's social and economic development and laying the foundation for Cuba's future memberships in the CAF.[63]

Compliance with U.N. Sanctions on North Korea. In July 2013, the discovery of a weapons shipment aboard a North Korean ship that had left Cuba on its way back to North Korea raised questions about the nature of Cuban-North Korean relations and about Cuba's compliance with U.N. sanctions against North Korea. Panama had detained the North Korean ship as it prepared to enter the Panama Canal due to suspicion that the ship was carrying illicit narcotics; instead, the ship was found to be carrying military weapons. The U.N. Security Council's Panel of Experts for North Korea visited Panama in August 2013 and issued a report on the incident in March 2014. The Panel of Experts concluded that both the shipment and the transaction between Cuba and North Korea were violations of U.N. sanctions banning weapons transfers to North Korea.[64] In July 2014, the U.N. Security Council imposed sanctions on the operator of the North Korean ship, and the company is now subject to an international asset freeze.[65] U.S. Ambassador to the United Nations Samantha Power described the North Korean ship incident as a "cynical, outrageous and illegal attempt by Cuba and North Korea to circumvent United Nations sanctions."[66]

U.S. Policy Toward Cuba

Background on U.S.-Cuban Relations[67]

In the early 1960s, U.S.-Cuban relations deteriorated sharply when Fidel Castro began to build a repressive communist dictatorship and moved his country toward close relations with the Soviet Union. The often tense and hostile nature of the U.S.-Cuban relationship is illustrated by such events and actions as U.S. covert operations to overthrow the Castro government culminating in the ill-fated April 1961 Bay of Pigs invasion; the October 1962 missile crisis in which the United States confronted the Soviet Union over its attempt to place offensive nuclear missiles in Cuba; Cuban support for guerrilla insurgencies and military support for revolutionary governments in

[63] Marc Jones, "Interview – Latam Development Bank CAF Sees Cuba Joining in Weeks," Reuters News, January 15, 2016; CAF, Development Bank of Latin America, "CAF and Cuba Sign First Agreement of Understanding To Establish a Joint Working Agenda," September 3, 2016.

[64] United Nations Security Council, notes by the President of the Security Council, report of the panel of experts established pursuant to resolution 1874 (2009), S/1014/147, March 6, 2014, available at http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2014/147. The panel found that the "hidden cargo ... amounted to six trailers associated with surface-to-air missile systems and 25 shipping containers loaded with two disassembled MiG-21 aircraft, 15 engines for MiG-21 aircraft, components for surface-to-air missile systems, ammunition and miscellaneous arms-related material." According to the report, the "extraordinary and extensive efforts to conceal the cargo of arms and related material ... and the contingency instructions ... found onboard the vessel for preparing a false declaration for entering the Panama Canal ... point to a clear and conscious intention to circumvent the resolutions."

[65] U.N. Security Council, "Security Council Committee Designates Entity Subject to Measures Imposed by Resolution 1718 (2006)," press release, July 28, 2014.

[66] Michelle Nichols, "U.N. Blacklists Operator of North Korean Ship Seized in Panama," Reuters, July 29, 2014.

[67] For additional background, see archived CRS Report RL30386, *Cuba-U.S. Relations: Chronology of Key Events 1959-1999*, by Mark P. Sullivan.

Africa and the Western Hemisphere; the 1980 exodus of around 125,000 Cubans to the United States in the so-called Mariel boatlift; the 1994 exodus of more than 30,000 Cubans who were interdicted and housed at U.S. facilities in Guantánamo and Panama; and the 1996 shootdown by Cuban fighter jets of two U.S. civilian planes operated by the Cuban-American group Brothers to the Rescue, which resulted in the deaths of four U.S. crew members.

Beginning in the early 1960s, U.S. policy toward Cuba consisted largely of isolating the island nation through comprehensive economic sanctions, including an embargo on trade and financial transactions. President Kennedy proclaimed an embargo on trade between the United States and Cuba in February 1962,[68] citing Section 620(a) of the Foreign Assistance Act of 1961 (FAA), which authorizes the President "to establish and maintain a total embargo upon all trade between the United States and Cuba."[69] At the same time, the Department of the Treasury issued the Cuban Import Regulations to deny the importation into the United States of all goods imported from or through Cuba.[70] The authority for the embargo was later expanded in March 1962 to include the Trading with the Enemy Act (TWEA).[71]

In July 1963, the Department of the Treasury revoked the Cuban Import Regulations and replaced them with the more comprehensive Cuban Assets Control Regulations (CACR)—31 C.F.R. Part 515—under the authority of TWEA and Section 620(a) of the FAA.[72] The CACR, which include a prohibition on most financial transactions with Cuba and a freeze of Cuban government assets in the United States, remain the main body of Cuba embargo regulations and have been amended many times over the years to reflect changes in policy. They are administered by the Department of the Treasury's Office of Foreign Assets Control (OFAC) and prohibit financial transactions as well as trade transactions with Cuba. The CACR also require that all exports to Cuba be licensed by the Department of Commerce, Bureau of Industry and Security, under the provisions of the Export Administration Act of 1979, as amended.[73] The Export Administration Regulations (EAR) are found at 15 C.F.R. Sections 730-774.[74]

Congress subsequently strengthened sanctions on Cuba with enactment of the Cuban Democracy Act (CDA) of 1992 (P.L. 102-484, Title XVII), the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (P.L. 104-114), and the Trade Sanctions Reform and Export Enhancement Act of 2000 or TSRA (P.L. 106-387, Title IX).

- Among its provisions, the CDA prohibits U.S. foreign subsidiaries from engaging in trade with Cuba and prohibits entry into the United States for any seaborne vessel to load or unload freight if it has been involved in trade with Cuba within the previous 180 days, except pursuant to a Treasury Department license. (In October 2016, the Treasury Department issued a general license for vessels involved in trade with Cuba.)

[68] 27 *Federal Register* 1085, February 7, 1962 (Proclamation 3447, Embargo on All Trade with Cuba, February 3, 1962).

[69] In October 1960 under the Eisenhower Administration, exports to Cuba were strictly controlled under the authority of the Export Control Act of 1949 in response to the expropriation of U.S. properties. This in effect amounted to an embargo on exports of all products with the exception of certain foods, medicines, and medical supplies.

[70] 27 *Federal Register* 1116, February 7, 1962.

[71] 27 *Federal Register* 2765-2766, March 24, 1962.

[72] 28 *Federal Register* 6974-6985, July 9, 1963.

[73] 31 C.F.R. §515.533.

[74] See especially 15 C.F.R. §746.2 on Cuba, which refers to other parts of the EAR. See http://www.ecfr.gov/cgi-bin/text-idx?SID=d318b728a0d070fda95fa3bf8232e829&node=pt15.2.746&rgn=div5#se15.2.746_12.

- The LIBERTAD Act (P.L. 104-114), enacted in the aftermath of Cuba's shooting down of two U.S. civilian planes in February 1996, combines a variety of measures to increase pressure on Cuba and provides for a plan to assist Cuba once it begins the transition to democracy. Most significantly, the law codified the Cuban embargo, including all restrictions under the CACR. This provision is noteworthy because of its long-lasting effect on U.S. policy options toward Cuba. The executive branch is prevented from lifting the economic embargo without congressional concurrence until certain democratic conditions set forth in the law are met, although the President retains broad authority to amend the regulations therein. Another significant sanction in Title III of the law holds any person or government that traffics in U.S. property confiscated by the Cuban government liable for monetary damages in U.S. federal court. Acting under provisions of the law, however, Presidents Clinton, Bush, and Obama have suspended the implementation of Title III at six-month intervals.
- Although TSRA authorizes U.S. commercial agricultural exports to Cuba, it also includes prohibitions on U.S. assistance and financing and requires "payment of cash in advance" or third-country financing for the exports. The act also prohibits tourist travel to Cuba.

In addition to these acts, Congress enacted numerous other provisions of law over the years that impose sanctions on Cuba, including restrictions on trade, foreign aid, and support from international financial institutions. The government of Cuba also was designated by the State Department as a state sponsor of international terrorism in 1982 under Section 6(j) of the Export Administration Act and other laws because of its alleged ties to international terrorism.[75] (For additional information, see CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*, by Dianne E. Rennack and Mark P. Sullivan.)

In addition to sanctions, another component of U.S. policy has consisted of support measures for the Cuban people. This includes U.S. private humanitarian donations, medical exports to Cuba under the terms of the CDA, U.S. government support for democracy-building efforts, and U.S.-sponsored radio and television broadcasting to Cuba. The enactment of TSRA by the 106th Congress also led to the United States becoming one of Cuba's largest suppliers of agricultural products. Authorization for purposeful travel to Cuba and cash remittances to Cuba have constituted important means to support the Cuban people, although there has been significant congressional debate over these issues for many years.

Despite the poor state of U.S.-Cuban relations, there have been several examples of bilateral cooperation over the years in areas of shared national interest. Three areas that stand out are alien migrant interdiction (with migration accords negotiated in 1994 and 1995), counternarcotics cooperation (with increased cooperation dating back to 1999), and cooperation on oil spill preparedness and prevention (since 2011).

[75] Cuba's designation on the state sponsor of terrorism list has allowed U.S. nationals injured by an act of international terrorism to file lawsuits against Cuba in the United States for damages. For more information, see CRS Legal Sidebar WSLG254, *Can Victims of Terrorism in the United States Sue Foreign Governments?*, by Jennifer K. Elsea; and CRS Legal Sidebar WSLG1405, *Can Creditors Enforce Terrorism Judgments Against Cuba?*, by Jennifer K. Elsea.

Obama Administration Policy

During its first six years, the Obama Administration continued the dual-track policy approach toward Cuba that has been in place for many years. It maintained U.S. economic sanctions and continued measures to support the Cuban people, such as U.S. government-sponsored radio and television broadcasting and funding for democracy and human rights projects.

At the same time, however, the Obama Administration initiated a significant shift in policy toward Cuba beginning in 2009. As part of the policy of reaching out to the Cuban people, President Obama fulfilled a campaign pledge by lifting all restrictions on family travel and remittances. At the April 2009 Summit of the Americas, President Obama announced that "the United States seeks a new beginning with Cuba." While recognizing that it would take time to "overcome decades of mistrust," the President said "there are critical steps we can take toward a new day." He stated that he was prepared to have his Administration "engage with the Cuban government on a wide range of issues—from drugs, migration, and economic issues, to human rights, free speech, and democratic reform."[76] In the aftermath of the Summit in 2009, there was some momentum toward improved relations: in July, the two countries restarted semi-annual migration talks that had been suspended by the United States five years earlier; in September, the two countries held talks on resuming direct mail service.

Alan Gross Case

U.S.-Cuban relations took a turn for the worse in December 2009 when Alan Gross, an American subcontractor working on Cuba democracy projects funded by the U.S. Agency for International Development (USAID), was arrested in Havana. Gross was providing Internet communications equipment to Cuba's Jewish community. He was convicted in March 2011 on charges of acting "against the independence and territorial integrity of the state," and sentenced to 15 years in prison. U.S. officials and some Members of Congress repeatedly raised the issue with the Cuban government and asked for his release. In the aftermath of Gross's conviction, the United States and Cuba continued to cooperate on issues of shared national interest, such as antidrug efforts and migration interdiction, but improvement of relations in other areas became stymied. Securing his release remained a top U.S. priority until he was ultimately released by the Cuban government on December 17, 2014.

The Obama Administration introduced new measures in 2011 to further reach out to the Cuban people through increased purposeful travel (including people-to-people educational travel) and an easing of restrictions on non-family remittances. Beginning in mid-2013, there was also renewed engagement with Cuba on several fronts, including direct mail service talks, resumed migration talks (that had not taken place for 18 months), and air and maritime search and rescue.

In remarks made in November 2013 on policy toward Cuba, President Obama maintained that "we have to be creative ... we have to be thoughtful ... and we have to continue to update our policies." He contended that "the notion that the same policies that we put in place in 1961 would somehow still be as effective as they are today in the age of the Internet and Google and world travel doesn't make sense."[77]

Throughout the Obama Administration's first six years, human rights violations in Cuba remained a fundamental concern. President Obama and the State Department continued to issue statements expressing concern about violations as they occurred, including the death of hunger strikers in 2010 and 2012 and targeted repression against dissidents and human rights activists. As noted above, securing the release of Alan Gross from prison in Cuba also remained a top U.S. priority.

[76] White House, "Remarks by the President at the Summit of the Americas Opening Ceremony," April 17, 2009.

[77] White House, Office of the Press Secretary, "Remarks by the President at a DSCC Fundraising Reception," Miami, Florida, November 8, 2013, at http://www.whitehouse.gov/the-press-office/2013/11/08/remarks-president-dscc-fundraising-reception-0.

The State Department maintained that it was using every appropriate channel to press for his release, including the Vatican.

President Obama Unveils a New Policy Approach Toward Cuba

On December 17, 2014, just after the adjournment of the 113th Congress, President Obama announced major developments in U.S.-Cuban relations and unveiled a new policy approach toward Cuba. First, he announced that the Cuban government had released Alan Gross on humanitarian grounds after five years of imprisonment. The President also announced that, in a separate action, the Cuban government released "one of the most important intelligence assets that the United States has ever had in Cuba" in exchange for three Cuban intelligence agents who had been imprisoned in the United States since 1998. Media reports identified the U.S. intelligence asset as Rolando Sarraff Trujillo, a cryptographer in Cuba's Directorate of Intelligence, who reportedly provided information that helped the FBI dismantle three Cuban spy networks in the United States.[78]

Most significantly, in the aftermath of having secured the release of Gross and the U.S. intelligence asset, President Obama announced a major shift in U.S. policy toward Cuba, moving away from a sanctions-based policy aimed at isolating Cuba to a policy of engagement. The President said that his Administration

> will end an outdated approach that, for decades, has failed to advance our interests, and instead we will begin to normalize relations between our two countries. Through these changes, we intend to create more opportunities for the American and Cuban people, and begin a new chapter among the nations of the Americas.

The President maintained that the United States would continue to raise concerns about democracy and human rights in Cuba but stated that "we can do more to support the Cuban people and promote our values through engagement." According to the President, "After all, these 50 years have shown that isolation has not worked. It's time for a new approach."[79]

The President outlined three major steps to move toward normalization: (1) the reestablishment of diplomatic relations with Cuba; (2) a review of Cuba's designation by the Department of State as a state sponsor of international terrorism; and (3) an increase in travel, commerce, and the flow of information to and from Cuba.

When President Obama announced his Cuba policy change, he also indicated that his Administration was prepared to have Cuba participate in the Summit of the Americas to be held April 10-11, 2015, in Panama. The White House emphasized that human rights and democracy would be key themes of the summit and asserted that Cuban civil society must be allowed to participate with civil society from other countries. Cuba's potential participation in the summit had been a policy challenge for the Administration since it had opposed Cuba's participation in the 2012 Summit of the Americas in Colombia.

Cuba ultimately participated in the summit in Panama, with President Obama and Cuban President Raúl Castro holding a historic bilateral meeting in Panama on April 11. President Obama stated that "there are still going to be deep and significant differences between our two governments," with the United States continuing to raise concerns around democracy and human rights and Cuba raising concerns about U.S. policy. He maintained, however, that "what we have both concluded is that we can disagree with the spirit of respect and civility, and that over time it

[78] Adam Goldman and Missy Ryan, "Spy Helped Unmask 3 Cuban Spy Networks, U.S. Officials Say," *Washington Post*, December 18, 2014.

[79] White House, "Statement by the President on Cuba Policy Changes," December 17, 2014.

is possible for us to turn the page and develop a new relationship in our two countries." Several Cuban dissidents attended and participated in the Civil Society and Social Actors Forum, although there were problems with a reported attack on anti-Castro protestors by Cuban government supporters just ahead of the summit and efforts by Cuban government supporters to disrupt an event in which Cuban dissidents were scheduled to speak.[80]

Reestablishment of Diplomatic Relations

As U.S.-Cuban relations deteriorated in the early 1960s, relations were severed by the Eisenhower Administration in January 1961 in response to the Cuban government's demand to decrease the number of U.S. Embassy staff within 48 hours. In 1977, under the Carter Administration, both countries established Interests Sections in each other's capitals.

In 2015, four rounds of talks were held on reestablishing relations, with the U.S. delegation headed by Assistant Secretary of State for Western Hemisphere Affairs Roberta Jacobson and the Cuban delegation led by Josefina Vidal, director of the North American division of Cuba's Ministry of Foreign Relations. The first round took place on January 22, 2015, in Havana, a day after previously scheduled semi-annual migration talks, and focused on the required steps for the reestablishment of relations, the opening of embassies, and expectations on how the U.S. Embassy in Havana would operate.[81] Subsequent rounds took place on February 27 in Washington, DC; March 16 in Havana; and May 21-22, 2015, in Washington, DC. Issues discussed included staffing numbers, lifting in-country travel restrictions on diplomats, unimpeded shipments for the diplomatic post, and access to the post by Cubans.[82] In other developments, a U.S. government delegation visited Havana March 24-26, 2015, focusing on the development of telecommunications and Internet connections between the United States and Cuba. On March 31, U.S. and Cuban delegations met in Washington, DC, to discuss how they would proceed on a future human rights dialogue.

Ultimately, on July 1, 2015, President Obama announced that the United States and Cuba agreed to reestablish diplomatic relations, effective July 20, and to reopen embassies in their respective capitals on the same day. The President maintained that "this is a historic step forward in our efforts to normalize relations with the Cuban government and people."[83] On the same day, Secretary of State Kerry notified Congress, pursuant to Section 7015(a) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015 (Division J, P.L. 113-235), of the plan to redesignate the U.S. Interests Section in Havana as an embassy. That provision of law required congressional notification 15 days in advance before closing or opening a mission or post. On July 20, the U.S. and Cuban Interests Sections in Washington, DC, and Havana, respectively, were converted to embassies. Cuba held a flag-raising ceremony on that day at its embassy attended by Cuban Foreign Minister Bruno Rodriguez. Secretary of State John

[80] "U.S. Trouble by Reported Attacks on Protesters in Panama," Reuters News, April 9, 2015; and Nick Miroff and Karen DeYoung, "In Havana, Old Habits Die Hard," *Washington Post*, April 12, 2015.

[81] U.S. Department of State, Roberta Jacobson, Assistant Secretary, Bureau of Western Hemisphere Affairs, "Talks to Re-Establish Diplomatic Relations," January 22, 2015.

[82] According to the State Department, the U.S. Interests Section in Havana has a cap of 51 direct U.S. hires, a cap previously jointly agreed by the United States and Cuba. The U.S. Interests Section in Havana also employs almost 400 foreign nationals. U.S. Department of State and Broadcasting Board of Governors, *Office of Inspector General, Inspection of U.S. Interests Section Havana, Cuba*, May 2014; U.S. Department of State, "Press Availability with Assistant Secretary of State for Western Hemisphere Affairs," February 27, 2015.

[83] White House, "Statement by the President on the Re-Establishment of Diplomatic Relations with Cuba," July 1, 2015.

Kerry visited Havana on August 14, 2015, for a flag-raising ceremony at the U.S. Embassy. This marked the first visit of a U.S. Secretary of State to Cuba since 1945.

Rescission of Cuba's Designation as a State Sponsor of International Terrorism

Cuba had been on the list since 1982 pursuant to Section 6(j) of the Export Administration Act (EAA) of 1979 (P.L. 96-72; 50 U.S.C. Appendix 2405(j)) and other laws because of its alleged ties to international terrorism and support for terrorist groups in Latin America. On December 17, 2014, President Obama directed Secretary of State Kerry to review Cuba's designation "guided by the facts and the law." The President stated that "at a time when we are focused on threats from al Qaeda to ISIL, a nation that meets our conditions and renounces the use of terrorism should not face this sanction."

On April 9, 2015, during a trip to Jamaica ahead of the Summit of the Americas in Panama, President Obama said that the State Department had completed its review and he would soon be making his decision. That occurred on April 14, when the President transmitted to Congress a report justifying the rescission of Cuba's designation as a state sponsor of terrorism. No resolutions of disapproval were introduced in Congress to block the rescission, which took place on May 29, 2015, 45 days after the submission of the report to Congress. Subsequently, to reflect the rescission of Cuba's designation as a state sponsor of terrorism in U.S. regulations, the Treasury Department's Office of Foreign Assets Control (OFAC) amended the Cuban Assets Control Regulations (CACR) in June 2015 and the Commerce Department's Bureau of Industry and Security (BIS) amended the Export Administration Regulations in July 2015.[84] (For additional information, see "State Sponsor of Terrorism Designation," below.)

Increase in Travel, Commerce, and the Flow of Information

The White House announced a number of policy changes to implement this third step. The changes build upon previous steps that President Obama took in 2009, when he lifted all restrictions on family travel and remittances to family members in Cuba, and in 2011, when he took action to increase purposeful travel to Cuba, such as people-to-people educational trips.

Just as in 2009 and 2011, the President's new initiative required changes to U.S. embargo regulations administered by the Treasury Department's OFAC (CACR; 31 C.F.R. Part 515) and the Department of Commerce's BIS (EAR; 15 C.F.R. Parts 730-774). Such changes fall within the scope of the President's discretionary licensing authority to make changes to the embargo regulations.

To implement the policy changes to increase travel and commerce, the two agencies issued five rounds of amendments to the CACR and the EAR in January 2015, September 2015, January 2016, March 2016, and October 2016; this was in addition to the regulatory changes noted above related to the rescission of Cuba's designation as a state sponsor of terrorism.[85]

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[84] 80 *Federal Register* 34053-34054, June 15, 2015; and 80 *Federal Register* 43314-43320, July 22, 2015.

[85] 80 *Federal Register* 2286-2302, January 16, 2015; 80 *Federal Register* 56898-56904 and 56915-56926, September 21, 2015; 81 *Federal Register* 4580-4586, January 27, 2016; 81 *Federal Register* 13972-13974 and 13989-13994, March 16, 2016; and 81 *Federal Register* 71365-71367 and 71372-71378, October 17, 2016. For background on the regulatory changes, see U.S. Department of the Treasury, "Cuba Sanctions," at https://www.treasury.gov/resource-center/sanctions/Programs/Pages/cuba.aspx; U.S. Department of the Treasury, "Frequently Asked Questions Related to Cuba," at https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_faqs_new.pdf; U.S. Department of Commerce, Bureau of Industry and Security, "Cuba," at https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations/cuba; and U.S. Department of Commerce, "Cuba, Frequently

The regulations included changes in the following areas:

- **Travel and Remittances.** The amended Treasury regulations authorize a general license for the existing 12 categories of authorized travel in the CACR, meaning that travelers who fall under these categories do not have to apply to the Department of the Treasury for permission. Travel agents and air and vessel carriers are also able to provide services for travel to Cuba under a general license. Authorized travelers will also be permitted to use U.S. credit and debit cards as U.S. financial institutions offer these services. Donative remittances to Cuban nationals are authorized without limit; initially the cap was increased from $500 to $2,000 per quarter in January 2015, and then it was removed altogether in September 2015. The regulations also authorize without limit remittances for certain activities related to humanitarian projects, the promotion of civil society, and the development of private businesses. In March 2016, the CACR were amended to permit individuals to travel to Cuba for individual, people-to-people education travel (previously, such trips had to take place under the auspices of an organization). Authorized travelers to Cuba, as well as U.S. travelers to third countries, can bring back Cuban products to the United States for personal use, including alcohol and tobacco products. (Also see "Restrictions on Travel and Remittances," below.)
- **Trade and Telecommunications.** The Commerce regulations expand commercial exports to Cuba of certain goods and services to empower Cuba's nascent private sector, including authorization for certain building materials for private residential construction, goods for use by private-sector Cuban entrepreneurs, and agricultural equipment for small farmers. To implement this change, Commerce's Bureau of Industry and Security (BIS) created a license exception in the Export Administration Regulations (EAR) for "support to the Cuban people," authorizing the export without license of such items described above. This license exception also included the export to Cuba of items for telecommunications, including access to the Internet, use of Internet services, infrastructure creation, and upgrades.

  The Treasury regulations also revise the definition of "payment of cash in advance" required by TSRA for authorized trade with Cuba to specify that it means "cash before transfer of title" for payment. Certain goods and services produced by independent Cuban entrepreneurs (as determined by the State Department) are eligible to be imported into the United States.[86] In October 2016, OFAC amended the regulations to allow for transactions to obtain U.S. Food and Drug Administration approval of Cuban-origin pharmaceuticals. OFAC also authorized transactions for importation into the United States of FDA-approved Cuban-origin drugs, including marketing, sales, or other distribution.

  The Commerce regulations permit the commercial export of certain consumer communication devices, related software, applications, hardware, and services, and items for the establishment and update of communications-related systems; previously such exports were limited to donations. They also permit the export of

Asked Questions," at https://www.bis.doc.gov/index.php/forms-documents/doc_download/1446-bis-cuba-consolidated-faqs.

[86] On February 13, 2015, the State Department issued a list of eligible goods and services produced by independent Cuban entrepreneurs that may be imported. See http://www.state.gov/e/eb/tfs/spi/cuba/515582/237471.htm.

items for telecommunications, including access to the Internet, use of Internet services, infrastructure creation, and upgrades.

An expanded Treasury Department general license authorizes transactions to provide commercial telecommunications services in Cuba or link third countries and Cuba. U.S. companies may establish joint ventures with entities in Cuba to provide telecommunication and Internet-based services and to enter into licensing agreements related to, and to market, such services. An updated general license allows for U.S. persons to make payments to a telecommunications operator located in Cuba for services provided to Cuban individuals.

In January 2015, BIS revised the EAR to state a general policy of approval for license applications to export items to Cuba necessary for the environmental protection of U.S. and international air quality, waters, and coastlines, including items related to renewable energy or energy efficiency.

In January 2016, BIS expanded the categories of exports that fall under a "general policy of approval" license policy to include certain items for civil aviation and commercial aircraft safety; telecommunications; U.S. news bureaus; human rights organizations and nongovernmental organizations; and agricultural commodities (such as insecticides, pesticides, and herbicides) that fall outside the scope of those allowed under the existing BIS license exception for agricultural commodities covered by TSRA.

In January 2016, BIS amended the EAR to include a new category of exports for which licenses will be considered on a case-by-case basis. The new category includes items exported to state-owned enterprises, agencies, and other organizations of the Cuban government that provide goods and services for the use and benefit of the Cuban people. (For more details, see "U.S. Exports and Sanctions," below.)

In October 2016, OFAC added a general license for authorization to enter into contingent contracts for transactions currently prohibited by the embargo. It also added a general license waiving the restriction in the Cuban Democracy Act of 1992 prohibiting foreign vessels from entering U.S. ports for purposes of loading or unloading freight for 180 days after calling on a Cuban port for trade purposes. BIS also generally authorized by license exception the export of certain consumer goods sold directly to eligible individuals in Cuba for their personal use.

- **Banking and Financial Services.** The Treasury regulations permit U.S. financial institutions to open correspondent accounts at Cuban financial institutions to facilitate the processing of authorized transactions, including payment for U.S. exports and for travel services. In January 2016, U.S. private export financing was authorized for all authorized nonagricultural export trade to Cuba. In March 2016, Treasury permitted U.S. banking institutions to authorize U-turn payments through the U.S. financial system for transactions in which Cuba or a Cuban national has an interest (whereby funds from a bank outside of the United States may pass through one or more U.S. financial institutions before being transferred to a bank outside the United States).
- **Physical Presence.** Companies or entities in the following categories are authorized to have a physical presence in Cuba, such as an office, retail outlet, or warehouse: news bureaus; exporters of authorized goods to Cuba; entities

providing mail or parcel transmission services; telecommunication or Internet-based service providers; entities organizing or conducting certain educational activities; religious organizations; and carrier and travel service providers. U.S. exports to establish, operate, or support such a physical presence are authorized under a license exception.

Embargo Remains in Place

When the President unveiled his policy changes, he acknowledged that he does not have the authority to lift the embargo because it was codified into law (Section 102(h) of the LIBERTAD Act). However, the President maintained that he looks forward to engaging Congress in a debate about lifting the embargo. As noted above, the LIBERTAD Act ties the lifting of the embargo to conditions in Cuba (including that a democratically elected government is in place). Lifting the overall economic embargo at this time would require amending or repealing the LIBERTAD Act as well as other statutes that have provisions impeding normal economic relations with Cuba, such as the Foreign Assistance Act of 1961, the Cuban Democracy Act of 1992, and the Trade Sanctions Reform and Export Enhancement Act of 2000. For example, as noted above, TSRA denies U.S. exporters access to U.S. government support, prohibits U.S. private commercial financing or credit for agricultural exports, and prohibits tourist travel to Cuba.

March 2016 Presidential Visit

President Obama traveled to Cuba from March 20 to 22, 2016—the first visit of a U.S. President since Calvin Coolidge visited in 1928. Before the trip, the White House set forth the goals of the visit, stating that the President would build on progress toward normalizing relations, including advancing commercial and people-to-people ties and expressing support for human rights.[87]

During his visit (which included Secretary of State Kerry, Agriculture Secretary Vilsack, and Commerce Secretary Pritzker), President Obama announced additional initiatives, including support for collaboration between the U.S. and Cuban agricultural sectors; Cuban participation in the Administration's 100,000 Strong in the Americas Initiative to increase student exchanges; and new partnerships in health, science, and the environment. The President attended an event with Cuban entrepreneurs to demonstrate support for the country's nascent private sector. At the event, he noted such commercial plans as General Electric selling aviation and energy equipment, the Alabama-based Cleber company building tractors in Cuba (this project ultimately was rejected by the Cuban government), Starwood and Marriott planning to operate hotels in joint ventures with Cuba, and Carnival beginning cruise service in May. The President also attended a baseball game between the Tampa Bay Rays and the Cuban national team in a significant demonstration of sports diplomacy.[88]

As a reflection of the momentous shift in his Administration's policy toward Cuba, President Obama said during the trip that he had "come here to bury the last remnant of the Cold War in the Americas."[89] The policy shift on Cuba, which has been lauded throughout Latin America, has

[87] White House, "Statement by the Press Secretary on the President's Travel to Cuba and Argentina," February 18, 2016.

[88] U.S. Department of Agriculture, "Agriculture Secretary Vilsack Announces Historic Agreements for U.S.-Cuba Agriculture Sectors," News Release, March 21, 2016; U.S. Department of State, "New Commitments to President Obama's 100,000 Strong in the Americas Initiative," March 22, 2016; White House, "Remarks by President Obama at an Entrepreneurship and Opportunity Event," March 21, 2016; and "Rays Beat Cuba Team with Barack Obama, Raúl Castro in Attendance," ESPN.com News Services, March 22, 2016.

[89] White House, "Remarks by President Obama to the People of Cuba," March 22, 2016.

helped to bolster the image of the United States in the region and solidify the Administration's message that it is committed to sustained engagement and partnership in the Americas.

Respect for human rights was a major focus of the visit, and President Obama spoke out strongly on the issue. Just a day before the President's arrival, the Cuban government disrupted the weekly peaceful protest march of the Ladies in White human rights group, again demonstrating the government's severe repression of political dissent. In a joint press conference with President Raúl Castro, President Obama said that the United States would "continue to speak up on behalf of democracy, including the right of the Cuban people to decide their own future" and to "speak out on behalf of universal human rights, including freedom of speech, and assembly, and religion." In contrast, President Castro became defensive when asked about political prisoners in Cuba.[90]

President Obama spoke out most forcefully for advancing human rights during his televised speech to the Cuban nation. While maintaining that the United States "will not impose our political or economic system on you," the President said:

> I believe citizens should be free to speak their mind without fear—to organize, and to criticize their government, and to protest peacefully, and that the rule of law should not include arbitrary detentions of people who exercise those rights. I believe that every person should have the freedom to practice their faith peacefully and publicly. And, yes, I believe voters should be able to choose their governments in free and democratic elections.

Speaking directly to President Castro, President Obama said:

> I am also confident that you need not fear the different voices of the Cuban people—and their capacity to speak, and assemble, and vote for their leaders. In fact, I'm hopeful for the future because I trust that the Cuban people will make the right decisions.[91]

President Obama met for almost two hours with 13 prominent human rights and political activists, including Berta Soler, leader of the Ladies in White; José Daniel Ferrer, leader of the Patriotic Union of Cuba; Elizardo Sánchez, president of the Cuban Commission for Human Rights and National Reconciliation (CCDHRN); and Antonio Rodiles, coordinator of Estado de Sats, a forum to promote cultural, social, and political debate. The meeting itself signaled recognition of the activists.[92] Another participant, human rights activist and independent journalist Miriam Leiva, commented that no head of state visiting Cuba had met with prominent dissidents, "not even the popes."[93]

Looking ahead, the extent to which President Obama's trip will spur the pace of the normalization process will depend on several factors. These include, as the President acknowledged during the trip, the extent to which the Cuban government makes progress on human rights issues and the extent to which Cuba takes advantage of the recent regulatory changes to the U.S. embargo.

Moreover, as President Obama noted, even if the United States lifted the embargo tomorrow, "Cubans would not realize their potential without change in Cuba." He pointed to such needed changes as making it easier to open a business, allowing workers to get jobs directly with companies that invest in Cuba, eliminating the use of two currencies that separate the types of

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[90] White House, Remarks by President Obama and President Raúl Castro of Cuba in a Joint Press Conference," March 21, 2016.

[91] White House, "Remarks by President Obama to the People of Cuba," March 22, 2016.

[92] Patricia Mazzei and Nora Gamez Torres, "Cuban Dissidents Meet Obama to Air Grievances about Castro – and About New U.S. Policy," *Miami Herald*, March 22, 2016.

[93] Frances Robles, "Cuban Dissident Praise 'Closeness and Trust' after Meeting with Obama," *New York Times*, March 22, 2016.

salaries that Cubans can earn, and expanding Internet access so that Cubans can connect to the wider world.

Advancing Engagement

U.S. and Cuban officials have held five **Bilateral Commission** meetings, the most recent in December 2016, to coordinate efforts to advance the normalization process. These meetings have included a review of progress on shared priorities, such as regulatory issues, telecommunications, science and technology, U.S. property claims, environmental protection and cooperation, human trafficking, human rights, migration, law enforcement, civil aviation, agriculture, culture and education, nonproliferation, and maritime borders.[94] The next Bilateral Commission meeting is scheduled to take place in Havana in December 2016.

Among the numerous meetings and agreements that have occurred are the following:[95]

- U.S. and Cuban officials have held three **regulatory dialogues**—in October 2015, February 2016, and July 2016—with the U.S. delegations consisting of officials from Commerce, Treasury, and State. According to the State Department, the delegations presented information on the U.S. regulatory changes and addressed ways the two countries can work together within the existing framework of U.S. laws and regulations.
- With regard to **law enforcement cooperation**, an inaugural Law Enforcement Dialogue took place in November 2015 in Washington, DC, focusing on such areas of cooperation as counterterrorism, counternarcotics, transnational crime, cybercrime, secure travel and trade, and fugitives.[96] Bilateral technical talks on cybercrime and online fraud took place in February 2016, in Havana. A second Law Enforcement Dialogue took place in Havana in May 2016. Also under the rubric of the Law Enforcement Dialogue, U.S. and Cuban officials held technical exchanges on human smuggling and fraud prevention in February and September 2016, as well as a technical exchange on legal cooperation in September 2016. On January 16, 2017, U.S. and Cuban officials signed a memorandum of understanding to deepen bilateral law enforcement cooperation and information sharing.
- In June 2016, the United States and Cuba held the first **counterterrorism technical exchange** in Cuba, which included U.S. officials from several agencies: the State Department, FBI, and Homeland Security (U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement's Homeland Security Investigations).
- In the **environmental arena**, the United States and Cuba signed an environmental memorandum on November 18, 2015, for the protection of fish and coral resources.[97] On November 24, 2015, both countries signed a joint

[94] U.S. Department of State, media note, "United States and Cuba Hold Inaugural Bilateral Commission in Havana," September 11, 2015, "United States and Cuba Hold Second Bilateral Commission Meeting in Washington, D.C.," November 10, 2015, "United States and Cuba to Hold Third Bilateral Commission Meeting in Havana, Cuba," May 12, 2016, "United States and Cuba Hold Forth Bilateral Commission Meeting in Washington, D.C.," September 30, 2016.

[95] For a State Department listing of events and other aspects of U.S.-Cuban engagement at the one year anniversary of the reestablishment of diplomatic relations, see http://www.state.gov/r/pa/prs/ps/2016/07/260306.htm.

[96] U.S. Department of State, "United States and Cuba Hold Law Enforcement Dialogue in Washington, D.C.," November 9, 2015.

[97] "U.S., Cuba Reach Historic Agreement on Sea Life," *Chicago Tribune*, November 19, 2015.

statement on environmental cooperation designed to facilitate and guide cooperation on a range of issues, including coastal and marine protection, the protection of biodiversity, climate change, disaster risk reduction, and marine pollution. U.S. and Cuban delegations met June 28-July 1, 2016, in Cuba to advance cooperation on issues affecting the marine environment.

- With regard to **maritime issues**, the United States and Cuba signed a memorandum of understanding on hydrography and nautical charting in March 2016 to improve maritime navigation safety. In July 2016, U.S., Cuban, and Mexican delegations met in Mexico to discuss delimiting maritime boundaries of the continental shelf that are more than 200 nautical miles from each country's shore in the eastern Gulf of Mexico, often referred to as the Eastern Gap.[98]
- On **counternarcotics issues**, U.S. and Cuban officials held a second dialogue in Washington, DC, in December 2015 (the first occurred in April 2014). At a third counternarcotics meeting held in Havana in July 2016, Cuba and the United States singed a Counternarcotics Arrangement to facilitate additional cooperation and information sharing in efforts against illicit narcotics trafficking. (See "Antidrug Cooperation," below.)
- U.S. and Cuban officials have held three discussions on **claims,** in December 2015, July 2016, and most recently on January 12, 2017. Outstanding U.S. claims include those of U.S. nationals certified by the Foreign Claims Settlement Commission, claims related to unsatisfied U.S. court judgments against Cuba, and claims held by the U.S. government. (See "U.S. Property Claims," below.)
- On December 11, 2005, Cuban and U.S. officials announced that they had finalized plans for **direct mail service**. The service began on March 16, 2016, for the first time in more than 50 years.
- U.S. and Cuban officials reached a bilateral **civil aviation arrangement** on December 16, 2015 (signed in February 2016), which will allow U.S. commercial airlines to operate regular flights to Cuba. (See "Restrictions on Travel and Remittances," below.)
- With regard to **health cooperation**, the U.S. Department of Health and Human Services and the Cuban government signed a memorandum of understanding on June 13, 2016, to facilitate cooperation on such diseases as cancer and the Zika virus.
- On **human rights**, U.S. and Cuban officials traveled to Havana for the first U.S.-Cuban human rights dialogue in October 2016.
- U.S. and Cuban officials held an inaugural **economic dialogue** in Washington, DC, in September 2016, and discussed trade and investment, labor and employment, renewable energy and energy efficiency, small business, intellectual property rights, economic policy, regulatory and banking matters, and telecommunications and Internet access.
- U.S. and Cuban officials signed an **oil spill preparedness and response** agreement on January 9, 2017, for cooperation and coordination in an effort to prevent, contain, and clean up marine oil and other hazardous pollution.

[98] U.S. Department of State, "United States, Cuba, and Mexico: Resolving Maritime Boundaries, July 7, 2016.

President Obama issued a presidential policy directive on the normalization of relations with Cuba on October 14, 2016.[99] The directive set forth the Administration's vision for normalization of relations and laid out six medium-term objectives: (1) government-to-government interaction; (2) engagement and connectivity; (3) expanded commerce; (4) economic reform; (5) respect for universal human rights, fundamental freedoms, and democratic values; and (6) Cuba's integration into international and regional systems. The directive also outlined the roles and responsibilities for various U.S. departments and agencies to move the normalization process forward. It noted that the Administration will seek to build support in Congress to lift the embargo and other statutory provisions constraining efforts to normalize economic relations with Cuba. The directive can be viewed as an attempt to keep up the momentum toward normalizing relations in the next Administration and to protect the changes that have been made to date in policy toward Cuba.

Debate on the Direction of U.S. Policy

Over the years, although U.S. policymakers have agreed on the overall objectives of U.S. policy toward Cuba—to help bring democracy and respect for human rights to the island—there have been several schools of thought about how to achieve those objectives. Some have advocated a policy of keeping maximum pressure on the Cuban government until reforms are enacted, while continuing efforts to support the Cuban people. Others argue for an approach, sometimes referred to as constructive engagement, that would lift some U.S. sanctions that they believe are hurting the Cuban people and move toward engaging Cuba in dialogue. Still others call for a swift normalization of U.S.-Cuban relations by lifting the U.S. embargo. Legislative initiatives introduced over the past decade have reflected these three policy approaches.

Dating back to 2000, there have been efforts in Congress to ease U.S. sanctions, with one or both houses at times approving amendments to appropriations measures that would have eased U.S. sanctions on Cuba. Until 2009, these provisions were stripped out of final enacted measures, in part because of presidential veto threats. In 2009, Congress took action to ease some restrictions on travel to Cuba, marking the first time that Congress has eased Cuba sanctions since the approval of the Trade Sanctions Reform and Export Enhancement Act of 2000. In light of Fidel Castro's departure as head of government and the gradual economic changes being made by Raúl Castro, some observers had called for a reexamination of U.S. policy toward Cuba. In this new context, two broad policy approaches were advanced to contend with change in Cuba: an approach that called for maintaining the U.S. dual-track policy of isolating the Cuban government while providing support to the Cuban people and an approach aimed at influencing the attitudes of the Cuban government and Cuban society through increased contact and engagement.

The Obama Administration's December 2014 change of U.S. policy from one of isolation to one of engagement and moving toward the normalization of relations has highlighted divisions in Congress over Cuba policy. Some Members of Congress lauded the Administration's actions as in the best interests of the United States and a better way to support change in Cuba, while other Members strongly criticized the President for not obtaining concessions from Cuba to advance human rights. Some Members vowed to oppose the Administration's efforts toward normalization, while others have, as in the past, introduced legislation to normalize relations with Cuba by lifting the embargo in its entirety or in part easing some aspects of it.

In general, those who advocate easing U.S. sanctions on Cuba make several policy arguments. They assert that if the United States moderated its policy toward Cuba—through increased travel,

[99] White House, "Presidential Policy Directive – United States-Cuba Normalization," October 14, 2016, at https://www.whitehouse.gov/the-press-office/2016/10/14/presidential-policy-directive-united-states-cuba-normalization.

trade, and dialogue—then the seeds of reform would be planted, which would stimulate forces for peaceful change on the island. They stress the importance to the United States of avoiding violent change in Cuba, with the prospect of a mass exodus to the United States. They argue that since the demise of Cuba's communist government does not appear imminent, even without Fidel Castro at the helm, the United States should espouse a more pragmatic approach in trying to bring about change in Cuba. Supporters of changing policy also point to broad international support for lifting the U.S. embargo, to the missed opportunities for U.S. businesses because of the unilateral nature of the embargo, and to the increased suffering of the Cuban people because of the embargo. Proponents of change also argue that the United States should be consistent in its policies with the world's few remaining communist governments, including China and Vietnam.

On the other side, opponents of lifting U.S. sanctions maintain that the two-track policy of isolating Cuba, but reaching out to the Cuban people through measures of support, is the best means for realizing political change in Cuba. They point out that the Cuban Liberty and Democratic Solidarity Act of 1996 sets forth the steps that Cuba needs to take in order for the United States to normalize relations. They argue that softening U.S. policy without concrete Cuban reforms would boost the Castro government, politically and economically, and facilitate the survival of the communist regime. Opponents of softening U.S. policy argue that the United States should stay the course in its commitment to democracy and human rights in Cuba and that sustained sanctions can work. Opponents of loosening U.S. sanctions further argue that Cuba's failed economic policies, not the U.S. embargo, are the causes of Cuba's difficult living conditions.

Public opinion polls show a majority of Americans support normalizing relations with Cuba, including a majority of the Cuban American community in South Florida.[100]

Incoming Trump Administration

Statements from President-elect Trump suggest that he might reverse some of the Obama Administration's Cuba policy changes. After Fidel Castro's death in November 2016, the President-elect issued a statement referring to Castro as a "brutal dictator who oppressed his own people for nearly six decades."[101] This statement was followed by a longer message maintaining that "If Cuba is unwilling to make a better deal for the Cuban people, the Cuban/American people and the U.S. as a whole, I will terminate [the] deal."[102] At this juncture, it remains unclear what actions might be taken by the incoming Administration. During the electoral campaign, candidate Trump said he would cancel or reverse President Obama's policy on Cuba unless Cuba took action to improve political and religious freedom and free political prisoners.[103]

Since President Obama's policy shift on Cuba was done largely by executive action, President-elect Trump could reverse many of those policies, including the reestablishment of diplomatic relations, the rescission of Cuba's designation as a state sponsor of terrorism, and actions taken to ease restrictions on travel and commerce. As described above, this third step involved regulatory

[100] See, for example, Florida International University, Cuba, 2016 FIU Cuba Poll, *How Cuban Americans in Miami View U.S. Policies Toward Cuba*, September 2016, available at https://cri.fiu.edu/events/2016/the-2016-fiu-cuba-poll/cuba-poll-web.pdf; Atlantic Council, Adrienne Arsht Latin American Center, *U.S-Cuba, A New Public Survey Supports Policy Change*, February 11, 2014, available at http://www.atlanticcouncil.org/publications/reports/us-cuba-a-new-public-survey-supports-policy-change; Pew Research Center, "Growing Public Support for U.S. Ties with Cuba – And an End to the Trade Embargo," July 21, 2015.

[101] Eugene Scott, "Donald Trump: Fidel Castro Is Dead!" *CNN*, November 26, 2016.

[102] Donald Trump@realDonaldTrump, Twitter, November 28, 2016.

[103] Jeremy Diamond, "Trump Shifts on Cuba, Says He Would Reverse Obama's Deal," *CNN*, September 16, 2016.

changes to the economic embargo taken by the Treasury and Commerce Departments. The Administration could decide to reverse some or all these changes or to ease or tighten other aspects of the embargo regulations. The Administration also could make changes to other aspects of bilateral government-to-government cooperation and dialogues that have occurred under the Obama Administration. These include a variety of agreements and dialogues on such issues as telecommunications, science and technology, U.S. property claims, environmental protection, human rights, migration, law enforcement, civil aviation, and maritime borders.

As noted above, opinion polls have shown that the policy of engagement has largely been popular, which could make it difficult for the incoming Administration to reverse the U.S. policy completely. Burgeoning U.S. business linkages also could make it difficult to reverse current policy. Given that much of the economic embargo on Cuba remains in place (and can be lifted only by Congress), the incoming Administration could choose to let the changes that have already been made remain but refrain from approving any additional easing of restrictions pending economic or political changes in Cuba.

Selected Issues in U.S.-Cuban Relations

For many years, Congress has played an active role in U.S. policy toward Cuba through the enactment of legislative initiatives and oversight on the numerous issues that comprise policy toward Cuba. These include U.S. economic sanctions on Cuba, such as restrictions on travel, remittances, and agricultural and medical exports; terrorism issues, including Cuba's designation as a state sponsor of international terrorism; human rights issues, including funding and oversight of U.S.-government sponsored democracy and human rights projects; funding and oversight for U.S.-government sponsored broadcasting to Cuba (Radio and TV Martí); migration issues; bilateral antidrug cooperation; and U.S. claims for property confiscated by the Cuban government.

Diplomatic and Military Engagement

In reaction to the Administration's Cuba policy changes, some Members attempted to restrict operations of the U.S. Embassy in Havana and U.S. military engagement with the Cuban military through appropriations and defense authorization legislation.

U.S. Embassy Operations. At least two U.S. Senators said they would put a hold on any nominee for U.S. ambassador to Cuba, effectively blocking the Senate from voting on a nominee. The absence of a U.S. ambassador at a U.S. Embassy, however, is not an unusual occurrence, with the senior ranking State Department official assuming the title of chargé d'affaires ad interim and responsibility for the day-to-day functioning of the diplomatic post. With the reestablishment of relations, the chief of the U.S. Interests Section in Havana, Jeffrey DeLaurentis, became chargé d'affaires of the U.S. Embassy in Havana. On September 27, 2016, President Obama officially nominated DeLaurentis to become U.S. ambassador to Cuba, although the Senate Foreign Relations Committee did not take up nomination by the end of the 114th Congress.

In its FY2016 budget request, the State Department asked for just over $6 million for the Western Hemisphere Affairs Bureau (WHA) to support expanded operations in Havana, including increased engagement with Cuban civil society and new demands on staff likely to result from an increase in visitors to Cuba. The House Appropriations Committee's FY2016 State Department and Foreign Operations appropriations bill, H.R. 2772, had a provision in Section 7045(c)(3) that would have prohibited funds for the establishment or operation of a U.S. diplomatic presence in Cuba beyond that which was in existence prior to December 17, 2014, until the President

determined and reported to Congress that the requirements and factors specified in the LIBERTAD Act (related to democratic conditions in Cuba) had been met. The Senate Appropriations Committee-approved version of the bill did not include such a provision, and ultimately the FY2016 omnibus appropriations bill, H.R. 2029, did not include such a provision. The Administration opposed the provision as interfering with its ability to make the best decisions consistent with U.S. national security.[104]

In its FY2017 budget request, the State Department requested $3.8 million for WHA to fill nine additional positions and update aging infrastructure at the U.S. Embassy in Havana. According to the request, the positions would include a mix of reporting and support positions to deepen understanding of Cuba's political, social, and economic environment; oversee maintenance upgrades; conduct human rights monitoring and advocacy; and strengthen law enforcement cooperation. The House Appropriations Committee version of the FY2017 State Department and Foreign Operations appropriations measure, H.R. 5912 (H.Rept. 114-693) reported on July 15, 2016, had a provision in Section 7045(c)(1) that would have prohibited funding for the establishment or operation of a U.S. diplomatic presence in Cuba beyond what was in place prior to December 17, 2014. In contrast, the Senate Appropriations Committee-reported version of the measure—S. 3117 (S.Rept. 114-290), reported on June 29, 2016—would, in Section 7045(c)(4), have funded the operation of and infrastructure and security improvements to U.S. diplomatic facilities in Cuba. It also would have funded costs associated with additional diplomatic personnel in Cuba.

For FY2017, the U.S. Department of Agriculture also requested $1.5 million for the Foreign Agricultural Service to establish an overseas post in Cuba. The report to the Senate version of the FY2017 agriculture appropriations measure (S.Rept. 114-259 to S. 2956) recommended full funding for the Administration's request.

As previously noted, the 114th Congress did not complete action on FY2017 foreign operations appropriations, but in December 2016 approved a continuing resolution (P.L. 114-254) funding most programs at the FY2016 level, minus an across-the-board reduction of almost 0.2%, through April 28, 2017.

Bilateral Military Engagement. Both the House- and Senate-passed versions of the National Defense Authorization Act (NDAA) for FY2017 had different provisions restricting U.S. military interaction with the Cuban military, effectively curbing the Administration's changed policy toward Cuba. The House bill, H.R. 4909, had a provision in Section 1259B that would have prohibited funds authorized in the act for FY2017 for any bilateral military-to-military contact or cooperation pending certification from the Secretaries of State and Defense, in consultation with the Director of National Intelligence (DNI), that Cuba has fulfilled numerous conditions regarding democracy and human rights, outstanding claims and judgements of U.S. nationals, support to the military and security forces of Venezuela, cessation of the demand for the return of the U.S. Naval Station at Guantanamo Bay, U.S. fugitives, and requirement that Cuban military officials indicted in the United States for the murder of U.S. citizens killed during the 1996 shoot down of two U.S. civilian planes be brought to justice.

The Senate version of the NDAA, S. 2943, had a provision in Section 1204 prohibiting the use of any funds by the Secretary of Defense to invite, assist, or otherwise assure the participation of Cuba in certain joint or multilateral exercises or related security conferences between the United States and Cuba until the Secretary of Defense, in coordination with the DNI, submits to

[104] White House, Office of Management and Budget, "Letter to the Chair and Ranking Member of the House Appropriations Committee with Respect to the FY2016 State, Foreign Operations, and Related Programs Appropriations Bill," June 10, 2015.

Congress written assurances regarding some of the same conditions cited above in the House bill. These include the Cuban military and security forces' involvement in human rights abuses; Cuban military support to the Venezuelan military and security forces; Cuba's demand for the United States to relinquish control of Guantanamo; and that Cuban military officials indicted in the United States for the 1996 killing of U.S. citizens during the shoot down of two U.S. civilian planes are brought to justice.

Both the White House's statement of policy on S. 2943, issued June 7, 2016, and the Secretary of Defense's letter to Congress on the NDAA strongly objected to the restrictions on U.S.-Cuban military-to-military interactions in Section 1204. Both maintained that restrictions "would hamper pragmatic, expert-level coordination between the United States and Cuba on issues that benefit the United States." As noted, this coordination includes counternarcotics exercises and operations, participation of the Cuban government in security conferences, and monthly talks between the commanding officer of the U.S. Naval Station at Guantánamo Bay and his Cuban counterpart to share information about activities on both sides of the fence to reduce the risk of accidental escalation. According to both documents, "It is in the U.S. national security interest to maintain flexibility in U.S. military-to-military engagement with Cuba due to Cuba's proximity and the many shared challenges faced by the United States and Cuba."[105]

Ultimately, in the final version of the FY2017 NDAA (P.L. 114-328) enacted in December 2016, Section 1286 prohibits the Secretary of Defense from authorizing FY2017 funds for the Department of Defense to invite, assist, or otherwise assure the participation of Cuba in certain joint or multilateral exercises or related security conference between the governments of the United States and Cuba until the Secretaries of Defense and State, in consultation with the Director of National Intelligence, submit to Congress written assurances regarding Cuba's fulfillment of conditions for Cuba related to human rights, support to the security forces of Venezuela, cessation of Cuba's demand that the United States relinquish control of the U.S. Naval Station at Guantánamo Bay, and requirement that Cuban military officials indicted in the United States for the murder of U.S. citizens killed during the 1996 shoot down of two U.S. civilian planes are brought to justice. The provision provides exceptions to the funding prohibition for any payments related to the lease agreement or other financial transactions for maintenance and improvements of the military base at Guantanamo Bay, Cuba; any assistance or support of democracy-building efforts; customary and routine financial transactions necessary for the maintenance, improvements, or regular duties of the U.S. mission in Havana; or any joint or multilateral exercise or operation related to humanitarian assistance or disaster response.

The conference report to FY2017 NDAA (H.Rept. 114-840) stated that it is the intent of the conferees that the exception related to the Guantanamo base includes periodic contact between appropriate U.S. and Cuban officials concerning the security and management of the naval station commonly referred to as "fence-line talks."

Restrictions on Travel and Remittances[106]

Restrictions on travel to Cuba have been a key and often contentious component of U.S. efforts to isolate Cuba's communist government for much of the past 50+ years. Over time there have been numerous changes to the restrictions and for five years, from 1977 until 1982, there were no

[105] White House, Office of Management and Budget, Statement of Administration Policy, National Defense Authorization Act for Fiscal Year 2017, June 7, 2016. U.S Department of Defense, Secretary of Defense, Letter to Senate John McCain, Chairman of the Committee on Armed Services, regarding the NDAA for FY2017, July 13, 2016.

[106] For more information, see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*, by Mark P. Sullivan.

restrictions on travel. Restrictions on travel and remittances to Cuba are part of the Cuban Assets Control Regulations (CACR), the overall embargo regulations administered by the Department of the Treasury's Office of Foreign Assets Control. Under the George W. Bush Administration, enforcement of U.S. restrictions on Cuba travel increased, and restrictions on travel and on private remittances to Cuba were tightened.

Under the Obama Administration, Congress took legislative action in March 2009 easing restrictions on family travel and on travel related to U.S. agricultural and medical sales to Cuba (P.L. 111-8, Sections 620 and 621 of Division D). In April 2009, the Obama Administration went further when the President announced that he was lifting *all* restrictions on family travel as well as restrictions on cash remittances to family members in Cuba. In January 2011, the Obama Administration made a series of changes further easing restrictions on travel and remittances to Cuba. The measures (1) increased purposeful travel to Cuba related to religious, educational, and journalistic activities, including people-to-people travel exchanges; (2) allowed any U.S. person to send remittances to non-family members in Cuba (up to $500 per quarter) and made it easier for religious institutions to send remittances for religious activities; and (3) allowed U.S. international airports to become eligible to provide services to licensed charter flights to and from Cuba. In most respects, these new measures were similar to policies that were undertaken by the Clinton Administration in 1999 but subsequently curtailed by the Bush Administration in 2003 and 2004.

As noted above, just after the adjournment of the 113th Congress, President Obama announced major changes in U.S. policy toward Cuba on December 17, 2014. These changes included the provision for general licenses for the 12 existing categories of travel to Cuba set forth in the CACR: (1) family visits; (2) official business of the U.S. government, foreign governments, and certain intergovernmental organizations; (3) journalistic activity; (4) professional research and professional meetings; (5) educational activities; (6) religious activities; (7) public performances, clinics, workshops, athletic and other competitions, and exhibitions; (8) support for the Cuban people; (9) humanitarian projects (now including microfinancing projects); (10) activities of private foundations or research or educational institutes; (11) exportation, importation, or transmission of information or information materials; and (12) certain export transactions that may be considered for authorization under existing regulations and guidelines.

Despite the easing of travel restrictions, travel to Cuba solely for tourist activities remains prohibited. Section 910(b) of TSRA prohibits travel-related transaction for tourist activities, which are defined as any activity not expressly authorized in the 12 categories of travel in the CACR (31 C.F.R. 515.560).

Before the policy change, travelers under several of these categories had to apply for a specific license from the Department of the Treasury before traveling. Under the new regulations, both travel agents and airlines are able to provide services for travel to Cuba without the need to obtain a specific license. U.S. credit and debit cards are permitted for use by authorized travelers to Cuba, but the State Department advises U.S. travelers to check with their financial institution to determine whether the institution has established the necessary mechanisms for its issued credit and debit cards to be used in Cuba.[107] Authorized travelers no longer have a per diem limit for expenditures, as in the past, and can bring back goods from Cuba as accompanied baggage for personal use, including alcohol and tobacco.

In January 2016, the Treasury Department made additional changes to the travel regulations. Among the changes, authorization for travel and other transactions for transmission of

[107] U.S. Department of State, Bureau of Consular Affairs, U.S. Passports & International Travel, "Country Information, Cuba," updated October 16, 2015, available at http://travel.state.gov/content/passports/en/country/cuba.html.

informational materials now includes professional media or artistic productions in Cuba (movies, television, music recordings, and creation of artworks). Authorization for travel and other transactions for professional meetings, public performances, clinics, workshops, athletic and nonathletic competitions, and exhibitions now includes permission to organize these events, not just participation.

In March 2016, the Treasury Department again amended the travel regulations to permit travel to Cuba for individual, people-to-people education provided the traveler engages in a full-time schedule of educational exchange activities intended to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities. Previously, such trips had to take place under the auspices of an organization that sponsors such travel. According to the Treasury Department, the change was intended to make authorized educational travel to Cuba more accessible and less expensive for U.S. citizens and will increase opportunities for direct engagement between Cubans and Americans.[108]

Regular Air Service. After several rounds of talks in 2015, U.S. and Cuban officials reached a bilateral arrangement (in a memorandum of understanding, or MOU) on December 16, 2015, permitting regularly scheduled air flights as opposed to charter flights that have operated between the two countries for many years.[109] Transportation Secretary Anthony Foxx traveled to Cuba on February 16, 2016, to sign the arrangement, providing an opportunity for U.S. carriers to operate up to a total of 110 daily roundtrip flights between the United States and Cuba, including up to 20 daily roundtrip flights to and from Havana.[110]

On June 10, 2016, the Department of Transportation announced that six U.S. airlines were authorized to provide air service for up to 90 daily flights between five U.S. cities (Miami, Fort Lauderdale, Chicago, Philadelphia, and Minneapolis-St. Paul) and nine Cuban cites other than Havana.[111] JetBlue became the first U.S. airline to begin regularly scheduled flights on August 31, 2016.[112]

On July 7, 2016, the department announced a tentative decision for eight U.S. airlines to provide up to 20 regularly scheduled roundtrip flights between Havana and 10 U.S. cities (Atlanta, Charlotte, Fort Lauderdale, Houston, Los Angeles, Miami, Newark, New York [JFK], Orlando, and Tampa); a final decision was made on August 31, 2016.[113] American Airlines became the first to begin direct flights to Havana from Miami in late November 2016.[114]

In May 2016, the House Committee on Homeland Security, Subcommittee on Transportation Security, held a hearing on potential security risks from the resumption of regularly scheduled

[108] U.S. Treasury Department, Office of Public Affairs, "Treasury and Commerce Announce Significant Amendments to the Cuba Sanctions Regulations Ahead of President Obama's Historic Trip to Cuba," March 15, 2016.

[109] U.S. Department of State, "U.S.-Cuba Technical Talks Yield Civil Aviation Arrangement," media note, December 17, 2015.

[110] U.S. Department of Transportation, "United States, Cuba Sign Arrangement Restoring Scheduled Air Service, DOT Launches Process to Award the New Flights," February 16, 2016.

[111] U.S. Department of Transportation, "U.S. Transportation Secretary Foxx Approves U.S. Airlines to Begin Scheduled Service to Cuba," June 10, 2016.

[112] Chabeli Herrera, "JetBlue Will Be the First Commercial Airline to Fly to Cuba – So Far," *Miami Herald,* July 28, 2016.

[113] U.S. Department of Transportation, "U.S. Transportation Secretary Foxx Proposes U.S. Airlines and Cities for New Scheduled Service to Havana," July 7, 2016 and "Fact Sheet – DOT Issues Final Order for U.S.-Cuba Service to Havana," August 31, 2016.

[114] Mimi Whitefield, "American Airlines Soars into the Cuban Market but Most Flights are Half Empty," *Miami Herald,* October 14, 2016.

flights from Cuba. Some Members of Congress have expressed concerns that Cuba's airport security equipment and practices are insufficient and that the Administration is rushing plans to establish regular air service to Cuba; other Members views such concerns as a pretext to slow down or block the Administration's efforts to normalize relations with Cuba.[115] Officials from the Department of Homeland Security (including Customs and Border Protection and the Transportation Security Administration) testified at the hearing regarding their work to facilitate and ensure security of the increased volume of commercial air travelers from Cuba.[116]

Initially, the Transportation Security Administration (TSA) announced on August 9, 2016, that the United States and Cuba had entered into an aviation security agreement setting forth the legal framework for the deployment of U.S. In-Flight Security Officers, more commonly known as Federal Air Marshals, on board certain flights to and from Cuba.[117] However, during a House Homeland Security hearing on September 14, 2016, a TSA official maintained that the Cuban government had not yet signed the agreement for the regularly scheduled flights but rather only for the charter flights.[118] Ultimately, on September 30, 2016, the initial agreement for the charter flights was amended to make it applicable to the regularly scheduled flights.[119]

In July 2016, OFAC granted a license to Bangor International Airport in Maine to provide refueling and services for foreign air carriers making flights to and from Cuba.[120] (Legislation had been introduced in May that would have prohibited restrictions from providing such services [S. 2990].)

Ferry and Cruise Ship Service. In May 2015, the Department of the Treasury reportedly issued licenses to several companies to operate ferry services between the United States and Cuba; the services still required Cuban approval, and Cuban facilities need to be developed to handle the services.[121]

With regard to cruise ships, the Carnival cruise ship company began direct cruises to Cuba from the United States on May 1, 2016. Carnival had announced in March 2016, that it would offer cruises to Cuba beginning in May. The company had received a Treasury Department license in July 2015 to operate cruises to Cuba and was waiting for Cuban approval to begin such services. It uses smaller ship, accommodating about 700 passengers, under its cruise brand Fathom, which targets people-to-people educational travel.[122] Under the embargo regulations, passengers on

[115] Jacob Fischler, "Lawmakers Plan Bill to Stop Flights to Cuba Over Security," *CQ Roll Call*, July 12, 2016.

[116] U.S. Committee on Homeland Security, Subcommittee on Transportation Security, "Flying Blind: What Are the Security Risks of Resuming U.S. Commercial Air Service to Cuba?" Hearing, May 17, 2016, testimony available at https://homeland.house.gov/hearing/flying-blind-security-risks-resuming-u-s-commercial-air-service-cuba/.

[117] Mimi Whitefield, "U.S. Air Marshalls Will Be Aboard Cuba Flights," *Miami Herald*, August 9, 2016.

[118] Jennifer Scholtes, "TSA Admits Cuba Hasn't Singed Agreement for Air Marshals," Associated Press, September 14, 2016; "House Homelands Security Committee Holds Hearing on Terrorism Pathways into America," *CQ Congressional Transcripts*, September 14, 2016.

[119] Nora Gámez Torres, "Cuba Approves U.S. Air Marshals on Commercial Flights," *El Nuevo Herald*, September 30, 2016.

[120] "Bangor International Airport Receives License Allowing Transit Stops on Flights to and from Cuba," July 20, 2016, Congressional Documents and Publications, Federal Information & News Dispatch Inc.; "Bangor Airport Gets License to Refuel Foreign Flights Serving Cuba," *Bangor Daily News*, July 18, 2016.

[121] Victoria Burnett, "U.S. Licenses Ferry Service to Operate Cuba Route," *New York Times*, May 6, 2015; José de Cordoba, "U.S. Permits Ferry Service to Havana," *Wall Street Journal*, May 6, 2015.

[122] Laura Stevens, "Carnival Gets U.S. Approval to Start Cruises to Cuba," Dow Jones Newswires, July 7, 2015; Shivani Vora, "Carnival Will Begin Cruises to Cuba in May," *New York Times*, March 23, 2016.

cruise ships to Cuba must fall under one of the permissible categories of travel, which does not include tourist travel.

In April 2016, controversy ensued over the Carnival cruises when it became known that the Cuban government was not going to allow those born in Cuba to be passengers on cruise ships sailing to Cuba. (A Cuban government regulation dating back to the 1990s prohibited Cuban-born individuals from traveling to and from Cuba by ship.) Protests began against Carnival for agreeing to the terms of the cruises, and a class action lawsuit was filed in federal court in Miami. Secretary of State Kerry called on Cuba to change its "policy and to recognize that if they want a full relationship, a normal relationship, with the United States, they have to live by international law and not exclusively by their own."[123] Carnival subsequently reversed its policy, maintaining that it would accept bookings from all travelers and would delay the start of its cruises unless Cuban authorities allowed cruise ships to operate in the same fashion as air flights. On April 22, the Cuban government ultimately announced that it was changing its policy to allow the entry and exit of Cuban citizens by cruise ship and merchant vessel, an action that allowed Carnival to go forward with its cruises to Cuba.[124]

In December 2016, several other cruise ship companies—Royal Caribbean, Norwegian, Azamara Club Cruises, Oceana Cruises, Regent Seven Seas Cruises, and Pearl Seas Cruises—announced that they would be offering cruises to Cuba from the United States in 2017.

Remittances. The Obama Administration's change in policy also lifted the cap on the amount of remittances that can be sent by any U.S. person to non-family members in Cuba, so-called donative remittances. Initially the cap was increased from $500 to $2,000 per quarter in January 2015, and then it was removed altogether in September 2015. Authorized travelers may carry an unlimited amount of remittances to Cuba (initially the cap was increased from $3,000 to $10,000, and then removed). Remittances to individuals and independent nongovernmental organizations (NGOs) in Cuba are authorized without limit for humanitarian projects; activities of recognized human rights organizations, independent organizations designed to promote a rapid peaceful transition to democracy, and of individuals and NGOs that promote independent activity to strengthen civil society; and the development of private businesses, including small farms.

Pro/Con Arguments. Major arguments made for lifting the Cuba travel ban altogether are that it abridges the rights of ordinary Americans to travel; it hinders efforts to influence conditions in Cuba and may be aiding the Cuban government by helping restrict the flow of information; and Americans can travel to other countries with communist or authoritarian governments. Major arguments in opposition to lifting the Cuba travel ban are that more American travel would support the Cuban government with potentially millions of dollars in hard currency; that there are legal provisions allowing travel to Cuba for humanitarian purposes that are used by thousands of Americans each year; and that the President should be free to restrict travel for foreign policy reasons. With regard to remittances, supporters of the Obama Administration's recent action argue that it can help support civil society and the country's nascent private sector. Those opposed contend that the Cuban regime benefits from increased remittances by the money it accrues from taxes on private sector activity as well as fees for the exchange of U.S. dollars.

Legislative Activity. Several legislative initiatives introduced in the 114th Congress would have lifted remaining restrictions on travel and remittances. Three bills would have lifted the overall embargo, H.R. 274 (Rush), H.R. 403 (Rangel), and H.R. 735 (Serrano) including restrictions on

[123] Patricia Zengerle, "Update 2-U.S.' Kerry: Carnival Should Not Bar Cuban-Americans from Cruises to Cuba," Reuters News, April 14, 2016.

[124] "U.S. Cruise Company to Begin Operations in Cuba," *Granma*, April 22, 2016; Lizette Alvarez, "Cuba Reverses Longtime Ban on Sea Travel," *New York Times,* April 23, 2016.

travel and remittances. One bill, H.R. 635 (Rangel), would have facilitated the export of U.S. agricultural and medical exports to Cuba and also lift travel restrictions. Three bills would have focused solely on prohibiting restrictions on travel to Cuba: H.R. 634 (Rangel), H.R. 664 (Sanford), and S. 299 (Flake). A Senate amendment—S.Amdt. 3557 (Flake) to H.R. 636, the Federal Aviation Administration Reauthorization Act, which was filed but never considered—would have prohibited restrictions on travel to Cuba and related travel transactions.

In contrast, two other introduced bills, S. 1388 and H.R. 2466, would have required the President to submit a plan for resolving all outstanding claims relating to property confiscated by the government of Cuba before taking action to ease restrictions on travel to or trade with Cuba. Two similar bills, H.R. 5728S. 3289, would have prohibited scheduled passenger air transportation between the United States and Cuba until a study had been completed regarding Cuba's airport security and agreements have been reached with Cuba allowing the U.S. Federal Air Marshal Service to conduct of missions on regularly scheduled flights and providing inspectors of the Transportation Security Administration access to all areas of last point of departure airports in Cuba for security assessments.

Efforts to ease and tighten travel restrictions played out in the FY2016 appropriations process, but ultimately no such provisions were included in the FY2016 omnibus appropriations measure (P.L. 114-113). (For more details, see **Appendix B** below.)

In the FY2017 appropriations process, the House and Senate versions of the Financial Services appropriations measure contained contrasting provisions on travel. As noted above, the 114th Congress did not complete action on FY2017 appropriations.

In the House-passed bill, H.R. 5485 (H.Rept. 114-624), Section 132 would have prohibited funding that licenses, facilitates, or otherwise allows people-to-people travel. The measure would have had a significant impact on the expansion of U.S. travel to Cuba that has occurred in recent years, including the recently begun cruise ship travel to Cuba. Another provision in the House bill, Section 134, would have prohibited funding to approve, license, facilitate, authorize, or otherwise allow any financial transaction with an entity controlled, in whole or in part, by the Cuban military or intelligence service or with any officer or immediate family member thereof. This provision could have had a significant effect on U.S. travel to Cuba because the Cuban military has an important role in hotel and other travel services in Cuba. A potential Sanford amendment that had been ruled in order by the House Rules Committee (amendment 47 in H.Rept. 114-639) would have prohibited funds in the act from being used to administer or enforce the Cuba embargo regulations or the statutory prohibition on tourist travel. The amendment was ultimately introduced as H.Amdt. 1264 on July 7, 2016, but was subsequently withdrawn.

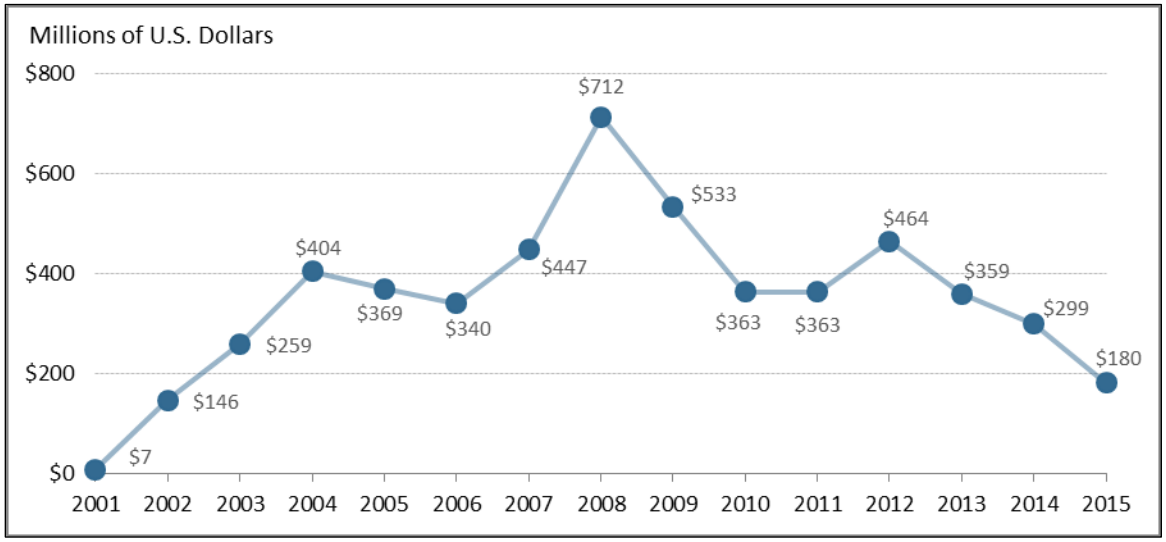
In the Senate version of the FY2017 Financial Services appropriations measure, S. 3067 (S.Rept. 114-280), Section 635 would have prohibited funding in any act to implement any law, regulation, or policy that restricts travel to Cuba. The provision would have had the effect of lifting all restrictions on travel to Cuba. Another provision in the Senate bill, Section 637, would have prohibited funds in the act or any act from being used to implement any law, regulation, or policy that prohibits the provision of technical services otherwise permitted under an international air transportation agreement in the United States for an aircraft of a foreign carrier that is en route to or from Cuba based on the restrictions set forth in the Cuban Assets Control Regulations. (As noted above, OFAC granted a license to Bangor International Airport in Maine in July 2016 to provide refueling and services for foreign air carriers making flights to and from Cuba.)

U.S. Exports and Sanctions[125]

U.S. commercial medical exports to Cuba have been authorized since the early 1990s pursuant to the Cuban Democracy Act of 1992 (CDA; P.L. 102-484, Title XVII), and commercial agricultural exports have been authorized since 2001 pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000 or TSRA (P.L. 106-387, Title IX), but with numerous restrictions and licensing requirements. For medical exports to Cuba, the CDA requires on-site verification that the exported item is to be used for the purpose for which it was intended and only for the use and benefit of the Cuban people. TSRA allows for one-year export licenses for selling agricultural commodities to Cuba, although no U.S. government assistance, foreign assistance, export assistance, credits, or credit guarantees are available to finance such exports. TSRA also denies exporters access to U.S. private commercial financing or credit; all transactions must be conducted in cash in advance or with financing from third countries.

Cuba purchased more than $5.2 billion in U.S. products from 2001 to 2015, largely agricultural products. For many of those years, the United States was Cuba's largest supplier of agricultural products. U.S. exports to Cuba rose from about $7 million in 2001 to a high of $712 million in 2008, far higher than in previous years. This increase was in part because of the rise in food prices and because of Cuba's increased food needs in the aftermath of several hurricanes and tropical storms that severely damaged the country's agricultural sector. U.S. exports to Cuba declined considerably from 2009 through 2011, rose again in 2012, and have fallen every year since then, amounting to just $180 million in 2015, the lowest level since 2002 (see **Figure 3**).

Figure 3. U.S. Exports to Cuba, 2001-2015



Source: Created by CRS using Commerce Department statistics, as presented by the Global Trade Atlas.

The level of exports in 2015 dropped 40% from the previous year. Looking at the composition of U.S. exports to Cuba from 2012 to 2015, the leading products were poultry, soybean oilcake, soybeans, and corn, although corn exports declined considerably in this period. Poultry has been the leading U.S. export since 2012—accounting for more than 40% of U.S. exports—but the

[125] For additional information, see CRS Insight IN10514, *Financing U.S. Agricultural Exports to Cuba*, by Mark A. McMinimy, and CRS Report R44119, *U.S. Agricultural Trade with Cuba: Current Limitations and Future Prospects*, by Mark A. McMinimy.

value of poultry exports declined almost 48% in 2015 from the previous year. According to press reports, Cuba reportedly suspended U.S. poultry imports in August and September 2015 because of concerns about the outbreak of bird flu in the United States but resumed purchases in October 2015.[126]

In the first nine months of 2016, however, U.S. exports to Cuba amounted to $176 million, a 14% increase compared to the same period in 2015.[127] Poultry exports increased 31% from the same period in 2015 and accounted for almost 47% of total U.S. exports to Cuba.

Among the reasons for the overall decline in U.S. exports to Cuba in recent years, analysts cite Cuba's shortage of hard currency; financial support from Venezuela; credits and other arrangements offered by other governments to purchase their countries' products; Cuba's preferences to purchase products from government-controlled entities; and efforts by Cuba to increase the motivation of U.S. companies, organizations, local and state officials, and some Members of Congress to push for further changes in U.S. sanctions policy toward Cuba.[128] Some agricultural experts are skeptical as to whether the Obama Administration's recent changes in policy will lead to a significant increase in U.S. agricultural exports to Cuba, pointing out that other countries will still be able to offer better terms to Cuba than the United States because of restrictions on financing and credit.[129]

President Obama's policy changes, as set forth in regulatory changes made to the CACR and EAR, included several measures designed to facilitate commercial exports to Cuba.

- U.S. financial institutions are permitted to open correspondent accounts at Cuban financial institutions to facilitate the processing of authorized transactions. (In July 2015, the Florida-based Stonegate Bank became the first U.S. financial institution to sign a correspondent agreement with a Cuban bank.)
- U.S. private export financing is permitted for all authorized export trade to Cuba, except for agricultural goods exported pursuant to TSRA.
- The definition of the term "cash in advance" for payment for U.S. exports to Cuba was revised to specify that it means "cash before transfer of title." In 2005, the Department of the Treasury's Office of Foreign Assets Control had clarified that "payment of cash in advance" meant that the payment for the goods had to be received prior to the shipment of the goods from the port at which they were loaded in the United States. For FY2010 and FY2011, Congress had temporarily overturned OFAC's clarification of the term in omnibus appropriations legislation (Division C, Section 619 of P.L. 111-117, and continued by reference in Division B, Section 1101 of P.L. 112-10). The change means that payment can once again occur before an export shipment is offloaded in Cuba, rather than before the shipment leaves a U.S. port.
- Commercial exports to Cuba of certain goods and services to empower Cuba's nascent private sector are authorized, including for certain building materials for

[126] Marc Frank, "Cuba Resumes U.S. Chicken Imports After Bird Flu Halt–Traders," Reuters News, October 7, 2015.

[127] U.S. Department of Commerce statistics, as presented by the Global Trade Atlas.

[128] Juan Tamayo, "Big Drop in U.S. Agricultural Sales to Cuba," *Miami Herald*, July 29, 2010; Marc Frank, "U.S. Food Sales to Cuba Continued Decline in 2011," Reuters News, February 22, 2012; U.S.-Cuba Trade and Economic Council, Inc. "Economic Eye on Cuba," May 2016.

[129] University of Florida, Institute of Food and Agricultural Sciences, "Hot Topic Webinar–The Cuban Factor: Agricultural Trade with Cuba," presented by William Messina, Jr., February 4, 2015, at http://www.piecenter.com/2015/01/28/hot-topic-webinar-the-cuban-factor-agricultural-trade-with-cuba/.

private residential construction, goods for use by private sector Cuban entrepreneurs, and agricultural equipment for small farmers.

- Licenses for certain categories of exports are included under a "general policy of approval." These categories include exports for civil aviation and commercial aircraft safety; telecommunications; U.S. news bureaus; human rights organizations and nongovernmental organizations; environmental protection of U.S. and international air quality, waters, and coastlines; and agricultural commodities (such as insecticides, pesticides, and herbicides) that fall outside the scope of those exports already allowed under TSRA.
- Licenses for exports that will be considered on a case-by-case basis include certain items exported to state-owned enterprises, agencies, and other organizations of the Cuban government that provide goods and services for the use and benefit of the Cuban people. These items include exports for agricultural production, artistic endeavors, education, food processing, disaster preparedness, relief and response, public health and sanitation, residential construction and renovation, public transportation, wholesale and retail distribution for domestic consumption by the Cuban people, construction of facilities for treating public water supplies, facilities for supplying electricity or other energy to the Cuban people, sports and recreation facilities, and other infrastructure that directly benefit the Cuban people.
- The commercial export of certain consumer communication devices, related software, applications, hardware, and services, and items for the establishment and update of communications-related systems is authorized; previously such exports were limited to donations. The export of items for telecommunications, including access to the Internet, use of Internet services, infrastructure creation, and upgrades, is also authorized.
- Companies exporting authorized goods to Cuba are authorized to have a physical presence in Cuba, such as an office, retail outlet, or warehouse.
- In October 2016, OFAC amended the CACR to add an expanded general license authorizing persons subject to U.S. jurisdiction to enter into certain contingent contracts for transactions currently prohibited by the embargo and BIS generally authorized certain consumer goods sold directly to eligible individuals in Cuba for their personal use.

USDA Reports. In a June 2015 report, the U.S. Department of Agriculture's (USDA) Foreign Agricultural Service noted that "the U.S. share of the Cuban market has slipped dramatically, from a high of 42% in FY2009 to only 16% in FY2014."[130] The report contends that the recent decline in U.S. market share in Cuba "is largely attributable to a decrease in bulk commodity exports from the United States in light of favorable credit terms offered by key competitors." It maintains that the United States has lost market share to those countries able to provide export credits to Cuba. The report concludes that lifting U.S. restrictions on travel and capital flow to Cuba, and the ability for USDA to conduct market development and credit guarantee programs in Cuba, would help the United States recapture its market share in Cuba. Another USDA report published in June 2015 by its Economic Research Service maintained that a more normal economic relationship between the United States and Cuba would allow "U.S. agricultural

[130] U.S. Department of Agriculture (USDA), Foreign Agricultural Service, International Agricultural Trade Report, "U.S. Agricultural Exports to Cuba Have Substantial Room for Growth," June 22, 2015, at http://www.fas.usda.gov/data/us-agricultural-exports-cuba-have-substantial-room-growth.

exports to develop commercial ties in Cuba that approximate their business relationship in other parts of the world" (such as the Dominican Republic) and could "feature a much larger level of U.S. agricultural exports to Cuba." According to the report, increased U.S. exports could include such commodities as milk, wheat, rice, and dried beans, and intermediate and consumer-oriented commodities.[131]

USITIC Reports. The U.S. International Trade Commission (USITC) has issued three studies since 2007 examining the effects of U.S. restrictions on trade with Cuba.[132] The agency issued its third and most recent report on April 18, 2016.[133] The Senate Finance Committee initially requested the report in December 2014 to examine effects of U.S. restrictions on trade and travel to Cuba on the export of U.S. goods and services. The USITC held a public hearing on June 2, 2015, that featured private sector and academic witnesses as well as a Member of Congress.[134] In August 2015, the committee asked the that study be expanded to include analysis of existing Cuban non-tariff measures, institutional and infrastructural factors, and other Cuban barriers; the extent to which these barriers would affect the export of goods and services to Cuba; and the aggregate effects of Cuban tariff and non-tariff measures on the ability of foreign firms to conduct business in and with Cuba. According to the findings of the report:

- U.S. restrictions on trade and travel have reportedly shut U.S. suppliers out of a market in which they could be competitive on price, quality, and proximity. The most problematic U.S. restrictions cited are the inability to offer credit, travel to or invest in Cuba, and use funds sourced and administered by the U.S. government.
- Cuban nontariff measures and other factors may limit U.S. exports to and investment in Cuba if U.S. restrictions are lifted. These include Cuban government control of trade and distribution, legal limits on foreign investment and property ownership, and politically motivated decisionmaking regarding trade and investment.
- Absent U.S. restrictions, U.S. exports in several sectors would likely increase somewhat in the short term, with prospects for larger increases in the longer term, subject to changes in Cuban policy and economic growth. U.S. exports could increase further if Cuban import barriers were lowered.
- If U.S. restrictions were removed, U.S. agricultural and manufactured exports to Cuba could increase to almost $1.8 billion, while if both U.S. restrictions were removed and Cuban barriers lowered, U.S. exports could approach $2.2 billion annually.

Legislative Activity. Several legislative initiatives introduced in the 114th Congress would have lifted or eased restrictions on exports to Cuba.

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[131] USDA, Economic Research Service, "U.S.-Cuba Agricultural Trade: Past, Present, and Possible Future," June 2015, at http://www.ers.usda.gov/media/1856299/aes87.pdf.

[132] The first two reports were: USITC, *U.S. Agricultural Sales to Cuba: Certain Economic Effects of U.S. Restrictions,* USITC Publication 3932, July 2007, at http://www.usitc.gov/publications/332/pub3932.pdf; and USITC, *U.S. Agricultural Sales to Cuba: Certain Economic Effects of U.S. Restrictions, An Update,* Office of Industries Working Paper, by Jonathan R. Coleman, No. ID-22, June 2009, at http://www.usitc.gov/publications/332/ID-22.pdf.

[133] USITC, "Overview of Cuban Imports of Goods and Services and Effects of U.S. Restrictions," March 2016, Publication 4597, released April 18, 2016, at http://www.usitc.gov/publications/332/pub4597.pdf.

[134] USITC, "Overview of Cuban Imports of Goods and Services and Effects of U.S. Restrictions, Available Testimony from Recent Hearings," June 2, 2015, at http://www.usitc.gov/press_room/spotlight/overview_cuban_imports_goods_and_services_and.htm.

- Three bills—H.R. 274 (Rush), H.R. 403 (Rangel), and H.R. 735 (Serrano)—would have lifted the overall embargo, including restrictions on exports to Cuba in the CDA and TSRA.
- H.R. 635 (Rangel), among its various provisions, had the goal of facilitating the export of U.S. agricultural and medical exports to Cuba by permanently redefining the term "payment of cash in advance" to mean that payment was received before the transfer of title and release and control of the commodity to the purchaser; authorizing direct transfers between Cuban and U.S. financial institutions for products exported under the terms of TSRA; establishing an export promotion program for U.S. agricultural exports to Cuba; prohibiting restriction on travel to Cuba; and repealing the on-site verification requirement for medical exports to Cuba under the CDA.
- S. 491 (Klobuchar) would have removed various provisions of law restricting trade and other relations with Cuba, including certain restrictions in the CDA, the LIBERTAD Act, and TSRA.
- S. 1049 (Heitkamp) would have amended TSRA to allow for the financing of agricultural commodities to Cuba.
- S. 1543 (Moran)/H.R. 3238 (Emmer) would have repealed or amended various provisions of law restricting trade and other relations with Cuba, including certain restrictions in the CDA, the LIBERTAD Act, and TSRA. The bills would have repealed restrictions on private financing for Cuba in TSRA but would have continued to prohibit U.S. government foreign assistance or financial assistance, loans, loan guarantee, extension of credit, or other financing for export to Cuba, albeit with presidential waiver authority for national security or humanitarian reasons. Under the initiative, the federal government would have been prohibited from expending any funds to promote trade with or develop markets in Cuba, although certain federal commodity promotion programs would be allowed.
- H.R. 3306 (Rush), would have authorized the export of energy resources, technologies, and related services to Cuba.
- H.R. 3687 (Crawford), would have permitted U.S. government assistance for U.S. agricultural exports to Cuba as long as the recipient of the assistance was not controlled by the Cuban government; authorized the financing of sales of agricultural commodities; and authorized investment for the development of an agricultural business in Cuba as long as it was not controlled by the Cuban government or did not traffic in property of U.S. nationals confiscated by the Cuban government.

In contrast, two other introduced bills, S. 1388 and H.R. 2466, would have required the President to submit a plan for resolving all outstanding claims relating to property confiscated by the government of Cuba before taking action to ease restrictions on travel to or trade with Cuba.

Efforts to ease or tighten restrictions on U.S. exports to Cuba played out in the FY2016 appropriations process, but ultimately no such provisions were included in the FY2016 omnibus appropriations measure (P.L. 114-113). S. 1910 (Boozman), the FY2016 Financial Services appropriations bill, had three provisions easing Cuba sanctions (on financing for U.S. agricultural sales, travel, and vessels trading with Cuba) that could have affected U.S. exports to Cuba. In contrast, House-passed H.R. 2578, the FY2016 Commerce, Justice, and Science appropriations bill, had a provision that would have attempted to prevent additional categories of exports to

Cuba authorized as part of the Administration's policy change on Cuba. (See **Appendix B** for details.)

In the FY2017 appropriations process, House and Senate bills again had provisions that would have tightened and eased economic sanctions on Cuba, but the 114th Congress did not complete action on FY2017 appropriations.

Two FY2017 House appropriations bills (H.R. 5393, Commerce, and H.R. 5485, Financial Services) had provisions that would have again attempted to impose new sanctions that place restrictions on U.S. exports to Cuba. A provision in H.R. 5393would prohibit funding to facilitate, permit, license, or promote exports to the Cuban military or intelligence service or to any officer of the Cuban military or intelligence service, or an immediate family member thereof. A provision of H.R. 5485 would have prohibited funding to approve, license, facilitate, authorize, or otherwise allow any financial transaction with an entity controlled, in whole or in part, by the Cuban military or intelligence service or with any officer or immediate family member thereof. Neither provision would have affected financial transactions for exports permitted under TSRA. Both provisions could have significantly affected the expansion of U.S. exports to Cuba given that the Cuban military, since the 1990s, has become increasingly involved in Cuba's economy and in running numerous companies. The House Rules Committee had made in order a potential amendment to H.R. 5485 (Crawford, listed as amendment 24 in H.Rept. 114-639) that would have prohibited funds in the act from being used to implement, administer, or enforce Section 908(b) of TSRA, prohibiting private financing for agricultural sales to Cuba. Ultimately, the amendment was not introduced.

In contrast to the House, the Senate version of the FY2017 Senate Financial Services appropriations bill, S. 3067, had provisions that would have lifted restrictions on financing for agricultural exports to Cuba and on seaborne vessel entry into the United States if the vessel had been involved in trade with Cuba within the previous 180 days, except pursuant to a DOT license.

State Sponsor of Terrorism Designation[135]

As noted above, in December 2014, President Obama called for the Secretary of State to review Cuba's designation as a state sponsor of terrorism. As set forth in the three terrorist-list provisions of law—Section 6(j) of the Export Administration Act (EAA) of 1979 (P.L. 96-72; 50 U.S.C. Appendix 2405(j)); Section 620A of the Foreign Assistance Act (FAA) of 1961 (22 U.S.C. 2371); and Section 40 of the Arms Export Control Act (AECA) (22 U.S.C. 2780)—a country's retention on the state sponsors of terrorism list may be rescinded by the President in two ways. The first option is for the President to submit a report to Congress certifying that there has been a fundamental change in the leadership and policies of the government and that the government is not supporting acts of international terrorism and is providing assurances that it will not support such acts in the future. The second option is for the President to submit a report to Congress, at least 45 days in advance, justifying the rescission and certifying that the government has not provided any support for international terrorism during the preceding six months and has provided assurances that it will not support such acts in the future. President Obama utilized the second option when submitting his report to Congress on April 14, 2015.

According to the terrorist-list laws, the rescission would take effect 45 days after the report is submitted to Congress. Of the three terrorist-list statutes, only the AECA has an explicit provision allowing Congress to block, via the enactment of a joint resolution, a removal of a country on the

[135] For further background, see CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*, by Dianne E. Rennack.

list. The law sets forth an expedited procedure process for the joint resolution, which would have to be approved within the 45-day period. Such a measure would be subject to presidential veto and require a two-thirds vote in each body to override the veto. No resolutions of disapproval were introduced in Congress within the 45-day period, and, accordingly, Secretary of State Kerry rescinded Cuba's designation as a state sponsor of terrorism on May 29, 2015.[136]

Notably, on May 11, 2015, Secretary of State Kerry also dropped Cuba from the annual determination, pursuant to Section 40A of the Arms Export Control Act and due by May 15 of each year, identifying countries that are not fully cooperating with United States antiterrorism efforts. Cuba had been designated annually since that annual determination was established in 1997. Countries currently designated as not cooperating fully on antiterrorism efforts are Eritrea, North Korea, Iran, Syria, and Venezuela.[137]

Cuba was added to the State Department's list of states sponsoring international terrorism in 1982 pursuant to Section 6(j) of the EAA because of its alleged ties to international terrorism and support for terrorist groups in Latin America, and it remained on the list pursuant to the EAA, the AECA, and the FAA.[138] A range of sanctions are imposed on countries on the terrorism list, including requirements for validated exports licenses (with presumption of denial) for dual-use goods or technology controlled by the Department of Commerce for national security of foreign policy reasons (EAA); a ban on arms-related exports and sales (AECA); and prohibitions on most foreign aid, food aid, or Export-Import Bank or Peace Corps programs (FAA).[139] Despite Cuba's removal from the terrorism list, the extensive array of economic sanctions imposed on Cuba imposed pursuant to other provisions of law, including an embargo on most trade and financial transactions, remain in place.[140]

Cuba had a long history of supporting revolutionary movements and governments in Latin America and Africa, but in 1992, Fidel Castro said that his country's support for insurgents abroad was a thing of the past. Cuba's change in policy was in large part due to the breakup of the Soviet Union, which resulted in the loss of billions of dollars in annual subsidies to Cuba and led to substantial Cuban economic decline.

Administration's Justification for Removing Cuba from the Terrorism List

In the April 14, 2015, report to Congress, President Obama, following the process set forth in the three terrorist-list provisions of law cited above, certified that the Cuban government "has not

[136] Subsequently, the Treasury Department's OFAC amended the CACR on June 15, 2015, and the Department of Commerce's BIS amended the EAR on July 22, 2015 to reflect the rescission of Cuba's designation as a state sponsor of terrorism. See 80 *Federal Register* 34053-34054, June 15, 2015, and 80 *Federal Register* 43314-43320, July 22, 2015.

[137] *Federal Register*, "Determination and Certification Under Section 40A of the Arms Export Control Act," May 27, 2015, p. 30319.

[138] Restrictions on terrorism states, defined in the FAA and the AECA, also apply to Cuba. As enacted in 1986, Section 40 of the AECA, made any government of a country subject to Section 6(j) of the EAA also subject to the sanctions stated in Section 40 of the AECA.

[139] Being on the state sponsor of terrorism list also allows U.S. nationals injured by an act of international terrorism to file lawsuits for damages against the designated country in the United States. For more information, see CRS Legal Sidebar WSLG254, *Can Victims of Terrorism in the United States Sue Foreign Governments?*, by Jennifer K. Elsea, and CRS Legal Sidebar WSLG1405, *Can Creditors Enforce Terrorism Judgments Against Cuba?*, by Jennifer K. Elsea.

[140] For a listing of the various economic restrictions on Cuba, see CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*, by Dianne E. Rennack and Mark P. Sullivan.

provided any support for international terrorism during the preceding 6-month period" and "has provided assurances that it will not support acts of international terrorism in the future."

The memorandum of justification accompanying the report maintained that Cuba has taken steps in recent years to fully distance itself from international terrorism and to strengthen its counterterrorism laws. The justification noted that Cuba is a party to 15 international instruments related to countering terrorism and has deposited its instrument of ratification or accession to three additional instruments that have not yet entered into force.

The justification stated that in 2013, Cuba committed to work with the multilateral Financial Action Task Force (FATF) to address its anti-money laundering/counterterrorism finance (AML/CTF) deficiencies. Since 2012, Cuba has been a member of the Financial Action Task Force of Latin America (GAFILAT, formerly known as the Financial Action Task Force of South America), a regional group associated with the FATF. As a member, Cuba committed to adopting and implementing the 40 recommendations of the FATF pertaining to AML/CTF standards. In early 2014, Cuba adopted legislation providing for the freezing of assets linked to money laundering or terrorist financing. In October 2014, the FATF welcomed Cuba's progress in improving its regulatory regime to combat money laundering and terrorist financing and addressing strategic deficiencies that the FATF had identified. As a result, the FATF noted that Cuba was no longer subject to the FATF's monitoring and compliance process, but that the country would continue to work with GAFILAT to strengthen its regulatory regime.[141]

The justification cited various instances in which Cuba has condemned terrorist attacks around the world, including the 2013 Boston Marathon bombing and the 2015 Charlie Hebdo terrorist attack in Paris. It noted that in 2010, the Cuban government provided information to the U.S. government reiterating its commitment to its international obligations regarding both counterterrorism and nonproliferation, noting instances of information sharing with the United States regarding planned terrorist attacks, and providing assurances that Cuban territory would not be used to organize, finance, or carry out terrorist acts.

Most significantly, the justification stated that direct engagement with Cuba permitted the United States to secure additional assurances, delivered April 3, 2015, of Cuba's commitment to renounce international terrorism. According to the justification:

> In the assurances, Cuba reiterated its commitment to cooperate in combating terrorism, rejected and condemned all terrorist acts, methods, and practices in all their forms and manifestations, and condemned any action intended to encourage, support, finance, or cover up any terrorist acts. The Government of Cuba further committed to never supporting any act of international terrorism, and never allowing its territory to be used to organize, finance, or execute terrorist act against any other country, including the United States.

Members of Foreign Terrorist Organizations in Cuba. For a number of years in its annual *Country Reports on Terrorism*, the State Department has discussed Cuba's provision of safe haven for members of the Basque Fatherland and Liberty (ETA) and the Revolutionary Armed Forces of Colombia (FARC), both U.S.-designated foreign terrorist organizations (FTOs).

In the April 2015 justification, the Administration maintained that there was no credible evidence that Cuba has, within the preceding six months, provided specific material support, services, or resources, to members of the FARC or members of the National Liberation Army (ELN), another Colombian FTO, outside of facilitating the peace process between those organizations and the government of Colombia. The Cuban government has been supporting and hosting peace

[141] Financial Action Task Force, "Improving Global AML/CFT Compliance: On-Going Process," October 24, 2014.

negotiations between the FARC and the Colombian government since 2012.[142] According to the justification, the Colombian government formally noted to the United States that it believes the Cuban government has played a constructive process in the peace talks, and that it has no evidence that Cuba has provided any political or military support in recent years to the FARC or ELN that has assisted in the planning or execution of terrorist activity in Colombia.

With regard to ETA, the Administration maintained in the justification that the Cuban government continues to allow approximately two dozen members of ETA to remain in the country, with most of those entering Cuba following an agreement with the government of Spain. The Administration maintained that Spain has requested the extradition of two ETA members from Cuba, and that a bilateral process is underway for the two countries to resolve the matter. Press reports have identified the two ETA members as José Ángel Urtiaga and José Ignacio Etxarte.[143] It maintained that the Spanish government has conveyed to the United States that it is satisfied with this process and that it has no objection to the rescission of Cuba's designation as a state sponsor of terrorism.

For all three FTOs—the FARC, ELN, and ETA—the Cuban government maintained in its April 2015 assurances to the U.S. government that it would never permit these groups to use Cuban territory to engage in activities against any country.

U.S. Fugitives from Justice. Another issue that has been mentioned for many years in the State Department's annual terrorism report is Cuba's harboring of fugitives wanted in the United States. The 2013 terrorism report (issued in April 2014) maintained that Cuba provided such support as housing, food ration books, and medical care for these individuals.[144] This was reiterated in the Administration's April 2015 justification to Congress.

U.S. fugitives from justice in Cuba include convicted murderers and numerous hijackers, most of whom entered Cuba in the 1970s and early 1980s.[145] For example, Joanne Chesimard, also known as Assata Shakur, was added to the FBI's Most Wanted Terrorist list in May 2013. Chesimard was part of militant group known as the Black Liberation Army. In 1977, she was convicted for the 1973 murder of a New Jersey State Police officer and sentenced to life in prison. Chesimard escaped from prison in 1979 and, according to the FBI, lived underground before fleeing to Cuba in 1984.[146] Another fugitive, William "Guillermo" Morales, who was a member of the Puerto Rican militant group known as the Armed Forces of National Liberation (FALN), reportedly has been in Cuba since 1988 after being imprisoned in Mexico for several years. In 1978, both of his hands were maimed by a bomb he was making. He was convicted in New York on weapons charges in 1979 and sentenced to 10 years in prison and 5 years' probation, but escaped from prison the same year.[147] In addition to Chesimard and other fugitives from the past, a number of

[142] For background on the peace process, see CRS Report R42982, *Colombia's Peace Process Through 2016*, by June S. Beittel.

[143] "Cuba y Madrid Negocian Extradición de Dos Etarras, Dice EEUU," AP Spanish Worldstream, April 16, 2015.

[144] U.S. Department of State, *Country Reports on Terrorism 2013*, April 2014.

[145] U.S. Department of State, *Country Reports on Terrorism 2007*, April 30, 2008.

[146] FBI, Most Wanted Terrorists, Joanne Deborah Chesimard, poster, at http://www.fbi.gov/wanted/wanted_terrorists/joanne-deborah-chesimard/view.

[147] James Anderson, "Living in Exile, Maimed Guerrilla Maintains Low-Key Profile in Cuba," *Fort Worth Star-Telegram*, January 16, 2000; Vanessa Bauza, "FBI's Fugitive Is Cuba's Political Refugee," *South Florida Sun-Sentinel*, May 26, 2002; Mary Jordan, "Fugitives Sought by U.S. Find a Protector in Cuba," *Washington Post*, September 2, 2002, FBI, Wanted by the FBI, William "Guillermo" Morales, poster, at http://www.fbi.gov/wanted/dt/william-guillermo-morales/view.

U.S. fugitives from justice wanted for Medicare and other types of insurance fraud reportedly have fled to Cuba in recent years.[148]

While the United States and Cuba have an extradition treaty in place dating to 1905, in practice the treaty has not been utilized. Instead, for more than a decade, Cuba has returned wanted fugitives to the United States on a case-by-case basis. For example, in 2011, U.S. Marshals picked up a husband and wife in Cuba who were wanted for a 2010 murder in New Jersey,[149] while in April 2013, Cuba returned a Florida couple who had allegedly kidnapped their own children (who had been in the custody of the mother's parents) and fled to Havana.[150] However, Cuba has generally refused to render to U.S. justice any fugitive judged by Cuba to be "political," such as Chesimard, who they believe could not receive a fair trial in the United States. Moreover, Cuba in the past has responded to U.S. extradition requests by stating that approval would be contingent upon the United States returning wanted Cuban criminals from the United States. These include the return of Luis Posada Carriles, whom Cuba accused of plotting the 1976 bombing of a Cuban jet that killed 73 people.[151]

The Administration's April 2015 justification for removing Cuba from the terrorism list maintains that Cuba agreed to enter into a law enforcement dialogue with the United States that will include discussions with the goal of resolving outstanding fugitive cases. It asserted that "the strong U.S. interest in the return of these fugitives will be best served by entering into this dialogue with Cuba."

Pro/Con Arguments. Those supporting the Administration's decision to remove Cuba from the state sponsor of terrorism list maintain that retention on the list was anachronistic and a holdover from the Cold War. They argue that domestic political considerations kept Cuba on the terrorism list for many years, and that Cuba's presence on the list has diverted U.S. attention from struggles against serious terrorist threats. Some supporting the Administration's decision contend that it reinforces the President's broader Cuba policy shift of moving from isolation to engagement, and could result in increased engagement with Cuba on counterterrorism issues and the long-standing issue of U.S. fugitives from justice in Cuba. Some also maintain that Cuba's removal from the list will make it easier for the United States to work with other hemispheric nations on counterterrorism issues.

Those who oppose removing Cuba from the terrorism list argue that there is enough evidence that Cuba continues to support terrorism. They point to the government's hosting of members of foreign terrorist organizations such as ETA and the FARC and U.S. fugitives from justice. In particular, some Members contend that Cuba should not come off the terrorist list as long it continues to harbor U.S. fugitives convicted of violent acts in the United States. They also point to Cuba's involvement in an attempted weapons transfer to North Korea in July 2013 in contravention of U.N. sanctions as evidence (see "Cuba's Foreign Relations," above). Some maintain that the Administration rushed to complete its review of Cuba's designation as a state sponsor of terrorism without consulting Congress.

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[148] For example, see the U.S. Attorney's Office, Southern District of Florida, "Thirty-Three Defendants Charged in Staged Automobile Accident Scheme," press release, May 16, 2013; "Experts: Florida Couple May Not Be Welcome in Cuba," *Naples Daily News*, April 9, 2013; and Jay Weaver, "FBI Struggling to Catch Dozens of Fraud Fugitives Hiding in Cuba," *Miami Herald*, July 16, 2011.

[149] George Mast, "Murder Suspects Caught in Cuba," *Courier-Post* (New Jersey), September 30, 2011.

[150] Paul Haven and Peter Orsi, "Cuba Says It Will Give U.S. Florida Couple Who Allegedly Kidnapped Children," Associated Press, April 9, 2013.

[151] For more background on Posada, see CRS Report RS21049, *Latin America: Terrorism Issues*, by Mark P. Sullivan and June S. Beittel.

Legislative Activity. In the 114th Congress, before the rescission of Cuba's designation as a state sponsor of terrorism, H.R. 274 (Rush) had a provision that would have immediately rescinded any determination of the Secretary of State that Cuba has repeatedly provided support for acts of international terrorism. As noted above, no resolutions of disapproval were introduced to block the Administration's rescission of Cuba's designation as a state sponsor of terrorism. On the issue of U.S. fugitives from justice in Cuba, H.Res. 181 (King) would have called for the immediate extradition or rendering to the United States of convicted felon William Morales and all other fugitives from justice who are receiving safe harbor in Cuba in order to escape prosecution or confinement for criminal offenses committed in the United States. H.R. 4772 (Pearce) would have prohibited funding to accept commercial flight plans between the United States and Cuba until Cuba extradites U.S. fugitives from justice.

Trademark Sanction

For more than 15 years, the United States has imposed a trademark sanction specifically related to Cuba. A provision in the FY1999 omnibus appropriations measure (§211 of Division A, Title II, P.L. 105-277, signed into law October 21, 1998) prevents the United States from accepting payment for trademark registrations and renewals from Cuban nationals that were used in connection with a business or assets in Cuba that were confiscated, unless the original owner of the trademark has consented. U.S. officials maintain that the sanction prohibits a general license[152] under the CACR for transactions or payments for such trademarks.[153] The provision also prohibits U.S. courts from recognizing such trademarks without the consent of the original owner. The measure was enacted because of a dispute between the French spirits company Pernod Ricard and the Bermuda-based Bacardi Limited. Pernod Ricard entered into a joint venture in 1993 with Cubaexport, a Cuban state company, to produce and export Havana Club rum. Bacardi maintains that it holds the right to the Havana Club name because in 1995 it entered into an agreement for the Havana Club trademark with the Arechabala family, who had originally produced the rum until its assets and property were confiscated by the Cuban government in 1960. Although Pernod Ricard cannot market Havana Club in the United States because of the trade embargo, it wants to protect its future distribution rights should the embargo be lifted.

The European Union initiated World Trade Organization (WTO) dispute settlement proceedings in June 2000, maintaining that the U.S. law violates the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). In January 2002, the WTO ultimately found that the trademark sanction violated WTO provisions on national treatment and most-favored-nation obligations in the TRIPS Agreement.[154] On March 28, 2002, the United States agreed that it would come into compliance with the WTO ruling through legislative action by January 3, 2003.[155] That deadline was extended several times since no legislative action had been taken to bring Section 211 into compliance with the WTO ruling. On July 1, 2005, however, in an EU-U.S. understanding, the

[152] A general license provides the authority to engage in a transaction without the need to apply to the Treasury Department for a license. In contrast, a specific license is a written document issued by the Treasury Department to a person or entity authorizing a particular transaction in response to a written license application.

[153] For example, see testimony of Mary Boney Denison, Commission for Trademarks, U.S. Patent and Trademark Office before a hearing of the House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet on "Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property," February 11, 2016.

[154] For additional background, see archived CRS Report RL32014, *WTO Dispute Settlement: Status of U.S. Compliance in Pending Cases*, by Jeanne J. Grimmett, and out-of-print CRS Report RS21764, *Restricting Trademark Rights of Cubans: WTO Decision and Congressional Response*, available to congressional clients upon request from the author.

[155] "U.S., EU Agree on Deadline for Complying with Section 211 WTO Finding," *Inside U.S. Trade*, April 12, 2002.

EU agreed that it would not request authorization to retaliate at that time, but reserved the right to do so at a future date, and the United States agreed not to block a future EU request.[156]

The U.S. Patent and Trademark Office (USPTO) did not process Cubaexport's 10-year renewal of the Havana Club trademark when it was due in 2006 because the Treasury Department's Office of Foreign Assets Control denied the company the specific license that it needed to pay the fee for renewal of the trademark registration.[157] In providing foreign policy guidance to OFAC at the time, the State Department recommended denial of the license, maintaining that it would be consistent with "the U.S. approach toward non-recognition of trademark rights associated with confiscated property" and consistent with U.S. policy to deny resources to the Cuban government in order to hasten a transition to democracy.[158]

Almost a decade later, on January 11, 2016, OFAC issued a specific license to Cubaexport, allowing the company to pay fees for the renewal of the Havana Club trademark registration. In November 2015, OFAC had requested foreign policy guidance from the State Department for Cubaexport's request for a specific license. According to the State Department, in evaluating the case, it took into account the "landmark shift" in U.S. policy toward Cuba, U.S. foreign policy with respect to its key allies in Europe, and U.S. policy with regard to trademark rights associated with confiscated property.[159] Two days later, on January 13, 2016, USPTO renewed Cubaexport's trademark registration for Havana Club for the 2006-2016 period. On February 16, 2016, the agency renewed the trademark registration for 10 additional years until 2026.

State Department and USPTO officials maintain that the renewal of the Havana Club trademark registration does not resolve the trademark dispute. The State Department notes that there are pending federal court proceedings in which Bacardi has filed suit against Cubaexport to contest the Havana Club trademark ownership in the United States and that OFAC's issuance of a license permitting USPTO to renew the trademark registration will allow the two parties to proceed toward adjudication of the case.[160]

Legislative Activity. In Congress, two different approaches have been advocated for a number of years to bring Section 211 into compliance with the WTO ruling. Some want a narrow fix in which Section 211 would be amended so that it applies to all persons claiming rights in trademarks confiscated by Cuba, whatever their nationality, instead of being limited to designated nationals, meaning Cuban nationals. Advocates of this approach argue that it would treat all holders of U.S. trademarks equally. Others want Section 211 repealed altogether. They argue that the law endangers more than 5,000 trademarks of more than 400 U.S. companies registered in Cuba.[161]

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[156] World Trade Organization (WTO), "United States—Section 211 Omnibus Appropriations Act of 1998, Understanding Between the European Communities and the United States," WT/DC176/16, July 1, 2005; WTO, Dispute Settlement Body, "Minutes of Meeting, Held in the Centre William Rappard on 20 July 2005," WT/DSB/M/194, August 26, 2005; and "Japan, EU Suspend WTO Retaliation Against U.S. in Two Cases," *Inside U.S. Trade*, July 15, 2005.

[157] "PTO Cancels Cuban 'Havana Club' Mark; Bacardi Set to Sell Rum Under Same Mark," *International Trade Daily*, August 10, 2006.

[158] U.S. Department of State, Unclassified Memorandum, (to OFAC from Economic Bureau, Department of State) Subject: Ropes & Gray LLP (Havana Club) Licensing Case, July 28, 2006.

[159] U.S. Department of State, Testimony of Kurt Tong, Bureau of Economic and Business Affairs, before the House Judiciary Committee, Subcommittee on Courts, Intellectual Property, and the Internet, Hearing on "Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property," February 11, 2016.

[160] Ibid.

[161] Statement of William A. Reinsch, National Foreign Trade Council, House Committee on the Judiciary,

In the 114th Congress, identical bills S. 757 (Nelson) and H.R. 1627 (Issa) would have applied the narrow fix so that the trademark sanction applied to all nationals, while several broader bills were introduced with provisions that would have repealed Section 211: H.R. 274 (Rush); H.R. 403 (Rangel); H.R. 635 (Rangel); and H.R. 735 (Serrano). The House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet held a hearing on February 11, 2016, on the trademark issue as well as on the issue of confiscated property.

In the FY2017 appropriations process, two House bills had provisions that would have introduced new sanctions related to Cuba and trademarks, but the 114th Congress did not complete action on the measures.

- The House Commerce appropriations bill, H.R. 5393, had a provision that would have prohibited funds from being used to approve the registration, renewal, or maintenance of a mark, trade name, or commerce name used in commerce that is the same or substantially similar to one used in connection with a business or assets that were confiscated, unless the original owner has expressly consented. This provision would have prohibited the USPTO from spending funds to approve, maintain, or renew such a trademark.
- The House Financial Services appropriations bill, H.R. 5485, had a provision that would have prohibited funds from being used to authorize a general or specific license with respect to a mark, trade name, or commerce name used in commerce that is the same or substantially similar to one used in connection with a business or assets that were confiscated unless the original owner has expressly consented. This provision would have prohibited Treasury's OFAC from issuing a general or specific license for the payment of trademark registration fees. However, with regard to the Havana Club case, as discussed above, OFAC issued a specific license in January 2016 for payments related to the renewal of the trademark and the USPTO subsequently renewed the trademark until 2026. In its statement of policy on the bill, the Administration strongly objected to the trademark and other Cuba provisions as undermining the President's policy on Cuba.

U.S. Funding to Support Democracy and Human Rights

Since 1996, the United States has provided assistance—through the U.S. Agency for International Development (USAID), the State Department, and the National Endowment for Democracy (NED)—to increase the flow of information on democracy, human rights, and free enterprise to Cuba.

USAID and State Department efforts are largely funded through Economic Support Funds (ESF) in the annual foreign operations appropriations bill. From FY1996 to FY2015, Congress appropriated some $284 million in funding for Cuba democracy efforts.[162] In recent years, this included $45.3 million for FY2008 and $20 million in each fiscal year from FY2009 through FY2012, $19.3 million in FY2013, and $20 million in each of FY2014 and FY2015.

The Administration's request for FY2016 was $20 million in ESF, and the FY2016 omnibus appropriations measure, P.L. 114-113, provided that amount in its explanatory statement. The

Subcommittee on Courts, Intellectual Property, and the Internet, Hearing on "Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property," February 11, 2016.

[162] The U.S. Government Accountability Office (GAO) reports that Congress appropriated $205 million for Cuba democracy programs from FY1996 through FY2011. See U.S. GAO, *Cuba Democracy Assistance, USAID's Program Is Improved, But State Could Better Monitor Its Implementing Partners*, GAO-13-285, January 2013.

House Appropriations Committee's FY2016 State Department and Foreign Operations appropriations bill, H.R. 2772, would have provided $30 million to promote democracy and civil society in Cuba and would have provided that no funds could be obligated for business promotion, economic reform, entrepreneurship, or any other assistance that was not democracy-building as expressly authorized in the LIBERTAD Act. The report to the bill (H.Rept. 114-154) would have provided that not less than $8 million would be for NED and that the remaining assistance would be administrated by the State Department and USAID. The Senate Appropriations Committee version of the bill, S. 1725, would have provided $15 million in ESF for Cuba democracy programs, and $5 million in ESF (notwithstanding any other provision of law) for programs to support private Cuban entrepreneurs, except that no such assistance could be provided for the Cuban government. None of the directives in the House and Senate bills and reports were included in the FY2016 omnibus bill.

For FY2017, the Administration requested $15 million in ESF for Cuba democracy and human rights programs, a 25% reduction from FY2016. According to the request, the assistance would support civil society initiatives that promote democracy, human rights, and fundamental freedoms, particularly freedoms of expression and association. The programs would "provide humanitarian assistance to victims of political repression and their families, strengthen independent civil society, support the Cuban people's desire to freely determine their future, reduced their dependence on the Cuban state, and promote the flow of uncensored information to, from and within the island."[163]

The House version of the FY2017 State Department and Foreign Operations appropriations bill, H.R. 5912 (H.Rept. 114-693), reported July 15, 2015, would have provided $30 million for democracy promotion for Cuba, double the Administration's request. The bill would also have prohibited funding for business promotion, economic reform, entrepreneurship, or any other assistance that was not democracy building authorized by the LIBERTAD Act of 1996.

In contrast, the Senate version of the FY2017 foreign operations appropriations bill, S. 3117 (S.Rept. 114-290), reported June 29, 2016, would have recommended fully funding the Administration's request of $15 million. However, it also would have provided that $3 million be made available for USAID to support free enterprise and private business organizations and people-to-people educational and cultural activities.

As noted previously, the 114th Congress did not complete action on FY2017 appropriations, but it did approve a continuing resolution (P.L. 114-254) in December 2016 funding most foreign aid at the FY2016 level, minus an across-the-board reduction of almost 0.2% through April 28, 2017.

Generally, as provided in appropriations measures, ESF has to be obligated within two fiscal years. USAID in the past received the majority of this funding, but the State Department began receiving a portion in FY2004 and in recent years has been allocated more funding than USAID. The State Department generally has transferred a portion of the Cuba assistance that it administers to NED. For FY2014, Congress stipulated that no assistance may be obligated by USAID for any new programs or activities in Cuba (P.L. 113-76). For FY2015 assistance, however, USAID is administering $6.25 million of Cuban democracy assistance, whereas the State Department is administering $13.75 million, with $6.25 million of that transferred to NED.

USAID's Cuba program has supported a variety of U.S.-based nongovernmental organizations with the goals of promoting a rapid, peaceful transition to democracy, helping develop civil society, and building solidarity with Cuba's human rights activists.

[163] U.S. Department of State, Congressional Budget Justification for Foreign Operations, Fiscal Year 2017, Appendix 3, February 26, 2016, p. 406.

NED is not a U.S. government agency but an independent nongovernmental organization that receives U.S. government funding. Its Cuba program is funded by the organization's regular appropriations by Congress as well as by funding from the State Department. Until FY2008, NED's democratization assistance for Cuba had been funded largely through the annual Commerce, Justice, and State (CJS) appropriations measure, but is now funded through the State Department, Foreign Operations and Related Agencies appropriations measure. According to information provided by NED on its website, its Cuba funding in recent years has been as follows: $1.65 million in FY2011; $2.6 million in FY2012; $3.4 million in FY2013; $3 million in FY2014; and $3.68 million in FY2015.[164]

Oversight of U.S. Democracy Assistance to Cuba

The U.S. Government Accountability Office (GAO) has issued several reports since 2006 examining USAID and State Department democracy programs for Cuba. In 2006, GAO issued a report examining programs from 1996 through 2005 and concluded that the U.S. program had significant problems and needed better management and oversight. According to GAO, internal controls, for both the awarding of Cuba program grants and the oversight of grantees, "do not provide adequate assurance that the funds are being used properly and that grantees are in compliance with applicable law and regulations."[165] Investigative news reports on the program maintained that high shipping costs and lax oversight had diminished its effectiveness.[166]

GAO issued a second report in 2008 examining USAID's Cuba democracy program.[167] The report lauded the steps that USAID had taken since 2006 to address problems with its Cuba program and improve oversight of the assistance. These included awarding all grants competitively since 2006, hiring more staff for the program office since January 2008, and contracting for financial services in April 2008 to enhance oversight of grantees. The GAO report also noted that USAID had worked to strengthen program oversight through pre-award and follow-up reviews, improving grantee internal controls and implementation plans, and providing guidance and monitoring about permitted types of assistance and cost sharing. The 2008 GAO report also maintained, however, that USAID had not staffed the Cuba program to the level needed for effective grant oversight. GAO recommended that USAID (1) ensure that its Cuba program office is staffed at the level that is needed to fully implement planned monitoring activities and (2) periodically assess the Cuba program's overall efforts to address and reduce grantee risks, especially regarding internal controls, procurement practices, expenditures, and compliance with laws and regulations.

In January 2013, GAO issued its third report on Cuba democracy programs.[168] The report concluded that USAID had improved its performance and financial monitoring of implementing partners' use of program funds, but found that the State Department's financial monitoring had gaps. Both agencies were reported to be taking steps to improve financial monitoring. GAO

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[164] See information about NED's 2015 projects in Cuba, available at http://www.ned.org/region/latin-america-and-caribbean/cuba-2015/.

[165] U.S. Government Accountability Office (GAO), *U.S. Democracy Assistance for Cuba Needs Better Management and Oversight*, GAO-07-147, November 2006.

[166] Oscar Corral, "Federal Program to Help Democracy in Cuba Falls Short of Mark," *Miami Herald*, November 14, 2006, and "Is U.S. Aid Reaching Castro Foes?" *Miami Herald*, November 15, 2006.

[167] U.S. GAO, *Foreign Assistance: Continued Efforts Needed to Strengthen USAID's Oversight of U.S. Democracy Assistance for Cuba*, GAO-09-165, November 2008.

[168] U.S. GAO, *Cuba Democracy Assistance, USAID's Program Is Improved, But State Could Better Monitor Its Implementing Partners*, GAO-13-285, January 2013.

recommended that the Secretary of State take two actions to strengthen the agency's ability to monitor the use of Cuba democracy program funds: use a risk-based approach for program audits that considers specific indicators for program partners and obtain sufficient information to approve implementing partners' use of subpartners.

In April 2014, an Associated Press investigative report alleged that USAID, as part of its democracy promotion efforts for Cuba, had established a "Cuban Twitter" known as ZunZuneo, a communications network designed as a "covert" program "to undermine" Cuba's communist government built with "secret shell companies" and financed through foreign banks. According to the press report, the project, which was used by thousands of Cubans, lasted more than two years until it ended in 2012.[169] USAID, which strongly contested the report, issued a statement and facts about the ZunZuneo program. It maintained that program was not "covert," but rather that, just as in other places where it is not always welcome, the agency maintained a "discreet profile" on the project to minimize risk to staff and partners and work safely.[170] Some Members of Congress strongly criticized USAID for not providing sufficient information to Congress about the program when funding was appropriated, while other Members strongly defended the agency and the program.

In August 2014, the Associated Press reported on another U.S.-funded democracy program for Cuba in which a USAID contractor sent about a dozen youth from several Latin American countries (Costa Rica, Peru, and Venezuela) in 2010 and 2011 to Cuba to participate in civic programs, including an HIV-prevention workshop, with the alleged goal to "identify potential social-change actors" in Cuba. The AP report alleged that "the assignment was to recruit young Cubans to anti-government activism under the guise of civic programs."[171] USAID responded in a statement maintaining that the AP report "made sensational claims against aid workers for supporting civil society programs and striving to give voice to these democratic aspirations."[172]

On December 22, 2015, USAID's Office of Inspector General issued a review report on USAID's Cuban Civil Society Support Program that examined both the ZunZuneo and HIV-prevention programs. The report cited a number of problems with USAID's management controls of the program and made a number of recommendations, including that USAID conduct an agency-wide analysis to determine whether a screening policy is needed to address intelligence and subversion threats, and if so, develop and implement one.[173]

Radio and TV Martí

U.S.-government-sponsored radio and television broadcasting to Cuba—Radio and TV Martí—began in 1985 and 1990, respectively. According to the *Broadcasting Board of Governors (BBG) FY2017 Congressional Budget Request*, Radio and TV Martí and the Martínoticias.com website "inform and engage the people of Cuba by providing a reliable and credible source of news and

[169] Desmond Butler, Jack Gillum, and Alberto Arce, "U.S. Secretly Created 'Cuban Twitter' to Stir Unrest," Associated Press, April 3, 2014.

[170] USAID, "Statement in Reference to the Associated Press Article on "Cuba Twitter" on April 3, 2014," press statement, April 3, 2014; "Eight Facts About ZunZuneo," April 7, 2014, available at http://blog.usaid.gov/2014/04/eight-facts-about-zunzuneo/.

[171] Desmond Butler, Jack Gillum, Alberto Arce, and Andrea Rodriguez, "The Big Story, U.S. Sent Latin Youth Undercover in Anti-Cuba Ploy," Associated Press, August 4, 2014.

[172] USAID, "Statement from USAID Spokesperson Matt Herrick on Cuba Civil Society Story," August 4, 2014.

[173] USAID, Office of Inspector General, Review of USAID's Cuban Civil Society Support Program," December 22, 2015, available at https://oig.usaid.gov/node/1936.

information."[174] According to the BBG, it is estimated that at least 2.2 million Cubans listen to Radio Martí every week. The BBG maintains that this estimate is based on a Bendixen and Amandi International April 2015 poll that showed that 20% of respondents said they had listened to Radio Martí in the 7 days prior to the interviews. This is far higher than reported in the past for Radio Martí listenership.[175] The BBG's Office of Cuba Broadcasting has significantly expanded its distribution through the Internet, mobile phones, and social media to help reach audiences in Cuba.

Until October 1999, U.S.-government-funded international broadcasting programs had been a primary function of the United States Information Agency (USIA). When USIA was abolished and its functions were merged into the Department of State at the beginning of FY2000, the BBG became an independent agency that included such entities as the Voice of America (VOA), Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia, and the Office of Cuba Broadcasting (OCB), which manages Radio and TV Marti. OCB is headquartered in Miami, FL. Legislation in the 104th Congress (P.L. 104-134) required the relocation of OCB from Washington, DC, to South Florida. The move began in 1996 and was completed in 1998. (For more information, see CRS Report R43521, *U.S. International Broadcasting: Background and Issues for Reform*, by Matthew C. Weed.)

According to the BBG, the OCB uses multiple web domains and anti-censorship tools such as web-based proxies to reach Internet users in Cuba. Since 2011, the OCB has used SMS messaging to communicate with audiences in Cuba, allowing OCB to "push" information to mobile phone users in Cuba in a manner that is difficult to filter. The OCB's website, martinoticias.com, began streaming Radio and TV Martí programming 24 hours a day in 2013. OCB also maintains an interactive social engagement strategy that utilizes a YouTube channel, Facebook, Twitter, and Google+.

Funding. From FY1984 through FY2015, Congress appropriated about $797 million for broadcasting to Cuba. In recent years, funding amounted to $28 million in FY2012, $26 million in FY2013, and almost $27 million in FY2014. The FY2015 request was for $23 million, and Congress ultimately appropriated $27 million in the FY2015 omnibus appropriations measure (P.L. 113-235).

For FY2016, the BBG requested $30.3 million for Cuba broadcasting, almost $3.2 million over the amount appropriated in FY2015. This would have included funds for the OCB and the Voice of America (VOA) Latin America Division to begin the process of establishing a new de-federalized Spanish language international media operation that would merge the two entities. Under the plan, the process would be completed in early FY2017, and the new de-federalized organization would be fully operational by mid FY2017 and receive a BBG Grant. Ultimately, the explanatory statement to the FY2016 omnibus appropriations measure, P.L. 114-113, provided $27.14 million for Cuba broadcasting, almost $3.2 million less than that requested. The explanatory statement noted that it did not include authority or funds requested for the merger of OCB and the Latin America Division of VOA by establishing an independent grantee organization.

[174] See the full text of the Broadcasting Board of Governors FY2017 budget request, available at http://www.bbg.gov/wp-content/media/2011/12/FY-2017-Budget-Submission.pdf.

[175] In 2009, for example, the U.S. Government Accountability Office (GAO) maintained that the best research suggested that Radio and TV Martí's audience was small, with less than 2% of respondents to telephone surveys saying that they had reported tuning in to either Radio or TV Martí. See U.S. GAO, *Broadcasting to Cuba, Actions Are Needed to Improve Strategy and Operations*, GAO-09-127, January 2009.

The report to the House Appropriations Committee's FY2016 State Department and Foreign Operations bill, H.R. 2772 (H.Rept. 114-154), had recommended $28.130 million for Cuba broadcasting, almost $2.2 million less than the request and $1 million more than that provided in FY2015. Section 7045(c) of H.R. 2772 would have prohibited implementation of the proposed restructuring and merger of OCB and VOA's Latin America Division unless specifically authorized by a subsequent act of Congress. The report to the Senate Appropriations Committee version of the bill, S. 1725 (S.Rept. 114-79), recommended $27.130 million for OCB and also did not support or include authority for the merger of OCB and VOA's Latin American Division.

For FY2017, the Administration requested $27.1 million for the OCB, about the same amount appropriated in FY2016. The Administration also requested authority for the BBG to establish a new Spanish-language, nonfederal media organization that would receive a BBG grant and perform the functions of the current OCB.[176] The House version of the FY2017 State Department and Foreign Operations Appropriations bill, H.R. 5912 (H.Rept. 114-693), had a provision that would have blocked the Administration's request by prohibiting funding to establish an independent grantee organization to carry out any and all broadcasting and related programs to the Latin American and Caribbean region or otherwise substantially alter the structure of the OCB unless specifically authorized by a subsequent act of Congress. The funding prohibition pertained to merger of the OCB and the Voice of America Latin America Division. The Senate version of the bill, S. 3117 (S.Rept. 114-290), would have provided $27.4 million for the OCB, $300,000 more than the Administration's request. The report to the bill stated that the committee did not support the proposed contractor reduction of $300,000 at the OCB. As previously noted, the 114th Congress did not complete action on FY2017 appropriations, but it did approve a continuing resolution (P.L. 114-254) providing funding at the FY2016 level for most programs through April 28, 2017, minus an across-the-board cut of almost 0.2%.

Oversight. Both Radio and TV Martí have at times been the focus of controversies, including questions about adherence to broadcast standards. There have been various attempts over the years to cut funding for the programs, especially for TV Martí, which has not had much of an audience because of Cuban jamming efforts. From 1990 through 2008, there were numerous government studies and audits of the OCB, including investigations by the GAO, by a 1994 congressionally established Advisory Panel on Radio and TV Martí, by the State Department Office Inspector General (OIG), and by the combined State Department/BBG Office Inspector General.[177]

In 2009, GAO issued a report asserting that the best available research suggests that Radio and TV Martí's audience is small, and cited telephone surveys since 2003 showing that less than 2%

[176] Broadcasting Board of Governors, "FY2017 Budget Request, Executive Summary," February 9, 2016.

[177] See the following reports and audits from 1990 through 2008: U.S. General Accounting Office (GAO), *Broadcasts to Cuba, TV Marti Surveys Are Flawed*, GAO/NSIAD-90-252, August 1990; U.S. GAO, *TV Marti, Costs and Compliance with Broadcast Standards and International Agreements*, GAO/NSIAD-92-199, May 1992; U.S. GAO, letter to Hon. Howard L. Berman and Hon. John F. Kerry regarding Radio Marti broadcast standards, GAO/NSIAD-93-126R, February 17, 1993; Advisory Panel on Radio and TV Marti, *Report of the Advisory Panel on Radio and TV Marti*, three volumes, March 1994; U.S. GAO, *Radio Marti, Program Review Processes Need Strengthening*, GAO/NSIAD-94-265, September 1994; U.S. GAO, *U.S. Information Agency, Issues Related to Reinvention Planning in the Office of Cuba Broadcasting*, GAO/NSIAD-96-110, May 1996; U.S. Department of State, Office of the Inspector General, *Review of Policies and Procedures for Ensuring that Radio Marti Broadcasts Adhere to Applicable Requirements*, 99-IB-010, June 1999; U.S. Department of State and the Broadcasting Board of Governors, Office of Inspector General, *Review of the Effectiveness and Implementation of Office of Cuba Broadcasting's New Program Initiatives*, Report No. IBO-A-03-01, January 2003, and *Report of Inspection, Office of Cuba Broadcasting*, Report No. ISP-IB 07-35, June 2007; and U.S. GAO, *Broadcasting to Cuba, Weaknesses in Contracting Practices Reduced Visibility into Selected Award Decisions*, GAO-08-764, July 2008.

of respondents reported tuning in to Radio or TV Martí during the past week. With regard to TV Martí viewership, according to the report, all of the IBB's telephone surveys since 2003 show that less than 1% of respondents said that they had watched TV Martí during the past week. According to the GAO report, the IBB surveys show that there was no increase in reported TV Martí viewership following the beginning of AeroMartí and DirecTV satellite broadcasting in 2006.The GAO report also cited concerns with adherence to relevant domestic laws and international standards, including the domestic dissemination of OCB programming, inappropriate advertisements during OCB programming, and TV Martí's interference with Cuban broadcasts.[178]

In 2010, the Senate Foreign Relations Committee majority issued a staff report that concluded that Radio and TV Martí "continue to fail in their efforts to influence Cuban society, politics, and policy." The report cited problems with adherence to broadcast standards, audience size, and Cuban government jamming. Among its recommendations, the report called for the IBB to move the Office of Cuba Broadcasting back to Washington, DC, and integrate it fully into the Voice of America.[179]

In 2011, GAO issued a report examining the extent to which the BBG's strategic plan for broadcasting required by the conference report to the FY2010 Consolidated Appropriations measure (H.Rept. 111-366 to H.R. 3288/P.L. 111-117) met the requirements established in the legislation. GAO found that BBG's strategic plan lacked key information and only partially addressed issues raised by Congress, including on estimated audience size and an analysis of other options for disseminating news and information to Cuba. The report stated that the BBG can develop and provide more information to Congress, including an analysis of the cost savings opportunities of sharing resources between Radio and TV Martí and the Voice of America's Latin America Division.[180]

Migration Issues[181]

On January 12, 2017, the Obama Administration announced another major Cuba policy shift by ending the so-called "wet foot/dry foot" policy in which thousands of undocumented Cuban migrants have entered the United States in recent years. As announced by the President and Secretary of Homeland Security Jeh Johnson, Cuban nationals who attempt to enter the United States illegally and do not qualify for humanitarian relief are now subject to removal. The Cuban government also agreed to begin accepting the return of Cuban migrants who have been ordered removed.[182]

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[178] U.S. GAO, *Broadcasting to Cuba, Actions Are Needed to Improve Strategy and Operations*, GAO-09-127, January 2009.

[179] U.S. Congress, Senate Committee on Foreign Relations, *Cuba: Immediate Action Is Needed to Ensure the Survivability of Radio and TV Marti*, committee print, 111th Cong., 2nd sess., April 29, 2010, S.Prt. 111-46 (Washington: GPO, 2010).

[180] U.S. Government Accountability Office, *Broadcasting Board of Governors Should Provide Additional Information to Congress Regarding Broadcasting to Cuba*, December 13, 2011, available at http://www.gao.gov/assets/590/586869.pdf.

[181] Also see CRS Report R44714, *U.S. Policy on Cuban Migrants: In Brief*, by Andorra Bruno.

[182] White House, "Statement by the President on Cuban Immigration Policy," January 12, 2017; U.S. Department of Homeland Security, "Statement by Secretary Johnson on the Continued Normalization of our Migration Relationship with Cuba," January 12, 2017; U.S Department of Homeland Security, "Fact Sheet: Changes to Parole and Expedited Removal Policies Affecting Cuban Nationals," January 12, 2017.

The Administration also announced it was ending the special Cuban Medical Professional Parole program, a 10-year-old program allowing Cuban medical professionals in third countries to be approved for admittance into the United States.

Background. Cuba and the United States reached two migration accords in 1994 and 1995 designed to stem the mass exodus of Cubans attempting to reach the United States by boat. On the minds of U.S. policymakers was the 1980 Mariel boatlift, in which 125,000 Cubans fled to the United States with the approval of Cuban officials. In response to Fidel Castro's threat to unleash another Mariel, U.S. officials reiterated U.S. resolve not to allow another exodus. Amid escalating numbers of fleeing Cubans, on August 19, 1994, President Clinton abruptly changed U.S. migration policy, under which Cubans attempting to flee their homeland were allowed into the United States, and announced that the U.S. Coast Guard and Navy would take Cubans rescued at sea to the U.S. naval base at Guantánamo Bay, Cuba. Despite the change in policy, Cubans continued fleeing in large numbers.

As a result, in early September 1994, Cuba and the United States began talks that culminated in a September 9, 1994, bilateral agreement to stem the flow of Cubans fleeing to the United States by boat. In the agreement, the United States and Cuba agreed to facilitate safe, legal, and orderly Cuban migration to the United States, consistent with a 1984 migration agreement. The United States agreed to ensure that total legal Cuban migration to the United States would be a minimum of 20,000 each year, not including immediate relatives of U.S. citizens.

In May 1995, the United States reached another accord with Cuba under which the United States would parole the more than 30,000 Cubans housed at Guantánamo into the United States, but would intercept future Cuban migrants attempting to enter the United States by sea and would return them to Cuba. The two countries would cooperate jointly in the effort. Both countries also pledged to ensure that no action would be taken against those migrants returned to Cuba as a consequence of their attempt to immigrate illegally. In January 1996, the Department of Defense announced that the last of some 32,000 Cubans intercepted at sea and housed at Guantánamo had left the U.S. Naval Station, most having been paroled into the United States.

Maritime Interdictions. Since the 1995 migration accord, the U.S. Coast Guard has interdicted thousands of Cubans at sea and returned them to their country. Those Cubans who reach shore are allowed to apply for permanent resident status in one year, pursuant to the Cuban Adjustment Act of 1966 (CAA, P.L. 89-732). In short, most interdictions, even in U.S. coastal waters, resulted in a return to Cuba, while those Cubans who touch shore were allowed to stay in the United States. This so-called "wet foot/dry foot" policy had been criticized by some as encouraging Cubans to risk their lives in order to make it to the United States and as encouraging alien smuggling. Others maintained that U.S. policy should welcome those migrants fleeing communist Cuba whether or not they are able to make it to land.

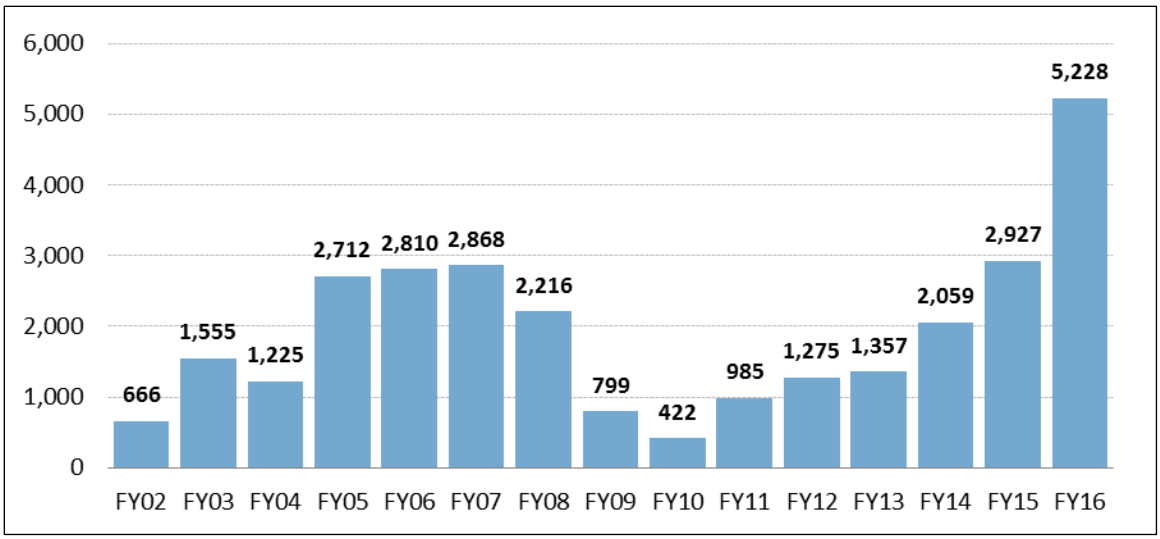
The number of Cubans interdicted at sea by the U.S. Coast Guard rose from 666 in FY2002 to 2,868 in FY2007. In the three subsequent years, maritime interdictions declined significantly to 422 by FY2010. Major reasons for the decline were reported to include the U.S. economic downturn, more efficient coastal patrolling, and more aggressive prosecution of migrant smugglers by both the United States and Cuba.[183]

[183] Alfonso Chardy and Juan Tamayo, "Exodus of Cubans Slowing," *Miami Herald,* October 6, 2010. U.S. Department of State, "Cuban Compliance with the Migration Accords (April 2012 to October 2012)," report to Congress, October 22, 2012.

From FY2011 through FY2016, however, the number of Cubans interdicted by the Coast Guard increased each year, from 985 in FY2011 to 5,228 in FY2016. For FY2016, the number of Cubans interdicted rose almost 79% over interdictions in FY2015 (see **Figure 4**). In FY2017, as of January 4, 2017, the Coast Guard had interdicted 1,265 Cuban migrants at sea.[184]

In 2015 and 2016, according to the Department of State, the increase in the flow of maritime migrants reportedly was caused by rumors of a possible change in immigration policy. The U.S. Coast Guard and U.S. Border Patrol have responded by increasing maritime and landside patrols, continuing timely repatriations of migrants interdicted at sea, and implementing a media campaign to dispel rumors about an alleged change in U.S. migration policy.[185] The rise appears to be driven by concerns among Cubans that the favorable treatment granted to Cuban immigrants will end.

Figure 4. Maritime Interdictions of Cubans by the U.S. Coast Guard, FY2002-FY2016



Source: Created by CRS using information provided by the United States Coast Guard, Alien Migrant Interdiction, "Total Interdictions—Fiscal Year 1982 to Present," January 19, 2016, at http://www.uscg.mil/hq/cg5/cg531/AMIO/FlowStats/FY.asp. Information for FY2016 maritime interdiction of Cuban migrants provided to CRS by the U.S. Coast Guard, November 8, 2016.

Arrival of Undocumented Cuban Migrants. According to the State Department, Cubans continue to favor land-based entry at U.S. ports of entry, especially from Mexico. Over the past several years, the number of undocumented Cubans entering by land has increased significantly, with a majority entering through the southwest border.[186]

According to statistics from the Department of Homeland Security, the number of undocumented Cubans entering the United States rose from almost 8,170 in FY2010 to 56,178 in FY2016 (see **Table 1**). Between FY2014 and FY2015, the number of undocumented Cubans entering the United States increased by about 66%, while between FY2015 and FY2016, the number increased by just over 36%. In the first quarter of FY2017, from October through December

[184] Information provided to CRS by U.S. Coast Guard Congressional Affairs, January 5, 2017.

[185] U.S. Department of State, "Cuban Compliance with the Migration Accords," reports to Congress, May 7, 2014, November 6, 2014, April 30, 2015, November 3, 2015, and April 29, 2016.

[186] Ibid.

2016, the number of Cuban migrants amounted to 16,531, with the majority continuing to enter through the southwest border.

Until recently, many of the Cuban migrants first flew to Ecuador, which until late November 2015 did not require Cubans to have a visa, and then made their way overland and by boat through Central America and Mexico to the United States (see **Figure 5**). The trip reportedly cost between $5,000 and $15,000, but Cubans resorted to this route because they viewed it as safer than attempting to travel by boat directly from Cuba to the United States.[187] Although this trafficking route is not new for Cubans, the Cuban government's relaxation of its exit rules for its citizens in 2013 (discussed below) and concerns that the United States might change its liberal immigration policy for Cubans prompted a large increase in the number of Cubans making the overland journey. In late November 2015, Ecuador changed its policy of not requiring visas for Cubans in an attempt to stem the flow of Cubans who subsequently seek to travel to the United States. Ecuador's action sparked protests by Cubans at Ecuador's embassy in Havana, whereupon Ecuador decided to grant visas to those Cubans who had already purchased air tickets.[188]

Table 1. Undocumented Cuban Migrants, FY2010-FY2017

(via U.S. ports of entry and between ports of entry)

	Ports of Entry	Between Ports of Entry	Total
FY2010	7,458	712	8,170
FY2011	7,786	959	8,745
FY2012	12,048	606	12,654
FY2013	17,360	624	17,984
FY2014	23,751	1,061	24,812
FY2015	40,119	1,153	41,272
FY2016	54,248	1,930	56,178
FY2017 (through 12/31/16)	16,078	453	16,531

Source: U.S. Department of Homeland Security, U.S. Customs and Border Protection, Office of Congressional Affairs, January 13, 2017

In November 2015, tensions in relations between Costa Rica and Nicaragua grew over the issue of the Cuban migrants transiting the region. On November 10, 2015, Costa Rica broke up an alien smuggling ring involved in taking unauthorized Cubans through Costa Rica to the Nicaragua border.[189] Costa Rica initially announced that it would not allow Cubans without visas to enter the country from Panama, but then changed its policy by providing Cubans with temporary visas to transit through Nicaragua. But on November 15, Nicaragua closed its border with Costa Rica to the Cubans headed to the United States, resulting in a swelling number of Cubans stranded in Costa Rica. Costa Rica called for a humanitarian corridor for the Cuban migrants to cross safely, while Nicaragua accused Costa Rica of "unleashing an invasion of illegal Cuban migrants" on

[187] Zach Dyer, "As U.S.-Cuba Ties Warm, Cuban Migrants Take Overland Route North," *Christian Science Monitor*, November 18, 2015.

[188] "Ecuador Grants Visas to Cubans with Tickets Purchased Before Nov. 26," *Havana Times*, November 28, 2015.

[189] "Costa Rica Busts Migrant-Trafficking Ring," Agence France Presse, November 10, 2015.

Nicaragua. The Cuban government criticized U.S. immigration policy for "stimulating irregular emigration from Cuba toward the United States."[190] Nicaragua echoed Cuba's position, placing blame for the wave of migration on the United States for its policy that attracts Cuban migrants.[191]

Figure 5. Cuban Migration, from Ecuador to the United States

Source: CRS.

U.S. officials encouraged the countries involved to seek solutions and expressed concern about the human rights of the migrants, and the United States reportedly pledged up to $1 million (through the International Organization for Migration) to assist Costa Rica in providing for almost 8,000 Cuban migrants stranded in the country.[192] In late December 2015, however, Central American representatives meeting in Guatemala agreed to fly the Cubans in Costa Rica to El Salvador, whereupon the migrants would travel by bus to Guatemala and then to Mexico and onward to the United States. That program began in January 2016, and direct flights to Mexico from Costa Rica were later added as well as flights for some 1,300 Cubans stranded in Panama.

[190] Daniel Trotta, "Cuba Blames U.S. for Migrant Crisis in Central America," Reuters News, November 17, 2015.

[191] "Emergency Meeting on Cuban Migrant Crisis Ends in Frustration," *Latin News Daily*, November 25, 2015.

[192] Frances Robles, "U.S. Pays to Feed and Shelter Thousands of Cuban Migrants Stranded in Costa Rica," *New York Times*, March 5, 2016.

Press reports indicate that most of the Cuban migrants in Costa Rica and Panama had departed by mid-March 2016.[193]

In April 2016, another wave of Cuban migrants began entering Panama. The Costa Rican government said that it would reinforce its southern border with Panama to prevent the Cuban migrants from entering the country, and it criticized U.S. policy as a magnet attracting irregular Cuban migration.[194] Panama, however, reached an agreement with Mexico in early May 2016 to transfer close to 4,000 Cuban migrants to Mexico by air.[195]

Migration Talks. Semiannual bilateral talks are held on the implementation of the 1994-1995 migration accords, alternating between Havana and Washington, DC. According to a State Department press release, the July 2016 round of talks included discussions on maritime and overland migration trends, cooperation between the Centers for Disease Control and Prevention and Cuban physicians, and cooperation between the U.S. Coast Guard and the Cuban Border Guard. The U.S. delegation reiterated its position that Cuba should accept the return of Cuban nationals who have been ordered removed from the United States.[196] In April 2016, the State Department noted an existing backlog of around 28,000 Cuban nationals (with criminal convictions) with unexecuted final orders of removal. For years, the Cuban government has said that that it would not consider the repatriation of additional Cuban nationals until a 1984 repatriation list of 2,746 Cuban excludable aliens is exhausted. The State Department maintains that there are no cases remaining on that list that are viable for removal.[197]

The Cuban delegation reiterated its positon that the United States and Cuba would not be able to establish normal migration relations as long as the so-called "wet foot/dry foot" policy existed. Cuba traditionally contended that U.S. policy encourages illegal, unsafe, and disorderly migration as well as alien smuggling and Cubans' irregular entry into the United States from third countries. The delegation also reiterated its opposition to the Cuban Medical Professional Parole Program, a program permitting Cuban doctors and other health personnel on missions in third countries to migrate to the United States.[198] In January 2016, a White House official indicated that the Administration was considering ending the program. Under the program, which began in 2006, more than 7,000 Cuban medical personnel working in third countries have been approved for admittance into the United States.[199]

As noted above, the Obama Administration announced on January 12, 2017, that it was ending the "wet foot/dry foot" policy and that Cubans attempting to enter the United State illegally would be subject to removal unless they qualified for humanitarian relief. Cuba agreed to receive

[193] "Costa Rica President Sees Off U.S.-Bound Cuban Migrants," Agence France Presse, March 11, 2016; "Panama Finishes Transport of Stranded Cubans to Mexico," EFE News Service, March 12, 2016.

[194] "Costa Rican Foreign Minister Blames U.S. for Cuban Migrant Crisis," BBC Monitoring Americas, April 20, 2016 (text of report from *La Nacíon*, April 13, 2016).

[195] "Panama Ends Sale of Mexico Air Tickets to Stranded Cuban Migrants," EFE News Service, May 21, 2016; Catherine E. Shoichet, "Panama Flying Thousands of Cuban Immigrants to U.S.-Mexico Border," CNN, May 10, 2016.

[196] U.S. Department of State, "United States and Cuba Continue Migration Talks," Media Note, July 14, 2016.

[197] U.S. Department of State, "Cuban Compliance with the Migration Accords," reports to Congress, April 29, 2016 and October 21, 2016.

[198] "Cuba Says 'Normal' Migration Ties Impossible Without U.S. Policy Changes – Foreign Ministry," July 14, 2016. Also see Cuban press release from November 2015 migration talks: Republic of Cuba, Embassy of Cuba in USA, "Press Release Issued by the Cuban Delegation to the Round of Migration Talks Between Cuba and the United States," November 30, 2015.

[199] Jeff Mason and Daniel Trotta, "U.S. Considers Ending Program That Lures Cuban Doctors to Defect," Reuters, January 8, 2016.

back those Cuban nationals ordered removed. The Administration also announced that it was ending the Cuban Medical Professional Parole Program.

Cuban Travel Policy Changes. In January 2013, the Cuban government changed its long-standing policy of requiring an exit permit and a letter of invitation from abroad for Cubans to travel abroad. Cubans are now able to travel abroad with just an updated passport and a visa issued by the country of destination, if required. Under the change in policy, Cubans can travel abroad for up to two years without forgoing their rights as Cuban citizens. The practice of requiring an exit permit had been extremely unpopular in Cuba, and the government had been considering doing away with the practice for some time. According to the Department of State, the Cuban government still requires some individuals, such as high-level government officials, doctors, lawyers, and technicians, to obtain permission to travel.[200] In addition, some dissidents out on parole or facing court action have not been permitted to travel aboard, although many prominent dissidents have traveled abroad and returned to Cuba. Ahead of President Obama's visit to Cuba in March 2016, seven dissidents on parole were granted a one-time permission to travel outside the country.

Effective August 1, 2013, the State Department made nonimmigrant B-2 visas issued to Cubans for family visits, tourism, medical treatment, or other personal travel valid for five years with multiple entries. Previously these visas had been restricted to single entry for six months, and an extensive visa interview backlog had developed at the U.S. Interests Section in Havana. State Department officials maintain that the change increased people-to-people ties and removed procedural and financial burdens on Cuban travelers.[201]

Legislative Activity. In light of Cuba's new travel policy initiated in 2013 making it easier for Cubans to travel abroad and the Administration's efforts to normalize relations with Cuba, some analysts raised questions as to whether the United States should review its policy toward Cuban migrants as set forth in the CAA.[202] Some argued that the normalization of relations would make a special immigration policy for Cubans difficult to sustain.[203] Some critics of current policy also argued that the law was being abused by some recent Cuban immigrants receiving U.S. benefits who travel back and forth between Cuba and the United States regularly.[204] Others pointed to the increasing flow of Cubans into the United States by land and the problems that it has caused in Central America.

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[200] U.S. Department of State, "Cuban Compliance with the Migration Accords (April 2015 to October 2015)," report to Congress, April 29, 2016.

[201] Mimi Whitfield, "U.S. Begins New Multiple-Entry Visa Program for Cuban Visitors," *Miami Herald*, August 1, 2013; Marc Frank, "Cubans Welcome New U.S. Visa Policy, Government Largely Silent," Reuters News, August 2, 2013; and U.S. Department of State, United States Interest Section, Havana, Cuba, "Important Notice: Increase in B-2 Visa Validity," available at http://havana.usint.gov/visa_appointment_information.html.

[202] David Adams and Tom Brown, "Cuban Perks Under Scrutiny in U.S. Immigration Reform," Reuters News, February 8, 2013; Stephen Johnson "Recommendations for the New Administration: Interests, Policies, and Challenges in the Americas," Center for Strategic and International Studies, November 21, 2012; and Philip Peters, "Migration Policy Reform: Cuba Gets Started, U.S. Should Follow," Lexington Institute, December 2012.

[203] Marc R. Rosenblum and Faye Hipsman, "Normalization of Relations with Cuba May Portend Changes to U.S. Immigration Policy," Migration Policy Institute, January 13, 2015.

[204] Lizette Alvarez, "Law Favoring Cuban Arrivals Is Challenged," *New York Times*, February 2, 2015. Also see a series of investigative reports by the *Florida SunSentinel*: Sally Kestin, Megan O'Matz, and John Maines, with Trace Eaton in Cuba, "U.S. Welfare Flows to Cuba," October 1, 2015; Megan O'Matz, Sally Kestin, and John Maines, "Cuban Retire to Florida – With Help from U.S. Taxpayers," October 1, 2015; and Megan O'Matz and Sally Kestin, "Florida Politicians Protect Special Status for Cubans," October 1, 2015, all available at http://www.sun-sentinel.com/us-cuba-welfare-benefits/sfl-us-cuba-welfare-benefits-part-1-htmlstory.html.

In the 114th Congress, H.R. 3818 (Gosnar), would have repealed the Cuban Adjustment Act. The bill would also have prohibited any funding to implement, administer, enforce, or carry out the Cuban Family Reunification Parole Program established in 2007. That program allows certain eligible U.S. citizens and lawful permanent residents to apply for parole for their family members in Cuba.[205] Another initiative, H.R. 4247 (Curbelo)/S. 2441 (Rubio), introduced in December 2015 and January 2016, respectively, would have provided that certain Cuban entrants would be ineligible to receive refugee/parolee assistance. Finally, H.R. 4847 (Farenthold), introduced in March 2016, would have both repealed the Cuban Adjustment Act and made certain Cuban entrants ineligible to receive refugee/parolee assistance.

Antidrug Cooperation

Cuba is not a major producer or consumer of illicit drugs, but its extensive shoreline and geographic location make it susceptible to narcotics smuggling operations. Drugs that enter the Cuban market are largely the result of onshore wash-ups from smuggling by high-speed boats moving drugs from Jamaica to the Bahamas, Haiti, and the United States or by small aircraft from clandestine airfields in Jamaica. For a number of years, Cuban officials have expressed concerns over the use of their waters and airspace for drug transit and about increased domestic drug use. The Cuban government has taken a number of measures to deal with the drug problem, including legislation to stiffen penalties for traffickers, increased training for counternarcotics personnel, and cooperation with a number of countries on antidrug efforts. Since 1999, Cuba's Operation Hatchet has focused on maritime and air interdiction and the recovery of narcotics washed up on Cuban shores. Since 2003, Cuba has aggressively pursued an internal enforcement and investigation program against its incipient drug market with an effective nationwide drug prevention and awareness campaign.

According to the State Department's 2016 *International Narcotics Control Strategy Report* (*INCSR*), issued March 2, 2016, Cuba has a number of antidrug-related agreements in place with other countries, including 36 bilateral agreements for counterdrug cooperation and 27 policing cooperation agreements. As reported in the *INCSR*, Cuba reported seizing 962 kilograms of drugs (largely marijuana) in the first eight months of 2015 and detected 33 suspected "go-fast" boats on its southeastern coast.[206]

Over the years, there have been varying levels of U.S.-Cuban cooperation on antidrug efforts. In 1996, Cuban authorities cooperated with the United States in the seizure of 6.6 tons of cocaine aboard the Miami-bound *Limerick*, a Honduran-flag ship. Cuba turned over the cocaine to the United States and cooperated fully in the investigation and subsequent prosecution of two defendants in the case in the United States. Cooperation has increased since 1999, when U.S. and Cuban officials met in Havana to discuss ways of improving antidrug cooperation. Cuba accepted an upgrading of the communications link between the Cuban Border Guard and the U.S. Coast Guard as well as the stationing of a U.S. Coast Guard Drug Interdiction Specialist (DIS) at the U.S. Interests Section in Havana. The Coast Guard official was posted to the U.S. Interests Section in September 2000, and since that time, coordination has increased.

According to the 2016 *INCSR*, Cuban authorities and the U.S. Coast Guard share tactical information related to vessels transiting through Cuban territorial waters suspected of trafficking.

[205] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, Cuban Family Reunification and Family Parole (CFRP) Program, available at http://www.uscis.gov/humanitarian/humanitarian-parole/cuban-family-reunification-parole-cfrp-program.

[206] U.S. Department of State, *International Narcotics Control Strategy Report (INCSR)*, Volume I: Drug and Chemical Control, March 2016, section on Cuba, available at http://www.state.gov/j/inl/rls/nrcrpt/2016/vol1/253255.htm.

The report noted that Cuba also shares real-time tactical information with the Bahamas, Mexico, and Jamaica. It reported that such bilateral cooperation has led to multiple interdictions. In August 2015, for example, Cuban cooperation with the U.S. Coast Guard led to arrest of three Bahamians involved in drug trafficking and the seizure of their go-fast boat. As in past years, the State Department asserted in the *INCSR* that "Cuba has demonstrated an increased willingness to apprehend and turnover U.S. fugitives and to assist in U.S. judicial proceedings by providing documentation, witnesses, and background for cases in U.S. state and federal courts."

Cuba maintains that it wants to cooperate with the United States to combat drug trafficking and, on various occasions, has called for a bilateral antidrug cooperation agreement with the United States.[207] In the 2011 *INCSR* (issued in March 2011), the State Department acknowledged that Cuba had presented the U.S. government with a draft bilateral accord for counternarcotics cooperation that is still under review. According to the State Department, "Structured appropriately, such an accord could advance the counternarcotics efforts undertaken by both countries." This was reiterated in the *INCSR* for 2012 through 2014. In the 2015 *INCSR*, the State Department maintained that the United States and Cuba held technical discussions on counternarcotics in April 2014 and shared information on trends and enforcement procedures.

In the 2016 *INCSR*, the State Department noted that the United States and Cuba held bilateral discussions on law enforcement and counternarcotics cooperation in late 2015 that included current information on trends and enforcement procedures. This second counternarcotics dialogue was held at the headquarters of the Drug Enforcement Administration in Washington, DC, on December 1, 2015, with delegations discussing ways to stop the illegal flow of narcotics and exploring ways to cooperate on the issue.[208] As in the past, the State Department contended in the 2016 *INCSR* that "enhanced communication and cooperation between the United States, international partners, and Cuba, particularly in terms of real-time information-sharing, will likely lead to increased interdictions and disruptions of illegal drug trafficking."

In April 2016, Cuban security officials toured the U.S. Joint Interagency Task Force South (JIATF-South) based in Key West, FL.[209] JIATF-South has responsibility for detecting and monitoring illicit drug trafficking in the region and for facilitating international and interagency interdiction efforts.

U.S. and Cuban officials held a third counternarcotics meeting on July 21, 2016, in Havana, with the U.S. side represented by officials from the State Department, the Drug Enforcement Administration (DEA), the U.S. Coast Guard, and Immigration and Customs Enforcement/Homeland Security Investigations. At the meeting, the two sides signed a Counternarcotics Arrangement to further cooperation and information on antidrug efforts.[210]

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[207] On March 12, 2002, Cuba's Ministry of Foreign Affairs and the Cuban Interests Section in Washington, DC, delivered three diplomatic notes to the U.S. Interests Section in Havana and the State Department in Washington proposing agreements on drug interdiction, terrorism, and migration issues. See "Statement from the Ministry of Foreign Affairs: Prominent Drug Trafficker Arrested in Our Country," Information Office, Cuban Interests Section, March 17, 2002; "Cuba Offers to Sign Anti-Drug Pact," *Miami Herald,* April 8, 2006.

[208] U.S. Department of State, "United States and Cuba Hold Counter-Narcotics Dialogue," media note, December 2, 2015.

[209] "Cuban Security Officials Toured Key West Drug-War Center," *Miami Herald,* May 4, 2016.

[210] U.S. Department of State, "Counternarcotics Arrangement Signed During Third Counternarcotics Technical Exchange Between the United States and Cuba," Media Note, July 22, 2016.

U.S. Property Claims

An issue in the process of normalizing relations is Cuba's compensation for the expropriation of thousands of properties of U.S. companies and citizens in Cuba. The Foreign Claim Settlement Commission (FCSC), an independent agency within the Department of Justice, has certified 5,913 claims for expropriated U.S. properties in Cuba valued at $1.9 billion in two different claim programs; with accrued interest, the value of the properties would be some $8 billion. In 1972, the FCSC certified 5,911 claims of U.S. citizens and companies that had their property confiscated by the Cuban government through April 1967, with 30 U.S. companies accounting for almost 60% of the claims.[211] In 2006, the FCSC certified two additional claims in a second claims program covering property confiscated after April 1967. Many of the companies that originally filed claims have been bought and sold numerous times. There are a variety of potential alternatives for restitution/compensation schemes to resolve the outstanding claims, but resolving the issue would likely entail considerable negotiation and cooperation between the two governments.[212]

While Cuba has maintained that it would negotiate compensation for the U.S. claims, it does not recognize the FCSC valuation of the claims or accrued interest. Instead, Cuba has emphasized using declared taxable value as an appraisal basis for expropriated U.S. properties, which would amount to almost $1 billion, instead of the $1.9 billion certified by the FCSC.[213] Moreover, Cuba has generally maintained that any negotiation should consider losses that Cuba has accrued from U.S. economic sanctions. Cuba estimates cumulative damages of the U.S. embargo at $121 billion in current prices.[214]

Several provisions in U.S. law specifically address the issue of compensation for properties expropriated by the Cuban government.[215] Section 620(a)(2) of the Foreign Assistance Act of 1961 prohibits foreign assistance, a sugar quota authorizing the importation of Cuban sugar into the United States, or any other benefit under U.S. law until the President determines that the Cuban government has taken appropriate steps to return properties expropriated by the Cuban government to U.S. citizens and entities not less than 50% owned by U.S. citizens, or to provide equitable compensation for the properties. The provision, however, authorizes the President to waive its restrictions if he deems it necessary in the interest of the United States.

The LIBERTAD Act (P.L. 104-114) includes the property claims issue as one of the many factors that the President needs to consider in determining when a transition government is in power in

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[211] "A Road Map for Restructuring Future U.S. Relations with Cuba," policy paper, Atlantic Council, June 1995, Appendix D.

[212] Matías F. Travieso-Díaz, "Alternative Recommendations for Dealing with Expropriated U.S. Property in Post-Castro Cuba," in *Cuba in Transition, Volume 12,* Association for the Study of the Cuban Economy, 2002.

[213] Timothy Ashby, "U.S. Certified Claims Against Cuba: Legal Reality and Likely Settlement Mechanisms," *Inter-American Law Review*, March 2009.

[214] Michelle Nichols, "Cuba's Castro Slams U.S. Trade Embargo at United Nations," Reuters News, September 26, 2015; Republic of Cuba, Ministry of Foreign Relations, "On Resolution 69/5 of the United Nations General Assembly Entitled 'Necessity of Ending the Economic, Commercial and Financial Blockade Imposed by the United States of America Against Cuba,'" June 2015.

[215] Other non-Cuba specific provisions of law relating to the expropriation of properties of U.S. citizens include Section 620(e) of the Foreign Assistance Act of 1961, which requires the President to suspend assistance to the government of any country that has expropriated property owned by U.S. citizens; and Section 12 of the International Development Association Act and Section 21 of the Inter-American Development Bank Act that require the President to instruct U.S. executive directors to oppose loans to any state that has nationalized, expropriated, or seized property owned by a U.S. citizen. For additional information, see CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*, by Dianne E. Rennack and Mark P. Sullivan.

Cuba and when a democratically elected government is in power. These determinations are linked, respectively, to the suspension and termination of the economic embargo on Cuba. For a transition government, as set forth in Section 205(b)((2) of the law, the President shall take into account the extent to which the government has made public commitments and is making demonstrable progress in taking steps to return to U.S. citizens (and entities that are 50% or more beneficially owned by U.S. citizens) property taken by the Cuban government on or after January 1, 1959, or to provide equitable compensation for such property. A democratically elected government, as set forth in Section 206 of the law, is one that, among other conditions, has made demonstrable progress in returning such property or providing full compensation for such property in accordance with international law standards and practice.

Section 103 of the LIBERTAD Act also prohibits a U.S. person or entity from financing any transaction that involves confiscated property in Cuba where the claim is owned by a U.S. national. The sanction may be suspended once the President makes a determination that a transition government is in power, and shall be terminated when the President makes a determination that a democratically elected government is in power.

In the 114th Congress, two House hearings focused on the property claims issue. The House Western Hemisphere Subcommittee of the Committee on Foreign Affairs held a hearing in June 2015, and the House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet held a hearing in February 2016.[216]

To date, U.S. and Cuban officials have held three meetings on claims issues. The first meeting took place in December 2015 in Havana, with the U.S. delegation led by Marcy McLeod, the State Department's Acting Legal Advisor. According to the State Department, the talks included discussions of the FCSC-certified claims of U.S. nationals, claims related to unsatisfied U.S. court judgments against Cuba (reportedly 10 U.S. state and federal judgments totaling about $2 billion), and some claims of the U.S. government. The Cuban delegation raised the issue of claims against the United States related to the U.S. embargo.[217] A second claims meeting was held in July 2016, in Washington, DC, with the U.S. delegation led by Brian Egan, the State Department's legal adviser. According to the State Department, the talks allowed for an exchange of views on historical claims settlement practices and processes going forward. The State Department maintained that the resolution of these claims is a top priority for the normalization of bilateral relations.[218] A third claims meeting was held in Havana on January 12, 2017.

Outlook

Although any change to the government's one-party communist political system appears unlikely, Cuba is moving toward a post-Castro era. Raúl Castro has said that he would step down from power once his term of office is over in February 2018. Moreover, generational change in Cuba's governmental institutions has already begun. Under Raúl and beyond, the Cuban government is likely to continue its gradual economic policy changes, moving toward a more mixed economy

[216] House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, Hearing on "The Future of Property Rights in Cuba," June 18, 2015, available at http://foreignaffairs.house.gov/hearing/subcommittee-hearing-future-property-rights-cuba, and House Judiciary Committee, Subcommittee on Courts, Intellectual Property, and the Internet, Hearing on "Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property," February 11, 2016, available at https://judiciary.house.gov/hearing/resolving-issues-with-confiscated-property-in-cuba-havana-club-rum-and-other-property-2/.

[217] U.S. Department of State, "United States and Cuba Hold Claims Talks in Havana," media note, December 7, 2015; Frances Robles, "Competing Claims in Havana," *New York Times*, December 14, 2015.

[218] U.S. Department of State, "United States and Cuba Hold Claims Discussion," *Miami Herald*, July 28, 2016.

with a stronger private sector, although it is uncertain whether the pace of reform will produce major improvements to the Cuban economy. The Cuban Communist Party's seventh congress, held in April 2016, confirmed that Cuba will continue its gradual pace toward economic reform.

The Obama Administration's shift in U.S. policy toward Cuba opened up engagement with the Cuban government in a variety of areas. Economic linkages with Cuba will likely increase because of the policy changes, although to what extent is uncertain given that the overall embargo and numerous other sanctions against Cuba remain in place. Moreover, the direction of U.S. policy toward Cuba under the incoming Trump Administration is uncertain, with some statements by President-elect Trump suggesting that he might reverse some of the Obama Administration's policy changes. The human rights situation in Cuba is likely to remain a key congressional concern. Just as there were diverse opinions in the 114th Congress over U.S. policy toward Cuba, debate over Cuba policy will likely continue in the 115th Congress, especially with regard to U.S. economic sanctions.

Appendix A. Enacted Measures and Approved Resolutions in the 114th Congress

P.L. 114-92 (S. 1356). National Defense Authorization Act for Fiscal Year 2016. S. 1356 was originally was introduced and passed in the Senate on May 14, 2015, as a bill amending the Border Patrol Agent Pay Reform Act of 2014, but the bill, combined with H.Con.Res. 90 (which directs the Secretary of the Senate to make a technical correction in the enrollment of S. 1356), became a vehicle for the National Defense Authorization Act for Fiscal Year 2016. The House approved S. 1356, amended (370-58) November 5, 2015. The Senate agreed (91-3) to the House amendment of S. 1356 November 10, 2015. The House passed H.Con.Res. 90 November 5; Senate passed, amended, November 10; House agreed to Senate amendment November 16, 2015. S. 1356 was signed into law November 25, 2015.

The Joint Explanatory Statement to accompany S. 1356 included the same policy provision regarding the U.S. Naval Station at Guantánamo Bay, Cuba, that was in Section 1036 of the final enrolled version of H.R. 1735 discussed below. The provision prohibits any FY2016 funding for the Department of Defense to be used to (1) close or abandon the U.S. Naval Station at Guantánamo Bay, Cuba; (2) relinquish control of Guantánamo Bay to the Republic of Cuba; or (3) to implement a material modification to the Treaty Between the United States of America and Cuba signed at Washington, DC, on May 29, 1934, that constructively closes the U.S. Naval Station. The provision also requires a report within 180 days from the Secretary of Defense assessing the military implications of the United States Naval Station at Guantánamo Bay, Cuba.

P.L. 114-113 (H.R. 2029). Consolidated Appropriations Act, 2016. H.R. 2029 originally was introduced and reported (H.Rept. 114-92) by the House Appropriations Committee as the Military Construction and Veteran Affairs and Related Agencies Appropriations Act, 2016 on April 24, 2015. The House passed (255-163) the bill on April 30. The Senate Committee on Appropriations reported (S.Rept. 114-57) its version of the bill on May 21, and the Senate passed (93-0) the bill on November 10, 2015. During April 29 House floor consideration, the House approved H.Amdt. 129 by voice vote, which would prohibit the use of funds to carry out the closure or transfer of the U.S. Naval Station at Guantánamo Bay, Cuba. The language became Section 515 of the House bill. The Senate version of the bill did not have a similar provision.

H.R. 2029 subsequently became the vehicle for the FY2016 omnibus appropriations bill. On December 16, 2015, the House Appropriations Committee released the text of the Consolidated Appropriations Act, 2016 (House Amendment #1) that provided funding for the 12 annual appropriations bills through FY2016 and also included, among other bills, the FY2016 intelligence authorization measure (nearly identical to H.R. 4127 described below). On December 18, 2015, the House and Senate completed final action on H.R. 2029, and the President signed the bill into law.

With regard to Cuba, the omnibus did not contain any of the controversial Cuba policy riders contained in individual House and Senate appropriation bills (H.R. 2577, H.R. 2578, H.R. 2772/S. 1910, H.R. 2995, and H.R. 3128, discussed below). The omnibus, did, however, have several Cuba-related provisions (in addition to provisions related to Guantánamo detainees not covered in this report).

- Division J (Military Construction and Veterans Affairs), Section 13, provides that no funds in the act may be used to carry out the closure or transfer of the United States Naval Station at Guantánamo Bay, Cuba.

- Division K (State Department and Foreign Operations), Section 7007, continued a long-standing provision prohibiting direct funding for the government of Cuba. Section 7015(f) continued to require that foreign aid for Cuba not be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations. The explanatory statement to the omnibus measure provided $27.140 million for the Office of Cuba Broadcasting (compared to the Administration's request of $30.3 million). It noted that the agreement did not include authority or funds requested for the merger of the Office of Cuban Broadcasting and the Latin America Division of Voice of America by establishing an independent grantee organization. The explanatory statement also provided $20 million in ESF for democracy programs in Cuba, the same as the Administration's request.
- Division M (Intelligence Authorization Act for FY2016), Section 512, requires that key supervisory positions at U.S. diplomatic facilities in Cuba are occupied by U.S. citizens, and also requires a report on progress on that issue and on the use of locally employed staff in U.S. diplomatic facilities in Cuba. Section 513 provides that each diplomatic facility that is constructed or undergoes a construction upgrade in Cuba shall include a sensitive compartmented information facility.

P.L. 114-223 (H.R. 5325). Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act. H.R. 5325 originally was introduced as the Legislative Branch Appropriations Act, 2017, in May 2016 and passed by the House in June 2016. Subsequently, in September 2016, the bill became the vehicle for a continuing resolution funding federal agencies and programs until December 9, 2016, as well as full-year FY2017 Military Construction appropriations. Section 130 (Division A covering military construction appropriations) provides that none of the funds may be used to carry out the closure or realignment of the United States Naval Station at Guantánamo Bay, Cuba. Senate passed (72-26) with and amendment September 28, 2016. House agreed (342-85) to the Senate amendment. Signed into law September 29, 2016.

P.L. 114-328 (S. 2943National Defense Authorization Act for Fiscal Year 2017. S. 2943 introduced and reported by the Senate Armed Services Committee (S.Rept. 114-255) May 18, 2016. Senate passed (85-13) June 14, 2016. House passed, amended, July 7, 2016, with the language of H.R. 4909, which separately had been reported by the House Committee on Armed Services (H.Rept. 114-537) May 4, 2016 and passed by the House (277-145) May 18, 2016. Conference report (H.Rept. 114-840) on S. 2943 filed November 30, 2016; House agreed (375-34) to the conference report December 2, 2016, and the Senate agreed (92-7) December 8, 2016. Signed into law December 23, 2016.

- Section 1286 prohibits the Secretary of Defense from authorizing FY2017 funds for the Department of Defense to invite, assist, or otherwise assure the participation of Cuba in certain joint or multilateral exercises or related security conference between the governments of the United States and Cuba until the Secretaries of Defense and State, in consultation with the Director of National Intelligence, submits to Congress written assurances regarding Cuba's fulfillment of conditions for Cuba related to human rights, support to the security forces of Venezuela, cessation of Cuba's demand that the United States relinquish control of the U.S. Naval Station at Guantánamo Bay, and requirement that Cuban military officials indicted in the United States for the murder of U.S. citizens killed during the 1996 shoot down of two U.S. civilian planes are brought to

justice. The provision provides exceptions to the funding prohibition for any payments related to the lease agreement or other financial transactions for maintenance and improvements of the military base at Guantanamo Bay, Cuba; any assistance or support of democracy-building efforts; customary and routine financial transactions necessary for the maintenance, improvements, or regular duties of the U.S. mission in Havana; or any joint or multilateral exercise or operation related to humanitarian assistance or disaster response. The conference report to the bill stated that it is the intent of the conferees that the exception related to the Guantanamo base includes periodic contact between appropriate U.S. and Cuban officials concerning the security and management of the naval station commonly referred to as "fence-line talks." (Both the White House's statement of policy on S. 2943, issued June 7, 2016, and the Secretary of Defense's letter to Congress on the NDAA, issued July 13, 2016, had objected to the restrictions on U.S.-Cuban military-to-military interactions, noting that the restrictions would hamper pragmatic expert level coordination between the United States and Cuba, including the monthly fence talks.)

- Section 1035 continues provisions from the FY2016 NDAA prohibiting the use of funds in FY2017 for the realignment of forces at or closure of the U.S. Naval Station at Guantánamo, Bay, Cuba, or the implementation of a modification to a 1934 treaty that would constructively close the naval station.
- The House-passed version of S. 2943 also had a provision in Section 1099B that would have prohibited modification, abrogation, abandonment, or other related actions with respect to U.S. jurisdiction and control of the U.S. Naval Station at Guantánamo Bay, Cuba, without congressional action. However, the conference report to S. 2943 did not include the provision in the final version of the law. (The language in the provision was identical to H.R. 4678, cited below, which was reported out of the Committee on Foreign Affairs in March 2016. For additional information, see CRS Legal Sidebar WSLG1586, *House Approves Measure to Prevent Return of GTMO to Cuba without Congress's Say So*, by Jennifer K. Elsea.)

S.Res. 418 (Collins). Introduced April 12, 2016; reported by Senate Committee on Foreign Relations without written report April 28, 2016; Senate passed by Unanimous Consent May 10, 2016. The resolution recognizes several women leaders worldwide, including Yoani Sánchez of Cuba, for their selflessness and dedication to their respective causes.

Appendix B. Other Actions in 2015 and 2016

H.R. 636 (Tiberi). Federal Aviation Administration Reauthorization Act of 2016. The bill was originally introduced in the House as the Small Business Tax Relief Act of 2015 on February 2, 2015. House passed February 13, 2015. Senate floor consideration began April 7, 2016, using the vehicle to reauthorize the Federal Aviation Administration. Senate passed, amended, April 19, 2016. Several potential Senate amendments related to U.S. policy toward Cuba were filed but not considered. S.Amdt. 3557 (Flake) would have prohibited restrictions on travel to Cuba and travel transactions. S.Amdt. 3528 (Rubio) and S.Amdt. 3722 (Rubio) introduced April 13, 2016, would have provided that certain Cuban entrants would be ineligible to receive refugee/parolee assistance. S.Amdt. 3568 (Collins) would have permitted transit stops in the United States by foreign air carriers traveling to or from Cuba. S.Amdt. 3725 (Flake) would have authorized air carriers to provide service between the United States and Cuba for citizens of other countries with itineraries that begin and end outside the United States. S.Amdt. 3789 (Rubio), S.Amdt. 3790 (Rubio), and S.Amdt. 3791(Rubio) would have added limitations to other amendments, with the limitations related to the extradition of certain criminals from Cuba and compensation for U.S. property confiscated by the Cuba government.

H.R. 1735 (Thornberry). National Defense Authorization Act for Fiscal Year 2016. Introduced April 13, 2015; reported by House Committee on Armed Services, H.Rept. 114-102, May 5, 2015. House passed (269-151) May 15, 2015. Senate passed (71-25), with an amendment, June 18, 2015. Conference report (H.Rept. 114-270) filed September 29, 2015. House agreed (270-156) to conference October 1, 2015; Senate agreed (70-27) October 7, 2015. President vetoed measure October 22, 2015.

Section 1036 of the enrolled bill would prohibit any FY2016 funding for the Department of Defense to be used to (1) close or abandon the U.S. Naval Station at Guantánamo Bay, Cuba; (2) relinquish control of Guantánamo Bay to the Republic of Cuba; or (3) to implement a material modification to the Treaty Between the United States of America and Cuba signed at Washington, DC, on May 29, 1934, that constructively closes the U.S. Naval Station. Section 1036 would also require a report within 180 days from the Secretary of Defense assessing the military implications of United States Naval Station Guantánamo Bay, Cuba.

For final action, see P.L. 114-92 (S. 1356) above.

H.R. 2577 (Diaz-Balart). Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2016. Introduced and reported (H.Rept. 114-129) by the House Committee on Appropriations May 27, 2015. House passed (216-210) June 9, 2015. Reported by the Senate Committee on Appropriations June 25, 2015 (S.Rept. 114-75).

As approved by the House, Section 193 would have provided that no funds in the bill could be used to facilitate scheduled flights to Cuba if they land or pass through property confiscated by the Cuban government. The amendment appeared aimed at preventing the introduction of new regular scheduled air carrier service to Cuba, but it would not have affected air charter service between the United States and Cuba. Section 414 would have prevented funds in the bill from being used by the Federal Maritime Administration or the Administrator of the Maritime Administration to issue a license or certificate for a commercial vessel that docked or anchored within the previous 180 days within 7 miles of a port or property that was confiscated by the Cuban government. The provision appeared aimed at impeding licensing for the establishment of passenger ferry/cruise service to Cuba. During June 4, 2015, House floor consideration, the House rejected H.Amdt. 404 (Lee) by a vote of 176-247, which would have prohibited the implementation or enforcement of the Cuba provisions. The Administration's statement of policy

on the bill said that the Administration strongly objected to the two Cuba provisions "that would restrict flights and cruise ships from going to Cuba and would place unnecessary restrictions on options for educational, religious, or other permitted travel to Cuba."[219] The Senate version of the bill did not have Cuba sanctions provisions. For final action, see P.L. 114-113 (H.R. 2029), the FY2016 omnibus bill, above.

H.R. 2578 (Culberson). Commerce, Justice, Science and Related Agencies Appropriations Act, 2016. Introduced and reported (H.Rept. 114-130) by the House Committee on Appropriations May 27, 2015. House passed (242-183) June 3, 2015. Reported by the Senate Committee on Appropriations June 16, 2015 (S.Rept. 114-66).

As approved by the House, Section 540 would have prohibited Commerce Department funds from being used to facilitate, permit, license, or promote exports to Cuba's Ministry of the Revolutionary Armed Forces (MINFAR), the Ministry of the Interior (MININT), any subsidiaries of these two ministries, and any officers of these ministries or their immediate family members. The provision would have affected additional categories of exports to Cuba authorized as part of the Administration's policy change on Cuba. It would not have affected the export of agricultural commodities, medicines, or medical goods permitted under TSRA. During June 3, 2015, House floor consideration, the House rejected H.Amdt. 308 (Farr), by a vote of 153-273, which would have struck Section 540 from the bill. The Administration's statement of policy on the bill said that the bill included highly objectionable provisions, including nongermane foreign policy restrictions related to Cuba that prohibit funding "to facilitate, permit, license, or promote exports to the Cuban military or intelligence service."[220] The Senate version of the bill did not contain Cuba sanctions provisions. For final action, see P.L. 114-113 (H.R. 2029), the FY2016 omnibus measure, above.

H.R. 2772 (Granger)/S. 1725 (Graham). Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016. H.R. 2772 introduced and reported (H.Rept. 114-154) by the House Committee on Appropriations June 15, 2015. S. 1725 introduced and reported (S.Rept. 114-79) by the Senate Appropriations Committee July 9, 2015. Before consideration of the bill by the full House Appropriations Committee, the Administration wrote a letter to the chair and ranking Member of the committee on June 10, expressing serious concerns about the legislation. Among its concerns, the Administration maintained that the bill "includes provisions that would restrict Administration activities relating to Cuba, including the establishment or operation of a U.S. diplomatic presence in Cuba beyond what was in existence on December 17, 2014, interfering with the Executive Branch's ability to make the best decisions consistent with our national security."[221]

Among the Cuba provisions in the House and Senate versions:

- Section 7007 of both the House and Senate versions would continue to prohibit direct funding for the government of Cuba.
- Section 7015(f) of both the House and Senate versions would continue to require that foreign aid for Cuba not be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

[219] White House, Office of Management and Budget, Statement of Administration Policy on H.R. 2577, June 1, 2015.

[220] White House, Office of Management and Budget, Statement of Administration Policy on H.R. 2578, June 1, 2015.

[221] White House, Office of Management and Budget, "Letter to the Chair and Ranking Member of the House Appropriations Committee with Respect to the FY2016 State, Foreign Operations, and Related Programs Appropriations Bill," June 10, 2015.

- Section 7031(c) of the House bill would not have allowed for a waiver for restrictions against eligibility for entrance into the United States with respect to officials of the Cuban government and their immediate family members from Cuba (including members of the Cuban military and high-level officials of the Cuban Communist Party) whom the Secretary of State has credible information have been involved in significant corruption, including corruption related to the extraction of natural resources or a gross violation of human rights. The report to the House bill would have directed the Secretary of State, for the purposes of implementing Section 7031(c) and applying Presidential Proclamation 7750,[222] to consider the confiscation of properties belonging to American companies by corrupt Cuban officials as having serious adverse effects on international activity of U.S. businesses and on the national interests of the United States. The Senate bill did not have a similar provision.
- Section 7045(c)(1) of the House bill would have provided $30 million to promote democracy and civil society in Cuba, $10 million above the Administration's request, and would have provided that no funds could be obligated for business promotion, economic reform, entrepreneurship, or any other assistance that is not democracy-building as expressly authorized in the LIBERTAD Act. The report to the House bill would have provided that not less than $8 million of the $30 million shall be for the National Endowment for Democracy; that remaining funds should be administrated by the State Department's Bureau of Democracy, Human Rights and Labor (DRL), Bureau of Western Hemisphere Affairs (WHA), and USAID; and that grants exceeding $1 million shall be awarded only to organizations with experience promoting democracy inside Cuba. Section 7045(c) of the Senate bill would have provided $15 million in ESF for Cuba democracy programs, and $5 million in ESF (notwithstanding any other provision of law) for programs to support private Cuban entrepreneurs, except that no such assistance may be provided for the Cuban government. In addition, the report to the Senate bill stated that the committee expected a portion of the $50.5 million to promote Internet freedom in Section 7078 of the bill to be used to support Internet freedom in Cuba.
- Section 7045(c)(2) of the House bill would prohibit funding to establish an independent grantee organization to carry out any and all broadcasting and related programs to the Latin America and Caribbean region, including Cuba, or substantively alter the structure of the Office of Cuba Broadcasting. The report to the House bill recommended not less than $28.130 million for the Office of Cuba Broadcasting, almost $2.2 million less than the Administration's $30.3 million request and $1 million more than that provided in FY2015. During House Appropriations Committee consideration, an amendment offered by Representative Serrano to shift $5 million from Cuba broadcasting to efforts to counter Russian media was rejected by a vote of 18-33. The report to the Senate bill, S. 1725 (S.Rept. 114-79), recommended $27.130 million for OCB, and also did not support or include authority for the merger of OCB and VOA's Latin American Division.

[222] *Federal Register*, January 14, 2004, "Presidential Proclamation 7750 of January 12, 2004, to Suspend Entry as Immigrants or Nonimmigrants of Persons Engaged in or Benefitting from Corruption," January 14, 2004. pp. 2287-2288.

- Section 7045(c)(3) of the House version would have prohibited funds for the establishment or operation of a U.S. diplomatic presence, including an embassy, consulate, or liaison office in Cuba beyond that which was in existence prior to December 17, 2014, until the President determined and reported to Congress that the requirements and factors specified in Section 205 of the LIBERTAD Act (related to Cuba having a transition government) have been met. The Administration requested just over $6 million for the conversion of the current U.S. Interests Section in Havana to an embassy, pending the reestablishment of diplomatic relations. The Senate version did not have such a provision.

For final action, see P.L. 114-113 (H.R. 2029), the FY2016 omnibus, above.

H.R. 2995 (Crenshaw)/S. 1910 (Boozman). Financial Services and General Government Appropriations, 2016. H.R. 2995 introduced and reported (H.Rept. 114-194) July 9, 2015. S. 1910 introduced and reported (S.Rept. 114-97) July 30, 2015. The House bill had three Cuba provisions that would have blocked part of the Administration's policy shift on Cuba related to travel and the importation of goods from Cuba, and would have introduced an additional sanction on financial transactions with Cuba. In contrast, the Senate bill had three provisions that would have lifted U.S. sanctions on Cuba related to travel, financing for U.S. agricultural exports, and shipping.

As introduced, H.R. 2995 had three Cuba provisions that would have blocked some of the Administration's policy changes toward Cuba. The House Appropriations Committee approved a draft bill (30-20) on June 17, 2015. Before its approval, a Lowey amendment offered to remove various riders, including the Cuba provisions, was rejected by a vote of 19-31. Before consideration of the bill by the full House Appropriations Committee, the Administration wrote a letter to the chair and ranking Member of the committee on June 16, maintaining that the Administration "strongly opposes language in the bill affecting foreign relations with Cuba, including funding prohibitions on nonacademic educational exchanges." According to the letter, "This language would result in a reduction of people-to-people interactions and as such is counter to the Administration's policy to increase overall travel and the flow of information and resources to private Cubans. This provision is an unwarranted restriction on purposeful travel to Cuba."[223]

The three Cuba provisions in H.R. 2995 included the following:

- Section 130 would have prohibited funding to approve, license, facilitate, authorize, or otherwise allow people-to-people educational travel to Cuba.
- Section 131 would have prohibited funding to approve, license, facilitate, authorize, or otherwise allow the use, purchase, trafficking, or import of property confiscated by the Cuban government. The provision appeared aimed at prohibiting the importation of alcohol and tobacco products by authorized U.S. travelers as accompanied baggage. In January 2015, the Obama Administration amended the embargo regulations to authorize the importation of no more than $100 of tobacco and alcohol products combined as part of an overall limit of up to $400 worth of goods from Cuba as accompanied baggage for personal use. These value restrictions were lifted by Treasury Department in October 2016, so

[223] White House, Office of Management and Budget, "Letter to the Chair and Ranking Member of the House Appropriations Committee with Respect to the FY2016 Financial Services and General Government Appropriations Bill," June 16, 2015, available at https://www.whitehouse.gov/sites/default/files/omb/legislative/letters/fy-16-house-fsgg-letter-rogers.pdfhttps://www.whitehouse.gov/sites/default/files/omb/legislative/letters/fy-16-house-fsgg-letter-rogers.pdf.

that only normal limits on duty and tax exemptions apply for merchandise imported as accompanied baggage for personal use.

- Section 132 would have prohibited funding to approve, license, facilitate, authorize, or otherwise allow financial transactions with Cuba's Ministry of the Revolutionary Armed Forces (MINFAR), the Ministry of the Interior (MININT), their subsidiaries, and any officers of these ministries or their immediate family members. The restrictions would not have applied to financial transactions with respect to exports permitted under TSRA. This provision would have introduced a new economic sanction that potentially could significantly have impeded U.S. financial transactions with Cuba given that the Cuban military, since the 1990s, has become increasingly involved in Cuba's economy and running numerous companies.

In contrast, S. 1910 had three Cuba provisions that would have lifted several U.S. sanctions on financing for U.S. agricultural exports, travel, and shipping. The provisions were approved as amendments during the Senate Appropriations Committee's July 23, 2015, markup of the bill.

- Section 638 of the bill would have repealed the prohibition on financing agricultural sales to Cuba in TSRA, including the requirement that payment for such products shall be only be payment of cash in advance or financing by third country financial institutions. The provision was added by a Boozman amendment approved by the full committee by voice vote.
- Section 641 of the bill would have lifted restrictions on travel to Cuba. It would have prevented any funding "to implement any law, regulation, or policy that prohibits or otherwise restricts travel, or any transaction incident to travel, to or from Cuba by any citizen or legal resident of the United States." The provision further stated that any such law, regulations, or policy would cease to have any force or effect on and after the date of the enactment of the act, but would not limit the authority of the President to restrict travel or any transaction incident to such travel, if the restriction was important to U.S. national security or to protect human health or welfare. The provision was added to the bill by a Moran amendment approved by a vote of 18-12.
- Section 642 of the bill would have repealed a provision in the Cuban Democracy Act that prohibits a vessel that enters a Cuban port to engage in trade from loading or unloading any freight in the United States within 180 days after departing Cuba, except pursuant to a Treasury Department license. The provision was added to the bill by a Tester amendment approved by voice.

For final action, see P.L. 114-113 (H.R. 2029), the FY2016 omnibus measure, above.

H.R. 3128 (Carter)/S. 1619 (Hoeven). Department of Homeland Security Appropriations Act, 2016. Introduced and reported (H.Rept. 114-215) by the House Appropriations Committee July 21, 2015. The full committee had approved the bill on July 14, 2015. Senate Appropriations Committee reported S. 1619 June 18, 2015 (S.Rept. 114-68). Section 559 of the House bill would have prohibited funds in the bill from being used to approve, license, facilitate, authorize, or otherwise allow the trafficking or import or property confiscated by the Cuban government. The provision appeared in part aimed at prohibiting the importation of alcohol and tobacco products by authorized U.S. travelers as accompanied baggage. Before consideration of the bill by the full House Appropriations Committee, the Administration wrote a letter to the committee expressing concern about "highly problematic ideological riders," including "a provision that prohibits funds

to be used allow property confiscated by the Cuban government to enter the United States."[224] The Senate bill did not have Cuba sanctions provisions. For final action, see H.R. 2029, the FY2016 omnibus bill, above.

H.R. 4678 (Royce). United States Naval Station Guantánamo Bay Preservation Act. The bill would have prohibited modification, abrogation, abandonment, or other related actions with respect to U.S. jurisdiction and control of the U.S. naval station. Introduced March 3, 2016; Committee on Foreign Affairs reported by unanimous consent March 15, 2016 (H.Rept. 114-496).

H.R. 4974 (Dent)/S. 2806 (Kirk)/H.R. 2577 (Diaz-Balart). Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017. H.R. 4974 introduced and reported by the House Committee on Appropriations (H.Rept. 114-497) April 15, 2016; House passed (295-129) May 19, 2016. S. 2806 introduced and reported by the Senate Committee on Appropriations (S.Rept. 114-237) April 18, 2016.

H.R. 2577 was approved by the House in 2015 (see above) as the FY2016 transportation appropriations measure, but in 2016, the Senate used it as the vehicle for the FY2017 transportation (S. 2844) and military construction (S. 2806) appropriations measures as well as Zika funding. The Senate approved H.R. 2577 May 19, 2016, with an amendment substituting the language of S. 2844 and S. 2806, amended, as well as Zika funding. The House agreed to the Senate amendment, but with its own amendment, on May 26, 2016, which included military construction appropriations and Zika funding, but not transportation appropriations.

Conference report (H.Rept. 114-640) filed in House June 22, 2016. House agreed (293-171) to the conference June 23. Senate failed (52-46) to invoke cloture September 6, 2016. Section 130 of the conference report to H.R. 2577 (H.Rept. 114-640) would have provided that none of the funds made available by the act may be used to carry out the closure or realignment of the United States Naval Station, Guantánamo Bay, Cuba. For final action, see P.L. 114-223 (H.R. 5325), above.

H.R. 5054 (Aderholt)/ S. 2956 (Moran). Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017. H.R. 5054 introduced and reported (H.Rept. 114-531) by the House Committee on Appropriations April 26, 2016. S. 2956 introduced and reported (S.Rept. 114-259) May 19, 2016. The report to the Senate bill recommended $1.5 million (as requested by the Administration) for the Foreign Agricultural Service to establish an overseas post in Cuba. The House bill or report did not address the issue.

H.R. 5393 (Culberson)/S. 2837 (Shelby). Commerce, Justice, Science and Related Agencies Appropriations Act, 2017. S. 2837 introduced and reported (S.Rept. 114-239) by the Senate Appropriations Committee April 21, 2016. H.R. 5393 introduced and reported (H.Rept. 114-605) by the House Appropriations Committee June 7, 2016. The House bill had two Cuba provisions.

- Section 537 would have prohibited funds in the act from being used to facilitate, permit, license, or promote exports to the Cuban military or intelligence service or to any officer of the Cuban military or intelligence service, or an immediate family member thereof. It would not have affected the export of goods permitted under the Trade Sanctions Reform and Export Enhancement Act of 2000. Similar to a provision in the House-passed FY2016 Commerce appropriations measure, H.R. 2578, this provision would have introduced a new sanction that would restrict additional categories of exports to Cuba authorized as part of the Administration's policy changes on Cuba. The provision could have significantly

[224] White House, Office of Management and Budget, "Letter to the Chair and Ranking Member of the House Appropriations Committee with Respect to the Fy2016 Department of Homeland Security Appropriations Bill," July 13, 2015.

affected the expansion of U.S. exports to Cuba given that the Cuban military, since the 1990s, has become increasingly involved in Cuba's economy and running numerous companies. The Administration's statement of policy on H.R. 2578 said that the bill included highly objectionable provisions, including non-germane foreign policy restrictions to Cuba.

- Section 538 would have prohibited funds in the act from being used to approve the registration or renewal of, or maintenance of, a mark, trade name, or commercial name, used in commerce that is the same or substantially similar to a mark, trade name, or commercial name used in connection with a business or assets that were confiscated unless the original owner has expressly consented. The provision would have introduced a new sanction prohibiting the U.S. Patent and Trademark Office (USPTO) from approving, maintaining, or renewing such a trademark. With regard to the Havana Club case, however, the USPTO renewed the trademark registration in February 2016 until 2026.

H.R. 5485 (Crenshaw)/S. 3067 (Boozman). Financial Services and General Government Appropriations, 2017.

H.R. 5485 introduced and reported (H.Rept. 114-624) by the House Committee on Appropriations June 15, 2016. House approved (239-185) on July 7, 2016, with four Cuba-related provisions. The Administration's statement of policy on the bill stated that the Administration "strongly objects" to the four provisions, maintaining that they "would severely undermine the President's policy on Cuba that aims to improve the lives of the Cuban people and advance U.S. interests through expanded travel, commerce, and the free flow of information."[225]

- Section 132 would have prohibited funds in the bill to approve, license, facilitate, authorize, or otherwise allow, whether by general or specific license, people-to-people educational travel to Cuba described in 31 C.F.R. 565(b)(2). In its statement of policy, the Administration said that the provision "would result in a reduction of people-to-people interactions on purposeful travel to Cuba and as such is counter to the Administration's policy to increased overall travel and the flow of information and resources to private Cubans." The Administration stated that "the provision is an unwarranted restriction on purposeful travel to Cuba by U.S. citizens."
- Section 133 would have prohibited funding to approve, license, facilitate, authorize, or otherwise allow the use, purchase, trafficking, or import of property confiscated by the Cuban government. In its statement of policy, the Administration maintained that the provision "could severely chill authorized U.S.-Cuba commerce designed to support the Cuban people."
- Section 134 would have prohibited funding to approve, license, facilitate, authorize, or otherwise allow any financial transaction with an entity owned or controlled, in whole or in part, by the Cuban military or intelligence service or with any officer of the Cuban military or intelligence service, or an immediate family member thereof, but the restrictions would not apply to financial transactions with respect to exports permitted under the Trade Sanctions Reform and Export Enhancement Act of 2000. In its statement of policy, the Administration maintained that the provision "is overly broad and, as written,

[225] White House, Office of Management and Budget, Statement of Administration Policy, H.R. 5485 – Financial Services and General Government Appropriations Act, 2017, June 21, 2016

could significantly undermine the ability for U.S. persons to engage in otherwise authorized business in order to more effectively support the Cuban people."

- Section 135 would have prohibited funds to be used to authorize a general license or approve a specific license under 31 C.F.R. 801 or 31 C.F.R.527 with respect to a mark, trade name, or commercial name that is the same as or substantially similar to a mark, trade name, or commercial name that was used in connection with a business or assets that were confiscated unless the original owner has expressly consented. The provision would have introduced a new sanction prohibiting the Treasury Department's Office of Foreign Assets Control from issuing a general or specific license to allow for the payment of trademark registration fees. An existing trademark sanction in the FY1999 omnibus appropriations measure (§211 of Division A, Title II, P.L. 105-277) prevents the United States from accepting payment for trademark registrations and renewals from Cuban nationals that were used in connection with a business or assets in Cuba that were confiscated, unless the original owner of the trademark has consented. U.S. officials maintain that sanction prohibits a general license for transactions or payments for such trademarks. In January 2016, however, OFAC issued a specific license for payments related to the renewal of the Havana Club trademark, and the USPTO subsequently renewed the Havana Club trademark for the 2006-2016 period and then for 10 additional years until 2026.

Before House floor consideration, the House Rules Committee approved a structured rule (H.Rept. 114-639 to H.Res. 794) on June 21, 2016, for the consideration of H.R. 5485 that made in order two potential Cuba amendments easing sanctions:

- A Crawford amendment, listed as amendment 24 in H.Rept. 114-639, would have prohibited funds in the act from being used to implement, administer, or enforce a prohibition against private financing of U.S. agricultural sates to Cuba. The amendment ultimately was not introduced.
- A Sanford amendment, listed as amendment 47 in H.Rept. 114-639, would have prohibited funds in the act from being used to administer or enforce 31 C.F.R. Part 515 (the Cuban Assets Control Regulations) or Section 910(b) of TSRA with respect to any travel or travel-related transaction. The amendment was offered on July 7, 2016, as H.Amdt. 1264 but subsequently was withdrawn.

S. 3067 introduced and reported (S.Rept. 114-280) by the Senate Appropriations Committee June 16, 2016, with four Cuba-related provisions.

- Section 634 would have amended the Trade Sanctions Reform and Export Enhancement Act of 2000 to allow for the financing of agricultural exports to Cuba. It would also eliminate a provision in the Cuban Democracy Act of 1992 prohibiting a seaborne vessel entry into the United States if it has been involved in trade with Cuba within the previous 180 days, except pursuant to a Treasury Department license.
- Section 635 would have prohibited funding in the act or any other act used to implement any law, regulation, or policy that prohibits or otherwise restricts travel, or any transaction incident to travel, to or from Cuba by any citizen or legal resident of the United States.
- Section 636 would have prohibited funds in the act from restricting the export of consumer communication devices and other telecommunications equipment to Cuba, the provision of telecommunications services to Cuba, or the establishment

of facilities to provide telecommunications connecting Cuba with another country; financing any such activity; or entering into, performing, or making or receiving payments under a contract with any individual or entity in Cuba with respect to the provision of telecommunications services involving Cuba or persons in Cuba.

- Section 637 would have prohibited funds in the act or any act from being used to implement any law, regulation, or policy that prohibits the provision of technical services otherwise permitted under an international air transportation agreement in the United States for an aircraft of a foreign carrier that is en route to or from Cuba based on the restrictions set forth in the Cuban Assets Control Regulations.

H.R. 5634 (Carter)/S. 3001 (Hoeven). Department of Homeland Security Appropriations Act, 2017. Introduced and reported (H.Rept. 114-668) by House Committee on Appropriations July 6, 2016. Section 540 of the House bill would have prohibited funds in the bill from being used to approve, license, facilitate, authorize, or otherwise allow the trafficking or import or property confiscated by the Cuban government. When a similar provision was included the FY2016 Homeland Security Appropriations bill, H.R. 3128, the Administration wrote a letter to the committee expressing concern about "highly problematic ideological riders," including "a provision that prohibits funds to be used allow property confiscated by the Cuban government to enter the United States."[226] The Senate version of the FY2017 bill, S. 3001, did not include such a provision.

H.R. 5728 (Katko)/S. 3289 (Rubio). Cuban Airport Security Act of 2016. Similar but not identical bills. Both bills would have prohibited scheduled passenger air transportation between the United States and Cuba until a study was completed regarding security measures and equipment at Cuba's airports, the Government Accountability Office conducted an audit of that report, and the Secretary of Homeland Security established agreements with Cuba allowing the Federal Air Marshal Service to conduct missions on regularly scheduled flights between the United States and Cuba and allowing Transportation Security Administration inspectors to access all areas of last point of departure airports in Cuba for the purposes of security assessments. The bills also would have amended Section 44907 of Title 49 of the *U.S. Code* to clarify the role of the Secretary of Homeland Security regarding security standards at foreign airports. H.R. 5728 introduced July 12, 2016; referred to the Committee on Homeland Security and in addition to the Committee on Foreign Affairs. Homeland Security Committee reported (amended) by voice vote September 13, 2016. S. 3289 introduced September 6, 2016; referred to Senate Committee on Commerce, Science, and Transportation.

H.R. 5912 (Granger) /S. 3117 (Graham). Department of State, Foreign Operations, and Related Programs Appropriations Act, 2017. H.R. 5912 was introduced and reported by the House Appropriations Committee on July 15, 2016 (H.Rept. 114-693). The House Appropriations Committee had released a draft version of the bill on June 22, 2016. Among the bill's Cuba provisions are the following:

- Section 7007 would continue to prohibit direct funding for the government of Cuba.

[226] White House, Office of Management and Budget, "Letter to the Chair and Ranking Member of the House Appropriations Committee with Respect to the Fy2016 Department of Homeland Security Appropriations Bill," July 13, 2015.

- Section 7015(g) would continue to require that foreign aid for Cuba appropriated in the act not be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.
- Section 7045(c)(1)(A)(i) would have prohibited funding for the establishment or operation of a U.S. diplomatic presence in Cuba beyond what was in place prior to December 17, 2014, including the hiring of additional staff, unless necessary for protecting the health, safety, or security of diplomatic personnel or facilities in Cuba. Section 7045(c)(1)(A)(ii) would have prohibited funding for the facilitation of the establishment of diplomatic mission of Cuba in the United States beyond that which was in existence prior to December 17, 2014. Section 7045(c)(1)(A)(iii) would have prohibited funding to support locally employed staff in contravention of Section 515 of the Intelligence Authorization Act for FY2016 (Division M of P.L. 114-113), which requires that key supervisory positions at U.S. diplomatic facilities in Cuba to be occupied by U.S. citizens. Section 7045(c)(1)(B) would have provided that the funding limitations in Section 1045(c)(1)(A) should not apply to democracy-building efforts for Cuba or if the President determines and reports to Congress that the Cuban government has met conditions set forth in Section 205 of the LIBERTAD Act of 1996.
- Section 7045(c)(2) would have prohibited funding to establish an independent grantee organization to carry out any and all broadcasting and related programs to the Latin American and Caribbean region or otherwise substantially alter the structure of the Office of Cuba Broadcasting (OCB) unless specifically authorized by a subsequent act of Congress. The funding prohibition also pertained to the merger of the OCB and the Voice of America Latin America Division.
- Section 7045(c)(3) would have provided $30 million for democracy promotion for Cuba to promote and strengthen civil society (double the Administration's request of $15 million) but would have prohibited funding for business promotion, economic reform, entrepreneurship, or any other assistance that was not democracy building authorized by the LIBERTAD Act.

On June 29, 2016, the Senate reported its version, S. 3117 (S.Rept. 114-290). Among the bill's Cuba provisions are the following:

- Section 7045(c)(1) would have provided not more than $15 million for democracy programs for Cuba, fully funding the Administration's request. Of that amount, as set forth in Section 7045(c)(2), not less than $3 million would have been available for USAID to support free enterprise and private business organizations and people-to-people educational and cultural activities. The report to the bill would have required a report from the Secretary of State assessing Internet access in Cuba, including a description of Internet access and use in both urban and rural areas and an assessment of the effectiveness of Cuban government efforts to block access to the Internet.
- Section 7045(c)(4) would have funded the operation of, and infrastructure and security improvements to, U.S. diplomatic facilities in Cuba, as well as costs associated with additional diplomatic personnel in Cuba.
- Section 7045(c)(5) would have provided that U.S. payments to the Inter-American Development Bank (up to $2.5 million during FY2017) not be

withheld if the bank awards grants related to assistance to facilitate transparency, private sector development, and other structural reforms of the Cuban economy.

S. 1705 (Burr)/H.R. 2596 (Nunes)/H.R. 4127 (Nunes). Intelligence Authorization Act for FY2016. S. 1705 introduced and reported (S.Rept. 114-83) by the Senate Select Committee on Intelligence July 7, 2015. Section 512 would require certain efforts to replace and reduce the number of locally employed staff serving at U.S. diplomatic facilities in Cuba. Section 513 would provide that each diplomatic facility that is constructed or undergoes a construction upgrade in Cuba shall include a sensitive compartmented information facility. H.R. 2596 introduced June 1, 2015, and passed (247-178) June 16, 2015. The bill did not have similar provisions related to Cuba found in the Senate bill. H.R. 4127 was introduced November 30, 2015, and passed (364-58) December 1, 2015. As approved, H.R. 4127 had provisions in Sections 512 and 513 that were similar, although not identical to the Cuba provisions in S. 1705 described above. For final action, see P.L. 114-113 (H.R. 2029), the FY2016 omnibus, above.

Appendix C. Additional Bills and Resolutions in the 114th Congress

H.Res. 181 (King, NY). Among its provisions, the resolution would have called for the immediate extradition or rendering to the United States of convicted felon William Morales and all other fugitives from justice who are receiving safe harbor in Cuba in order to escape prosecution or confinement for criminal offenses committed in the United States. Introduced March 26, 2015; referred to the Committee on Foreign Affairs.

H.Con.Res. 126 (Walker). The resolution would have expressed the sense of Congress that Cuba should issue a state of apology and agree to cease human rights violations in order for any embargo or economic restraints to be lifted. Introduced March 23, 2016; referred to the Committee on Foreign Affairs.

H.R. 274 (Rush). United States-Cuba Normalization Act of 2015. The bill would have removed provisions of law restricting trade and other relations with Cuba; authorized common carriers to install and repair telecommunications equipment and facilities in Cuba and otherwise provide telecommunications services between the United States and Cuba; prohibit restrictions on travel to and from Cuba and on transactions incident to such travel; directed the U.S. Postal Service to take actions to provide direct mail service to and from Cuba; called on the President to conduct negotiations with the government of Cuba to settle claims of U.S. nationals for the taking of property by the Cuban government and for securing the protection of internationally recognized human rights; extended nondiscriminatory trade treatment to the products of Cuba; prohibited limits on remittances to Cuba; and rescinded the designation of the Cuban government as a state sponsor of international terrorism. Introduced January 12, 2015; referred to the Committee on Foreign Affairs, in addition to the Committees on Ways and Means, Energy and Commerce, Judiciary, Financial Services, Oversight and Government Reform, and Agriculture.

H.R. 403 (Rangel). Free Trade with Cuba Act. The bill would have removed provisions of law restricting trade and other relations with Cuba; authorized common carriers to install and repair telecommunications equipment and facilities in Cuba and otherwise provide telecommunications services between the United States and Cuba; prohibited restrictions on travel to and from Cuba and on transactions incident to such travel; directed the U.S. Postal Service to take actions to provide direct mail service to and from Cuba; and called on the President to conduct negotiations with the government of Cuba to settle claims of U.S. nationals for the taking of property by the Cuban government and for securing the protection of internationally recognized human rights. Introduced January 16, 2015; referred to the Committee on Foreign Affairs, in addition to the Committees on Ways and Means, Energy and Commerce, the Judiciary, Financial Services, Oversight and Government Reform, and Agriculture.

H.R. 570 (McCollum). Stop Wasting Taxpayer Money on Cuba Broadcasting Act. The bill would have repealed the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) and the Television Broadcasting to Cuba Act (22 U.S.C. 1464aa et seq.). Introduced January 27, 2015; referred to the Committee on Foreign Affairs.

H.R. 634 (Rangel). Export Freedom to Cuba Act of 2015. The bill would have provided that travel to and from Cuba by U.S. citizens and residents, and any transactions incident to such travel, shall not be regulated or prohibited. Introduced February 2, 2015; referred to the House Committee on Foreign Affairs.

H.R. 635 (Rangel). Promoting American Agricultural and Medical Exports to Cuba Act of 2015. Among its provisions, the bill would have permanently redefined the term "payment of cash in

advance" to mean that payment is received before the transfer of title and release and control of the commodity to the purchaser; authorized direct transfers between Cuban and U.S. financial institutions for products exported under the terms of TSRA; established an export promotion program for U.S. agricultural exports to Cuba; permitted nonimmigrant visas for Cuban nationals for activities related to purchasing U.S. agricultural goods; repealed a trademark sanction related to Cuba in a FY1999 omnibus appropriations measure (§211 of Division A, Title II, P.L. 105-277); prohibited restrictions on travel to Cuba; and repealed the on-site verification requirement for medical exports to Cuba under the CDA. Introduced February 2, 2015; referred to the Committee on Foreign Affairs, in addition to the Committees on Ways and Means, the Judiciary, Agriculture, and Financial Services.

H.R. 654 (Jolly)/S. 2559 **(Burr).** Naval Station Guantánamo Bay Protection Act. Identical bills would have prohibited the modification, termination, abandonment, or transfer of the lease by which the United States acquired the land and waters containing Naval Station, Guantánamo Bay, Cuba, unless the President notifies Congress before, and after such notification, Congress enacts a law authorizing that modification, termination, abandonment, or transfer. H.R. 654 introduced February 2, 2015; referred to the Committee on Foreign Affairs. S. 2559 introduced February 22, 2016; referred to the Committee on Armed Services.

H.R. 664 **(Sanford).** Freedom to Travel to Cuba Act of 2015. The bill would have prohibited the President from prohibiting or regulating travel to or from Cuba by U.S. citizens or legal residents, or any of the transactions incident to such travel, including banking transactions. Introduced February 2, 2015; referred to the Committee on Foreign Affairs.

H.R. 735 **(Serrano).** Cuba Reconciliation Act. The bill, among its provisions, would have lifted the trade embargo on Cuba. It would have removed provisions of law restricting trade and other relations with Cuba; authorized common carriers to install and repair telecommunications equipment and facilities in Cuba and otherwise provide telecommunications services between the United States and Cuba; prohibited restrictions on travel to and from Cuba and on transactions incident to such travel; and directed the U.S. Postal Service to take actions to provide direct mail service to and from Cuba. Introduced February 4, 2015; referred to the Committee on Foreign Affairs, in addition to the Committees on Ways and Means, Energy and Commerce, Financial Services, the Judiciary, Oversight and Government Reform, and Agriculture.

H.R. 738 **(Serrano).** Baseball Diplomacy Act. The bill would have waived certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball. Introduced February 4, 2015; referred to the Committee on Foreign Affairs, in addition to the Committee on the Judiciary.

H.R. 1782 (Smith, NJ). Cuba Human Rights Act of 2015. Among its provisions, the bill would have expressed the sense of Congress that the U.S.-Cuba relationship should not be changed, nor should any federal law or regulation be amended, until the Cuban government ceases violating the human rights of the Cuban people. Introduced April 14, 2015; referred to the Committee on Foreign Affairs.

H.R. 3306 (Rush). Promote Opportunities With Energy Resources for Cuba Act (or POWER Cuba Act). Would have authorized the export of energy resources, energy technologies, and related services to Cuba. Introduced July 29, 2015; referred to the Committee on Energy and Commerce, and in addition to the Committee on Foreign Affairs.

H.R. 3687 (Crawford). Cuba Agricultural Exports Act. Introduced August 6, 2015; referred to the Committee on Foreign Affairs, and in addition, to the Committees on Financial Services and Agriculture. The bill would have amended TSRA to permit U.S. government assistance for agricultural exports under TSRA, but not if the recipient assistance would be an entity controlled

by the Cuban government; authorized the financing of sales of agricultural commodities; and authorized investment for the development of an agricultural business in Cuba as long as it is not controlled by the Cuban government or does not traffic in property of U.S. nationals confiscated by the Cuban government.

H.R. 3818 (Gosnar). Ending Special National Origin-Based Immigration Programs for Cubans Act of 2015. Introduced October 23, 2015; referred to the House Committee on the Judiciary. The bill would have repealed the Cuban Adjustment Act (P.L. 89-732) and would have prohibited any funding to implement, administer, enforce, or carry out the Cuban Family Reunification Parole Program established in 2007.

H.R. 4247 (Curbelo)/S. 2441 (Rubio). Cuban Immigrant Work Opportunity Act of 2015. Identical bills would have amended the Refugee Education Assistance Act of 1980, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and the Immigration and Nationality Act to make Cuban nationals who enter the United States on or after the enactment of this act ineligible for refugee/parolee assistance. H.R. 4247 introduced December 15, 2015; referred to the Committee on Education and the Workforce and to the Committee on Ways and Means. S. 2441 introduced January 12, 2016; referred to the Senate Committee on Finance.

H.R. 4772 (Pearce). Justice Before Commerce Act of 2016. The bill would have prohibited the use of federal funds to accept commercial flight plans between the United States and Cuba until Cuba extradites fugitives from justice from the United States located in Cuba. Introduced March 17, 2016; referred to the Committee on Transportation, and in addition to the Committee on Foreign Affairs.

H.R. 4847 (Farenthold). Correcting Unfair Benefits for Aliens Act of 2016 or CUBA Act of 2016. The bill would have repealed the Cuban Adjustment Act and amended the Refugee Education Assistance Act of 1980, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and the Immigration and Nationality Act to make Cuban nationals who enter the United States on or after the enactment of this act ineligible for refugee/parolee assistance. Introduced March 23, 2016; referred to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce and Ways and Means.

S.Res. 26 (Durbin). The resolution would have commended Pope Francis for his leadership in helping to secure the release of Alan Gross and for working with the Governments of the United States and Cuba to achieve a more positive relationship. Introduced January 13, 2015; referred to the Committee on Foreign Relations.

S.Res. 226 (Cruz). The resolution would have **e**xpressed the sense of the Senate that the street in front of the Cuban Embassy in Washington, DC, should be designated as "Oswaldo Payá Way" in honor of the Cuban political and human rights activist. Introduced July 21, 2015; referred to the Committee on Homeland Security and Governmental Affairs.

S.Res. 584 (Cruz). The resolution would have acknowledged the peaceful hunger strike of Cuban political dissident Guillermo Fariñas, applauded his bravery and commitment to human rights, and expressed solidarity with him and his cause. Introduced September 28, 2016; referred to the Committee on Foreign Relations.

S. 299 (Flake). Freedom to Travel to Cuba Act of 2015. The bill would have prohibited the President from regulating travel to or from Cuba by U.S. citizens or legal residents, or any of the transactions incident to such travel, including banking transactions. Introduced January 29, 2015; referred to the Committee on Foreign Relations.

S. 491 (Klobuchar). Freedom to Export to Cuba Act of 2015. The bill would have repealed or amended many provisions of law restricting trade and other relations with Cuba, including certain

restrictions in the CDA, the LIBERTAD Act, and TSRA. Introduced February 12, 2015; referred to the Committee on Banking, Housing, and Urban Affairs.

S. 757 (Nelson)/H.R. 1627 (Issa). No Stolen Trademarks Honored in America Act. Identical bills would have modified a 1998 prohibition (Section 211 of Division A, Tile II, P.L. 105-277) on recognition by U.S. courts of certain rights to certain marks, trade names, or commercial names. The 1998 prohibition or sanction prevents trademark registrations and renewals from Cuban or foreign nations that were used in connection with a business or assets in Cuba that were confiscated, without the consent of the original owner. The bill would have applied a fix so that the sanction would have applied to all nationals and would have brought the sanction into compliance with a 2002 World Trade Organization dispute settlement ruling. S. 757 introduced March 17, 2015; referred to Committee on the Judiciary. H.R. 1627 introduced March 25, 2015; referred to the Committee on the Judiciary.

S. 1049 (Heitkamp). Agricultural Export Expansion Act of 2015. The bill would have amended TSRA to allow financing by U.S. persons of sales of agricultural commodities to Cuba. Introduced April 22, 2015; referred to the Committee on Banking, Housing, and Urban Affairs.

S. 1388 (Vitter)/H.R. 2466 (Rooney). Cuba Normalization Accountability Act of 2015. The bill, among its provisions, would have required the President to submit a plan for resolving all outstanding claims relating to property confiscated by the government of Cuba before taking action to ease restrictions on travel to or trade with Cuba. S. 1388 introduced May 19, 2015; referred to the Committee on Banking, House, and Urban Affairs. H.R. 2466 introduced May 20, 2015; referred to the House Committee on Foreign Affairs.

S. 1389 (Udall)/H.R. 3055 (Cramer). Cuba Digital and Telecommunications Advancement Act of 2015 (Cuba DATA Act). Among its provisions, the bill would have authorized exportation of consumer communications devices to Cuba and the provision of telecommunications services to Cuba and repealed certain provisions of the Cuban Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996. S. 1389 introduced May 19, 2015; referred to the Senate Committee on Foreign Relations. H.R. 3055 introduced July 14, 2015; referred to the House Committee on Foreign Affairs and to the House Committee on Energy and Commerce.

S. 1489 (Rubio)/H.R. 2937 (Nunes). Cuban Military Transparency Act. Section 4 would have prohibited financial transactions with MINFAR or MININT, any agency or entity controlled by those two entities or which those entities own more than a 25% share, or senior members of those two ministries. Section 5 would have included, in the State Department rewards program under the State Department Basic Authorities Act of 1956, rewards for information leading to the arrest or conviction in any country of any individual responsible for or aiding in the February 1996 attack on the aircraft of U.S. persons in international waters by the Cuban military. Section 6 would have provided that the Attorney General shall seek to coordinate with the International Criminal Police Organization (INTERPOL) to pursue the location and arrest of U.S. fugitives in Cuba, including current and former members of the Cuban military. Sections 7 and 8 would have required reports to Congress on the role of MINFAR and MININT in the economy and foreign relationships of Cuba and on the use of confiscated property by these two entities. S. 1489 introduced June 3, 2015; referred to the Senate Committee on Foreign Relations. H.R. 2937 introduced June 25; referred to the House Committee on Foreign Affairs, and in addition to the Committee on Financial Services.

S. 1543 (Moran)/H.R. 3238 (Emmer). Cuba Trade Act of 2015. Among its provisions, the bill would have repealed or amended many provisions of law restricting trade and other relations with Cuba, including in the CDA, the LIBERTAD Act, and TSRA. It would have repealed restrictions

on private financing for Cuba in TSRA, but continued to prohibit U.S. government foreign assistance or financial assistance, loans, loan guarantee, extension of credit, or other financing for export to Cuba, albeit with presidential waiver authority for national security or humanitarian reasons. The federal government would have been prohibited from expending any funds to promote trade with or develop markets in Cuba, although certain federal commodity promotion programs would have been allowed. S. 1543 introduced June 10, 2015; referred to the Committee on Banking, Housing, and Urban Affairs. H.R. 3238 introduced July 28, 2015; referred to the Committee on Foreign Affairs and in addition to the Committees on Ways and Means, Financial Services, and Agriculture.

S. 1999 (Nelson). Caribbean Oil Spill Intervention, Prevention, and Preparedness Act. Introduced August 5, 2015; referred to the Committee on Commerce, Science, and Transportation. Among the bill's provisions, Section 201 would have required the Administrator of the National Oceanic and Atmospheric Administration to develop and apply hydrodynamic modeling of the ocean currents and meteorological modeling of the Straits of Florida; and would have amended the National Marine Sanctuaries Act (16 U.S.C. 1935(b)) to require the Secretary of State to take appropriate action to negotiate oil pollution prevention and response and protection of the marine resources of the Gulf of Mexico and Straits of Florida. Section 202 would have amended the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) to require that a bidder for an oil or gas lease that is conducting oil or gas operations in the territorial sea, on the continental shelf, or within the exclusive economic zone of Cuba be denied an oil or gas leases unless the bidder submits an oil spill response plan for its Cuban operations that includes one or more worst-case scenario oil discharge plans, and evidence that the bidder has sufficient financial and other resources necessary for removal, response costs, and damages to respond to a worst-case-scenario oil discharge in its Cuba operations or that poses a substantial threat to enter the marine environment of the United States. Section 204 would have required, not later than 180 days, the Secretary of the department in which the Coast Guard is operating to carry out an oil spill risk analysis and planning process for the development and implementation of oil spill response plans in the Straits of Florida and the Gulf of Mexico originating in waters beyond the territorial jurisdiction of the United States.

S. 2990 (Collins). Introduced May 25, 2016; referred to Senate Committee on Banking, Housing, and Urban Affairs. The bill would have prohibited the President from preventing foreign air carriers traveling to or from Cuba from making transit stops in the United States for refueling and other technical services based on restrictions set forth in the Cuban Assets Control Regulations (31 C.F.R. Part 515).

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