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# Cuba: U.S. Policy in the 115th Congress

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# Summary

Cuba remains a one-party authoritarian state with a poor record on human rights. Current President Miguel Díaz-Canel succeeded Raúl Castro on April 19, 2018, although Castro is continuing in his position as first secretary of Cuba's Communist Party. Over the past decade, Cuba has implemented gradual market-oriented economic policy changes, but critics maintain that it has not taken enough action to foster sustainable economic growth. Most observers do not anticipate significant policy changes under Díaz-Canel, at least in the short term, but the president faces the enormous challenges of reforming the moribund economy and responding to desires for greater freedom.

**U.S. Policy**

Congress has played an active role in shaping policy toward Cuba, including the enactment of legislation strengthening and at times easing U.S. economic sanctions. Since the early 1960s, the centerpiece of U.S. policy has consisted of economic sanctions aimed at isolating the Cuban government. In 2014, however, the Obama Administration initiated a major policy shift, moving away from sanctions toward a policy of engagement. 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 implemented through regulatory changes.

President Trump unveiled a new policy toward Cuba in June 2017 that partially rolls back some of the Obama Administration's efforts to normalize relations. The most significant regulatory changes include restrictions on transactions with companies controlled by the Cuban military and the elimination of individual people-to-people travel. In response to unexplained injuries of members of the U.S. diplomatic community at the U.S. Embassy in Havana, the State Department ordered the departure of nonemergency personnel from Cuba in September 2017 and subsequently ordered the departure of 15 Cuban diplomats from the Cuban Embassy in Washington, DC, in October.

**Legislative Activity**

In the 115th Congress, debate over Cuba policy is continuing, especially with regard to economic sanctions. To date, several bills have been introduced to ease or lift sanctions altogether: H.R. 351 and S. 1287 (travel); H.R. 442/S. 472 and S. 1286 (some economic sanctions); H.R. 498 (telecommunications); H.R. 525 (agricultural exports and investment); H.R. 572 (agricultural and medical exports and travel); H.R. 574, H.R. 2966, and S. 1699 (overall embargo); and S. 275 (private financing for U.S. agricultural exports). For FY2017, the Consolidated Appropriations Act, 2017 (H.R. 244, P.L. 115-31) provided $20 million in democracy assistance and $28.1 million for Cuba broadcasting.

For FY2019, the Trump Administration is requesting $10 million in democracy assistance and $13.7 million for Cuba broadcasting. The House Appropriations Committee's State Department and Foreign Operations appropriations bill, H.R. 6385, would provide $30 million for Cuba democracy programs while the Senate version, S. 3108, would provide $15 million; both bills would provide $29 million for broadcasting. Two other House appropriations bills, Commerce (H.R. 5952) and Financial Services (H.R. 6258 and H.R. 6147), have provisions that would tighten sanctions.

In other action, the John S. McCain National Defense Authorization Act for FY2019, P.L. 115-232 (H.R. 5515), signed into law August 13, 2018, extends a prohibition on the use of funds in FY2019 to close or relinquish control of the U.S. Naval Station at Guantanamo Bay, Cuba; the

conference report to the bill also requires a report on security cooperation between Russia and Cuba. The Senate version of the 2018 farm bill, H.R. 2, approved in June 2018, would permit funding for certain U.S. agricultural export promotion programs in Cuba. In April 2018, the Senate approved S.Res. 224, commemorating the legacy of Cuban democracy activist Oswaldo Payá. The House passed H.R. 3328 in October 2017, which would, among other provisions, require information on Cuba's airport security measures. For more on legislative action and initiatives in the 115th Congress, see **Appendix A**.

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# Recent Developments

On September 6, 2018, the House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, is scheduled to hold a hearing on U.S. policy toward Cuba featuring State Department witnesses. (See https://foreignaffairs.house.gov/hearing/subcommittee-hearing-u-s-policy-toward-cuba/.)

On August 30, 2018, the State Department submitted a report to Congress on its Accountability Review Board (ARB) examination of the State Department's response to unexplained health injuries in Cuba. The ARB found that the department's security systems and procedures were overall adequate and properly implemented but that there were significant vacancies in security staffing and some challenges with information sharing and communication. (See "U.S. Response to Injuries of U.S. Personnel in Havana," below.)

On August 23, 2018, the State Department eased its travel advisory for Cuba from Level 3, reconsider travel, to Level 2, exercise increased caution, with a spokesman maintaining that the agency "undertook a thorough review of the risks to private U.S. citizens in Cuba and decided a Level 2 travel advisory was appropriate." (See "Cuba Travel Advisory," below.)

On August 13, 2018, President Trump signed into law the John S. McCain National Defense Authorization Act for FY2019, P.L. 115-232, which extends a prohibition on the use of funds in FY2019 to close or relinquish control of the U.S. Naval Station at Guantanamo Bay, Cuba. The conference report (H.Rept. 115-874) also requires a report on security cooperation between Russia and Cuba. (See discussion on Russia in section on "Cuba's Foreign Relations.")

On August 1, 2018, the Cuban Commission for Human Rights and National Reconciliation reported that in the first seven months of 2018 (through July), the Cuban government made 1,805 short-term detentions for political reasons, about a 43% decline compared to the same time period in 2017. On June 11, 2018, the human rights group reported that Cuba held 120 political prisoners, consisting of 96 opponents or those disaffected toward the regime and 24 accused of employing or planning some form of force or violence. (See "Human Rights," below.)

On July 22, 2018, Cuba's National Assembly approved draft changes to the country's 1976 constitution. The changes incorporate some economic changes, which have occurred, but also ensure the state's control over the economy and that the Communist Party is the highest leading force of society and the state. (See "Political Conditions," below.)

On July 10, 2018, the Cuban government released more restrictive regulations for the country's private sector scheduled to take effect in December 2018. (See "Economic Conditions.")

On July 3, 2018, political prisoner Dr. Ariel Ruiz Urquiola, who had been sentenced to one year in prison in May 2018 for the crime of disrespecting authority, was conditionally released from prison after a hunger strike. Amnesty International (AI) considered Urquiola a "prisoner of conscience" and called for his release. Another AI-designated prisoner of conscience, Dr. Eduardo Cardet, has been imprisoned since November 2016 for publicly criticizing Fidel Castro and was sentenced to three years in prison. AI has issued urgent action notices calling for his release. (For more on these cases, see "Human Rights," below.)

On June 28, 2018, the Senate approved its version of the 2018 farm bill, H.R. 2, with a provision that would permit funding for certain U.S. export promotion programs for U.S. agricultural products in Cuba. (See "U.S. Exports and Sanctions" below.)

On June 28, 2018, the State Department confirmed that a U.S. diplomat in Havana experienced health effects similar to those reported by other members of the U.S. diplomatic community in

Cuba, bringing the total to 26 persons affected. Another case had been confirmed on June 21, while the 24 other cases occurred from November 2016 to August 2017. (See "U.S. Response to Injuries of U.S. Personnel in Havana" below.)

On June 28, 2018, the State Department released its 2018 *Trafficking in Persons Report*, and for the fourth consecutive year Cuba was placed on the Tier 2 Watch List. The State Department noted Cuba's efforts in prosecuting and convicting more traffickers, creating a directorate to provide specialized attention to child victims of crime and violence, including trafficking, and publishing its antitrafficking plan. It also noted several problems and made recommendations for Cuba to improve its antitrafficking efforts, including the enactment of a comprehensive antitrafficking law that prohibits and punishes all forms of trafficking. (See discussion on trafficking in persons in the section on "Human Rights" below.)

On June 20, 2018, the House Oversight and Government Reform Committee, Subcommittee on National Security, held a hearing entitled "Holding Cuban Leaders Accountable." (See https://oversight.house.gov/hearing/holding-cuban-leaders-accountable/.)

On May 23, 2018, Secretary of State Michael Pompeo said during testimony before the House Foreign Affairs Committee that a U.S. government employee in Guangzhou, China, experienced a health incident similar to the incidents experienced by U.S. personnel in Havana. (See "U.S. Response to Injuries of U.S. Personnel in Havana" 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 of 1992 (CDA; 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 road maps for a normalization of relations, dependent upon significant political and economic changes in Cuba. Congress partially modified its sanctions-based policy toward Cuba when it enacted the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA; P.L. 106-387, Title IX) allowing for U.S. agricultural exports to Cuba.

**Cuba at a Glance**

**Population**: 11.2 million (2016, ONEI)

**Area:** 42,426 square miles (ONEI), slightly smaller than Pennsylvania

**GDP**: $96.9 billion (2017, nominal U.S. $, EIU est.)

**Real GDP Growth:** 0.5% (2016); 0.9% (2017, EIU est.)

**Key Trading Partners: Exports** (2016): Venezuela, 27.7%; Canada, 14.2%; China, 11.1%; Spain 7.7%. **Imports** (2016): China, 22.7%; Venezuela, 15.4%; Spain, 11%. (ONEI)

**Life Expectancy**: 79.6 years (2015, UNDP)

**Literacy (adult)**: 99.7% (2015, UNDP)

**Legislature:** National Assembly of People's Power, currently 605 members (five-year terms elected in March 2018).

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

Over the past decade, much of the debate in Congress over U.S. policy has focused on U.S. sanctions. 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 2009 by lifting all restrictions on family travel and on cash remittances by

family members to their relatives in Cuba. In 2011, the Obama Administration announced the further easing of restrictions on educational and religious travel to Cuba and on donative remittances to other than family members.

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 toward a policy of engagement and a normalization of relations. The policy shift led to the restoration of diplomatic relations, the rescission of Cuba's designation as a state sponsor of international terrorism, and the easing of some restrictions on travel and commerce with Cuba. There was mixed reaction in Congress, with some Members of Congress supporting the change and others opposing it. Legislative initiatives in the 114th Congress reflected this policy divide, with some bills introduced that would have further eased U.S. economic sanctions and others that would have blocked the policy shift and introduced new sanctions.

This report examines U.S. policy toward Cuba in the 115th Congress. It is divided into three major sections analyzing Cuba's political and economic environment; U.S. policy toward Cuba; and selected issues in U.S.-Cuban relations, including restrictions on travel and trade, funding for democracy and human rights projects in Cuba and for U.S. government-sponsored radio and television broadcasting, migration, antidrug cooperation, U.S. property claims, and U.S. fugitives from justice in Cuba. Legislative initiatives in the 115th Congress are noted throughout the report, and **Appendix A** lists enacted measures and other bills and resolutions. **Appendix B** provides links to U.S. government information and reports on Cuba. For more on Cuba from CRS, see

- CRS Insight IN10885, *Cuba After the Castros*, by Mark P. Sullivan;
- CRS In Focus IF10045, *Cuba: U.S. Policy Overview*, 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 IN10798, *U.S. Response to Injuries of U.S. Embassy Personnel in Havana, Cuba*, by Mark P. Sullivan and Cory R. Gill;
- CRS Insight IN10788, *Hurricanes Irma and Maria: Impact on Caribbean Countries and Foreign Territories*, by Mark P. Sullivan;
- CRS Insight IN10722, *Cuba: President Trump Partially Rolls Back Obama Engagement Policy*, by Mark P. Sullivan;
- CRS Report R44119, *U.S. Agricultural Trade with Cuba: Current Limitations and Future Prospects*, by Mark A. McMinimy;
- CRS Report R44137, *Naval Station Guantanamo Bay: History and Legal Issues Regarding Its Lease Agreements*, by Jennifer K. Elsea and Daniel H. Else; 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).

# Cuba's Political and Economic Environment

## Brief Historical Background[1]

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 independence came about only 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 retained the right to intervene in Cuba to preserve Cuban independence and maintain stability in accordance with the Platt Amendment,[2] which 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's political system as an independent nation often was 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 that 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. He 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 dictatorship. His revolutionary movement was based in the Sierra Maestra Mountains in eastern Cuba, and it 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 and ceded power to his brother Raúl Castro.

Although Fidel 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, and 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

[1] Portions of this background section 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), at https://www.loc.gov/item/2002018893/; "Country Profile: Cuba," Federal Research Division, Library of Congress, September 2006, at https://www.loc.gov/rr/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).

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

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, although the Assembly has permanent commissions that work throughout the year. 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. Although he provisionally stepped down from power in July 2006 because of poor health and ceded power to his brother Raúl (who held the position of first vice president), Fidel still officially retained his position as head of state and government. National Assembly elections were held in January 2008, and Fidel was once again among the slate of candidates elected to the legislative body. But as the new Assembly was preparing to select the members of the Council of State from among its ranks in February 2008, Fidel announced that he would not accept the position as president of the Council of State. This announcement confirmed his departure as titular head of the Cuban government, and Raúl was selected as president.

More than 10 years after stepping down from power, Fidel Castro died in November 2016 at 90 years of age. While out of power, Fidel had continued to author essays published in Cuban media that cast a shadow on Raúl Castro's rule, and many Cubans reportedly believed that he had encouraged so-called hard-liners in Cuba's Communist Party and government bureaucracy to slow the pace of economic reforms advanced by his brother.[3] His death accentuated the generational change that has already begun in the Cuban government and a passing of the older generation of the 1959 revolution.

## Political Conditions

Current President Miguel Díaz-Canel Bermúdez was selected by Cuba's National Assembly of People's Power to succeed 86-year-old Raúl Castro on April 19, 2018, after Castro completed his second five-year term as president. Most observers saw Díaz-Canel, who had been serving as first vice president since 2013, as the "heir apparent," but Raúl will continue in his position as first secretary of the PCC until 2021. Cuba does not have direct elections for president. Instead, Cuba's legislature, the National Assembly of People's Power, selects the president of the country's 31-member Council of State; the president, pursuant to Cuba's constitution (Article 74), serves as Cuba's head of state and government.

Raúl Castro had succeeded his long-ruling brother Fidel Castro in 2006, serving provisionally until 2008 and then officially serving two five-year terms as president. He had announced in 2013 that he would not seek a third term, in line with his government's imposition of a two-term limit

[3] Simon Gardner and Sarah Marsh, "Fidel Gone and Trump Looming, Cuban Businesses Count on More Reforms," Reuters, November 29, 2016.

in 2012. Under Raúl, Cuba implemented gradual market-oriented economic policy changes over the past decade, but critics maintain that the government did not take enough action to foster sustainable economic growth.

Elections for the 605 member-National Assembly (as well as for 15 provincial assemblies) had been expected to be held in January 2018, but the elections were postponed until March 2018. The delay was not unexpected since Cuba's municipal elections, scheduled for September 2017, had been postponed to November 2017 because of significant damage caused by Hurricane Irma. The municipal contests involved the direct election of more than 12,000 officials among 27,000 candidates, but the electoral process was tightly controlled, with the government preventing 175 independent candidates from being nominated. Candidates for the National Assembly and provincial assemblies were also tightly controlled by candidacy commissions, and voters were presented with one candidate for each position.

## Cuba's Political Transition to a New President

President Díaz-Canel, who turned 58 a day after becoming president, is an engineer by training. His appointment as first vice president in 2013 made him the official constitutional successor in case Castro died or could not fulfill his duties. His appointment also represented a move toward bringing about generational change in Cuba's political system. Díaz-Canel became a member of the Politburo in 2003 (the PCC's highest decisionmaking body), held top PCC positions in two provinces, and was higher education minister from 2009 until 2012, when he was tapped to become a vice president on the Council of State.

Although some observers believed Díaz-Canel to be a moderate and more open to reform, a leaked video released in August 2017 appears to contradict that characterization. The video shows him speaking at a closed Communist Party meeting earlier in the year in which he strongly criticized dissidents and independent voices (including those arguing for reform of the socialist system), criticized the expansion of Cuba's private sector, and characterized U.S. efforts toward normalization under President Obama as an attempt to destroy the Cuban revolution. Some observers believe that Díaz-Canel's rhetoric could have been aimed at increasing his acceptance by so-called hard-liners in Cuba's political system who are more resistant to change.[4]

Cuba's political transition is notable because it is the first time since the 1959 Cuban revolution that a Castro is not in charge of the government. A majority of Cubans today have lived under the rule only of the Castros. Raúl's departure can be viewed as a culmination of the generational leadership change that began several years ago in the government's lower ranks.

It is also the first time that Cuba's head of government is not leader of the PCC. Although separating the roles of government and party leaders could elevate the role of government institutions over the PCC, Raúl Castro has indicated that he expects Díaz-Canel to take over as first secretary of the PCC when his term as party leader ends.[5]

Another element of the transition is the composition of the new 31-member Council of State. The National Assembly selected 72-year-old Salvador Valdés Mesa as First Vice President, not from the younger generation, but also not from the historical revolutionary period. Valdés Mesa, who

[4] Nora Gámez Torres, "Video Offers Rare Glimpse of Hardline Ideology from Presumed Next Leader," *Miami Herald*, August 22, 2017; and William M. LeoGrande, "Cuba After Castro: The Coming Elections and a Historic Changing of the Guard," *World Politics Review*, October 17, 2017.

[5] Anthony Failoa, "Castros' Successor, Miguel Díaz-Canel, Takes Over in Cuba, Pledges 'Continuity,'" *Washington Post*, April 19, 2018.

already had been serving as one of five vice presidents and is on the Politburo, is the first Afro-Cuban to hold such a high government position. Of the Council of State's members, 45% are new, 48% are women, and 45% are Afro-Cuban or mixed race. Several older revolutionary-era leaders remained on the Council, including Ramiro Valdés, 86 years old, who continues as a vice president.[6] Nevertheless, the average age of Council of State members was 54, with 77% born after the 1959 Cuban revolution.[7]

**Challenges for President Díaz-Canel.** Although most observers do not anticipate immediate major policy changes under President Díaz-Canel, his government will face two enormous challenges—reforming the moribund economy and responding to desires for greater freedom.

Raúl Castro managed the opening of Cuba's economy to the world, with diversified trade relations, increased foreign investment, and a growing private sector.[8] Yet the slow pace of economic reform has stunted economic growth and disheartened Cubans yearning for more economic freedom. Over the past year, the government appeared to backtrack by restricting private-sector development and slowing reforms, and for several years the government has delayed a long-anticipated end to its dual-currency system that creates economic distortion (see "Economic Conditions" below).[9] A challenge for Díaz-Canel will be moving forward with economic reforms opposed by some conservative elements in the party and state bureaucracy.[10]

Few observers expect the Díaz-Canel government to ease tight control over the political system, at least in the short to medium term, but it will need to contend with increasing calls for political reform and freedom of expression.[11] The liberalization of some individual freedoms that occurred under Raúl Castro (such as legalization of cell phones and personal computers, and expansion of internet connectivity) has increased Cubans' appetite for access to information and the desire for more social and political expression. More broadly, if the next government continues to repress political dissidents and human rights activists, it will remain a point of contention in Cuba's foreign relations.

An important question looking ahead is the extent of influence that Castro and other revolutionary figures will have on government policy. Some observers believe that Raúl will continue to have a role in the decisionmaking process because he will head the PCC until 2021.The former president headed up a commission that drafted changes to the 1976 constitution approved by Cuba's National Assembly in July 2018. Also in July, President Díaz-Canel named his Council of Ministers or Cabinet, but a majority of ministers are holdovers from the Castro government, including those occupying key ministries such as defense, interior, and foreign relations; just 9 of

[6] "Members of the Council of State to the Ninth Legislature of the National Assembly of People's Power," *Granma*, April 20, 2018; Mimi Whitefield, "Cuba Diversifies Key Government Posts with Somewhat Younger But Loyal Leadership," *Miami Herald*, April 27, 2018; and Nelson Acosta, "Factbox: Who's Who at the Top of Cuba's New Government," Reuters News, April 19, 2019.

[7] William LeoGrande, "Cuba's New Generation Takes the Helm with an Immediate Test: the Economy," *World Politics Review*, April 24, 2018.

[8] Richard E. Feinberg, *Order from Chaos, What Will Be Raúl Castro's Legacy?* December 4, 2017; and "Cuba Tightens Regulations on Nascent Private Sector," Reuters News, December 21, 2017.

[9] Sarah Marsh, "Cuba's Communist Party Admits Errors, Slowdown in Reforms," Reuters News, March 27, 2018; and Mimi Whitefield, "Cuba Desperately Needs to Reform Currency System, But Timing Couldn't Be Worse," *Miami Herald*, April 4, 2018.

[10] William M. LeoGrande, "Cuba's Getting a New President," *The Conversation*, April 18, 2018.

[11] Mimi Whitefield, "As the Selection of a New President Approaches, Cubans Say They Want Meaningful Change," *Miami Herald*, March 1, 2018.

26 ministers are new, including 2 vice presidents and 7 new ministers.[12] After Díaz-Canel marked his first 100 days in office in July, some observers maintained that little had changed politically or economically.

**Constitutional Changes.** As noted, Cuba is in the midst of a process to rewrite and update its 1976 constitution. Drafted by a commission headed by Raúl Castro and approved by the National Assembly on July 22, 2018, the proposed changes will be subject to public debate in thousands of workplaces and community meetings into November. After considering public suggestions, the National Assembly will make any needed additional changes and vote again on the draft constitution, after which it will be subject to a public referendum, likely by next February 2019.[13]

Among the proposed changes are the addition of an appointed prime minster to oversee government operations, an age limit of 60 to become president and a limit of two five-year terms, the right to own private property, businesses and non-agricultural cooperatives, and changes to the definition of marriage that eventually could lead to same-sex marriage. However, the draft constitution still ensures the state's control over the economy and the role of centralized planning, and the Communist Party still would be the only recognized party.[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 organizations include the Ladies in White (*Las Damas de Blanco*), currently led by Berta Soler, formed in 2003 by the female relatives of the "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. In recent years, several political prisoners have conducted hunger strikes; two hunger strikers died—Orlando Zapata Tamayo in 2010 and Wilman Villar Mendoza in 2012. In February 2017, Hamel Santiago Maz Hernández, a member of UNPACU who had been imprisoned since June 2016 after being accused of *descato* (lack of respect for the government), died in prison.[15]

Although 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 2013, Cuba eliminated 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.

**Congressional Resolutions.** On April 11, 2018, the Senate approved S.Res. 224 (Durbin), which commemorated the legacy of democracy activist Oswaldo Payá, called on the Cuban government

[12] Sarah Marsh, Nelson Acosta, and Marc Frank, "Cuba's New President Names Cabinet Resembling Castro's" Reuters News, July 21, 2018; and Mimi Whitefield, "Continuity But Some New Faces as Cuba's Parliament Selects Ministers," *Miami Herald,* July 21 2018.

[13] Mimi Whitefield, "Cuba Plans 135,000 Meetings to Get Public Feedback on Its Proposed Constitution," *Miami Herald,* August 1, 2018.

[14] Marc Frank, "Cuba's Proposed New Constitution: What Will Change," Reuters News, August 13, 2018.

[15] "La CCDHRN denuncia la muerte de un preso politico a la espera de juicio," *14ymedio.com,* March 7, 2017.

to allow an impartial, third-party investigation into the circumstances surrounding Payá's death in a car accident in July 2012, and called on the Cuban government to cease violating human rights and begin providing democratic freedoms to Cuban citizens. In 2012, the Senate had approved S.Res. 525 (Nelson), which honored the life and legacy of Payá and also called for an impartial, third-party investigation. Payá had founded the Christian Liberation Movement in 1988, a civil society group advocating peaceful democratic change and respect for human rights. He founded the Varela Project in 1996, which collected thousands of signatures supporting a national plebiscite for political reform in Cuba.[16]

Two similar but not identical resolutions introduced in May 2018, S.Res. 511 (Rubio) and H.Res. 916 (Diaz-Balart), would honor *Las Damas de Blanco* as the recipient of the 2018 Milton Friedman Prize for Advancing Liberty. The resolutions would also express solidarity and commitment to the democratic aspirations of the Cuban people and call on the Cuban government to allow members of the group to travel freely.

**Political Prisoners.** According to the State Department's human rights report on Cuba covering 2017 (issued in April 2018), the exact number of political prisoners was difficult to determine, but human rights organizations estimated that there were 65 to 100 political prisoners. The report noted the lack of governmental transparency, along with its systematic violations of due process rights, which masked the nature of criminal charges and prosecutions and allowed the government to prosecute peaceful human rights activists for criminal violations or "dangerousness." As noted in the report, the government refused international humanitarian organizations and United Nations access to its prisons and detention centers, and closely monitored and often harassed domestic organizations that tracked political prisoner populations.[17]

The Havana-based Cuban Commission for Human Rights and National Reconciliation (CCDHRN) estimated in a June 2018 report that Cuba held 120 prisoners for political reasons, consisting of 96 opponents or those disaffected toward the regime (over 40 are members of UNPACU) and 24 accused of employing or planning some form of force or violence.[18] For comparison, in May 2017, the CCDHRN maintained that Cuba held 140 political prisoners (although it was unclear if that number included those released on parole since it did not publicly publish the list) and in April 2016, it published a list of 82 prisoners for political reasons.[19]

Political activist Dr. Eduardo Cardet, designated by Amnesty International (AI) as a "prisoner of conscience," has been imprisoned since November 2016 for publicly criticizing Fidel Castro and was sentenced to three years in prison. AI maintains that Cardet, a leader in the dissident Christian Liberation Movement, was sent to prison solely for peacefully exercising his right to freedom of expression and has called for his immediate release. The human rights group issued an urgent action notice in January 2018 calling attention to Cardet's case after he was attacked by several prisoners in December 2017. In June 2018, AI issued another urgent action notice for

[16] For background, see "Death of Human Rights Activist Oswaldo Payá" in CRS Report R41617, *Cuba: Issues for the 112th Congress*, by Mark P. Sullivan.

[17] U.S. Department of State, *Country Reports on Human Rights Practices for 2017*, April 20, 2018.

[18] "En Cuba hay 120 prisioneros por motivos políticos, según la CCDHRN," *14ymedio.com*, June 11, 2018; and Comisión Cubana de Derechos Humanos y Reconciliación Nacional (CCDHRN), "Lista Parcial de Condenados o Procesados en Cuba por Razones Politicas en Esta Fecha," June 11, 2018, at https://www.14ymedio.com/nacional/LISTA-PRESOS-JUNIO_CYMFIL20180611_0001.pdf.

[19] CCDHRN, "Comunicado," April 25, 2016, at http://www.14ymedio.com/nacional/LISTA-PRESOS-COMUNICADO2_CYMFIL20160425_0001.pdf; and CCDHRN, "Cuba: Algunos Actos de Represión Política en el Mes de Abril de 2017," May 8, 2017.

Cardet, maintaining that Cuban authorities suspended family visiting rights for him because of his family's activism on the case. [20]

A second AI-designated prisoner of conscience, Cuban biologist Dr. Ariel Ruiz Urquiola, was sentenced to a year in prison in May 2018 for the crime of disrespecting authority (*desacato*). Urquiola reportedly had referred to several Cuban government forest rangers as "rural guards," a derogatory reference to a repressive agency before the Cuban revolution. The rangers had been checking whether Urquiola had proper permits to cut down several trees and build a fence, which reportedly he had. In June 2018, AI issued two urgent action notices on Urquiola calling for his release and for visits while imprisoned. He was conditionally released from prison on July 3, 2018, following a prolonged hunger strike.[21]

Over the past decade, the Cuban government has released large numbers of political prisoners at various junctures. In 2010 and 2011, with the intercession of the Cuban Catholic Church, the government released some 125 political prisoners, including the remaining members of the "group of 75" arrested in 2003 who 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 several were subsequently rearrested.[22] In 2017, the Cuban government released several political prisoners that had been dubbed "prisoners of conscience" by Amnesty International. This included graffiti artist Danilo Maldonado Machado (known as El Sexto) who subsequently testified before a Senate Foreign Relations Committee hearing in February 2017.[23]

**Short-Term Detentions.** Short-term detentions for political reasons increased significantly from 2010 through 2016, a reflection of the government's change of tactics in repressing dissent away from long-term imprisonment. The CCDHRN reports that the number of such detentions grew annually from at least 2,074 in 2010 to at least 8,899 in 2014. The CCDHRN reported a very slight decrease to 8,616 short-term detentions in 2015, but this figure increased again to at least 9,940 detentions for political reasons in 2016, the highest level recorded by the human rights organization.

In 2017, however, the CCDHRN reported a decline in the number of short-term detentions to 5,155, almost half the number detained in 2016 and the lowest level since 2011. In the first seven

[20] Amnesty International (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. 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 political activities. AI, "Urgent Action, Prisoner of Conscience Attacked in Prison," UA: 32/17, January 22, 2018; and AI, "Urgent Action, Family of Prisoner of Conscience Denied Visits," June 7, 2018.

[21] "Ariel Ruiz Urquiola, condenado a un año de prisión por descato," 14ymedio (Havana), May 9, 2018; Nora Gámez Torres, "Cuban Scientist Sentenced to One Year in Prison for 'Disrespecting' Government Authority," *Miami Herald*, May 9, 2018; AI, "Urgent Action, Environmental Activist Imprisoned," June 11, 2018, "Urgent Action, Allow Environmental Activist Visits," June 22, 2018, and "Urgent Action, Environmentalist Conditionally Released," July 11, 2018.

[22] David Adams et al., "How Prisoners Names Were Drawn Up in U.S.-Cuba Secret Talks," Reuters News, January 12, 2015; Juan O. Tamayo, "Cuba's Catholic Church Trying to Fill Gaps in Social Safety Net," *Miami Herald*, March 14, 2012.

[23] Danilo Maldonado Machado, Testimony in U.S. Congress, Senate Committee on Foreign Relations, Subcommittee on Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues, *Democracy and Human Rights: The Case for U.S. Leadership*, hearing, 115th Cong., 1st sess., February 16, 2017, at https://www.foreign.senate.gov/download/machado-testimony-021617.

months of 2018 (through July), the CCDHRN reported at least 1,805 short-term detentions for political reasons, about a 43% decline compared to the same time period in 2017.[24]

**Bloggers and Civil Society Groups.** Over the past several years, numerous independent Cuban blogs have been established. 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.[25]

The Catholic Church became active in broadening the debate on social and economic issues through its publications. The Church also has played a 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.

*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. The group has hosted numerous events and human rights activities over the years, but it also has been the target of government harassment, as has its founder.

Other notable online forums and independent or alternative media that have developed include *Cuba Posible* (founded by two former editors of the Catholic publication *Espacio Laical*), *Periodismo del Barrio* (focusing especially on environmental issues), *El Toque*, and *OnCuba* (a Miami-based digital magazine with a news bureau in Havana).[26]

### 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)**, an independent Havana-based human rights organization that produces a monthly report on short-term detentions for political reasons.

CCDHRN, "Cuba: Algunos Actos de Represión Política en el Mes de Julio de 2018," August 1, 2018, at https://14ymedio.com/nacional/Informe-Comision-Derechos-Reconciliacion-Nacional_CYMFIL20180801_0001.pdf.

CCDHRN, "Lista Parcial de Condenados o Procesados en Cuba por Razones Politicas en Esta Fecha," June 11, 2018, at https://www.14ymedio.com/nacional/LISTA-PRESOS-JUNIO_CYMFIL20180611_0001.pdf.

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

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

HRW's *2018 World Report* maintains that "the Cuban government continues to repress dissent and punish public criticism," at https://www.hrw.org/world-report/2018/country-chapters/cuba

**Inter-American Commission on Human Rights**, *Annual Report 2017*, March 23, 2018, Chapter IV has a section on Cuba, at http://www.oas.org/en/iachr/docs/annual/2017/docs/IA2017cap.4bCU-en.pdf.

**U.S. Department of State**, *Country Report on Human Rights Practices for 2017*, April 20, 2018, at https://www.state.gov/documents/organization/277567.pdf.

[24] CCDHRN, "Cuba: Algunos Actos de Represión Política en el Mes de Julio de 2018," August 1, 2018.

[25] Sánchez's website is available at http://generacionyen.wordpress.com/, and her online digital newspaper is available at http://www.14ymedio.com/. Access to both sites is usually blocked in Cuba by the government. For a listing of other blogs from Cuba, see the website of the Cuba Study Group at http://www.cubastudygroup.org/index.cfm/blogs-from-cuba.

[26] *Cuba Posible,* at https://cubaposible.com/; *Periodismo del Barrio,* at https://www.periodismodelbarrio.org/; *El Toque*, at https://eltoque.com/; and OnCuba, at https://oncubamagazine.com/en/.

**Trafficking in Persons.** The State Department released its 2018 *Trafficking in Persons (TIP) Report* on June 28, 2018, and for the fourth consecutive year Cuba was placed on the Tier 2 Watch List (in prior years, Cuba had Tier 3 status).[27] 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 Watch List status refers to countries whose governments, despite making significant efforts, do not fully comply with the minimum standards and still have some specific problems (e.g., an increasing number of victims or failure to provide evidence of increasing antitrafficking efforts) or whose governments have made commitments to take additional antitrafficking steps over the next year. A country normally is automatically downgraded to Tier 3 status if it is on the Tier 2 Watch List for three consecutive years unless the Secretary of State authorizes a waiver. The State Department issued such a waiver for Cuba in 2017 because the government had devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards for the elimination of trafficking. In the 2018 TIP report, the State Department again issued a waiver for Cuba allowing it to remain on the Tier 2 Watch List for the fourth consecutive year. Such a waiver, however, is only permitted for two years. After the third year, the country must either go up to Tier 2 or down to Tier 3.

The State Department initially upgraded Cuba from Tier 3 to Tier 2 Watch List status in its 2015 TIP report because of the country's 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.[28]

In its 2016 TIP report, the State Department maintained that Cuba remained on the Tier 2 Watch List for the second consecutive year because the country did not improve antitrafficking efforts compared to 2015. Nevertheless, the 2016 report noted that the Cuban government continued efforts to address sex trafficking, including prosecution and conviction, and the provision of services to victims. The State Department noted that the Cuban government released a report on its antitrafficking efforts in October 2015; that multiple government ministries were engaged in antitrafficking 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.[29]

In its 2017 TIP report, the State Department maintained that the Cuban government demonstrated significant efforts during the reporting period by prosecuting and convicting sex traffickers, providing services to sex trafficking victims, releasing a written report on its antitrafficking efforts, and coordinating antitrafficking efforts across government ministries. The State Department noted, however, that the Cuban penal code did not criminalize all forms of trafficking and did not prohibit forced labor, report efforts to prevent forced labor domestically, or recognize forced labor as a possible issue affecting Cubans working in medical missions abroad.[30]

In its 2018 TIP report, the State Department noted the Cuban government's significant efforts of prosecuting and convicting more traffickers, creating a directorate to provide specialized attention to child victims of crime and violence, including trafficking, and publishing its antitrafficking

[27] U.S. Department of State, *Trafficking in Persons Report 2018*, Cuba, June 28, 2018, at https://www.state.gov/j/tip/rls/tiprpt/countries/2018/282640.htm.

[28] U.S. Department of State, *Trafficking in Persons Report 2015*, Cuba, July 2015.

[29] U.S. Department of State, *Trafficking in Persons Report 2016*, Cuba, June 2016.

[30] U.S. Department of State, *Trafficking in Persons Report 2017*, Cuba, June 2017.

plan for 2017-2020. The State Department also noted, however, that the Cuban government did not demonstrate increasing efforts compared to the previous reporting period. It maintained that the government did not criminalize most forms of forced labor or sex trafficking for children ages 16 or 17, and did not report providing specialized services to identified victims. The State Department also made several recommendations for Cuba to improve its antitrafficking efforts, including the enactment of a comprehensive antitrafficking law that prohibits and sufficiently punishes all forms of trafficking.

Engagement between U.S. and Cuban officials on antitrafficking issues has increased in recent years. In January 2017, U.S. officials met with Cuban counterparts in their fourth such exchange to discuss bilateral efforts to address human trafficking.[31] Subsequently, on January 16, 2017, the United States and Cuba signed a broad memorandum of understanding on law enforcement cooperation in which the two countries stated their intention to collaborate on the prevention, interdiction, monitoring, and prosecution of transnational or serious crimes, including trafficking in persons.[32] In February 2018, the State Department and the Department of Homeland Security hosted meetings in Washington, DC, with Cuban officials on efforts to combat trafficking in persons.[33]

## Economic Conditions

Cuba's economy continues to be 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 4.7 million tourists visiting Cuba in 2017; 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, also have become an important source of hard currency, amounting to some $3 billion in 2016. The once-dominant sugar industry has declined significantly over the past 20 years. Because of drought, damage from Hurricane Irma, and subsequent months of heavy rains, the 2018 harvest is expected to drop by more than 30% compared to the 2017 harvest of 1.8 million tonnes of sugar; in 1990, Cuba produced 8.4 million tonnes of sugar.[34]

For more than 15 years, Cuba has depended heavily on Venezuela for its oil needs. In 2000, the two countries signed a preferential oil agreement (essentially an oil-for-medical-personnel barter arrangement) that until recently provided Cuba with some 90,000-100,000 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 in 2012, when the drilling of three exploratory oil wells was unsuccessful. This setback, combined with Venezuela's economic

[31] U.S. Department of State, "United States and Cuba to Hold Meeting to Fight Trafficking in Persons," media note, January 11, 2017.

[32] U.S. Department of State, "United States and Cuba to Sign Law Enforcement Memorandum of Understanding," media note, January 16, 2017.

[33] U.S. Department of State, "Western Hemisphere: United States and Cuba Meet to Combat Trafficking in Persons," February 14, 2018.

[34] Information and statistics were drawn from several sources: U.S. Department of State, "U.S. Relations with Cuba," November 8, 2017; "Cuba Economy: Quick View, Tourism Breaks Another Record in 2017," EIU ViewsWire, February 14, 2018; and Marc Frank, "May Output Slows Output of Already Meager Cuban Sugar Harvest," Reuters News, May 7, 2018.

difficulties, has raised Cuban concerns about the security of the support received from Venezuela. Since 2015, Venezuela has cut the amount of oil that it sends to Cuba, and Cuba has increasingly turned to other suppliers for its oil needs, including Russia and Algeria. Surprisingly, in May 2018, press reports asserted that Venezuela's state-run oil company had bought oil from Russia to provide to Cuba.[35]

The government of Raúl Castro implemented a number of economic policy changes, but economists were disappointed that more far-reaching reforms were not implemented. At the PCC's seventh party congress, held in April 2016, Raúl Castro reasserted that Cuba would move forward with updating its economic model "without haste, but without pause."[36] A number of Cuba's economists have pressed the government to enact more far-reaching reforms and embrace competition for key parts of the economy and state-run enterprises. These economists criticize the government's continued reliance on central planning and its monopoly on foreign trade.

**Economic Growth.**[37] Cuba experienced severe economic contraction from 1990 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. Growth resumed after that time, as Cuba moved forward with some limited market-oriented economic reforms, and growth was especially strong in the 2004-2007 period, averaging more than 9% annually. The economy benefitted from the growth of the tourism, nickel, and oil sectors and from support from Venezuela and China in terms of investment commitments and credit lines. The economy was hard-hit by several hurricanes and storms in 2008 and the global financial crisis in 2009, with the government forced to implement austerity measures that slowed growth. From 2010 to 2015, Cuba's economy experienced low to moderate economic growth, ranging from a low of 1% in 2014 to a high of 4.4% in 2015. In 2016, however, the economy grew by just 0.5% because of lower export earnings, reduced support from Venezuela, and austerity measures (preliminary Cuban government estimates had forecast an economic contraction of 0.9%, but this was revised to 0.5% in January 2018).[38]

In December 2017, Cuba's minister of economy and planning, Ricardo Cabrisas, announced that the economy returned to growth of 1.6% in 2017. Some economists have questioned the reliability of Cuba's data. The Economist Intelligence Unit (EIU) estimates an economic growth rate of 0.9% in 2017 and forecasts 1.7% growth in 2018, spurred by hurricane-related reconstruction. The biggest threat to this forecast, according to the EIU, is the complete elimination of support from Venezuela.[39]

Hurricane Irma, which struck in September 2017, killed 10 people in Cuba and affected more than 2 million people along 300 miles of the northern coast.[40] The storm damaged infrastructure (electric power, water and sanitation systems), the agricultural sector, and tourism facilities, and it

[35] Marianna Parraga and Jeanne Liendo, "Exclusive: As Venezuelans Suffer, Maduro Buys Foreign Oil to Subsidize Cuba," Reuters News, May 15, 2018.

[36] 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, 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.

[37] Economic growth figures are from the Economist Intelligence Unit (EIU), Country Data Tool, 2018.

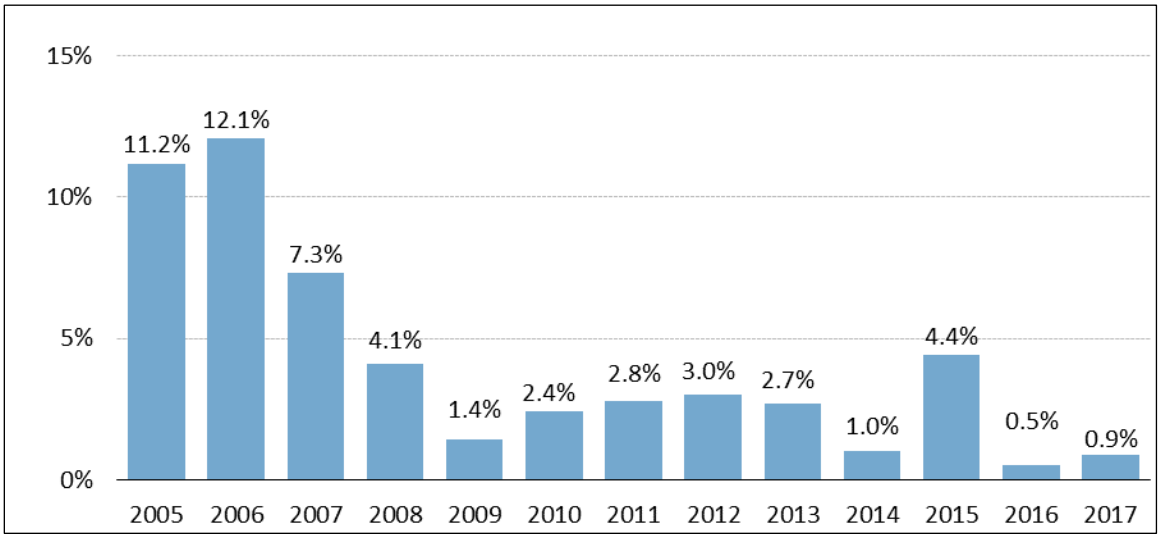
[38] Marc Frank, "Cuban Economy Ever More Opaque as Data Omitted from 2016 Accounts," Reuters News, January 15, 2018; "Cuba Revises Data to Show Economy Grew in 2016," Reuters News, February 1, 2018; and "Country Report, Cuba," EIU, February 2018.

[39] "Country Report, Cuba," EIU, August 2018.

[40] Marc Frank, "Irma Lays Waster to Cuba's Dreams of Prosperity," *Financial Times*, September 14, 2017.

flooded low-lying areas of Havana. The U.N. Office for the Coordination of Humanitarian Affairs (OCHA) developed a response plan for Cuba as part of its coordinating mechanism to identify the most urgent needs and funding required. The plan requested $55.8 million targeting the needs of almost 2.2 million people most affected by the hurricane.[41]

**Figure 2. Cuba: Real Gross Domestic Product Growth (%), 2005-2017**




**Source:** Economist Intelligence Unit (EIU), Country Data Tool, 2018.

**Private Sector.** The Cuban government employs a majority of the labor force, but the government 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 rose from 144,000 in 2009 to about 580,000 at the end of 2017. Analysts contend that the government needs to do more to aid 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.[42]

Since mid-2017, however, the government has taken several steps restricting private-sector development. In August 2017, it stopped issuing new licenses for 27 private-sector occupations, including for private restaurants and for renting private residences; closed a fast-growing cooperative that had provided accounting and business consultancy services; and put restrictions on construction cooperatives. The government maintains that it took the actions to "perfect" the functioning of the private sector and curb illicit activities, such as the sale of stolen state property, tax evasion, and labor violations.

In February 2018, press reports provided details about draft government regulations being considered that would increase state control over the private sector; limit business licenses to a single activity, reduce and consolidate the current 200 categories of work to 122 categories, and limit the size of private restaurants.[43] The regulations ultimately were released on July 10, 2018,

[41] U.N. Office for the Coordination of Humanitarian Affairs (OCHA), *Plan of Action, United Nations System in Cuba*, September 2017.

[42] "Cuba: Stuck in the Past," *The Economist*, April 1, 2017; Nora Gámez Torres," Fear is Driving Raúl Castro to Punish Cuba's New Entrepreneurial Class," *Miami Herald*, August 2, 2017; and "Cuba Tightens Regulations on Nascent Private Sector," Reuters News, December 21, 2017.

[43] Raúl Castro Ruz, "We Will Continue to Advance Along the Path Freely Chose By Our People; Full Text of Speech

and are to take effect in December, at the same time that the government will resume issuing licenses for business activities that had been frozen since August 2017. The objectives of the new regulations are to increase taxation oversight of the private sector and to control the concentration of wealth, but the regulations could stifle the growth of the private sector. Some observers believe the government's actions are aimed at slowing private-sector growth because of concerns regarding that sector's independence from the government. Others point to the backtracking on private-sector reforms as a result of concerns about rising inequality.

**Currency Unification/Reform.** 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. Cuba has two official currencies—Cuban pesos (CUPs) and Cuban convertible pesos (CUCs); for personal transaction, the exchange rate for the two currencies is CUP24/CUC1. Most people are paid CUPs, and the minimum monthly wage in Cuba is 225 CUPs (just over $9), although this minimum wage does not apply to the nonstate sector. According to the State Department, even with other government support such as free education, housing, some food, and subsidized medical care, the average monthly wage of 700 CUPs ($29) does not provide for a reasonable standard of living.[44] For increasing amounts of consumer goods, CUCs are used. Cubans with access to foreign remittances or who work in private-sector activities catering to tourists and foreign diplomats have fared better than those serving the Cuban market.

The Cuban government announced in 2013 that it would end its dual-currency system and move toward monetary unification, but the action has been delayed for several years. Currency reform is ultimately expected to lead to productivity gains and improve the business climate, but an adjustment would create winners and losers.[45] At the PCC's April 2016 Congress, Raúl Castro called for moving toward a single currency as soon as possible to resolve economic distortions. In January 2018, EU officials visiting Cuba offered technical assistance regarding currency reform and unification.[46] Some economists assert, however, that Cuba is unlikely to go forward with currency reform this year because of the country's deep structural economic problems and because of the ongoing constitutional reform process.[47]

**Agricultural Sector.** A reform effort under Raúl Castro 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.[48] 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

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by Raúl Castro Ruz During the Closing Session of the National Assembly of People's Power, July 14," *Granma* (Havana) July 17, 2017; Mimi Whitefield, "Cuba Reins in Entrepreneurs Who Take Free Enterprise Too Far," *Miami Herald*, July 31, 2017; "Castro: Time-Out for Small Business and Co-ops," *Cuba Standard Monthly*, August 2017; Nora Gámez Torres, "Feat Is Driving Raúl Castro to Punish Cuba's New Entrepreneurial Class, Experts Say," *Miami Herald*, August 2, 2017; Sarah Marsh, "Communist-Run Cuba Puts Brakes on Private Sector Expansion," Reuters, August 1, 2017; "Cuba Tightens Regulations on Nascent Private Sector," Reuters News, December 21, 2017; Andrea Rodriguez, "Castro Freezes Cuban Private Sector, Throws Future in Doubt," *World Press Review*, February 1, 2018; and "Cuban Draft Rules Propose Curtailing Fledging Private Sector," Reuters News, February 23, 2018.

[44] U.S. Department of State, *Country Reports on Human Rights Practices for 2017*, April 20, 2018.

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

[46] "Europe Offers Technical Help on Currency Unification," *Cuba Briefing*, February 5, 2018, Issue 948, The Caribbean Council.

[47] Mimi Whitefield, "Cuba Badly Needs Currency Reform, But It Won't Happen Yet, Economists Say," *Miami Herald*, July 26, 2018.

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

buy. Despite these and other efforts, overall food production has been significantly below targets. In addition, as noted above, Hurricane Irma caused damage to the agricultural sector, particularly sugar, in September 2017.

**For Additional Reading on the Cuban Economy**

**Association for the Study of the Cuban Economy**, annual proceedings, at http://www.ascecuba.org/publications/annual-proceedings/.

**Brookings Institution**

Richard E. Feinberg, *Cuba's Economy after Raúl Castro: A Tale of Three Worlds*, February 2018, at https://www.brookings.edu/research/cubas-economy-after-raul-castro-a-tale-of-three-worlds/.

Caitlyn Davis and Ted Piccone, *Sustainable Development: The Path to Economic Growth in Cuba*, June 28, 2017, at https://www.brookings.edu/research/sustainable-development-the-path-to-economic-growth-in-cuba/.

Richard E. Feinberg and Richard S. Newfarmer, *Tourism in Cuba, Riding the Wave Toward Sustainable Prosperity*, December 2, 2016, at https://www.brookings.edu/research/tourism-in-cuba/.

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

Ted Piccone and Harold Trinkunas, *The Cuba-Venezuela Alliance: The Beginning of the End?* June 2014, at http://www.brookings.edu/research/papers/2014/06/16-cuba-venezuela-alliance-piccone-trinkunas.

**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, at http://temas.cult.cu/.

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

**U.S.-Cuba Trade and Economic Council, Inc.**, website at http://www.cubatrade.org/.

**Foreign Investment.** The Cuban government adopted a new foreign investment law in 2014 with the goal of attracting increased levels of 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 also are eliminated, although companies still must hire labor through state-run companies, with agreed wages. A fast-track procedure for small projects reportedly streamlines the approval process, and the government agreed to improve the transparency and time of the approval process for larger investments.[49]

A Mariel Special Development Zone (ZED Mariel) was established in 2014 near the port of Mariel to attract foreign investment. ZED Mariel currently has approved 31 investment projects, which are at various stages of development, with 9 currently operational. In November 2017, Cuba approved a project for Rimco (the exclusive dealer for Caterpillar in Puerto Rico, the U.S. Virgin Islands, and the Eastern Caribbean) to become the first U.S. company to be located in the ZED Mariel. Rimco has plans to set up a warehouse and distribution center in 2018 to distribute Caterpillar equipment. (As noted below, on November 9, 2017, the State Department added the ZED Mariel to a list of restricted entities with which financial transactions are prohibited, but the Rimco project will not be affected because it occurred before regulations were issued by the Treasury Department.)

In November 2017, the Cuban government updated its wish list for foreign investment, which includes 456 projects representing potential investment of $10.7 billion in such high-priority

[49] "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.

areas as tourism, agriculture and food production, oil, the industrial sector, and biotechnology.[50] In November 2016, Cuba's Minister of Foreign Trade and Investment Rodrigo Malmierca said that since the 2014 foreign investment law was approved, Cuba had attracted just $1.3 billion in foreign direct investment.[51] A year later, in late October 2017, Malmierca stated that Cuba had approved a total of $4 billion in investment since the 2014 law, with $2 billion alone in 2017; as news reports note, however, it is unclear how much of the $4 billion has been invested.[52]

## Cuba's Foreign Relations

During the Cold War, Cuba had extensive relations with, and support from, the Soviet Union, which provided billions of dollars in annual subsidies to sustain the Cuban economy. This subsidy system helped to 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 engage in economic relations with countries worldwide. In ensuing years, Cuba diversified its trading partners, although Venezuela under populist leftist President Hugo Chávez (1999-2013) became one of Cuba's most important partners, leading to Cuba's dependence on Venezuela for oil imports. In 2016, the leading sources of Cuba's imports in terms of value were China (22.7%), Venezuela (15.4%, down from 40% in 2014), and Spain (11%); the leading destination of Cuban exports was Venezuela (27.7%), Canada (14.2%), China 11%), and Spain, 7.7%.[53]

**Russia.** Relations with Russia, which had diminished significantly in the aftermath of the Cold War, have strengthened somewhat over the past several years. Russia's interest in the broader Latin America and Caribbean region appeared to increase in response to U.S. actions taken in the aftermath of Russia's intervention in Georgia in 2008 and Russia's annexation of the Crimea region and military intervention in Ukraine in 2014. For many observers, one of Russia's main objectives in the Latin American and Caribbean region is to demonstrate that it is a global power that can operate in the U.S. neighborhood, or "backyard."[54]

Just before a 2014 trip to Cuba, Russian President Vladimir 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.[55] In the aftermath of Putin's trip, press reports claimed that Russia would reopen its signals intelligence

[50] República de Cuba, Ministerio del Commercio Exterior y La Inversión Extranjera, *Cuba, Portfolio of Opportunities for Foreign Investment, 2017-2018,* November 1, 2017, at http://www.cubatrade.org/s/Portfolio-of-opportunities-for-foreign-investment-2017-2018.pdf.

[51] Mimi Whitefield, "Cuba Opens to World at Havana Trade Fair but Few U.S. Companies Are Present," *Miami Herald,* November 1, 2016.

[52] Marc Frank, "Cuba Reports Record $2 Bln in Foreign Investment Deals," Reuters News, October 31, 2017.

[53] Statistics drawn from Oficina Nacional de Estadística e Información, República de Cuba, Anuario Estadístico de Cuba 2016, Sector Externo, Edición 2017.

[54] For example, see R. Evan Ellis, *The New Russian Engagement with Latin America: Strategic Position, Commerce, and Dreams of the Past,* United States Army War College, Strategic Studies Institute, June 2015.

[55] Anna Andrianova and Bill Faries, "Russia Forgives $32B of Debt, Wants to Do Business in Cuba," Bloomberg News, July 13, 2014.

facility at Lourdes, Cuba, which had closed in 2002, but President Putin denied that his government would reopen the facility.[56]

Trade relations between Russia and Cuba have not been significant, although they grew in 2017 because of new Russian oil exports to Cuba. According to Russian trade statistics, total trade between the two countries was valued at $290 million in 2017, an almost 17% increase over 2016. This represented less than 2% of Cuba's trade worldwide. Russia's imports from Cuba amounted to almost $14 million in 2017, led by pharmaceutical products and rum, while Russia's exports to Cuba amounted to almost $277 million, led by motor vehicles (and parts) and oil.[57]

Russian energy companies have been involved in oil exploration in Cuba. Gazprom was in a partnership with the Malaysian state oil company, Petronas, which 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 late 2012 but stopped work in 2013 because of disappointing results. In 2014, Russian energy companies Zarubezhneft and Rosneft signed an agreement with Cuba's state oil company *Unión Cuba-Petróleo* (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.[58] In 2017, Rosneft began to ship oil to Cuba, a result of Cuba's efforts to diversify its sources of foreign oil because of Venezuela's diminished capacity.[59]

Russian officials publicly welcomed the improvement in U.S.-Cuban relations under the Obama Administration, although the change in U.S. policy could be viewed as a potential setback for Russian overtures in the region. As U.S.-Cuban normalization talks were beginning in Havana in January 2015, a Russian intelligence ship docked in Havana. In 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.[60] The two countries signed a bilateral cooperation agreement in December 2016 for Russia's support to help Cuba modernize its defense sector until 2020.[61]

In June 2017, when President Trump announced a partial rollback of the U.S. policy of engagement with Cuba, Russia's foreign ministry criticized the president for resorting to "Cold War" rhetoric.[62] Some reports indicate that as U.S. relations with Cuba have deteriorated over the past year, Russia has been attempting to further increase its ties to Cuba, with high-level meetings between Cuban and Russian officials and increased economic, military, and cultural

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

[57] Statistics from Federal Customs Service of Russia, as presented by Global Trade Atlas.

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

[59] "Russia Resumes Oil Shipments to Cuba, Helps Fill Venezuelan Breach," Reuters News, May 3, 2017.

[60] 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.

[61] "Russia to Help Cuba Upgrade Armed Forces," TASS World Service Wire, December 15, 2016; "Russia, Cuba Sign Program on Defense Technology Cooperation," Sputnik News Service, December 8, 2016.

[62] "Russia Criticizes Donald Trump's Cuba Policy; Calls it 'Cold War' Rhetoric," Deutsche Welle, June 18, 2017.

engagement.[63] In March 2018, the same Russian intelligence ship noted above again stopped in Havana.[64]

For Cuba, a deepening of relations with Russia could help economically, especially regarding oil, and also could serve as a counterbalance to the partial rollback of U.S. engagement policy by the Trump Administration.[65] Reportedly there has been discussion of significant Russian investment in upgrading Cuba's railroads, including a high-speed link between Havana and the beach resort of Varadero; some observers, however, are skeptical as to whether the project will go forward given Russia's struggling economy.[66]

The U.S. Southern Command's February 2018 posture statement presented to Congress expressed concern about Russia's increased role in the Western Hemisphere. It stated that Russia's expanded port and logistics access in Cuba (as well as Nicaragua and Venezuela) provide the country "with persistent, pernicious presence, including more frequent maritime intelligence collection and visible force projection in the Western Hemisphere." It stated that Russia's robust relationships with these three countries provides it "with a regional platform to target U.S. and partner nation facilities and assets, exert negative influence over undemocratic governments, and employ strategic options in the event of a global contingency."[67] Along these lines, there has been concern in Congress about the role of Russia in Latin America, including in Cuba. The conference report to the John S. McCain National Defense Authorization Act for FY2019, P.L. 115-232 (H.R. 5515), requires the Defense Intelligence Agency to submit a report on security cooperation between Russia, and Cuba, Nicaragua, and Venezuela, including a description of any military or intelligence infrastructure, facilities, and assets developed by Russia in the three countries and any associated agreements or understanding between Russia and the three countries.

**China.** During the Cold War, Cuba and China did not have close relations because of Sino-Soviet tensions, but bilateral relations with China have grown closer over the past 15 years, including a notable increase in trade. Since 2004, Chinese leaders have made a series of visits to Cuba: then-President Hu Jintao visited in 2004 and 2008; President Xi Jinping visited in 2014 (and when he was vice president in 2011); and, most recently, Chinese Premier Li Keqiang visited in 2016, reportedly signing some 30 economic cooperation agreements.[68] Raúl Castro also visited China in 2008 and 2012; during the 2012 trip, he signed cooperation agreements focusing on trade and investment issues.

More recently, in January 2018, Raúl Castro met with Song Tong, a special envoy of President Xi Jinping, with discussion reportedly focused on strengthening ties. Castro noted that the Cuban Communist Party (PCC) would like to promote exchanges with its Chinese counterpart in an

[63] Nora Gámez Torres, "Amidst Growing Tensions with the U.S., Cuba Gets Cozier with Russia," *Miami Herald*, October 13, 2017; and Nora Gámez Torres and Antonio Maria Delgado, "Goodbye Venezuela, Hello Russia. Can Vladimir Putin Save Cuba?" *Miami Herald*, December 26, 2017.

[64] Nora Gámez Torres, "Russian Spy Ship Is Docked in Havana Harbor," *Miami Herald*, March 16, 2018.

[65] "Cuba Looks More to Russia as the Prospects for Better U.S. Ties Fade Under Trump," (interview with William M. LeoGrande) *World Politics Review*, January 2, 2018.

[66] "Cuba Boost Trade Ties with Cold War Ally Russia as U.S. Disengages," Reuters News, December 19, 2017.

[67] United States Southern Command, "Posture Statement of Admiral Kurt W. Tidd," Senate Armed Services Committee, February 15, 2018, at http://www.southcom.mil/Media/Special-Coverage/2018-Posture-Statement-to-Congress/.

[68] "China, Cuba Agree to Deepen Ties During PM Li's Havana Visit," Reuters News, September 24, 2016.

effort to help upgrade Cuba's social and economic model.[69] While Cuba's relationship with China undoubtedly has an ideological component since both are the among the world's remaining communist regimes, economic linkages and cooperation appear to be the most significant component of bilateral relations.

According to Cuban trade statistics, China surpassed Venezuela as Cuba's top trading partner in 2016, a reflection of declining oil imports from Venezuela as well as the rising level of imports from China. Total Cuba-China trade in 2016 was valued at almost $2.6 billion (accounting for 21% of Cuba's trade worldwide), with $2.3 billion in imports from China and $257 million in exports to China.[70] According to Chinese trade statistics, the lion's share of Cuba's exports to China in 2016 were sugar (64%) and nickel (27%), while Cuba's imports from China included electrical machinery and equipment (17%), motor vehicles (18%), machinery and appliances (16%), and a wide variety of other industrial and consumer products.[71]

Notably, in 2017, Cuba's total trade with China declined by almost 15%, according to Chinese trade data, with Cuba's imports from China falling almost 24%. The fall in imports from China in 2017 reflects Cuba's difficult economic situation as Venezuelan support has diminished. In response to a cash crunch, the Cuban government has cut imports and reduced the use of fuel and electricity.[72] In contrast to declining imports from China, Cuba's exports to China increased by 45% in 2017, led by increased exports of seafood, nickel, and to a lesser extent cigars.[73]

China reportedly had been reluctant to invest in Cuba because of the uninviting business environment, but that has begun to change over the past several years. In 2015, the Chinese cellphone company Huawei reached an agreement with the Cuban telecommunications company ETECSA to set up Wi-Fi hotspots at public locations, and is helping to wire homes. In 2016, the Chinese company Haier set up a plant assembling laptops and tablets in Cuba. Other planned Chinese investment projects reportedly include pharmaceuticals, vehicle production, and a container terminal in Santiago, Cuba, backed by a $120 million Chinese development loan.[74]

**European Union.** The European Union (EU) and Cuba held seven rounds of talks from 2014 to 2016 on a Political Dialogue and Cooperation Agreement covering political, trade, and development issues; ultimately, a cooperation agreement was reached and initialed in Havana in March 2016. In December 2016, the European Council signed the agreement, which was provisionally applied. The agreement was submitted to the European Parliament, which overwhelmingly endorsed the agreement in early July 2017, welcoming it as a framework for relations and emphasizing the importance of the human rights dialogue between the EU and Cuba. The agreement will enter into force in full after it has been ratified in all EU member states.[75]

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[69] "Raúl Castro Meets Xi's Special Envoy on Advancing Ties," Xinhuanet, January 25, 2018.

[70] ONEI, República de Cuba, *Anuario Estadístico de Cuba 2016,* Edición 2017.

[71] Statistics from China Customs, as presented by Global Trade Atlas.

[72] "China's Exports to Cuban Slump as Island's Cash Crunch Deepens," Reuters News, December 6, 2017.

[73] "Cuban Cigar Sales Hit Record as China Demand Surges," Reuters News, February 26, 2018.

[74] "China Piles into Cuba as Venezuela Fades and Trump Looms," Reuters News, February 14, 2017; Nathan Hodge and Josh Chin, "China Apt to Fill U.S.-Cuba Breach," *Wall Street Journal*, November 30, 2016; "Feature: China Helps Convert Santiago de Cuba into Modernized Port," Xinhuanet, August 8, 2017; and Ted Piccone, "The Geopolitics of China's Rise in Latin America," Brookings, November 2016, pp. 18-19.

[75] European Council, Council of the European Union, "EU-Cuba: Council Opens New Chapter in Relations," press release, December 6, 2016, at http://www.consilium.europa.eu/en/press/press-releases/2016/12/06-eu-cuba-relations/; and European Parliament, "EU-Cuba Relations: A New Chapter Begins," July 18, 2017, at

The new cooperation agreement replaces the EU's 1996 Common Position on Cuba, which stated 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 had stipulated that full EU economic cooperation with Cuba would depend upon improvements in human rights and political freedom.[76] Nevertheless, the new agreement states that a human rights dialogue will be established within the framework of the overall political dialogue and has numerous provisions related to democracy, human rights, and good governance.

As noted above, EU officials visiting Cuba in January 2018 offered to provide Cuba with technical assistance regarding the country's long-awaited currency unification (see "Economic Conditions," above).

**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 and investment to Cuba. For its part, Cuba has sent thousands of personnel to Venezuela. Cuba has been concerned about the future of Venezuelan financial support, however, as a result of Chávez's death in 2013 and Venezuela's mounting economic and political challenges since 2014 due to the rapid decline in oil prices and the unpopularity of the increasingly authoritarian regime of President Nicolás Maduro. As noted above, oil imports from Venezuela have declined, leading to Cuba's imposition of austerity measures and contributing to economic contraction.

Estimates of the number of Cuban personnel in Venezuela vary, but a 2014 Brookings study reported that "by most accounts there are 40,000 Cuban professionals in Venezuela," with 75% of those healthcare workers.[77] The roughly 30,000 healthcare personnel include doctors and nurses, while the balance of Cuban personnel in Venezuela includes teachers, sports instructors, military advisors, and intelligence operatives. According to the Brookings study, various sources estimate that the number of Cuban military and intelligence advisors in Venezuela range from hundreds to thousands, coordinated by Cuba's military attaché in Venezuela. The extent to which the level of Cuban personnel in Venezuela has declined because of the drop in Venezuelan oil exports to Cuba and Venezuela's deepening economic crisis is uncertain, but Cuba may have withdrawn some personnel.[78]

Cuba also is engaged in Latin America beyond its close relations with Venezuela. Cuba is a member of the Bolivarian Alliance for the Americas, a Venezuelan-led integration and cooperation scheme founded in 2004. In 2013, Cuba began deploying thousands of doctors to Brazil in a program aimed at providing doctors to rural areas, with Cuba earning hard currency for supplying the medical personnel. Brazil also was a major investor in the development of the port of Mariel, west of Havana. For several years, Cuba also hosted peace talks between the Colombian government and the Revolutionary Armed Forces of Colombia, which culminated in a peace agreement in 2016.

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http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/570485/EXPO_IDA(2017)570485_EN.pdf.

[76] 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.

[77] Ted Piccone and Harold Trinkunas, "The Cuba-Venezuela Alliance: The Beginning of the End?" Latin America Initiative Policy Brief, Brookings, June 2014, p. 3.

[78] Harold Trinkunas, Stanford University, testimony before the House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, hearing on "The Venezuela Crisis: The Malicious Influence of State and Criminal Actors," September 13, 2017, at http://docs.house.gov/meetings/FA/FA07/20170913/106398/HHRG-115-FA07-Wstate-TrinkunasH-20170913.pdf.

**International and Regional 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 and the United Nations Educational, Scientific, and Cultural Organization, both of which have offices in Havana.

Cuba is also a member of the U.N. Economic Commission for Latin America and the Caribbean (ECLAC, also known by its Spanish acronym, CEPAL), one of the five regional commissions of the U.N., and hosted ECLAC's 37th session from May 7 to 11, 2018. U.N. Secretary-General António Guterres attended the opening of the conference. ECLAC's Executive Secretary Alicia Bárcena reaffirmed the organization's commitment to accompanying Cuba in its efforts toward achieving sustainable development.[79] Bárcena referred to the U.S. embargo on Cuba as costing Cuba more than $130 billion at current prices, the same estimate as the Cuban government.[80]

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 occurred on October 27, with 191 votes in favor and 2 votes (Israel and the United States) against.[81] In 2016, the vote took place on October 26, with 191 in favor and, for the first time, the United States (and Israel) abstaining. Then-Ambassador Samantha Power, the U.S. Permanent Representative to the United Nations, stated that the resolution demonstrated that the U.S. policy of isolation toward Cuba "instead had isolated the United States." Power also maintained, however, that the U.S. abstention did not mean that the United States agreed with the Cuban government's policies and practices, adding that the United States remained "profoundly concerned by the serious human rights violations that the Cuban government continues to commit with impunity against its own people."[82] On November 1, 2017, the United States returned to voting against the resolution, which was approved by a vote of 191 to 2, with Israel also voting against the resolution. U.S. Ambassador to the U.N. Nikki Haley asserted that "as long as the Cuban people continue to be deprived of their human rights and fundamental freedoms—as long as the proceeds from trade with Cuba go to prop up the dictatorial regime responsible for denying those rights—the United States does not fear isolation in this chamber or anywhere in the world."[83]

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 Inter-American Development Bank. In 2016, Cuba signed a memorandum of understanding with the Development Bank of Latin America (CAF) with the objective of supporting technical cooperation programs for Cuba's social and economic development and laying the foundation for Cuba's future membership in the CAF; the CAF's current membership includes 17 Latin American and Caribbean countries as well as Spain and Portugal.[84]

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[79] U.N. Economic Commission for Latin America and the Caribbean, "ECLAC and Cuba Join in a Dialogue About Its Path to Sustainable Development," press release, May 7, 2018.

[80] "U.S. Trade Embargo Has Cost Cuba $130 Billion, U.N. Says," Reuters News, May 9, 2019. Also see República de Cuba, *Cuba vs. Bloqueo*, June 2017.

[81] 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.

[82] 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.

[83] United States Mission to the United Nations, "Remarks at a U.N. General Assembly Meeting on Cuba, Ambassador Nikki Haley," November 1, 2017.

[84] Marc Jones, "Interview – Latam Development Bank CAF Sees Cuba Joining in Weeks," Reuters News, January 15,

Cuba was excluded from participation in the Organization of American States (OAS) in 1962 because of its identification with Marxism-Leninism, but in 2009, the OAS overturned that policy in a move that eventually could lead to Cuba's reentry into the regional organization in accordance with the practices, purposes, and principles of the OAS. Although the Cuban government welcomed the OAS vote to overturn the 1962 resolution suspending Cuba's OAS participation, it asserted that it would not return to the OAS.[85] In February 2017, Cuba denied OAS Secretary-General Luis Almagro entry into the country to accept a democracy award in honor of the late democracy activist Oswaldo Payá.

Cuba became a full member of the Rio Group of Latin American and Caribbean nations in November 2008 and a member of the succeeding Community of Latin American and Caribbean States (CELAC) officially established in December 2011 to boost regional cooperation, but without the participation of the United States or Canada. In 2013, Cuba assumed the presidency of the organization for one year. Cuba also hosted the group's second summit in 2014, which was attended by leaders from across the hemisphere as well as by then-U.N. Secretary-General Ban Ki-moon, who reportedly raised human rights issues with Cuban officials.[86]

# U.S. Policy Toward Cuba

## Background on U.S.-Cuban Relations[87]

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 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 Guantanamo Bay, Cuba, 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,[88] 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

2016; Development Bank of Latin America (CAF), "CAF and Cuba Sign First Agreement of Understanding To Establish a Joint Working Agenda," September 3, 2016.

[85] For further background, see section on "Cuba and the OAS" in CRS 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.

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

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

[88] Presidential Documents, "Proclamation 3447, Embargo on All Trade with Cuba," 27 *Federal Register* 1085, February 7, 1962.

the United States and Cuba."[89] 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.[90] The authority for the embargo was later expanded in March 1962 to include the Trading with the Enemy Act (TWEA).[91]

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.[92] 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 (BIS), under the provisions of the Export Administration Act of 1979, as amended (P.L. 96-72; 50 U.S.C. Appendix 2405(j)).[93] The Export Administration Regulations (EAR) are found at 15 C.F.R. Sections 730-774.[94]

Congress subsequently strengthened sanctions on Cuba with enactment of the Cuban Democracy Act of 1992 (CDA; 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 (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 unless licensed by the Department of the Treasury. (In October 2016, OFAC issued a general license for vessels involved in trade with Cuba.[95])
- The LIBERTAD Act, enacted in the aftermath of Cuba's shooting down 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 act codified the Cuban embargo as permanent law, including all restrictions imposed by the executive branch 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

[89] 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 action in effect amounted to an embargo on exports of all products with the exception of certain foods, medicines, and medical supplies.

[90] U.S. Department of the Treasury, 27 *Federal Register* 1116, February 7, 1962.

[91] U.S. Department of the Treasury, 27 *Federal Register* 2765-2766, March 24, 1962.

[92] U.S. Department of the Treasury, "Control of Financial and Commercial Transactions Involving Cuba or Nationals Thereof," 28 *Federal Register* 6974-6985, July 9, 1963.

[93] 31 C.F.R. §515.533.

[94] See especially 15 C.F.R. §746.2 on Cuba, which refers to other parts of the EAR.

[95] A general license provides the authority to engage in a transaction without the need to apply to the Department of the Treasury for a license. In contrast, a specific license is a written document issued by the Department of the Treasury to a person or entity authorizing a particular transaction in response to a written license application. U.S. Department of the Treasury, "Cuban Assets Control Regulations," 81 *Federal Register* 71372-71378, October 17, 2016; U.S. Department of the Treasury, Office of Public Affairs, "Treasury and Commerce Announce Further Amendments to Cuba Sanctions Regulations," October 14, 2016.

lifting the economic embargo without congressional concurrence through legislation 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, all Administrations (including the Trump Administration) have suspended the implementation of Title III at six-month intervals, most recently in June 2018.[96]

- TSRA authorizes U.S. commercial agricultural exports to Cuba, but it also includes prohibitions on U.S. assistance and private 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 State Department also designated the government of Cuba as a state sponsor of international terrorism in 1982 under Section 6(j) of the Export Administration Act and other laws because of the country's alleged ties to international terrorism.[97]

Beyond sanctions, another component of U.S. policy has consisted of support measures for the Cuban people. This support 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 commercial suppliers of agricultural products. Authorization for purposeful travel to Cuba and cash remittances to Cuba has constituted an important means to support the Cuban people, although significant congressional debate has occurred over these issues for many years.

Despite the poor state of U.S.-Cuban relations, several examples of bilateral cooperation took place 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).

## Obama Administration Policy

During its first six years, the Obama Administration continued the dual-track policy approach toward Cuba that had 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.

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[96] See U.S. Department of State, "Secretary's Determination of Six Months' Suspension Under Title III of LIBERTAD Act," June 28, 2018. For additional background, see the section on "Helms/Burton Legislation" in CRS Report RL32730, *Cuba: Issues for the 109th Congress*, by Mark P. Sullivan.

[97] See CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*, by Dianne E. Rennack. Cuba's designation on the state sponsor of terrorism list allowed U.S. nationals injured by an act of international terrorism to file lawsuits against Cuba in the United States for damages. For information on current sanctions, see CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*, by Dianne E. Rennack and Mark P. Sullivan.

At the same time, however, the Obama Administration instituted some changes in policy that advanced support for the Cuban people. In April 2009, at the Summit of the Americas held in Trinidad and Tobago, President Obama fulfilled a campaign pledge by lifting all restrictions on family travel and remittances (for more details, see "Restrictions on Travel," below). The President said 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."[98] In 2011, the Obama Administration introduced new measures to further reach out to the Cuban people through increased purposeful travel (including people-to-people educational travel) and an easing of restrictions on nonfamily remittances.

Overall, however, engagement with the Cuban government during the Administration's first six years was stymied because of Cuba's December 2009 imprisonment of an American subcontractor, Alan Gross, who had been working on democracy projects funded by the U.S. Agency for International Development. Securing the release of Alan Gross became a top U.S. priority, and the State Department maintained that it was using every appropriate channel to press for his release.

## Shift Toward Normalizing Relations

On December 17, 2014, 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. He also announced that, in a separate action, the Cuban government released an individual imprisoned since 1995 who had been an important U.S. intelligence asset in Cuba in exchange for three Cuban intelligence agents who had been imprisoned in the United States since 1998. In the aftermath of these releases, President Obama announced a major shift in U.S. policy toward Cuba, moving away from a sanctions-based policy aimed at isolating Cuba toward a policy of engagement. The President said that his Administration would "end an outdated approach that, for decades, has failed to advance our interests." He 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."[99]

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

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

Cuba was first added to the so-called terrorism list in 1982 pursuant to Section 6(j) of the Export Administration Act of 1979 and other laws because of its alleged ties to international terrorism and support for terrorist groups in Latin America. President Obama directed the State Department to review Cuba's designation as a state sponsor of terrorism and stated that "at a time when we

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

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

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."[100]

Following the State Department's review, the President transmitted a report to Congress in April 2015 justifying the rescission, which maintained that Cuba had provided assurances that it would not support acts of international terrorism.[101] No resolutions of disapproval were introduced in Congress to block the rescission, which paved the way for then-Secretary of State John Kerry to rescind Cuba's designation 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 Department of the Treasury's OFAC amended the Cuban Assets Control Regulations (CACR) in June 2015 and the Department of Commerce's BIS amended the Export Administration Regulations (EAR) in July 2015.[102]

### *Reestablishment of Diplomatic Relations and Advancement of Engagement*

U.S.-Cuban diplomatic 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 to represent each country's interests. Beginning in January 2015, the United States and Cuba conducted four rounds of talks on reestablishing relations. Ultimately, the United States and Cuba reestablished diplomatic relations in July 2015 and embassies were reopened in Havana and Washington.

With the restoration of diplomatic relations, government-to-government engagement increased significantly under the Obama Administration. U.S. and Cuban officials held five Bilateral Commission meetings to coordinate efforts to advance the normalization process.[103]

Officials negotiated numerous bilateral agreements after the restoration of relations, including those in the following areas: marine protected areas (November 2015); environmental cooperation on range of issues (November 2015); direct mail service (December 2015); civil aviation (February 2016); maritime issues related to hydrography and maritime navigation (February 2016); agriculture (March 2016); health cooperation (June 2016); counternarcotics cooperation (July 2016); federal air marshals (September 2016); cancer research (October 2016); seismology (December 2016); meteorology (December 2016); wildlife conservation (December 2016); animal and plant health (January 2017); oil spill preparedness and response (January 2017); law enforcement cooperation (January 2017); and search and rescue (January 2017). The United States and Cuba also signed a bilateral treaty in January 2017 delimiting their maritime boundary in the eastern Gulf of Mexico. Bilateral dialogues were held on all of these issues as well as on other issues including counterterrorism, claims (U.S. property, unsatisfied court

[100] Ibid.

[101] For further information on the Administration's justification for rescinding Cuba's state sponsor designation, see the section on "State Sponsor of Terrorism Designation" in CRS Report R43926, *Cuba: Issues and Actions in the 114th Congress*, by Mark P. Sullivan. Also see CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*, by Dianne E. Rennack.

[102] U.S. Department of the Treasury, "Cuban Assets Control Regulations; Terrorism List Governments Sanctions Regulations," 80 *Federal Register* 34053-34054, June 15, 2015; and U.S. Department of Commerce, "Cuba: Implementing Rescission of State Sponsor of Terrorism Designation," 80 *Federal Register* 43314-43320, July 22, 2015.

[103] U.S. Department of State, "United States and Cuba Hold Fifth Bilateral Commission Meeting in Havana," media note, December 7, 2016, at https://2009-2017.state.gov/r/pa/prs/ps/2016/12/264968.htm.

judgments, and U.S. government claims), economic and regulatory issues, human rights, renewable energy and efficiency, trafficking in persons, and migration.

In March 2016, President Obama traveled to Cuba, the first presidential visit since 1928, with the goals of building on progress toward normalizing relations and expressing support for human rights. In a press conference with 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."[104] He also spoke out forcefully for advancing human rights during his televised speech to the Cuban nation. He stated his belief that citizens should be free to speak their minds without fear and that the rule of law should not include arbitrary detentions.[105]

In October 2016, President Obama issued a presidential policy directive on the normalization of relations with Cuba.[106] 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 would 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 U.S. policy toward Cuba. (As noted below, however, President Trump issued a national security presidential memorandum on June 16, 2017, that superseded and replaced the October 2016 policy directive.)

### *Increase in Travel, Commerce, and the Flow of Information*

The Obama Administration's third step of increasing travel, commerce, and the flow of information to and from Cuba required amendments to U.S. regulations—the CACR and EAR—administered, respectively, by the Department of the Treasury's OFAC and the Commerce Department's BIS. To implement the President's new policy, the two agencies issued five rounds of amendments to the CACR and EAR in January and September 2015 and in January, March, and October 2016.[107]

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

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

[106] 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.

[107] U.S. Department of Commerce, "Cuba: Providing Support for the Cuban People," 80 *Federal Register* 2286-2291, January 16, 2015; U.S. Department of the Treasury, " Cuban Assets Control Regulations," 80 *Federal Register* 2291-2302, January 16, 2015; U.S. Department of Commerce, "Enhancing Support for the Cuban People," 80 *Federal Register* 56898-56904, September 21, 2015; U.S. Department of the Treasury, "Cuban Assets Control Regulations," 80 *Federal Register* 56915-56926, September 21, 2015; U.S. Department of Commerce, "Cuba Licensing Policy Revision," 81 *Federal Register* 4580-4583, January 27, 2016; U.S. Department of the Treasury, "Cuban Assets Control Regulations 81 *Federal Register* 4583-4586, January 27, 2016; U.S. Department of Commerce, "Cuba: Revisions to License Exceptions and Licensing Policy," 81 *Federal Register* 13972-13974, March 16, 2016; U.S. Department of the Treasury, "Cuban Assets Control Regulations," 81 *Federal Register* 13989-13994, March 16, 2016; U.S. Department of Commerce, "Cuba: Revisions to License Exceptions," 81 *Federal Register* 71365-71367, October 17, 2016; and U.S. Department of the Treasury, "Cuban Assets Control Regulations," 81 *Federal Register* 71372-71378, October 17, 2016. For background on the regulatory changes, see U.S. Department of the Treasury, "Cuba Sanctions," at

The Treasury and Commerce Department amendments to the regulations eased restrictions on travel, remittances, trade, telecommunications, and banking and financial services. They also authorized certain U.S. companies or other entities to have a physical presence in Cuba, such as an office, retail outlet, or warehouse. These entities include 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. (For more on the regulatory changes, see "Restrictions on Travel" and "U.S. Exports and Sanctions," below.)

Such changes fall within the scope of the President's discretionary licensing authority to make changes to the embargo regulations. When President Obama unveiled his policy shift, however, he acknowledged that he did not have the authority to lift the embargo because it was codified in permanent law (Section 102(h) of the LIBERTAD Act). 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 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 CDA and TSRA.

## Trump Administration Policy

During the electoral campaign, then-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.[108] After Fidel Castro's death in November 2016, then-President-elect Trump issued a statement referring to Castro as a "brutal dictator who oppressed his own people for nearly six decades."[109] 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."[110]

In early February 2017, the White House maintained that the Trump Administration was conducting a full review of U.S. policy toward Cuba and that human rights would be at the forefront of those policy discussions.[111] In May 2017, then-Acting Assistant Secretary of State for Western Hemisphere Affairs Francisco Palmieri emphasized that "one of the areas that is going to be a high priority is ensuring that Cuba makes more substantive progress toward a greater respect for human rights inside the country."[112]

On May 20, 2017, President Trump issued a statement to the Cuban American community and the people of Cuba in celebrating the anniversary of Cuban independence. That date is in commemoration of Cuba's independence from the United States in 1902 in the aftermath of the Spanish-American War in 1898, but is not celebrated in Cuba because of the continued U.S.

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

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

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

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

[111] White House, Press Briefing by Press Secretary Sean Spicer, February 3, 2017.

[112] "U.S. to Press Cuba on Human Rights," Agence France Presse, May 9, 2017.

intervention in Cuba under the Platt Amendment until its repeal in 1935 (see "Brief Historical Background" above). In the strongly worded statement, President Trump said, "The Cuban people deserve a government that peacefully upholds democratic values, economic liberties, religious freedoms, and human rights, and my Administration is committed to achieving that vision."[113] Cuba's state television published an "official note" describing the statement as "controversial and ridiculous."[114]

In a demonstration of continuity in U.S. policy between the Trump and Obama Administrations, the U.S. and Cuban governments have held various bilateral meetings. In April and December 2017, the two countries held semiannual migration talks, which, since 1995, have provided a forum to review and coordinate efforts to ensure safe, legal, and orderly migration between Cuba and the United States. In July 2017, the U.S. Coast Guard and the Cuban Border Guard participated in professional exchange covering a variety of topics, including search and rescue. In September 2017, the United States and Cuba held two meetings: a third law enforcement dialogue and a sixth Bilateral Commission meeting in which the two countries reviewed priorities and areas for engagement.

In 2018, the United States and Cuba have continued to hold various meetings and exchanges, including on such issues as cybersecurity and cybercrime (January), counternarcotics efforts (January), counterterrorism (January 2018), anti-money laundering efforts (February), trafficking in persons (February), search and rescue (March), agriculture (April), scientific cooperation related to environmental disaster (April), law enforcement (July), and migration (July).[115]

The United States and Cuba held their seventh Bilateral Commission meeting in June 2018 to review engagement and cooperation in such areas as trafficking in persons, civil aviation safety, law enforcement matters, agriculture, maritime safety and search and rescue, certified claims, and environmental challenges. According to the State Department, the United States reiterated the urgent need to identify the source of the "attacks" on U.S. diplomats and to ensure they cease; expressed continued concerns about the arbitrary detention of independent journalists and human rights defenders; and acknowledged Cuba's progress in repatriating Cubans with final orders while also emphasizing that Cuba needs to accept greater numbers of returnees.[116]

## Partial Rollback of Engagement Policy

President Trump unveiled his Administration's policy on Cuba on June 16, 2017, which partially rolls back some of the Obama Administration's efforts to normalize relations with Cuba. President Trump set forth his Administration's policy in a speech in Miami, FL, where he signed a national security presidential memorandum (NSPM) on Cuba replacing President Obama's October 2016 presidential policy directive (discussed above), which had laid out objectives for the normalization process. The new policy leaves most of the Obama-era policy changes in place, including the reestablishment of diplomatic relations and a variety of eased sanctions to increase travel and commerce with Cuba. The new policy also keeps in place the Obama Administration's action ending the so-called wet foot/dry foot policy toward Cuban migrants, which, according to

[113] White House, "Statement from President Donald J. Trump on Cuban Independence Day," May 20, 2017.

[114] "Cuba TV Rejects Trump 20 May Message as 'Ridiculous,'" *BBC Monitoring Americas* (summary of report by Cubavision TV on May 20), May 22, 2017; and Nora Gámez Torres, "Havana Lashes Out Against Trump's May 20 Message to the Cuban People," *Miami Herald*, May 22, 2017.

[115] See U.S. Department of State, Releases Pertaining to Cuba, at https://www.state.gov/p/wha/ci/cu/rls/index.htm; and Ministry of Foreign Affairs of Cuba, Embassy of Cuba in USA, at http://misiones.minrex.gob.cu/en/usa.

[116] U.S. Department of State, "United States and Cuba Hold Seventh Bilateral Commission Meeting," June 14, 2018.

the NSPM, had "encouraged untold thousands of Cuban nationals to risk their lives to travel unlawfully to the United States."[117]

The most significant policy changes set forth in President Trump's NSPM included (1) restrictions on financial transactions with companies controlled by the Cuban military, intelligence, or security services or personnel and (2) the elimination of individual people-to-people travel. President Trump's memorandum directed the heads of departments (Treasury and Commerce, in coordination with the State Department) to initiate a process within 30 days to adjust current regulations. On November 8, 2017, the Treasury and Commerce Departments issued amended regulations (effective November 9), and the State Department took complementary action, to implement the new policy.[118]

**Restrictions on Transactions with the Cuban Military.** Pursuant to the NSPM, the State Department was tasked with identifying entities controlled by the Cuban military, intelligence, or security services or personnel and publishing a list of those entities with which direct financial transactions would disproportionately benefit those services or personnel at the expense of the Cuban people or private enterprise in Cuba.[119] The NSPM specifically identified the *Grupo de Administración Empresarial S.A*. (GAESA), a holding company of the Cuban military involved in most sectors of the Cuban economy, particularly the tourism sector.[120] The State Department ultimately issued a list of 180 "restricted entities" that included 2 ministries, 5 holding companies (including GAESA), 34 of their subentities (including the Mariel Special Development Zone), 84 hotels (27 in Havana), 2 tourist agencies, 5 marinas, 10 stores in Old Havana, and 38 entities serving the defense and security sectors.[121] Financial transactions with those entities are prohibited by the Treasury Department, with certain exceptions, including transactions related to air or sea operations supporting permissible travel, cargo, or trade; the sale of agricultural and medical commodities; direct telecommunications or internet access for the Cuban people; and authorized remittances.[122] The new prohibitions limit U.S. economic engagement with Cuba, particularly in travel-related transactions and potential investment opportunities.

**Restrictions on People-to-People Travel.** With regard to people-to-people travel, the Department of the Treasury amended the CACR to require that people-to-people educational travel take place under the auspices of an organization specializing in such travel, with travelers

[117] White House, "Remarks by President Trump on the Policy of the United States Toward Cuba," June 16, 2017, at https://www.whitehouse.gov/the-press-office/2017/06/16/remarks-president-trump-policy-united-states-towards-cuba; and Department of State, "Strengthening the Policy of the United States Toward Cuba," 82 *Federal Register* 48875-48878, October 20, 2017 (consists of the text of National Security Presidential Memorandum, NSPM-5, issued by the President on June 16, 2017).

[118] U.S. Department of the Treasury, "Cuban Assets Control Regulations," 82 *Federal Register* 51998-52004, November 9, 2017; U.S. Department of Commerce, "Amendments to Implement United States Policy Toward Cuba," 82 *Federal Register*, 51983-51986, November 9, 2017; and U.S. Department of State, "The State Department's List of Entities and Subentities Associated with Cuba (Cuba Restricted List)," 82 *Federal Register* 52089-52091, November 9, 2017.

[119] U.S. Department of State, "State Department FAQs on the National Security Presidential Memorandum (NSPM) on Cuba," June 16, 2017, at https://www.state.gov/p/wha/ci/cu/rls/2017/271977.htm.

[120] Nora Gámez Torres, "High on Cuba Policy Proposal: Restricting U.S. Business Deals with Cuba's Military-Run Entities," *Miami Herald*, June 12, 2017.

[121] U.S. Department of State, "Cuba Restricted List," November 8, 2017, at https://www.state.gov/e/eb/tfs/spi/cuba/cubarestrictedlist/index.htm.

[122] U.S. Department of the Treasury, "Treasury, Commerce, and State Implement Changes to the Cuba Sanctions Rules," fact sheet, November 8, 2017 (effective November 9, 2017), at https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_fact_sheet_11082017.pdf.

accompanied by a representative of the organization. Individuals are no longer authorized to engage in such travel on their own. The Obama Administration had authorized such individual travel in March 2016, which, combined with the beginning of regular commercial flights and cruise ship service, led to an increase in Americans visiting Cuba. With the new Treasury Department regulations issued, the level of U.S. travel to Cuba has fallen. (Also see "Restrictions on Travel," below.)

**Continued Focus on Human Rights.** When President Trump announced his Cuba policy, he asserted that he was "canceling the last administration's policy change with Cuba," which he labeled as "a terrible and misguided deal with the Castro regime." The President maintained that "the outcome of the last administration's executive action has been only more repression and a move to crush the peaceful democratic movement." Although the Cuban government's human rights record remained poor after the Obama Administration's policy of engagement was initiated in December 2014, President Obama continued to speak out strongly about human rights conditions in Cuba, including during his March 2016 visit to Havana; the two countries subsequently engaged in a bilateral human rights dialogue in October 2016.[123]

In his Miami speech, President Trump called for the Cuban government to end the abuse of dissidents, release political prisoners, stop jailing innocent people, and return U.S. fugitives from justice in Cuba, all issues that the Obama Administration had raised with the Cuban government. The President stated that "any changes to the relationship between the United States and Cuba will depend on real progress toward these and other goals." Once Cuba takes concrete steps in these areas, President Trump said "we will be ready, willing and able to come to the table to negotiate that much better deal for Cubans, for Americans."[124]

In April 2018, then-Acting Secretary of State John Sullivan and USAID Administrator Mark Green met with members of Cuba's independent civil society on the margins of the Summit of the Americas held in Peru. According to the State Department, Sullivan called "for democratic reforms to Cuba's flawed electoral process and an end to arbitrary detention and intimidation of independent civil society."[125]

Vice President Mike Pence spoke out on the human rights situation in Cuba during an address to the OAS on May 7, 2018. Pence stated that "the longest-surviving dictatorship in the Western Hemisphere still clings to power," and that even though "the Castro name is now fading, the oppression and police state they imposed is as powerful as ever." He asserted, "Today, the United States once again stands with the Cuban people in their stand for freedom."[126]

On June 26, 2018, the State Department reiterated the U.S. call for the release of all political prisoners in Cuba and highlighted U.S. concern for two Cuban political prisoners declared "prisoners of conscience" by Amnesty International—Dr. Eduardo Cardet and Dr. Ariel Ruiz Urquiola, who was subsequently released in July 2018 (see "Human Rights" section above).

**Internet Task Force.** In January 2018, the State Department announced the establishment of a Cuba Internet Task Force, composed of U.S. government and non-U.S. government

[123] See U.S. Department of State, "Assistant Secretary Malinowski and Acting Assistant Secretary Aponte Travel to Cuba," October 13, 2016.

[124] White House, "Remarks by President Trump on the Policy of the United States Toward Cuba," June 16, 2017.

[125] U.S. Department of State, "Acting Secretary Sullivan's Meeting with Cuban Independent Civil Society," April 12, 2018.

[126] White House, "Remarks by Vice President Pence During a Protocolary Meeting at the Organization of American States," May 7, 2018.

representatives, to examine the technological challenges and opportunities for expanding internet access and independent media in Cuba.[127] The task force was convened pursuant to President Trump's NSPM on Cuba and held its first meeting on February 7, 2018, with two subcommittees formed—one to explore the role of media and freedom of information in Cuba and the other to explore internet access in Cuba.[128]

**Cuban Government Reaction.** Since President Trump's inauguration, the Cuban government has expressed the desire to continue dialogue and cooperation with the United States. As expected, the Cuban government's reaction to President Trump's speech announcing Cuba policy changes was critical. Foreign Minister Bruno Rodríguez asserted that the speech "was a grotesque spectacle straight from the Cold War."[129] Nevertheless, the Cuban government also reiterated its willingness to continue a respectful and cooperative dialogue on issues of mutual interest and the negotiation of outstanding issues, although it maintained that Cuba would not make concessions to its sovereignty and independence.[130]

At a meeting of Cuba's National Assembly in July 2017, then-Cuban President Raúl Castro criticized the Trump Administration's new policy toward Cuba as a setback to bilateral relations and reaffirmed that any strategy with the goal of destroying the Cuban revolution will fail. Nevertheless, Castro also reiterated that Cuba has the will to continue negotiating outstanding bilateral issues with the United States. He maintained that "Cuba and the United States can cooperate and live side by side, respecting differences and promoting all that can benefit both countries and peoples," but he also asserted that no one should expect Cuba to make concessions inherent to its sovereignty and independence.[131]

The Cuban government strongly criticized the U.S. vote against a resolution condemning the U.S. embargo in the United Nations General Assembly considered on November 1, 2017 (the measure was approved by vote of 191 to 2, with Israel also voting against the resolution). In 2016, for the first time since 1991, the United States had voted to abstain on a similar resolution with then-U.S. Ambassador Samantha Power stating the annual resolution demonstrated that the U.S. policy of isolating Cuba "instead had isolated the United States." Power maintained that the U.S. abstention did not mean that the United States agreed with the Cuban government's policies and practices, adding that the United States remained "profoundly concerned by the serious human rights violations that the Cuban government continues to commit with impunity against its own people."[132] This year, U.S. Ambassador Nikki Haley asserted that "as long as the Cuban people continue to be deprived of their human rights and fundamental freedoms—as long as the proceeds from trade with Cuba go to prop up the dictatorial regime responsible for denying those rights—the United States does not fear isolation in this chamber or anywhere in the world."[133] Cuban

[127] U.S. Department of State, "Creation of the Cuba Internet Task Force," January 23, 2018.

[128] U.S. Department of State, "Inaugural Meeting of the Cuba Internet Task Force," February 7, 2018.

[129] Francois Murphy, "Cuba Calls Trump Speech on Island 'Grotesque Spectacle,'" Reuters News, June 19, 2017.

[130] Ministry of Foreign Affairs of Cuba, "Statement by the Revolutionary Government of Cuba," June 17, 2017, at http://www.minrex.gob.cu/en/statement-revolutionary-government-cuba-0.

[131] Raúl Castro Ruz, "Seguiremos avanzando en el camino escogido soberanamente por nuestro pueblo," *Cubadebate*, July 14, 2017, at http://www.cubadebate.cu/especiales/2017/07/14/raul-castro-seguiremos-avanzando-en-el-camino-escogido-soberanamente-por-nuestro-pueblo/; and "Cuba's Castro Rebuts Trump at National Assembly," Reuters News, July 14, 2017.

[132] 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.

[133] United States Mission to the United Nations, "Remarks at a UN General Assembly Meeting on Cuba, Ambassador Nikki Haley," November 1, 2017.

Foreign Minister Rodríguez characterized Ambassador Haley's remarks as "disrespectful, offensive, and interventionist" and said that the United States "does not have the slightest moral authority to criticize Cuba."[134]

Cuban state media criticized the State Department's establishment of a Cuba Internet Task Force in January 2018, maintaining that the move "was aimed at subverting Cuba's internal order."[135] Cuba's foreign ministry issued a note of diplomatic protest to the U.S. Embassy in Havana and called upon the U.S. government to respect Cuba sovereignty.[136]

## U.S. Response to Injuries of U.S. Personnel in Havana[137]

On September 29, 2017, the U.S. Department of State ordered the departure of nonemergency personnel assigned to the U.S. Embassy in Havana, as well as their families, to minimize the risk of their exposure to harm because of a series of unexplained injuries suffered by embassy personnel since November 2016.[138] As a result, the embassy's U.S. staffing level, which numbered over 50, was reduced by about two-thirds. According to the State Department, the U.S. government personnel suffered from "attacks of an unknown nature," at U.S. diplomatic residences and hotels where temporary duty staff were staying, with symptoms including "ear complaints, hearing loss, dizziness, headache, fatigue, cognitive issues, and difficulty sleeping."[139] U.S. officials maintain that the U.S. investigation has not reached a definitive conclusion regarding the cause, source, or technologies that might have been used.

As of June 28, 2018, the State Department reports that 26 Americans have experienced health effects from the incidents. Twenty-four of the incidents occurred from as early as November 2016 to August 2017. In June 2018, two new cases stemming from occurrences in May 2018 were confirmed (one on June 21 and the other on June 28) after medical evaluations, bringing the total to 26 cases.[140]

On October 3, 2017, the State Department ordered the departure of 15 Cuban diplomats from the Cuban Embassy in Washington, DC. According to then-Secretary of State Rex Tillerson, the decision was made because of Cuba's failure to protect U.S. diplomats in Havana and to ensure equity in the impact on respective diplomatic operations.[141] Previously, in May 2017, the State

[134] Ministry of Foreign Affairs of Cuba, "72 UNGA: Speech by Foreign Minister Bruno Rodríguez Parilla, on the 'Necessity of Ending the Economic, Commercial, and Financial Blockade Imposed by the United States against Cuba,' in United Nations Headquarters, " New York, November 1, 2017, at http://misiones.minrex.gob.cu/en/un/statements/72-unga-speech-foreign-minister-bruno-rodriguez-parrilla-necessity-ending-economic.

[135] "Washington Creates Internet Task Force to Promote Subversion in Cuba," *Granma,* January 24, 2018.

[136] "Cuba Hands Note of Protest to U.S. Over Internet Task Force," Reuters News, February 1, 2018.

[137] Cory R. Gill, Analyst in Foreign Affairs, contributed to this section.

[138] U.S. Department of State, Remarks by Secretary of State Rex W. Tillerson, "Actions Taken in Response to Attacks on U.S. Government Personnel in Cuba," September 29, 2017.

[139] Ibid and U.S. Department of State, "Background Briefing: State Department Official on Cuba," Special Briefing, October 3, 2017; and Anne Gearan, "State Department Reports New Instance of American Diplomats Harmed in Cuba," *Washington Post,* September 1, 2017.

[140] U.S. Department of State, DipNote, "Department of State Revises Assessment of Personnel Affected in Cuba," October 20, 2017, at https://blogs.state.gov/stories/2017/10/20/en/week-state-october-20-2017; U.S. Department of State, Press Briefing, June 21, 2018; U.S. Department of State, Heather Nauert, Spokesperson, Tweet, June 28, 2018; and Mimi Whitefield, "Mystery Deepens in Havana as U.S. Confirms a 26th Diplomat in Cuba Suffered Health Symptoms," *Miami Herald,* June 28, 2018.

[141] U.S. Department of State, Secretary of State Rex W. Tillerson, "On the Expulsion of Cuban Officials from the United States," press statement, October 3, 2017.

Department had asked two Cuban diplomats to depart the United States because some U.S. diplomats in Cuba had returned to the United States for medical reasons.[142] State Department officials maintain that the United States would need full assurances from the Cuban government that the "attacks" will not continue before contemplating the return of diplomatic personnel.[143]

On March 5, 2018, the State Department began a permanent staffing plan at the U.S. Embassy in Havana, operating it as an "unaccompanied post" without family members. The change took place because the temporary "ordered departure" status for the embassy had reached its maximum allowable days. According to the State Department, "the embassy will continue to operate with the minimum personnel necessary to perform core diplomatic and consular functions, similar to the level of emergency staffing maintained during ordered departure."[144]

Although responsibility for injuries to U.S. personnel in Cuba is unknown, speculation by some observers has focused on such possibilities as a rogue faction of Cuba's security services or a third country, such as Russia, with the apparent motivation of wanting to disrupt U.S.-Cuban relations. Some maintain that Cuba's strong security apparatus makes it unlikely that a third country would be involved without the Cuban government's acquiescence. Others stress that there has been no evidence implicating a third country and that it would be highly unusual for a rogue Cuban security faction to operate contrary to the interests of the Cuban government.[145]

Questions have revolved around what might cause such a variety of symptoms, including whether a faulty surveillance device could be responsible for some of the incidents.[146] Since the incidents were first made public by the State Department in August 2017, numerous press reports have referred to them as being caused by some type of sonic device.[147] Yet some scientists and experts in acoustics have cast doubt on this possibility, arguing that the laws of physics render it unlikely that the use of ultrasound, which they see as the most plausible type of acoustic employed, could be effectively used to harm personnel. They add that some of the reported symptoms individuals have encountered would not have resulted from the use of such a device. Some point to other possible scenarios, such as personnel coming into contact with toxins that damage hearing, or even the spread of anxiety or other psychogenic contributors capable of triggering symptoms. Some scientists assert that data regarding the potential effects of an ultrasound weapon on human health is currently slim.[148]

An article in the *Journal of the American Medical Association* (*JAMA*), published February 15, 2018, reported that physicians who evaluated individuals from the U.S. Embassy community in Havana maintained that the individuals "appeared to have sustained injury to widespread brain

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[142] U.S. Department of State, Department Press Briefing, August 9, 2017.

[143] U.S. Department of State, "Background Briefing: State Department Official on Cuba," Special Briefing, October 3, 2017.

[144] U.S. Department of State, "End of Ordered Departure at U.S. Embassy Havana," March 2, 2018.

[145] See for example, Gardiner Harris, Julie Hirschfeld Davis, and Ernesto Londoño, "U.S. Expels 15 Cuban Diplomats from Embassy," *New York Times*, October 4, 2017; and Tim Golden and Sebastian Rotella, *ProPublica*, February 14, 2018.

[146] Glenn Garvin, "Is the New Cold War Between the U.S. and Cuba Based on Old Cold War Spycraft?" *Miami Herald*, October 3, 2017.

[147] For example, see Gardiner Harris, "16 Americans Sickened After Attack on Embassy Staff in Havana," *New York Times*, August 24, 2017; and Josh Lederman and Michael Weissenstein, "Dangerous Sound? What Americans Heard in Cuba Attacks?" Associated Press, October 13, 2017.

[148] Carl Zimmer, "A 'Sonic Attack' on Diplomats in Cuba? These Scientists Doubt It," *New York Times*, October 5, 2017; and Hannah Devlin, "How Could the 'Sonic Attack' on US Diplomats in Cuba Have Been Carried Out?," *The Guardian*, August 25, 2017.

networks without an associated history of head trauma." The study, however, found no conclusive evidence of the cause of the brain injuries. An accompanying editorial in *JAMA* cautioned about drawing conclusions from the study, noting that the evaluations were conducted an average of 203 days after the onset of the symptoms and that it was unclear whether individuals who developed symptoms were aware of earlier reports by others.[149] In August 2018, *JAMA* published several letters that raised additional questions concerning the February 2018 study, including one that asserted mass psychogenic illness could not be discounted; the study's authors, however, pushed back against the criticism, maintaining that a complex constellation of neurological symptoms was consistent across the cohort that was studied.[150]

A March 2018 University of Michigan report by three computer scientists concluded that the sounds recorded in Cuba could have been caused by two eavesdropping devices placed in close proximity to each other. The study concluded that the sounds could have been inadvertently produced without malicious intent.[151]

The Canadian government announced on April 16, 2018, that it also was changing the designation of its embassy in Havana as an "unaccompanied post," meaning that diplomatic staff will not be accompanied by their family members. Ten Canadians also reportedly experienced symptoms such as headaches, dizziness, nausea, and difficulty concentrating, although there have been no new cases since the early fall of 2017. Canadian medical specialists raised concerns about a possible new type of acquired brain injury, the cause of which is unknown, but the Canadian government maintains that there is no evidence to suggest that Canadian travelers to Cuba are at risk.[152]

### *Accountability Review Board and Health Incidents Task Force*

The State Department convened an Accountability Review Board (ARB) in January 2018 to examine the circumstances regarding unexplained injuries in Cuba. The State Department submitted a report to Congress on August 30, 2018, and at the same time released a fact sheet on its website.[153] The ARB's mandate, according to the State Department, was not to determine the cause of the incidents but rather to examine the State Department's response and the adequacy of security and other related procedures. The ARB found that the department's security systems and procedures were adequate and properly implemented overall but that there were significant vacancies in security staffing and some challenges with information sharing and communication. The ARB issued 30 recommendations to the State Department concerning accountability, interagency coordination, medical issues, internal communication and information sharing,

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[149] Randel L. Swanson II et al., "Neurological Manifestations Among US Government Personnel Reporting Directional Audible and Sensory Phenomena in Havana, Cuba," *JAMA*, February 15, 2018; Christopher C. Muth, MD and Steven L. Lewis, MD, "Neurological Symptoms Among US Diplomats in Cuba," editorial, *JAMA*, February 15, 2018; Karen DeYoung, "Neurological Injuries Found in U.S. Staff in Cuba," *Washington Post*, February 15, 2018; and Gina Kolata, "Diplomats in Cuba Suffered Brain Injuries, Experts Still Don't Know Why," *New York Times*, February 16, 2018.

[150] "Neurological Symptoms in US Government Personnel in Cuba," *JAMA*, August 12, 2018. Also see Ian Sample, "Cuban 'Acoustic Attack' Report on US Diplomats Flawed, Say Neurologists," *The Guardian*, August 14, 2018.

[151] Chen Yan, Kevin, Fu, and Wenyuan Xu, *On Cuba, Diplomats, Ultrasound, and Intermodulation Distortion*, University of Michigan, Technical Report CSE-TR-001-18, March 1, 2018.

[152] Government of Canada, "Statement by Global Affairs Canada on Ongoing Health and Security Situation of Canadian Diplomatic Staff and Dependents in Havana," April 16, 2018; and Catherine Cullen, "Canada Sending Home Families of Diplomats in Cuba after Cases of "New Type" of Brain Injury," *CBC News*, April 16, 2018.

[153] U.S. Department of State, "Cuba Accountability Review Board," fact sheet, August 30, 2018, at https://www.state.gov/r/pa/prs/ps/2018/08/285576.htm.

risk/benefit analysis, and diplomatic security. The State Department maintains that it accepted all of the recommendations and to date has implemented half.

In May 2018, the State Department announced that a U.S. government employee serving in Guangzhou, China, experienced a health incident similar to that experienced by members of the U.S. diplomatic community in Havana. Secretary of State Michael Pompeo noted the incident in testimony before the House Foreign Affairs Committee on May 23.[154] Subsequently, on June 5, Pompeo announced the establishment of a multiagency Health Incidents Response Task Force to serve as a coordinating body for State Department and interagency activities, including identification and treatment of affected personnel and family members abroad, investigation and risk mitigation, messaging, and diplomatic outreach.[155]

### *Vienna Convention*

Under the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations, nearly all countries worldwide participate in reciprocal obligations regarding the diplomatic facilities of other countries in their territory.[156] The United States and Cuba are both party to these conventions. U.S. officials have repeatedly noted the Cuban government's obligations under the Vienna Convention to protect U.S. diplomats in Cuba.[157]

Under the 1961 convention, the safety of diplomatic agents (Article 29), the private residences of diplomatic agents (Article 30), and the premises of diplomatic missions (Article 22) are protected, with the receiving state under special duty to guarantee such protection. Similarly, under the 1963 convention (Article 40), the receiving state is responsible for treating consular officers with due respect and taking "all appropriate steps to prevent any attack on their person, freedom or dignity."

### *Cuba's Response*

The Cuban government denies responsibility for the injuries of U.S. personnel, maintaining that it would never allow its territory to be used for any action against accredited diplomats or their families.[158] In the aftermath of the order expelling its diplomats, Cuba's Ministry of Foreign Affairs issued a statement strongly protesting the U.S. action, asserting that it was motivated by politics and arguing that ongoing investigations have reached no conclusion regarding the incidents or the causes of the health problems.[159] The statement noted that Cuba had permitted U.S. investigators to visit Cuba three times, most recently in September 2017, and reiterated the government's willingness to continue cooperating on the issue.

At a November 2, 2017, press conference in Washington, DC, Cuban Foreign Minister Rodríguez called for the U.S. government to "stop politicizing the issue," maintaining that it could "take

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[154] "House Foreign Affairs Committee Holds Hearing on the State Department's Budget Operations and Policy Priorities," *CQ Congressional Transcripts*, May 23, 2018.

[155] U.S. Department of State, "Establishment of the Health Incidents Response Task Force," June 5, 2018.

[156] United Nations, Vienna Convention on Diplomatic Relations, 1961, *Treaty Series*, vol. 500, p. 95, and Vienna Convention on Consular Relations, 1963, *Treaty Series*, vol. 596, p. 261.

[157] U.S. Department of State, "Background Briefing: State Department Official on Cuba," Special Briefing, October 3, 2017.

[158] Ministry of Foreign Affairs of Cuba, "Statement by the Ministry of Foreign Affairs of Cuba," August 9, 2017, at http://www.minrex.gob.cu/en/statement-ministry-foreign-affairs-cuba-1.

[159] Ministry of Foreign Affairs of Cuba , "Declaration by the Ministry of Foreign Affairs of Cuba," October 10, 2017, at http://www.minrex.gob.cu/en/declaration-ministry-foreign-affairs-cuba.

bilateral relations further back" with "harmful consequences for both peoples and countries." Rodríguez reiterated that Cuban authorities "preliminarily concluded there is no evidence whatsoever of the occurrence of the alleged incidents or the cause and the origin of these ailments reported by U.S. diplomats and their relatives."[160] The foreign minister also maintained that U.S. cooperation on the investigation has been very limited and raised a series of questions regarding the adequacy and timeliness of information provided to Cuban experts and medical personnel.

### *Cuba Travel Advisory*

The State Department issued a travel warning in September 2017, stating that due to the drawdown in staff, the U.S. Embassy in Havana had limited ability to assist U.S. citizens in Cuba. The warning advised U.S. citizens to avoid travel to Cuba because of the risk of being subject to injury, since some of the incidents occurred at hotels frequented by U.S. citizens. In January 2018, the State Department revamped its travel advisory system to include four advisory levels: Level 1, exercise normal precautions; Level 2, exercise increased caution; Level 3, reconsider travel; and Level 4, do not travel. At the time, the advisory for Cuba was set at Level 3, recommending that travelers should reconsider travel to Cuba but indicating that if the decision to travel was made, travelers should avoid the Hotel Nacional and Hotel Capri, where some of the injuries occurred.

On August 23, 2018, however, the State Department eased its travel advisory for Cuba to Level 2, exercise increased caution, with a spokesman maintaining that the agency "undertook a thorough review of the risks to private U.S. citizens in Cuba and decided a Level 2 travel advisory was appropriate."[161] According to the advisory, travelers are still advised to avoid the Hotel Nacional and the Hotel Capri and to immediately move to another area if they experience any acute auditory or sensory phenomena. Travel agencies and organizations sponsoring travel to Cuba lauded the State Department's easing of the travel advisory. As noted above, U.S. travel to Cuba, not including travel by the Cuban diaspora, reportedly fell by 24% during the first half of 2018.[162]

### *Effect of Staff Reduction on U.S. Embassy Havana Operations*

The two-thirds staff reduction at the U.S. Embassy in Havana has had implications for bilateral relations. Most visa processing at the U.S. Embassy in Havana has been suspended. Most Cubans applying for nonimmigrant visas must go to a U.S. embassy or consulate in another country, and applications and interviews for immigrant visas are currently being handled at the U.S. Embassy in Georgetown, Guyana.

The suspension of nonimmigrant visa processing has made it more difficult and increased costs for Cubans visiting family in the United States and for Cuban *cuentapropistas* (private sector workers) traveling to the United States to bring back inputs for their businesses. The suspension also has increased the costs for Cuban musicians, dancers, and other artists who now face a

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[160] Ministry of Foreign Affairs of Cuba, "Press Conference by the Minister of Foreign Affairs of Cuba, Bruno Rodríguez, National Press Club," November 2, 2017, at http://misiones.minrex.gob.cu/en/articulo/press-conference-minister-foreign-affairs-cuba-bruno-rodriguez-national-press-club-november.

[161] U.S. Department of State, Bureau of Consular Affairs, "Cuba Travel Advisory," March 2, 2018, at https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/cuba-travel-advisory.html; and Courtney McBride, "U.S. Eases Security Warning for Travel to Cuba; Trump Administration's Tougher Policy Remains in Place, But Assessment of Dangers Reduced," *Wall Street Journal Online*, August 23, 2018.

[162] Mimi Whitefield and Nora Gámez Torres, "U.S. Softens Its Cuba Travel Advisory, Still Advises Caution," *Miami Herald*, August 23, 2018; and Christopher Reynolds, "Yes America, You Can Still Visit Cuba. And the Feds Have Softened Their Warnings," *Los Angeles Times*, August 24, 2018.

decision whether to travel to a third country to apply for a nonimmigrant visa if they want to perform in the United States; as a result, some have canceled tours in the United States.[163] In 2013, the United States had begun granting multiple entry visas, good for five years, for Cubans visiting the United States. As those visas expire, Cubans will need to travel to a third country to request a new visa if they want to visit the United States.

In a 1994 bilateral migration accord with Cuba, the United States committed to issue 20,000 travel documents annually. It met that commitment in FY2017, but the embassy staff reduction has negatively affected the United States' ability to meet its commitment in FY2018. The State Department acknowledged in April 2018 that it would not be able to issue 20,000 travel documents for this fiscal year.[164] A review of preliminary statistics of immigrant visas issued in the first nine months of FY2018 (through June 2018) shows that fewer than 4,000 immigrant visas were granted to Cuban nationals.[165]

Since the staff reduction at the U.S. Embassy in Havana, information posted on the website of the U.S. Embassy in Havana has stated that the State Department and the Department of Homeland Security (DHS) are determining arrangements for continuing to process applications under the Cuban Family Reunification Parole Program (CFRP), a program administered by DHS's U.S. Citizenship and Immigration Services (USCIS).[166] The CFRP was established in 2007 by USCIS to help the United States meet its annual obligation under the 1994 U.S.-Cuba migration accord.[167] Staff reductions have led USCIS to suspend operations at its field office in Havana. In past years, around 75% of the immigrant travel documents issued for Cuban nationals annually were issued under the CFRP. In October 2017, State Department officials indicated that they would work with DHS to ensure continued operation of the CFRP, but no plans have been announced since then.[168] Given that a majority of immigrant travel documents issued for Cubans are from the CFRP program, it could be difficult for the United States to reach the annual 20,000 target level without the CFRP program being reactivated and without USCIS reestablishing its presence at the embassy.

The staff reduction at the U.S. Embassy in Havana also led to the closure of the Refugee Section which had administered the U.S. Refugees Admission Program in Cuba. The embassy is not accepting any new applications or processing refugee cases. The section was run by the State Department's Bureau of Population, Refugees and Migration in conjunction with USCIS and the Office of Refugee Resettlement of the Department of Health and Human Services. In FY2017, at least 177 Cubans were admitted to the United States as refugees.[169]

The embassy staff reduction likely also has made it more difficult to cover significant economic and political developments in Cuba, including outreach to civil society and human rights activists.

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[163] For example, see Isabel Albee, "Cuba's Cultural Sector Slammed by Partial Closure of U.S. Embassy," *Huffington Post*, November 2, 2017; and "Visa Difficulties Force Cuban Symphony to Cancel U.S. Tour," Associated Press, April 4, 2018.

[164] U.S. Department of State, "Cuban Compliance with the Migration Accords, (October 2017 to March 2018)," report to Congress, April 12, 2018.

[165] Visa statistics are available from the State Department's Bureau of Consular Affairs at https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics.html.

[166] U.S. Embassy in Cuba, Frequently Asked Questions, at https://cu.usembassy.gov/frequently-asked-questions/.

[167] For background on the CFRP program, see USCIS, "The Cuban Family Reunification Parole Program," at https://www.uscis.gov/humanitarian/humanitarian-parole/cuban-family-reunification-parole-program

[168] Nora Gámez Torres, "U.S. Will Maintain the Family Reunification Program for Cubans," *Miami Herald*, October 12, 2017.

[169] This number reflects FY2017 statistics through September 1, 2017. See U.S. Department of State, "Cuban Compliance with the Migration Accords, (March 2017 to September 2017)," report to Congress, October 18, 2017.

The Political Section used to have several officers covering economic and political issues, including human rights; due to the staff reduction, there is one U.S. official in the section.

## 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 have argued 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 would move toward engaging Cuba in dialogue. Still others have called 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 had eased Cuba sanctions since the approval of the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX). In light of Fidel Castro's departure as head of government in 2006 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 movement 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, whereas 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, whereas others have, as in the past, introduced legislation to normalize relations with Cuba by lifting the embargo in its entirety or in part by easing some aspects of it.

The Trump Administration's policy of rolling back some of the Obama-era changes also highlights divisions in Congress over Cuba policy, with some Members supporting the President's action because of Cuba's lack of progress on human rights and others opposing it because of the potential negative effect on the Cuban people and U.S. business interests. Public opinion polls show a majority of Americans support normalizing relations with Cuba, including a majority of the Cuban American community in South Florida.[170]

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,

[170] See, for example, Pew Research Center, "Growing Public Support for U.S. Ties with Cuba – And an End to the Trade Embargo," July 21, 2015; Dalia Sussman, "Most Americans Support Ending the Embargo, Times Poll Finds," *New York Times*, March 21, 2016; and Florida International University, Cuba, 2016 FIU Cuba Poll, *How Cuban Americans in Miami View U.S. Policies Toward Cuba*, September 2016, at https://cri.fiu.edu/events/2016/the-2016-fiu-cuba-poll/cuba-poll-web.pdf.

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 (despite more than 50 years of sanctions), 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. In addition, proponents of change 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 LIBERTAD Act sets forth the steps that Cuba must take for the United States to normalize relations. They argue that softening U.S. policy without concrete Cuban reforms boosts Cuba's communist regime, politically and economically, and facilitates its survival. 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. Critics 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.

# 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 numerous issues. These issues 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.

## Restrictions on Travel[171]

Restrictions on travel to Cuba have been a key and often contentious component of U.S. efforts to isolate Cuba's communist government for more than 50 years. Numerous changes to the restrictions have occurred over time, and for five years, from 1977 until 1982, there were no restrictions on travel. Restrictions on travel are part of the CACR, the embargo regulations administered by the Department of the Treasury's OFAC. Under the George W. Bush Administration, enforcement of U.S. restrictions on Cuba travel increased and restrictions on travel were tightened.

Under the Obama Administration, Congress took legislative action in March 2009 to ease 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. In

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

January 2011, the Obama Administration made a series of changes further easing restrictions on travel. The measures increased purposeful travel to Cuba related to religious, educational, and journalistic activities, including people-to-people travel exchanges, and 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 George W. Bush Administration in 2003 and 2004.

As discussed above, President Obama announced a major shift in U.S. policy toward Cuba in December 2014 that included an easing of U.S. restrictions on travel to Cuba. As part of the change in policy, OFAC amended the CACR in 2015 to include general licenses for the 12 existing categories of travel to Cuba set forth in the regulations: (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, including people-to-people travel; (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.

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. 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.

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).

In January 2016, the Department of the Treasury made additional changes to the travel regulations. Among the changes, authorization for travel and other transactions for transmission of informational materials now include 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 participate in them.

The Department of the Treasury amended the travel regulations in March 2016 to permit travel to Cuba for individual people-to-people educational travel, but as discussed above, President Trump, as part of his partial rollback of engagement with Cuba, directed the Department of the Treasury in June 2017 to eliminate the authorization for such travel for individuals. As set forth in amended regulations issued on November 9, 2017, people-to-people educational travel is required to take place under the auspices of an organization specializing in such travel, with travelers accompanied by a representative of the organization.

**U.S. Travelers to Cuba.** According to Cuban government statistics, the number of U.S. travelers increased from 91,254 in 2014 to 619,523 in 2017. This figure is in addition to thousands of

Cuban Americans who visit family in Cuba each year; in 2017, almost 454,000 Cubans living outside the country visited Cuba, the majority from the United States.[172]

The number of U.S. visitors, however, reportedly began to slow in the latter half of 2017, in the aftermath of Hurricane Irma, which struck in September, the Trump Administration's tighter restrictions on people-to-people travel, and the U.S. travel warning issued in September 2017 (until August 2018) related to the unexplained health injuries to U.S. diplomatic personnel in Cuba (see discussion above on "Cuba Travel Advisory"). In the first half of 2018, the number of U.S. visitors to Cuba, not including Cuban Americans, reportedly declined by 24% compared to the same period in 2017.[173]

**Regular Air Service.** U.S. and Cuban officials signed a bilateral arrangement (in a memorandum of understanding) in February 2016 permitting regularly scheduled air flights as opposed to charter flights, which have operated between the two countries for many years.[174] The arrangement provided an opportunity for U.S. carriers to operate up to a total of 110 daily round-trip flights between the United States and Cuba, including up to 20 daily round-trip flights to and from Havana.[175] In June 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 cities other than Havana.[176] JetBlue became the first U.S. airline to begin regularly scheduled flights in August 2016. In August 2016, the Department of Transportation announced a final decision for eight U.S. airlines to provide up to 20 regularly scheduled round-trip flights between Havana and 10 U.S. cities (Atlanta, Charlotte, Fort Lauderdale, Houston, Los Angeles, Miami, Newark, New York [JFK], Orlando, and Tampa).[177] American Airlines became the first airline to begin regular direct flights to Havana from Miami in November 2016.

Four U.S. airlines that had been awarded flights to Cuba—Silver Airways, Frontier Airlines, Spirit Airlines, and Alaska Airlines—have ended their air service to Cuba, citing competition from other airlines and low demand. In March 2018, the Department of Transportation awarded flights to Havana that had been given up (as well as a flight from Boston) to five U.S. airlines already serving Cuba—American Airlines, Delta Air Lines, JetBlue, Airways, Southwest Airlines, and United Airlines.[178] The U.S. air cargo company FedEx was supposed to begin operations to

[172] República de Cuba, Oficina Nacional de Estadísticas e Información, Anuario Estadístico de Cuba 2016, Capítulo 15: Turismo, Edición 2017; "Over One Million U.S. Citizens Visited Cuba in 2017," *Granma*, January 9, 2018; and "Cuba Tourism Slides in Wake of Hurricane Irma," Reuters News, January 30, 2018.

[173] Marc Frank, "U.S. Tourism to Cuba Revives after Months-Long Trump Slump-Sources," Reuters News, July 17, 2018.

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

[175] 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.

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

[177] 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.

[178] U.S. Department of Transportation, "U.S. Department of Transportation Proposes New Scheduled Services to Havana," March 30, 2018.

Cuba in April 2017, but the company has requested three extensions to begin service, most recently in June 2018.[179]

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 flights from Cuba. Some Members of Congress expressed concerns that Cuba's airport security equipment and practices were insufficient and that the Administration was rushing plans to establish regular air service to Cuba; other Members viewed such concerns as a pretext to slow down or block the Administration's efforts to normalize relations with Cuba.[180] 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.[181] Subsequently, in September 2016, the United States and Cuba finalized an aviation-security agreement for the deployment of U.S. In-Flight Security Officers, more commonly known as Federal Air Marshals, on board certain regularly scheduled flights to and from Cuba.[182]

**Cruise Ship Service.** The Carnival cruise ship company began direct cruises to Cuba from the United States in May 2016 using smaller ships, accommodating about 700 passengers, under its cruise brand Fathom, which targeted people-to-people educational travel.[183] The Fathom cruises stopped in May 2017, but Carnival began using a larger ship for cruises to Cuba in June 2017. Several other cruise ship companies—Royal Caribbean, Norwegian, Azamara Club Cruises, Oceania Cruises, Regent Seven Seas Cruises, and Pearl Seas Cruises—began offering cruises to Cuba from the United States in 2017. Under the embargo regulations, passengers on cruise ships to Cuba must fall under one of the permissible categories of travel, which excludes tourist travel.

Since 2015, several companies also have been looking to establish ferry services between the United States and Cuba. The services still require Cuban approval, and Cuban facilities need to be developed to handle the services.

**Pro/Con Arguments.** Major arguments made for lifting the Cuba travel ban altogether are that the ban abridges the rights of ordinary Americans to travel, hinders efforts to influence conditions in Cuba, and may be aiding the Cuban government by helping restrict the flow of information. In addition, supporters of lifting the ban point to the fact that 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 legal provisions allowing travel to Cuba for humanitarian purposes exist and are used by thousands of Americans each year; and that the President should be free to restrict travel for foreign policy reasons.

**Legislative Activity.** To date in the 115th Congress, five bills have been introduced that would lift remaining restrictions on travel. H.R. 351 (Sanford) would prohibit restrictions on travel to Cuba,

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[179] Meagan Nichols, "FedEx Cites 'Substantial Hurdles' Delaying Flights to Cuba," *Memphis Business Journal Online*, November 7, 2017, and "FedEx Ask to Delay Service to Cuba, for Third Time," *Memphis Business Journal Online*, June 15, 2018.

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

[181] 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/.

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

[183] 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.

directly or indirectly, or any transactions incident to such travel. S. 1287 (Flake) would prohibit the President for restricting travel to Cuba or any transactions incident to Cuba. H.R. 572 (Serrano) would facilitate the export of U.S. agricultural exports to Cuba and would lift travel restrictions. H.R. 574 (Serrano), H.R. 2966 (Rush), and S. 1699 (Wyden) would lift the economic embargo on Cuba and prohibit restrictions on travel.

On October 23, 2017, the House approved (by voice vote) H.R. 3328 (Katko), the Cuban Airport Security Act of 2017. The measure would prohibit a U.S. air carrier from employing a Cuban national in Cuba unless the carrier has publicly disclosed the full text of the formal agreement between the air carrier and the *Empresa Cubana de Aeropuertos y Servicios Aeronauticos* or any other entity associated with the Cuban government. The bill would also, to the extent practicable, prohibit U.S. air carriers from hiring Cuban nationals if they have been recruited, hired, or trained by entities that are owned, operated, or controlled in whole or in part by Cuba's Council of State, Council of Ministers, Communist Party, Ministry of the Revolutionary Armed Forces, Ministry of Foreign Affairs, or Ministry of the Interior. An identical bill, S. 2023 (Rubio), was introduced in the Senate on October 26, 2017.

## U.S. Exports and Sanctions[184]

U.S. commercial medical exports to Cuba have been authorized since the early 1990s pursuant to the Cuban Democracy Act of 1992 (CDA), and commercial agricultural exports have been authorized since 2001 pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA), 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 almost $5.8 billion in U.S. products from 2001 to 2017, 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 fell every year through 2015, when U.S. exports amounted to just $180 million.[185] (See **Figure 3**.)

Reversing that trend, however, U.S. exports to Cuba increased to $245 million in 2016 and $283 million in 2017. In 2017, U.S. exports to Cuba increased by 15% over the previous year. In the first quarter of 2018, U.S. exports to Cuba amounted to almost $91 million, rising 40% over the same period in 2017.

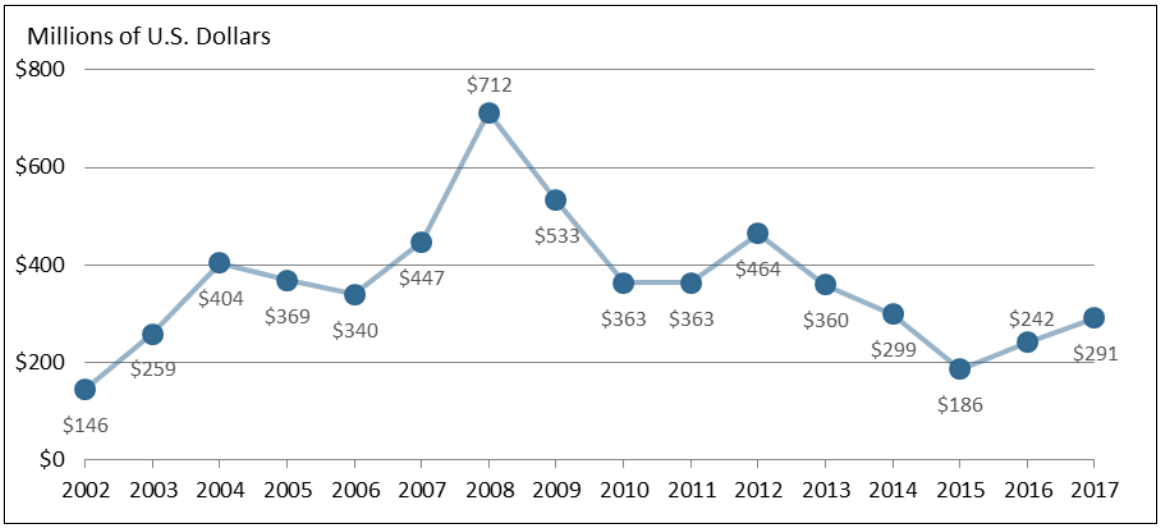
Looking at the composition of U.S. exports to Cuba from 2012 to 2017, the leading products were poultry, soybean oilcake and other solid residue, soybeans, corn, and soybean oil. Poultry has been the leading U.S. export to Cuba since 2012; in 2017, for example, it accounted for about

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

[185] Trade statistics in this section are from the U.S. Department of Commerce, as presented by Global Trade Atlas.

57% % of U.S. exports. Beyond agricultural products, other categories of products that have increased over the past several years are parts for steam turbines, pesticides, pharmaceutical products, and civilian aircraft, engines, and parts.

**Figure 3. U.S. Exports to Cuba, 2002-2017**




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

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.
- 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, OFAC 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. The regulatory 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 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 inputs (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 benefits the Cuban people. *Note:* The Trump Administration's policy changes on Cuba, as set forth by amended Commerce Department regulations issued in November 2017, stipulate that export licenses for exports to state-owned enterprises will generally be denied to export items for use by entities or subentities on the State Department's list of restricted entities associated with the Cuban military, police, intelligence, or security services.
- 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, also is authorized.
- Companies exporting authorized goods to Cuba are authorized to have a physical presence in Cuba, such as an office, retail outlet, or warehouse.
- Persons subject to U.S. jurisdiction generally are authorized to enter into certain contingent contracts for transactions currently prohibited by the embargo.
- Certain consumer goods sold directly to eligible individuals in Cuba for their personal use generally are authorized.

**USDA Reports.** In a June 2015 report, the U.S. Department of Agriculture's (USDA's) 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." The report contended that the 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 maintained that the United States had lost market share to those countries able to provide export credits to Cuba. The report concluded that lifting U.S. restrictions on travel and capital flow to Cuba and enabling USDA to conduct market development and credit guarantee programs in Cuba would help the United States recapture its market share in Cuba.[186]

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 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.

[186] 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 could include such commodities as milk, wheat, rice, and dried beans, as well as intermediate and consumer-oriented commodities.[187]

**U.S. International Trade Commission (USTIC) Reports.** The USITC has issued three studies since 2007 examining the effects of U.S. restrictions on trade with Cuba, with its most recent report issued in April 2016.[188] According to the findings of its 2016 report, U.S. restrictions on trade and travel reportedly have 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 also may limit U.S. exports to and investment in Cuba if U.S. restrictions are lifted, according to the report. These factors 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 likely would 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 annually; if both U.S. restrictions were removed and Cuban barriers were lowered, U.S. exports could approach $2.2 billion annually.

**Legislative Activity.** To date in the 115th Congress, several bills have been introduced that would lift or ease restrictions on U.S. exports to Cuba.

- The Senate-passed version of the 2018 farm bill, H.R. 2, approved June 28, 2018, has a provision, as amended by S.Amdt. 3364 (Rubio), that would permit funding for certain U.S. export promotion programs (Market Access Program and Foreign Market Development Cooperation Program) for U.S. agricultural products in Cuba. As stipulated, the funds could not be used in contravention with directives set forth under the National Security Presidential Memorandum issued by President Trump in June 2017 that prohibits transactions with entities owned, controlled, or operated by or on behalf of military, intelligence, or security services of Cuba. The provision originated from a Heitkamp amendment to the original Senate version of the farm bill, S. 3042, approved during markup of the bill by the Senate Committee on Agriculture, Nutrition, and Forestry.
- H.R. 442 (Emmer)/S. 472 (Moran) would repeal or amend various provisions of law restricting trade with Cuba, including certain restrictions in the CDA, the LIBERTAD Act, and TSRA. The bills would repeal restrictions on private financing for Cuba in TSRA but would continue to prohibit U.S. government support for foreign assistance or financial assistance, loans, loan guarantees, 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 be prohibited from expending any funds to promote trade

[187] USDA, Economic Research Service, "U.S.-Cuba Agricultural Trade: Past, Present, and Possible Future," June 2015, at https://www.ers.usda.gov/amber-waves/2015/august/us-cuba-agricultural-trade-past-present-and-possible-future/.

[188] U.S. International Trade Commission (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; 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; and 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.

with or develop markets in Cuba, although certain federal commodity promotion programs would be allowed.

- H.R. 525 (Crawford) would permit U.S. government assistance for U.S. agricultural exports to Cuba as long as the recipient of the assistance is not controlled by the Cuban government; authorize the private financing by U.S. entities of sales of agricultural commodities; and authorize investment for the development of an agricultural business in Cuba as long as the business is not controlled by the Cuban government and does not traffic in property of U.S. nationals confiscated by the Cuban government.
- S. 275 (Heitkamp) would amend TSRA to allow for the private financing by U.S. entities of agricultural commodities to Cuba.
- H.R. 572 (Serrano), among its various provisions, has 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 is 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; and repealing the on-site verification requirement for medical exports to Cuba under the CDA.
- H.R. 574 (Serrano), H.R. 2966 (Rush), and S. 1699 (Wyden) would lift the overall economic embargo on Cuba, including restrictions on exports to Cuba in the CDA and TSRA.
- S. 1286 (Klobuchar) would repeal or amend various provisions of law restricting trade with Cuba, including certain restrictions in the CDA, the LIBERTAD Act, and TSRA.

## 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 from Cuban nationals for trademark registrations and renewals 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 under the CACR for transactions or payments for such trademarks.[189] 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 rights to the Havana Club name because in 1995 it entered into an agreement for

[189] As noted previously, a general license provides the authority to engage in a transaction without the need to apply to the Department of the Treasury for a license while a specific license is a written document issued by the Department of the Treasury to a person or entity authorizing a particular transaction in response to a written license application. See testimony of Mary Boney Denison, Commission for Trademarks, U.S. Patent and Trademark Office, in U.S. Congress, House Judiciary Committee, Subcommittee on Courts, Intellectual Property, and the Internet, *Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property*, hearing, 114th Cong., 2nd sess., February 11, 2016.

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. The Arechabala family had let the trademark registration lapse in the United States in 1973, and Cubaexport successfully registered it in 1976. 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.[190]

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 Rights (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. In March 2002, the United States agreed that it would come into compliance with the WTO ruling through legislative action by January 2003.[191] That deadline was extended several times because no legislative action had been taken to bring Section 211 into compliance with the WTO ruling. In July 2005, however, in an EU-U.S. understanding, the 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.

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 Department of the Treasury's OFAC denied the company the specific license that it needed to pay the fee for renewing the trademark registration.[192] In providing foreign policy guidance to OFAC at the time, the State Department recommended denial of the license, maintaining that doing so 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 to hasten a transition to democracy.[193]

Almost a decade later, in January 2016, OFAC issued a specific license to Cubaexport, allowing the company to pay fees to the USPTO for the renewal of the Havana Club trademark registration for the 2006-2016 period. Subsequently, in February 2016, USPTO renewed the trademark registration for 10 additional years, until 2026.

OFAC had requested foreign policy guidance from the State Department in November 2015 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. 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 federal court proceedings are pending 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.[194]

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[190] For additional background, see David Montgomery, "Havana Club v. Havana Club: Inside the Rum War Between Bacardi and Cuba," *Washington Post*, July 24, 2016.

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

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

[193] 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.

[194] U.S. Department of State, Testimony of Kurt Tong, Bureau of Economic and Business Affairs, in U.S. Congress,

**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 Members 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. Other Members 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.[195] The House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet held a hearing in February 2016 on the trademark issue and on the issue of confiscated property, but this did not lead to any legislative action.[196]

In the 115th Congress, S. 259 (Nelson)/H.R. 1450 (Issa) would apply the narrow fix so that the trademark sanction applies to all nationals, whereas four broader bills on Cuba sanctions, H.R. 572 (Serrano), H.R. 574 (Serrano), H.R. 2966 (Rush), and S. 1699 (Wyden), have provisions that would repeal Section 211.

Two FY2018 House appropriations bills, H.R. 3267 (Commerce) and H.R. 3280 (Financial Services), had provisions that would have introduced new sanctions related to Cuba and trademarks, but neither of these were included in the Consolidated Appropriations Act, 2018 (P.L. 115-141). H.R. 3267 had a provision that would have prohibited funds to approve the registration or renewal, or the maintenance of the registration, of a mark, trade name, or commercial name used in connection with a business or assets that were confiscated by the Cuban government unless the original owner has expressly consented. H.R. 3280 had a provision that would have prohibited funding to approve or otherwise allow the licensing (general or specific) of a mark, trade name, or commercial name used in connection with a business or assets that were confiscated by the Cuban government unless the original owner has expressly consented. These provisions had also been included in the House-passed version of a FY2018 omnibus appropriations measure, H.R. 3354, approved in September 2017.

Likewise for FY2019, two House Appropriations bill, H.R. 5952 (Commerce) and H.R. 6258/H.R. 6147 (Financial Services), have provisions related to Cuba and trademarks similar to those that had been included in House bills for FY2018. H.R. 5952 has a provision that would prohibit funds in the act from being used to approve the registration, renewal, or maintenance of the registration of a mark, trade name, or commercial name that was confiscated in Cuba unless the original owner has expressly consented. H.R. 6258/H.R. 6147 have a provision that would provide that no funds made available by the act could be used to authorize a general license or approve a specific license with respect to a mark, trade name, or commercial name that is substantially similar to one that was used in connection with a business or assets that were confiscated by the Cuban government unless the original owner expressly consented.

House Judiciary Committee, Subcommittee on Courts, Intellectual Property, and the Internet, *Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property*, hearing, 114th Cong., 2nd sess., February 11, 2016.

[195] Statement of William A. Reinsch, National Foreign Trade Council, House Committee on the Judiciary, Subcommittee on Courts, Intellectual Property, and the Internet, *Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property*, hearing, 114th Cong., 2nd sess., February 11, 2016.

[196] U.S. Congress, House Committee on the Judiciary, Subcommittee on Courts, Intellectual Property, and the Internet, *Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property*, hearing, 114th Cong., 2nd sess., February 11, 2016, Serial No. 114-62 (Washington: GPO, 2016).

## Democracy and Human Rights Funding

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 funded largely through Economic Support Funds (ESF) in the annual foreign operations appropriations bill. From FY1996 to FY2018, Congress appropriated some $344 million in funding for Cuba democracy efforts.[197] In recent years, this funding included $20 million in each fiscal year from FY2014 through FY2018. For FY2018, however, the Trump Administration, as part of its attempt to cut foreign assistance levels, did not request any democracy and human rights assistance funding for Cuba, but Congress ultimately provided $20 million. For FY2019, the Trump Administration requested $10 million to provide democracy and civil society assistance for Cuba.

Although USAID received the majority of this funding for many years, the State Department began to receive a portion of the funding 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.

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 to develop civil society, and building solidarity with Cuba's human rights activists.[198]

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 appropriations measure, but it is now funded through the State Department, Foreign Operations and Related Programs appropriations measure. According to information provided by NED on its website, its Cuba funding from FY2014 through FY2017 amounted to $15.9 million.[199]

**FY2017 Appropriations.** For FY2017, the Obama Administration had 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, reduce their dependence on the Cuban state, and promote the flow of uncensored information to, from and within the island."[200]

In the 114th Congress, the House version of the FY2017 State Department, Foreign Operations, and Related Programs appropriations bill, H.R. 5912 (H.Rept. 114-693), reported July 15, 2016, would have provided $30 million for democracy promotion in Cuba, double the Administration's

[197] 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.

[198] U.S. Agency for International Development, "Cuba," at https://www.usaid.gov/cuba.

[199] See the grants database of the National Endowment for Democracy at https://www.ned.org/wp-content/themes/ned/search/grant-search.php.

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

request. The bill also would 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.

Because the 114th Congress did not complete action on FY2017 appropriations, the 115th Congress took final action in early May 2017 through enactment of the Consolidated Appropriations Act, 2017 (P.L. 115-31). The explanatory statement to the measure provided $20 million in democracy assistance for Cuba, $5 million more than requested, and did not include any of the directives noted above in the House and Senate appropriations bills in the 114th Congress.

**FY2018 Appropriations.** For FY2018 appropriations, given the strong congressional record of appropriating such aid for many years, some Members of Congress strongly opposed the Trump Administration's proposal to cut all democracy and human rights funding for Cuba. The House Appropriations Committee's version of the FY2018 State Department and Foreign Operations appropriations bill, H.R. 3362 (H.Rept. 115-253), would have provided $30 million in democracy assistance for Cuba but would have prohibited the obligation of funds for business promotion, economic reform, entrepreneurship, or any other assistance that is not democracy-building as expressly authorized in the LIBERTAD Act of 1996 and the CDA of 1992. These provisions were included in the House-passed version of the FY2018 omnibus appropriations measure, H.R. 3354, approved in September 2017.

The Senate Appropriations Committee's version of the FY2018 State Department and Foreign Operations appropriations bill, S. 1780 (S.Rept. 115-152), would have provided $15 million for democracy programs in Cuba, with not less than $3 million to support free enterprise and private business organizations in Cuba and people-to-people educational and cultural activities.

In final action in March 2018, Congress provided $20 million for democracy programs in Cuba in the Consolidated Appropriations Act, 2018 (P.L. 115-141; explanatory statement, Division K) without any of the directives in the House and Senate appropriations bills and reports noted above.

**FY2019 Appropriations.** For FY2019, the Trump Administration requested $10 million for democracy and civil society assistance in support of the Administration's Cuba policy. The House Appropriations Committee's State Department and Foreign Operations appropriations bill, H.R. 6385, would provide $30 million to promote democracy and strengthen civil society in Cuba, with, according to the draft report to the bill, not less than $8 million for the National Endowment for Democracy; the draft report would prohibit the obligation of funds for business promotion, economic reform, entrepreneurship, or any other assistance that is not democracy-building and stipulate that grants exceeding $1 million or to be implemented over a period of 12 months would be awarded only to organizations with experience promoting democracy inside Cuba. The Senate Appropriations version of the bill, S. 3108, would provide $15 million for democracy programs in Cuba.

**Oversight of U.S. Democracy Assistance to Cuba.** The GAO has issued three major reports since 2006 examining USAID and State Department democracy programs for Cuba.[201] In the

[201] A 2006 GAO report examined Cuba democracy programs from 1996 through 2005 and concluded that the U.S.

most recent report, issued in 2013, GAO 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.[202]

In 2014, two investigative news reports alleged significant problems with U.S. democracy promotion efforts in Cuba. In April, an Associated Press (AP) 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.[203] USAID, which strongly contested the report, issued a fact sheet about the ZunZuneo program. It maintained that program was not "covert" but rather that, just as in other places where USAID is not always welcome, the agency maintained a "discreet profile" on the project to minimize risk to staff and partners and to work safely.[204] Some Members of Congress strongly criticized USAID for not providing sufficient information to Congress about the program when funding was appropriated, whereas other Members staunchly defended the agency and the program.

In August 2014, the AP 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."[205] 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."[206]

In December 2015, USAID's Office of Inspector General issued a report on USAID's Cuban Civil Society Support Program that examined both the ZunZuneo and HIV-prevention projects. The report cited a number of problems with USAID's management controls of the civil society 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.[207]

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program had significant problems and needed better management and oversight. See GAO, *U.S. Democracy Assistance for Cuba Needs Better Management and Oversight*, GAO-07-147, November 2006. A 2008 GAO report lauded the steps that the U.S. Agency for International Development (USAID) had taken since 2006 to address problems with its Cuba program and improve oversight of the assistance, but also maintained that USAID had not staffed the program to the level needed for effective grant oversight. See GAO, *Foreign Assistance: Continued Efforts Needed to Strengthen USAID's Oversight of U.S. Democracy Assistance for Cuba*, GAO-09-165, November 2008.

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

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

[204] 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, at http://blog.usaid.gov/2014/04/eight-facts-about-zunzuneo/.

[205] Desmond Butler et al., "The Big Story, U.S. Sent Latin Youth Undercover in Anti-Cuba Ploy," Associated Press, August 4, 2014.

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

[207] USAID, Office of Inspector General, Review of USAID's Cuban Civil Society Support Program," December 22,

## Radio and TV Martí[208]

U.S.-government-sponsored radio and television broadcasting to Cuba—Radio and TV Martí—began in 1985 and 1990, respectively.[209] 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 Broadcasting Board of Governors (BBG) became an independent agency that included such entities as the Voice of America, Radio Free Europe/Radio Liberty, Radio Free Asia, and the Office of Cuba Broadcasting (OCB).

Today, OCB, which has been headquartered in Miami, FL, since 1998, manages Radio and TV Martí and the *Martínoticias.com* website and its social media platforms on YouTube, Google, and Facebook.[210] According to the BBG's *2019 Congressional Budget Justification*, the Martís reach 11.1% of Cubans on a weekly basis with audio, video, and digital content delivered by radio, satellite TV, online, and on distinctly Cuban digital "packages" (*paquetes*).[211] The largest audiences reportedly are for Radio Martí and TV Martí, with weekly audiences respectively reaching 8% and 6.8% of Cubans, while online content reaches a smaller audience of 5.3%. OCB also administers a shortwave transmitting station in Greenville, NC. Additional newer transmitters at Greenville reportedly have helped increase Radio Martí's presence in Cuba, and the increase in the number of frequencies has made it harder for the Cuban government to interfere with the radio broadcasts.[212]

**Funding.** From FY1984 through FY2018, Congress appropriated about $882 million for broadcasting to Cuba. In recent years, funding has amounted to some $27-$29 million in each fiscal year from FY2014 to FY2018. The Trump Administration's FY2019 request is for almost $13.7 million.

For FY2017, the Obama 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.[213] The House version of the FY2017 State Department, Foreign Operations, and Related Programs 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 the merger of the OCB and the Voice of America Latin America Division.

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2015, at https://oig.usaid.gov/node/1936.

[208] For background on U.S. international broadcasting, including Radio and TV Martí, see CRS Report R43521, *U.S. International Broadcasting: Background and Issues for Reform*, by Matthew C. Weed.

[209] The Radio Broadcasting to Cuba Act (P.L. 98-111) was signed into law in October 1983, and the Television Broadcasting to Cuba Act (P.L. 101-246, Title II, Part D) was signed into law in February 1990.

[210] Available at https://www.martinoticias.com/.

[211] See Broadcasting Board of Governors (BBG), *2019 Congressional Budget Justification*, February 21, 2018, at https://www.bbg.gov/wp-content/media/2018/02/BBGBudget_FY19_CBJ_2-7-18_Final.pdf. For information on additional methods that have been utilized to deliver Martí programming to Cuba, see Nora Gámez Torres, "Radio and TV Martí Sneaked in Same Forbidden Technology that Landed Alan Gross in Cuban Jail," *Miami Herald*, March 20, 2018.

[212] BBG, *2019 Congressional Budget Justification*, February 21, 2018, p. 30.

[213] BBG, Executive Summary in *Fiscal Year 2017 Congressional Budget Request*, February 9, 2016.

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.

The 115th Congress completed final action on FY2017 appropriations in early May 2017 through enactment of the Consolidated Appropriations Act, 2017 (P.L. 115-31). The explanatory statement to the measure provided $28.056 million for the Office of Cuba Broadcasting, $1 million more than requested. According to the BBG, the actual amount provided for the OCB in FY2017 was $28.938 million.

For FY2018, the Trump Administration requested $23.656 million for the OCB, $4.4 million less than the amount Congress appropriated for FY2017. According to the BBG's request, the funding reduction would be covered by a reduction in contractor support, elimination of most vacant staff positions and reduction of other government positions through attrition, elimination of ineffective leased broadcast transmissions, and a reduction of administrative costs.[214] The report to the House Appropriations Committee's version of the FY2018 State Department and Foreign Operations appropriations bill (H.Rept. 115-253 to H.R. 3362) would have provided $28.1 million for broadcasting to Cuba, $4.4 million above the request; this also was included in the House-passed version of the FY2018 omnibus appropriations measure, H.R. 3354, approved in September 2017. The Senate Appropriations Committee's version of the FY2018 State Department and Foreign Operations appropriations bill, S. 1780 (S.Rept. 115-152), would have provided not less than $28.6 million for broadcasting to Cuba. In final action Congress provided $28.936 million for Cuba broadcasting, $5.28 million more than requested, in the Consolidated Appropriations Act, 2018 (P.L. 115-141; explanatory statement, Division K), signed into law in March 2018.

For FY2019, the Trump Administration is requesting $13.656 million for the OCB, $10 less than the Administration's FY2018 request and $15.3 million less than the amount provided in FY2017. The rationale for the proposed cut in funding for the OCB is to find efficiencies between OCB and the Voice of America's Latin American division.[215] The House Appropriations Committee's draft FY2019 State Department and Foreign Operations bill, H.R. 6385, would provide $29.1 million for Cuba broadcasting, while the Senate Appropriations Committee's bill, S. 3108, would provide $29.2 million. The report to the Senate bill, S.Rept. 115-282, would also call for a State Department Cuba report on Internet access, the use of cell phones to access data, the impact of access to telecommunications technology on increased political and economic opportunities, and the impact of telecommunications development on human rights.

## Migration Issues[216]

In its final days in office, the Obama Administration announced another major Cuba policy shift. On January 12, 2017, the United States ended the so-called "wet foot/dry foot" policy under which thousands of undocumented Cuban migrants entered the United States in recent years. (Under that policy, those Cuban migrants interdicted at sea generally were returned to Cuba whereas those reaching U.S. land were allowed entrance into the United States and generally permitted to stay.) Under the new policy, as announced by President Obama and then-Secretary of Homeland Security Jeh Johnson, Cuban nationals who attempt to enter the United States illegally

[214] Broadcasting Board of Governors (BBG), *Fiscal Year 2018 Congressional Budget Request*, May 23, 2017.

[215] Broadcasting Board of Governors, *2019 Congressional Budget Justification*, February 12, 2018.

[216] For more information, see CRS Report R44714, *U.S. Policy on Cuban Migrants: In Brief*, by Andorra Bruno.

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.[217]

At the same time, the Obama Administration announced that 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 entry into the United States.[218]

**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. immigration 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 Station at Guantanamo Bay, Cuba. Despite the change in policy, Cubans continued to flee 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. (For information on the effect of the staff reduction at the U.S. Embassy in Havana on visa processing, see "Effect of Staff Reduction on U.S. Embassy Havana Operations" above.)

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 Guantanamo 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 Guantanamo 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. Until early January 2017, those Cubans who reached the U.S. shore were allowed to apply for permanent resident status in one year, pursuant to the Cuban Adjustment Act of 1966 (P.L. 89-732). In short, most interdictions, even in U.S. coastal waters, resulted in a return to Cuba, whereas those Cubans who touched shore were allowed to stay in the United States. Some had criticized this so-called wet foot/dry foot policy as encouraging Cubans to risk their lives to make it to the United States and as

[217] 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.

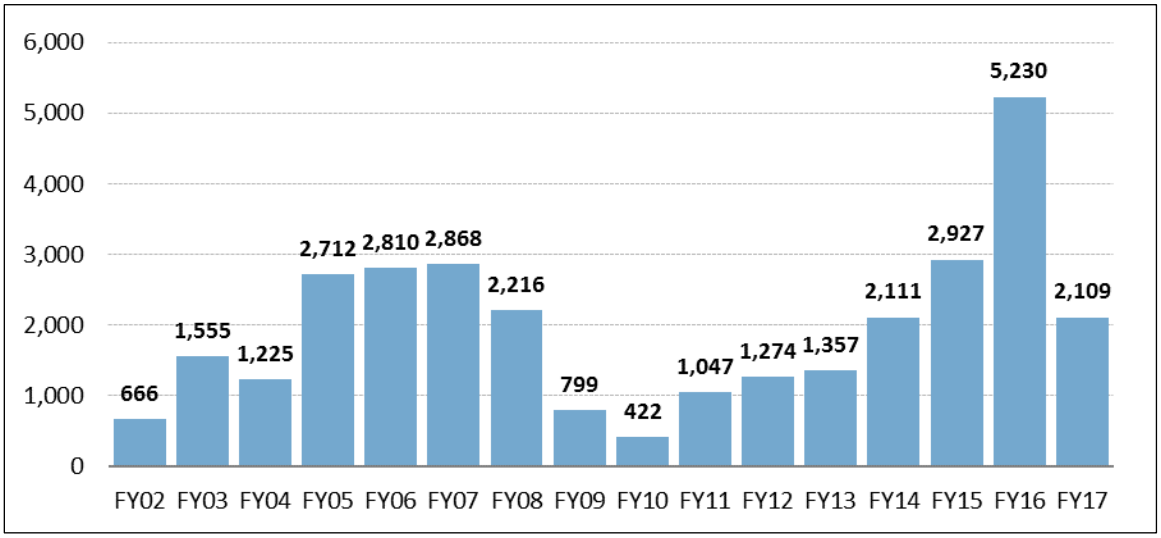
[218] A White House official indicated in January 2016 that the Administration was considering ending the Medical Professional Parole program. At that time, more than 7,000 Cuban medical personnel working in third countries had been approved to be paroled into the United States under the program, which began in 2006. See Jeff Mason and Daniel Trotta, "U.S. Considers Ending Program That Lures Cuban Doctors to Defect," Reuters, January 8, 2016. For information from the Department of Homeland Security on the termination of the program, see https://www.uscis.gov/humanitarian/humanitarian-parole/cuban-medical-professional-parole-cmpp-program.

encouraging alien smuggling. Cuba had long opposed the policy, which it viewed as encouraging illegal, unsafe, and disorderly migration, alien smuggling, and Cubans' irregular entry into the United States from third countries.

Over the years, the number of Cubans interdicted at sea by the U.S. Coast Guard has fluctuated annually, influenced by several factors, including the economic situations in Cuba and the United States. The number of interdictions rose from 666 in FY2002 to 2,868 in FY2007 (see **Figure 4**). 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.[219] From FY2011 through FY2016, however, the number of Cubans interdicted by the Coast Guard increased each year, from 1,047 in FY2011 to 5,230 in FY2016. The increase in the flow of maritime migrants in 2015 and 2016 was driven by concerns among Cubans that the favorable treatment granted to Cuban migrants would end.

**Figure 4. Maritime Interdictions of Cubans by the U.S. Coast Guard**

(FY2002-FY2017)




**Source:** Created by CRS using information provided to CRS by the U.S. Coast Guard, July 2018.

With the change in U.S. immigration policy toward Cuba in January 2017, the number of Cubans interdicted by the Coast Guard dropped to a trickle. For FY2017, the Coast Guard interdicted 2,109 Cubans, with the majority of these interdictions occurring before the policy change. For FY2018, as of July 11, 2018, the Coast Guard interdicted 134 Cubans at sea.

**Arrival of Undocumented Cuban Migrants.** According to statistics from the Department of Homeland Security, the number of undocumented Cubans entering the United States both at U.S. ports of entry and between ports of entry rose from almost 8,170 in FY2010 to 58,270 in FY2016 (see **Table 1**). Beginning around FY2013, according to the State Department, undocumented Cuban migrants began to favor land-based routes to enter the United States, especially via ports of entry from Mexico. Since that time and the change in U.S. immigration policy in early 2017,

[219] 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.

the number of undocumented Cubans entering by land increased significantly, with a majority entering through the southwestern border.[220]

**Table 1. Undocumented Cuban Migrants, FY2010-FY2018**

(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 | 56,340 | 1,930 | 58,270 |
| FY2017 | 20,254 | 701 | 20,955 |
| FY2018 (as of 2/5/18) | 2,122 | 44 | 2,166 |

**Sources:** U.S. Department of Homeland Security, U.S. Customs and Border Protection, Office of Congressional Affairs, April 10, 2017; and U.S. Department of State, *Cuban Compliance with the Migration Accords (October 2017 to March 2018)*, report to Congress, April 12, 2018.

Just as the number of Cubans interdicted by the U.S. Coast Guard at sea has dropped precipitously since the change in U.S. immigration policy toward Cuba, the number of undocumented Cuban migrants entering the United States at ports of entry and between ports of entry has fallen considerably. In FY2017, 20,955 undocumented Cubans entered the United States at and between ports of entry, with the majority of these, almost 18,000, entering before the change in U.S. immigration policy. In FY2018, as of February 5, 2018, 2,166 undocumented Cubans arrived in the United States at or between ports of entry, an 88% reduction from the same period in FY2017.[221]

## 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 about the use of their waters and airspace for drug transit and about increased domestic drug use.

[220] 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; April 29, 2016; and October 21, 2016. In 2015 and 2016, Central American governments voiced concerns about the large number of Cuban migrants transiting their countries on their way to the United States and resultant humanitarian challenges. Nicaragua closed its border to Cuban migrants from Costa Rica in November 2015, leading to thousands of Cubans being stranded in Costa Rica and in Panama until an airlift was established allowing them to bypass Nicaragua.

[221] U.S. Department of State, *Cuban Compliance with the Migration Accords (March 2017 to September 2017)*, report to Congress, October 18, 2017, and *Cuban Compliance with the Migration Accords (October 2017 to March 2018)*, report to Congress, April 12, 2018.

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.

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 at the U.S. Interests Section in Havana. The Coast Guard official was posted to the U.S. Interests Section in September 2000.

Since the reestablishment of diplomatic relations with Cuba in 2015, U.S. antidrug cooperation has increased further, with several dialogues and exchanges on counternarcotics issues. In December 2015, U.S. and Cuban officials held talks at the headquarters of the Drug Enforcement Administration (DEA) in Washington, DC, with delegations discussing ways to stop the illegal flow of narcotics and exploring ways to cooperate on the issue.[222] In April 2016, Cuban security officials toured the U.S. Joint Interagency Task Force South (JIATF-South) based in Key West, FL. JIATF-South has responsibility for detecting and monitoring illicit drug trafficking in the region and for facilitating international and interagency interdiction efforts. At a July 2016 dialogue in Havana with U.S. officials from the State Department, DEA, the U.S. Coast Guard, and Immigration and Customs Enforcement/Homeland Security Investigations, Cuba and the United States signed a counternarcotics arrangement to facilitate cooperation and information sharing.[223] Technical exchanges between the U.S. Coast Guard and Cuba's Border Guard on antidrug efforts and other areas of cooperation occur periodically, including most recently in January 2018.

According to the State Department's 2018 *International Narcotics Control Strategy Report* (INCSR), issued in March 2018, Cuba has 40 bilateral agreements for antidrug cooperation with countries worldwide, including the 2016 U.S.-Cuban agreement noted above.[224] The report also stated that Cuban authorities and the U.S. Coast Guard share tactical information related to vessels transiting through Cuban territorial waters suspected of trafficking and coordinate responses. In addition, as noted in the report, direct communications were established in July 2016 between the U.S. DEA and Cuban counterparts within the Ministry of Interior's National Anti-Drug Directorate. Since then, according to the INCSR, the DEA has received approximately 20 requests for information related to drug investigations in addition to cooperation leading to Cuba's arrest of a fugitive wanted in the United States. More broadly, the INCR reports that Cuba

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

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

[224] U.S. Department of State, *International Narcotics Control Strategy Report 2018*, Volume I: Drug and Chemical Control, March 2018.

has provided assistance to U.S. state and federal prosecutions by providing evidence and information, and has demonstrated a willingness to cooperate on law enforcement matters.

As in the past, the State Department contended in the 2018 INCSR that "enhanced communication and cooperation between the United States, international partners, and Cuba, particularly in terms of real-time information-sharing, would likely lead to increased interdictions and disruptions of illegal drug trafficking." As noted in the INCSR, Cuba reported maritime seizures of 2.72 metric tons (MT) of illicit drugs in 2016 (2.5 MT of marijuana and 225 kilograms of cocaine). This compares to 906 kilograms of maritime seizures in 2015.

## 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 claims programs; with accrued interest, the properties' value 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.[225] 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 or compensation schemes to resolve the outstanding claims, but resolving the issue likely would entail considerable negotiation and cooperation between the two governments.[226]

Although 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.[227] Moreover, Cuba generally has 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.[228]

Several provisions in U.S. law specifically address the issue of compensation for properties expropriated by the Cuban government.[229] Section 620(a)(2) of the Foreign Assistance Act of

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

[226] 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.

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

[228] 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.

[229] 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, which 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

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 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 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 property taken by the Cuban government on or after January 1, 1959, to U.S. citizens (and entities that are 50% or more beneficially owned by U.S. citizens) 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.[230]

Since the reestablishment of diplomatic relations with Cuba in 2015, U.S. and Cuban officials have held three meetings on claims issues. The first meeting took place in December 2015 in Havana, with talks including 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.[231] A second claims meeting was held in July 2016, in Washington, DC. According to the State Department, the talks allowed for an exchange of views on historical claims-settlement practices and processes going forward.[232] A third claims meeting was held in Havana in January 2017.

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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.

[230] House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, *The Future of Property Rights in Cuba*, hearing, 114th Cong., 1st sess., June 18, 2015, at http://foreignaffairs.house.gov/hearing/subcommittee-hearing-future-property-rights-cuba; and House Judiciary Committee, Subcommittee on Courts, Intellectual Property, and the Internet, *Resolving Issues with Confiscated Property in Cuba, Havana Club Rum and Other Property*, hearing, 114th Cong., 2nd sess., February 11, 2016, at https://judiciary.house.gov/hearing/resolving-issues-with-confiscated-property-in-cuba-havana-club-rum-and-other-property-2/.

[231] 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.

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

## U.S. Fugitives from Justice

An issue that had been mentioned for many years in the State Department's annual terrorism report was Cuba's harboring of fugitives wanted in the United States. The most recent mention of the issue was in the 2014 terrorism report (issued in April 2015), which stated that Cuba "does continue to harbor fugitives wanted to stand trial or to serve sentences in the United States for committing serious violations of U.S. criminal laws, and provides some of these individuals limited support, such as housing, food ration books, and medical care."[233] With the resumption of diplomatic relations with Cuba, the United States held two law enforcement dialogues in November 2015 and May 2016 that reportedly included discussion on the issue of fugitives from justice.

U.S. fugitives from justice in Cuba include convicted murderers and numerous hijackers, most of whom entered Cuba in the 1970s and early 1980s.[234] For example, Joanne Chesimard, also known as Assata Shakur, was added to the Federal Bureau of Investigation's (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.[235] Another fugitive, William "Guillermo" Morales, who was a member of the Puerto Rican militant group known as the Armed Forces of National Liberation, 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 he escaped from prison the same year.[236] In addition to Chesimard and other fugitives from the past, a number of U.S. fugitives from justice wanted for Medicare and other types of insurance fraud have fled to Cuba in recent years.[237]

Although 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,[238] and in April 2013, Cuba returned a Florida couple who allegedly had kidnapped their own children (who were in the custody of the mother's parents) and fled to Havana.[239] However, Cuba generally has 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,

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[233] U.S. Department of State, *Country Reports on Terrorism 2014*, April 2015.

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

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

[236] 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 https://www.fbi.gov/wanted/dt/william-guillermo-morales.

[237] 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; and Jay Weaver, "Grandma Rips Off Medicare, Skips Town, Latest Fraud Fugitive Likely Fled to Cuba," *Miami Herald*, January 5, 2017.

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

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

in the past Cuba 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.

When President Trump announced his policy toward Cuba on June 16, 2017, he called for Cuba to return to the United States U.S. fugitives from justice and specifically called for the return of Joanne Chesimard.[240] Cuban Foreign Minister Rodríguez rejected the return of certain political refugees, such as Chesimard, who had received asylum from the Cuban government.

In the 115th Congress, the explanatory statement (Division K) to the Consolidated Appropriations Act, 2018 (P.L. 115-141) directed the Secretary of State to engage the government of Cuba "to resolve cases of fugitives from justice, including persons sought by the United States Department of Justice for such crimes committed in the United States, such as Joanne Chesimard." Two resolutions also have been introduced, H.Res. 664 (King) and S.Res. 391(Menendez), that would call for the immediate extradition or rendering to the United States of all fugitives from justice in Cuba who are receiving safe harbor to escape prosecution or confinement for criminal offenses committed in the United States. Another initiative, H.R. 1744 (Smith, New Jersey), would require a report on fugitives from U.S. justice in Cuba and U.S. efforts to secure the return of such fugitives.

# Outlook

Although First Vice President Miguel Díaz-Canel succeeded Raúl Castro as president in April 2018, any near-term change to the government's one-party communist political system appears unlikely. Moreover, Raúl Castro will continue as first secretary of the Cuban Communist Party until 2021, which could portend the continued influence of Castro over government policy. Nevertheless, at 58 years of age, Díaz-Canel's government brings to power a leader from a new generation and can be viewed as the culmination of generational change in Cuba's governmental institutions that began several years ago. The government of Raúl Castro began the implementation of significant economic policy changes, moving toward a more mixed economy with a stronger private sector, but its slow gradualist approach did not produce major improvements to the Cuban economy. Although most observers do not expect immediate policy changes under the Díaz-Canel government, the new president faces two significant challenges—moving forward with economic reforms that produce results and responding to desires for greater freedom.

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 increased because of the policy changes, although to what extent they will continue to increase is uncertain given that the overall embargo and numerous other sanctions against Cuba remain in place. Moreover, President Trump's partial rollback of Obama-era changes has contributed to a downturn in American travel to Cuba and has limited opportunities for U.S. business engagement. The U.S. decision to downsize the diplomatic staff of both the U.S. and Cuban embassies in response to unexplained injuries to U.S. diplomatic personnel in Cuba has resulted in the suspension of visa processing at the U.S. Embassy in Havana and could diminish bilateral engagement and existing areas of government-to-government cooperation. At this juncture, Cuba's transition to a post-Castro government will not likely affect relations with the United States, but over time it could lessen the antipathy of some opposed to normalizing relations.

Just as there were diverse opinions in the 114th Congress over U.S. policy toward Cuba, debate over Cuba policy is continuing in the 115th Congress, especially with regard to U.S. economic

[240] White House, "Remarks by President Trump on the Policy of the United States Toward Cuba," June 16, 2017.

sanctions. The human rights situation in Cuba likely will remain a key congressional concern, although with diverse views over the best approach to influence the Cuban government. Looking ahead, actions by the Díaz-Canel government to improve Cuba's human rights record could be a factor affecting U.S. efforts to normalize bilateral relations.

# Appendix A. Legislative Initiatives in the 115th Congress

## Enacted Legislation and Approved Resolutions

**P.L. 115-31 (H.R. 244).** Consolidated Appropriations Act, 2017. Introduced January 4, 2017, as the Honoring Investments in Recruiting and Employing American Military Veterans Act of 2017; subsequently, the bill became the vehicle for the FY2017 appropriations measure known as the Consolidated Appropriations Act, 2017. House agreed to Senate amendments (309-118) May 3, 2017; Senate agreed to House amendment to Senate amendments (79-18) May 4, 2017. President signed into law May 5, 2017.

- Division C (Department of Defense), Section 8127, provided that none of the funds made available in the act may be used to carry out the closure or realignment of the U.S. Naval Station, Guantanamo Bay, Cuba.
- Division J (State Department and Foreign Operations), Section 7007, continued a long-standing provision prohibiting direct funding for the government of Cuba (including direct loans, credits, insurance, and guarantees of the Export-Import Bank). Section 7015(f) continues 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 measure provided $20 million in democracy assistance for Cuba ($5 million more than requested) and $28.056 million for the Office of Cuba Broadcasting ($1 million more than requested).

**P.L. 115-91 (H.R. 2810).** National Defense Authorization Act (NDAA) for Fiscal Year 2018. H.R. 2810 introduced June 7, 2017; reported (H.Rept. 115-200) by House Committee on Armed Services July 6, 2017. S. 1519 introduced and reported (S.Rept. 115-125) by the Senate Committee on Armed Services July 10, 2017. House passed H.R. 2810, amended, July 14, 2017. Senate passed H.R. 2810, amended, September 18, 2017.

Section 1026 of the House-approved version H.R. 2810 would continue a provision in the FY2017 NDAA (P.L. 114-328, Section 1035) prohibiting funds made available for the Department of Defense (DOD) for FY2018 from being used to close or abandon the U.S. Naval Station at Guantanamo Bay, Cuba, relinquish control of Guantanamo Bay to Cuba, or implement a material modification to a 1934 treaty between the United States and Cuba that constructively closes the naval station. Section 1034 of the Senate-approved version of H.R. 2810 would have extended the provision regarding the realignment or closure of the U.S. naval station in P.L. 114-328 from FY2017 through FY2021.

Conference report (H.Rept. 115-404) filed November 9, 2017. In the conference report, the Senate receded and accepted the House language on the provision regarding the U.S. Naval Station. Section 1036 continues to prohibit funds made available for DOD for FY2018 from being used to close or abandon the U.S. Naval Station at Guantanamo Bay, Cuba, relinquish control of Guantanamo Bay to Cuba, or implement a material modification to a 1934 treaty between the United States and Cuba that constructively closes the naval station. The House agreed (356-70) to the conference report November 14, and the Senate agreed (voice vote) to it on November 16, 2017. Signed into law December 12, 2017.

**P.L. 115-141 (H.R. 1625).** Consolidated Appropriations Act, 2018. Originally introduced March 20, 2017, as the Targeted Rewards for the Global Eradication of Human Trafficking Act, in March 2018, the bill became the vehicle for the FY2018 omnibus appropriations measure known as the Consolidated Appropriations Act, 2018. House agreed (256-167) to an amendment to the Senate amendment March 22, 2018; Senate agreed (65-32) to the House amendment to the Senate amendment March 23, 2018. President signed into law March 23, 2018. The measure did not include policy provisions tightening sanctions or limiting funding for a U.S. diplomatic presence that had been included in several FY2018 House appropriations bills (Commerce, H.R. 3267; Financial Services, H.R. 3280; Homeland Security, H.R. 3355; and State Department and Foreign Operations, H.R. 3362—all of which had been incorporated into House-passed H.R. 3354).

- Division C (Department of Defense), Section 8123, carries over a prior-year provision providing that none of the funds made available by the act may be used to carry out the closure or realignment of the U.S. Naval Station, Guantanamo Bay, Cuba.
- Division J (Military Construction, Veterans Affairs, and Related Agencies), Section 128, provides that none of the funds made available by the act may be used to carry out the closure or realignment of the U.S. Naval Station, Guantanamo Bay, Cuba.
- Division K (State, Foreign Operations, and Related Programs), Section 7007, continues a long-standing provision prohibiting direct funding for the government of Cuba, including direct loans, credits, insurance, and guarantees of the Export-Import Bank or its agents. Section 7015(f) continues a long-standing provision prohibiting the obligation or expending of assistance for Cuba except through the regular notification procedures of the Committees on Appropriations.
- The explanatory statement to H.R. 1625, Division K, provided $28.936 million for Cuba broadcasting, $5.28 million more than requested. This compared to $28.1 million recommended by the House appropriations bill (H.R. 3362, H.Rept. 115-253) and not less than $28.6 million recommended by the Senate appropriations bill (S. 1780, S.Rept. 115-152).
- The explanatory statement provided $20 million for democracy programs in Cuba, compared to the Administration's zeroing out of the assistance. The House appropriations bill would have provided $30 million in democracy assistance and the Senate bill would have provided $15 million, with not less than $3 million to support free enterprise and private business organizations in Cuba and people-to-people educational and cultural activities.
- In the explanatory statement, the Secretary of State is directed to engage with foreign governments, such as the government of Cuba, not covered by Section 7067 of the act, "to resolve cases of fugitives from justice, including persons sought by the United States Department of Justice for such crimes committed in the United States, such as Joanne Chesimard."

**P.L. 115-232 (H.R. 5515).** John S. McCain National Defense Authorization Act for Fiscal Year 2019. Introduced April 13, 2018. House passed (351-66) May 24, 2018. Senate passed (85-10) June 18, 2018, substituting the language of S. 2987, the John S. McCain National Defense Authorization Act for Fiscal Year 2019. As approved by the Senate, H.R. 5515 had two Cuba-related provisions: Section 1024 would extend the prohibition on the use of funds in FY2019 to close or relinquish control of the U.S. Naval Station at Guantanamo Bay, Cuba; Section 1027 would require the Defense Intelligence Agency to submit a report to the appropriate congressional

committees within 180 days on security cooperation between Russia and Cuba, Nicaragua, and Venezuela. Conference report (H.Rept. 115-874) filed July 25, 2018; House agreed (359-54) to the conference July 26 and Senate agreed (86-10) August 1, 2018. Signed into law August 13, 2018.

As signed into law, Section 1032 extends the prohibition on the use of funds in FY2019 to close or relinquish control of the U.S. Naval Station at Guantanamo Bay, Cuba. In the conference report, the conferees expressed concern about Russian military and intelligence activity in the Western Hemisphere, urged the Department of Defense to engage in dialogue and cooperation on security partners and allies in the region, and directed the Director of the Defense Intelligence Agency to submit a report to several key committees on security cooperation between the Russian Federation and Cuba, Nicaragua, and Venezuela.

**S.Res. 224 (Durbin).** The resolution recognizes the sixth anniversary of the death of Oswaldo Payá Sardiñas (July 2012) and commemorates his legacy and commitment to democratic values and principles. The resolution also calls on the Cuban government to allow an impartial, third-party investigation into the circumstances of Payá's death and to cease violating human rights, begin providing democratic freedoms to Cuban citizens, and provide amnesty for political prisoners. It urges the Inter-American Commission on Human Rights to continue reporting on human rights issues in Cuba and to request a visit to Cuba in order to investigate the circumstances surrounding the death of Oswaldo Payá. It also urges the United States to continue to support policies and programs that promote respect for human rights and democratic principles in Cuba in a manner consistent with the aspirations of the Cuban people. Introduced July 19, 2017; reported by the Senate Foreign Relations Committee, amended, March 21, 2018. Senate agreed to the resolution by Unanimous Consent on April 11, 2018.

## Additional Legislative Initiatives

**H.Res. 664 (King)/S.Res. 391(Menendez).** Similar resolutions would call for the immediate extradition or rendering to the United States of convicted felons William Morales, Joanne Chesimard, and all other fugitives from justices who are receiving safe harbor in Cuba to escape prosecution or confinement for criminal offenses committed in the United States. H.Res. 664 introduced December 13, 2017; referred to the House Committee on Foreign Affairs. S.Res. 391introduced February 5, 2018; referred to the Senate Committee on Foreign Relations.

**H.R. 2 (Conaway)/S. 3042 (Roberts).** 2018 Farm bill. H.R. 2 introduced May 3, 2018. S. 3042 introduced June 11, 2018; reported by Senate Committee on Agriculture, Nutrition, and Forestry June 18, 2018. House passed H.R. 2 (213-211) June 21, 2018. Senate passed (86-11) June 28, 2018, substituting the language of S. 3042, as amended. As approved by the Senate, H.R. 2 has a provision, as amended by S.Amdt. 3364 (Rubio), that would permit funding for certain U.S. export promotion programs (Market Access Program and Foreign Market Development Cooperation Program) for U.S. agricultural products in Cuba, with the caveat that funds could not be used in contravention with directives under the National Security Presidential Memorandum issued by President Trump in June 2017 that prohibits transactions with entities owned, controlled, or operated by or on behalf of military, intelligence, or security services of Cuba.

**H.R. 351 (Sanford).** Freedom to Travel Act of 2017. The bill would prohibit the President from prohibiting or regulating travel to or from Cuba by U.S. citizens or legal residents. Introduced January 6, 2017; referred to House Committee on Foreign Affairs.

**H.R. 442 (Emmer)/S. 472 (Moran).** Cuba Trade Act of 2017. Among its provisions, the initiative would repeal or amend many provisions of law restricting trade and other relations with Cuba, including in the Cuban Democracy Act of 1992 (CDA; 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 (TSRA; P.L. 106-387, Title IX). It would repeal restrictions on private financing for Cuba but continue to prohibit U.S. government foreign assistance or financial assistance, loans, loan guarantees, 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 be 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. 442 introduced January 11, 2017; referred to House Committee on Foreign Affairs and in addition to the Committees on Ways and Means, Financial Services, and Agriculture. S. 472 introduced February 28, 2017; referred to the Senate Committee on Banking, Housing, and Urban Affairs.

**H.R. 498 (Cramer).** Cuba Digital and Telecommunications Advancement Act of 2017, or the Cuba DATA Act. Among its provisions, the bill would authorize the exportation of consumer communications devices to Cuba and the provision of telecommunications services to Cuba and would repeal certain provisions of the CDA and the LIBERTAD Act. Introduced January 12, 2017; referred to the House Committee on Foreign Affairs and in addition to the Committee on Energy and Commerce.

**H.R. 525 (Crawford).** Cuba Agricultural Exports Act. The bill would amend TSRA to permit U.S. government assistance for agricultural exports under TSRA, but not if the recipient would be an entity controlled by the Cuban government. The bill also would authorize both the private financing of sales of agricultural commodities and investment for the development of an agricultural business in Cuba as long as the business is not controlled by the Cuban government or does not traffic in property of U.S. nationals confiscated by the Cuban government. Introduced January 13, 2017; referred to the House Committee on Foreign Affairs and in addition to the Committees on Financial Services and Agriculture.

**H.R. 572 (Serrano).** Promoting American Agricultural and Medical Exports to Cuba Act of 2017. Among its provisions, the bill would permanently redefine 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; authorize direct transfers between Cuban and U.S. financial institutions for products exported under the terms of TSRA; establish an export promotion program for U.S. agricultural exports to Cuba; permit nonimmigrant visas for Cuban nationals for activities related to purchasing U.S. agricultural goods; repeal a trademark sanction related to Cuba in a FY1999 omnibus appropriations measure (§211 of Division A, Title II, P.L. 105-277); prohibit restrictions on travel to Cuba; repeal the on-site verification requirement for medical exports to Cuba under the CDA; and establish an agricultural export promotion trust fund. Introduced January 13, 2017; referred to House Committee on Foreign Affairs and in addition to the Committees on Ways and Means, Judiciary, Agriculture, and Financial Services.

**H.R. 573 (Serrano).** Baseball Diplomacy Act. The bill would waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball. Introduced January 13, 2017; referred to the House Committee on Foreign Affairs and in addition to the Committee on the Judiciary.

**H.R. 574 (Serrano).** Cuba Reconciliation Act. Among its provisions, the bill would lift the trade embargo on Cuba by removing provisions of law restricting trade and other relations with Cuba; authorize common carriers to install and repair telecommunications equipment and facilities in Cuba and otherwise provide telecommunications services between the United States and Cuba; and prohibit restrictions on travel to and from Cuba. Introduced January 13, 2017; referred to the House Committee on Foreign Affairs and in addition to the Committees on Ways and Means,

Energy and Commerce, Financial Services, Judiciary, Oversight and Government Reform, and Agriculture.

**H.R. 1301 (Frelinghuysen).** Department of Defense Appropriations Act, 2017. Introduced March 2, 2017; referred to the House Committee on Appropriations and in addition to the Committee on the Budget. House passed (371-48) March 8, 2017. As passed, Section 8127 provides that no funds in the act may be used to carry out the closure or realignment of the U.S. Naval Station at Guantanamo Bay, Cuba. (For further action, see P.L. 115-31 above.)

**H.R. 1744 (Smith, New Jersey).** Walter Patterson and Werner Foerster Justice and Extradition Act. The bill would call for a report on fugitives from U.S. justice in Cuba, U.S. efforts to secure the return of such fugitives, and other information on those cases. Introduced March 27, 2017; referred to Committee on Foreign Affairs.

**H.R. 2966 (Rush).** United States-Cuba Normalization Act of 2017. The bill would remove provisions of law restricting trade and other relations with Cuba; authorize 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; call on the President to continue discussions with Cuba for the purpose of settling claims of U.S. nationals for the taking of property by the Cuban government and securing the protection of internationally recognized human rights; extend nondiscriminatory trade treatment to the products of Cuba; and prohibit limits on remittances to Cuba. Introduced June 20, 2017; referred to House Committee on Foreign Affairs, and in addition to the Committees on Ways and Means, Energy and Commerce, the Judiciary, Agriculture, and Financial Services.

**H.R. 2998 (Dent)/S. 1557 (Moran).** Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2018. H.R. 2998 introduced and reported (H.Rept. 115-188) by the House Appropriations Committee on Appropriations June 22, 2017. S. 1557 introduced and reported (S.Rept. 115-130) by the Senate Committee on Appropriations July 13, 2017. Section 128 of the House bill and Section 127 of the Senate bill would provide that none of the funds made available by this act may be used to carry out the closure or realignment or the U.S. Naval Station at Guantanamo Bay, Cuba. The provision would extend the current similar provision for FY2017 set forth in P.L. 115-31 (Division C, Section 8127). As stated in the House and Senate committee reports to the respective bills, "the provision is intended to prevent the closure or realignment of the installation out of the possession of the United States, and maintain the Naval Station's longstanding regional security and migrant operations missions." The bill became a part of a "minibus" appropriations package, H.R. 3219, approved by the House in July 2017, and a full-year FY2018 omnibus appropriations bill, H.R. 3354, approved by the House in September 2017. For final action on FY2018 appropriations, see P.L. 115-141 above.

**H.R. 3180 (Nunes).** Intelligence Authorization Act for Fiscal Year 2018. Introduced July 11, 2017, and reported by the House Committee on Intelligence July 24, 2017 (H.Rept. 115-251). House passed (380-35) July 28, 2017. As approved, Section 609 would express the sense of Congress that, pursuant to the statutory requirement for the intelligence community (IC) to keep the congressional intelligence committees "fully and currently informed," about all "intelligence activities" of the United States, IC agencies must submit prompt written notification after becoming aware that an individual in the executive branch has disclosed certain classified information outside established intelligence channels to adversary foreign governments, which are defined in the provision as the governments of North Korea, Iran, China, Russia, and Cuba. The Senate companion bill, S. 1761 (Burr), does not include a similar provision. For additional action, see H.R. 6237 below.

**H.R. 3219 (Granger).** Defense, Military Construction, Veterans Affairs, Legislative Branch, and Energy and Water Development National Security Appropriations Act, 2018, or the Make America Secure Appropriations Act, 2018. Introduced and reported (H.Rept. 115-219) July 13, 2017, by the House Committee on Appropriations as the Department of Defense Appropriations Act, 2018, the bill subsequently became the vehicle for four other appropriations measures. House approved (235-192) July 27, 2017. As approved, Section 8116 of Division A (Defense appropriations) would provide that no funds made available by the act could be used to carry out the closure or realignment of the U.S. Naval Station at Guantanamo Bay, Cuba. The provision would extend the current similar provision for FY2017 set forth in P.L. 115-31 (Division C, Section 8127). Section 128 of Division C (Military Construction appropriations) also would provide that none of the funds made available by the act may be used to carry out the closure or realignment or the U.S. Naval Station at Guantanamo Bay, Cuba. Also see H.R. 3354 below, and for final action on FY2018 appropriations, see P.L. 115-141 above.

**H.R. 3267 (Culberson).** Commerce, Justice, Science, and Related Agencies Appropriations, 2018. Introduced and reported (H.Rept. 115-231) July 17, 2017, by the House Committee on Appropriations. Section 536 would prohibit funds in the act from being used to approve the registration, renewal, or maintenance of the registration of a mark, trade name, or commercial name that was confiscated in Cuba unless the original owner has expressly consented. In the report to the bill, the minority expressed the view that the provision was an inappropriate rider that did not belong in the bill, which would place restrictions on the U.S. Patent and Trademark Office (USPTO's) ability to issue trademarks to Cuban nationals, even in cases in which a specific license has been issued by the Department of the Treasury's Office of Foreign Assets Control. The minority stated that the provision would meddle in foreign policy, harm diplomatic efforts with Cuba, and create a significant burden, and set an impossible standard for the USPTO. The Senate companion bill, S. 1662, does not have a comparable provision. Also see H.R. 3354 below, and for final action on FY2018 appropriations, see P.L. 115-141 above.

**H.R. 3280 (Graves).** Financial Services and General Government Appropriations Act, 2018. Introduced and reported (H.Rept. 115-234) July 18, 2017, by the House Committee on Appropriations. Section 130 would provide that no funds made available by the act could be used to approve, license, facilitate, authorize, or otherwise allow the use, purchase, trafficking, or import of property confiscated by the Cuban government. Section 131 would provide that no funds made available by the act could be used to authorize a general license or approve a specific license with respect to a mark, trade name, or commercial name that is substantially similar to one that was used in connection with a business or assets that were confiscated by the Cuban government unless the original owner expressly consented. Also see H.R. 3354 below, and for final action on FY2018 appropriations, see P.L. 115-141 above.

**H.R. 3328 (Katko)/S. 2023 (Rubio).** Cuban Airport Security Act of 2017. Identical bills would require, among other provisions, a briefing for the House Committee on Homeland Security, Senate Committee on Commerce, Science, and Transportation, and the Comptroller General of the United States regarding security measures and equipment at each of Cuba's 10 international airports. The bill also would prohibit a U.S. air carrier from employing a Cuban national in Cuba (pursuant to 31 CFR 515.573) unless the air carrier has publicly disclosed the full text of the formal agreement between the air carrier and the *Empresa Cubana de Aeropuertos y Servicios Aeronauticos* or any other entity associated with the Cuban government. The bill would also, to the extent practicable, prohibit U.S. air carrier from hiring Cuban nationals if they have been recruited, hired, or trained by entities that are owned, operated, or controlled in whole or in part by Cuba's Council of State, Council of Ministers, Communist Party, Ministry of the Revolutionary Armed Forces, Ministry of Foreign Affairs, or Ministry of the Interior. H.R. 3328 introduced July 20, 2017; reported by the Committee on Homeland Security (H.Rept. 115-308)

and discharged by Committees on Foreign Affairs and Transportation September 13, 2017. House passed (voice vote) October 23, 2017. S. 2023 introduced October 26, 2017; referred to the Committee on Commerce, Science, and Transportation.

**H.R. 3354 (Calvert).** Make America Sure and Prosperous Appropriations Act, 2018. Introduced as the Department of the Interior, Environment, and Related Agencies Appropriation Act on July 21, 2017, the bill subsequently became the vehicle for the FY2018 omnibus appropriations measure covering 12 FY2018 appropriations bills. House passed (211-198) September 14, 2017. As approved by the House, the measure has numerous provisions on Cuba that were included in individual House Appropriations Committee-reported appropriations bills. For final action on FY2018 appropriations, see P.L. 115-141 above.

- Division C (Commerce, Justice, Science). Section 536 would prohibit funds in the act from being used to approve the registration, renewal, or maintenance of the registration of a mark, trade name, or commercial name that was confiscated in Cuba unless the original owner has expressly consented. (See H.R. 3267 above.)
- Division D (Financial Services and General Government). Section 130 would provide that no funds made available by the act could be used to approve, license, facilitate, authorize, or otherwise allow the use, purchase, trafficking, or import of property confiscated by the Cuban government. Section 131 would provide that no funds made available by the act could be used to authorize a general license or approve a specific license with respect to a mark, trade name, or commercial name that is substantially similar to one that was used in connection with a business or assets that were confiscated by the Cuban government unless the original owner expressly consented. (See H.R. 3280 above.)
- Division E (Homeland Security). Section 208 would prohibit funds from being used to approve, license, facilitate, authorize, or allow the trafficking or import of property confiscated by the Cuban government. (See H.R. 3355 below.)
- Division G (State Department and Foreign Operations). Section 7007 would prohibit direct funding for the government of Cuba. Section 7015(f) would require notification to the Committees on Appropriations for funds for assistance to Cuba. Section 7045(c)(1) would prohibit funding in the act and prior appropriation measures for the establishment or operation of a U.S. diplomatic presence in Cuba beyond that which was in existence prior to December 17, 2014. Section 7045(c)(2) would provide $30 million in Economic Support Fund assistance to promote democracy and strengthen civil society but would prohibit the obligation of funds for business promotion, economic reform, entrepreneurship, or any other assistance that is not democracy-building as expressly authorized in the LIBERTAD Act of 1996 and the CDA of 1992. (See H.R. 3362 below.)
- Division I (Defense). Section 8116 would provide that no funds made available by the act could be used to carry out the closure or realignment of the U.S. Naval Station at Guantanamo Bay, Cuba. (See H.R. 3219 above.)
- Division K (Military Construction). Section 128 would provide that none of the funds made available by this act may be used to carry out the closure or realignment or the U.S. Naval Station at Guantanamo Bay, Cuba. (See H.R. 2998 and H.R. 3219 above.)

**H.R. 3355 (Carter).** Department of Homeland Security Appropriations, 2018. Introduced and reported (H.Rept. 115-239) July 21, 2017, by the House Committee on Appropriations. Section 208 would prohibit funds from being used to approve, license, facilitate, authorize, or allow the trafficking or import of property confiscated by the Cuban government. Also see H.R. 3354 above, and for final action on FY2018 appropriations see P.L. 115-141 above.

**H.R. 3362 (Rogers)/S. 1780 (Graham).** Department of State, Foreign Operations, and Related Programs Appropriations, 2018. H.R. 3362 introduced and reported (H.Rept. 115-253) by the House Committee on Appropriations on July 24, 2017. S. 1780 introduced and reported (S.Rept. 115-152) by the Senate Appropriations Committee September 7, 2017. Also see H.R. 3354 above, and for final action on FY2018 appropriations, see P.L. 115-141 above.

- Both bills would continue two long-standing provisions: Section 7007 would prohibit direct funding for the government of Cuba, and Section 7015(f) would require notification to the Committees on Appropriations for funds for assistance to Cuba.
- Section 7045(c)(1) of the House bill would prohibit funding in the act and prior appropriation measures for the establishment or operation of a U.S. diplomatic presence in Cuba beyond that which was in existence prior to December 17, 2014, including the hiring of additional staff, unless such staff are necessary for protecting the health, safety, or security of diplomatic personnel or facilities in Cuba; the prohibition would not apply for support of democracy-building efforts for Cuba or if the President determines that Cuba has met the requirements and factors specified in Section 205 of the LIBERTAD Act of 1996 for determining when a transition government is in power in Cuba.
- Section 7045(c)(2) of the House bill would provide $30 million in Economic Support Funds (ESF) assistance to promote democracy and strengthen civil society but would prohibit the obligation of funds for business promotion, economic reform, entrepreneurship, or any other assistance that is not democracy-building as expressly authorized in the LIBERTAD Act of 1996 and the CDA of 1992. In the Senate bill, Section 7045(c) would provide $15 million in ESF for democracy programs in Cuba; of this, the provision would provide that not less than $3 million be made available to USAID to support free enterprise and private business organizations in Cuba and people-to-people educational and cultural activities, which shall be considered democracy programs except no funds may be used for assistance to the Cuban government.
- The report to the House bill would provide not less than $28.056 million for the Office of Cuba Broadcasting, whereas the report to the Senate bill would provide $28.569 million.

**H.R. 4583 (Wilson, Joe).** Ensuring Diplomats' Safety Act. The bill would suspend all U.S. diplomatic presence in Cuba until the conclusion of any U.S. law enforcement investigation relating to "the attacks on 17 United States diplomats." Introduced December 7, 2017; referred to the House Committee on Foreign Affairs.

**H.R. 5786 (Dent)/S. 3024 (Boozman).** Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2019. H.R. 5786 introduced and reported (H.Rept. 115-673) by the House Committee on Appropriations May 11, 2018. S. 3024 introduced and reported (H.Rept. 115-269) by the Senate Appropriations Committee June 7, 2018. Section 128 of the House bill and Section 127 of the Senate bill would continue a provision prohibiting funding to carry out the

closure or realignment of the U.S. Naval Station at Guantanamo Bay, Cuba. (For further action, see H.R. 5895 below.)

**H.R. 5895 (Simpson).** Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019. Originally introduced as the Energy and Water Appropriations bill on May 21, 2018, the bill subsequently also became the vehicle for the Legislative Branch and Military Construction appropriations bills. House passed (235-179) June 8, 2018. Senate passed (235-179) June 25, 2018. Section 128 (Division C) of the House version and Section 127 (Division C) of the Senate version would continue a provision prohibiting funding to carry out the closure or realignment of the U.S. Naval Station at Guantanamo Bay, Cuba. (Also see H.R. 5786 and S. 3024 above.)

**H.R. 5952 (Culberson).** Commerce, Justice, Science, and Related Agencies Appropriations, 2019. Introduced and reported (H.Rept. 115-704 ) by the House Appropriations Committee May 24, 2018). Section 535 would prohibit funds in the act from being used to approve the registration, renewal, or maintenance of the registration of a mark, trade name, or commercial name that was confiscated in Cuba unless the original owner has expressly consented. In the report to the bill, the minority expressed the view that the provision was an inappropriate rider that did not belong in the bill, which would place restrictions on the U.S. Patent and Trademark Office (USPTO's) ability to issue trademarks to Cuban nationals, even in cases in which a specific license has been issued by the Department of the Treasury's Office of Foreign Assets Control. The minority stated that the provision would meddle in foreign policy, harm diplomatic efforts with Cuba, and create a significant burden, and set an impossible standard for the USPTO. The Senate companion bill, S. 3072, does not have a comparable provision.

**H.R. 6147 (Calvert).** Interior, Environment, Financial Services, and General Government Appropriations, 2019. Originally introduced as the FY2019 Department of the Interior, Environment, and Related Agencies appropriations bill, the measure also became the House vehicle for Financial Services and General Government appropriations and incorporated the House version of H.R. 6258 as Division B; House passed (217-199) July 19, 2018. As approved by the House: Section 128 would provide that no funds made available by the act could be used to approve, license, facilitate, authorize, or otherwise allow the use, purchase, trafficking, or import of property confiscated by the Cuban government; Section 129 would provide that no funds made available by the act could be used to authorize a general license or approve a specific license with respect to a mark, trade name, or commercial name that is substantially similar to one that was used in connection with a business or assets that were confiscated by the Cuban government unless the original owner expressly consented. The Senate version of the bill, approved (92-6) August 1, 2018, also became the vehicle for Financial Services and General Government, Agriculture, and Transportation, Housing and Urban Development appropriations; it did not include the two Cuba-related provisions in the House version. Also see H.R. 6258 below.

**H.R. 6157 (Granger)/S. 3159 (Shelby).** Department of Defense Appropriations Act, 2019. H.R. 6157 introduced and reported by House Committee on Appropriations (H.Rept. 115-769) June 20, 2018. House passed (359-49) June 28, 2018. S. 3159 introduced and reported (S.Rept. 115-290) by the Senate Appropriations Committee June 28, 2018. Senate passed (85-7) H.R. 6157 on August 23, 2018, substituting the language of S. 3159 (defense) and S. 3158, covering the Departments of Labor, Health and Human Services, and Education. Both the House and Senate versions of H.R. 6157 (Section 8115 in the House version and Section 8109 in the Senate version) would continue a prohibition against FY2019 funds being used to carry out the closure or realignment of the U.S. Naval Station, Guantánamo Bay, Cuba.

**H.R. 6237 (Nunes).** Matthew Young Pollard Intelligence Authorization for Fiscal Years 2018 and 2019. Introduced June 27, 2018; reported (H.Rept. 115-805) by the House Committee on

Intelligence July 3, 2018. House passed (363-54) July 12, 2018. As approved, the bill includes a provision that would express the sense of Congress that, pursuant to the statutory requirement for the intelligence community (IC) to keep the congressional intelligence committees "fully and currently informed," about all "intelligence activities" of the United States, IC agencies must submit prompt written notification after becoming aware that an individual in the executive branch has disclosed certain classified information outside established intelligence channels to adversary foreign governments, which are defined in the provision as the governments of North Korea, Iran, China, Russia, and Cuba. The Senate companion bill, S. 3153 (Burr), does not include a similar provision.

**H.R. 6258 (Graves).** Financial Services and General Government Appropriations Act, 2019. Introduced and reported (H.Rept. 115-792) by the House Committee on Appropriations June 28, 2018. Section 128 would provide that no funds made available by the act could be used to approve, license, facilitate, authorize, or otherwise allow the use, purchase, trafficking, or import of property confiscated by the Cuban government. Section 129 would provide that no funds made available by the act could be used to authorize a general license or approve a specific license with respect to a mark, trade name, or commercial name that is substantially similar to one that was used in connection with a business or assets that were confiscated by the Cuban government unless the original owner expressly consented. The Senate companion bill, S. 3107, does not have similar provisions. Also see H.R. 6147 for additional legislative action.

**H.R. 6385 (Rogers)/S. 3108 (Graham).** Department of State, Foreign Operations, and Related Programs Appropriations, 2019. House Appropriations Committee introduced and reported H.R. 6385 (H.Rept. 115-829) on July 16, 2018. Senate Appropriations Committee introduced and reported S. 3108 (S.Rept. 115-282) June 21, 2018. Both bills would continue long-standing provisions prohibiting direct funding for the government of Cuba and prohibiting the obligation or expending of assistance for Cuba except through the regular notification procedures of the Committees on Appropriations. The draft House bill would provide $30 million to promote democracy and strengthen civil society in Cuba, with, according to the draft report to the bill, not less than $8 million for the National Endowment for Democracy; the draft report would prohibit the obligation of funds for business promotion, economic reform, entrepreneurship, or any other assistance that is not democracy-building and stipulate that grants exceeding $1 million or to be implemented over a period of 12 months would be awarded only to organizations with experience promoting democracy inside Cuba. In the Senate bill, Section 7045(c) would provide $15 million for democracy programs in Cuba. With regard to Cuba broadcasting, the draft House report would provide $29.1 million and the Senate report would provide $29.2 million. The report to the Senate bill would also call for a State Department Cuba report on Internet access, the use of cell phones to access data, the impact of access to telecommunications technology on increased political and economic opportunities, and the impact of telecommunications development on human rights.

**S.Res. 511 (Rubio)/H.Res. 916 (Diaz-Balart).** Similar but not identical resolutions would honor *Las Damas de Blanco* as the recipient of the 2018 Milton Friedman Prize for Advancing Liberty. S.Res. 511 introduced May 16, 2018; referred to the Committee on Foreign Relations. H.Res. 916 introduced May 25, 2018; referred to the Committee on Foreign Affairs.

**S. 259 (Nelson)/H.R. 1450 (Issa).** No Stolen Trademarks Honored in America Act. The initiative would modify a 1998 prohibition (§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 bill would apply a fix so that the sanction would apply to all nationals and would bring the sanction into compliance with a 2002 World Trade Organization dispute settlement ruling. S. 259 introduced February 1, 2017; referred to the Senate Committee on the Judiciary. H.R. 1450 introduced March 9, 2017; referred to House Committee on the Judiciary.

**S. 275 (Heitkamp).** Agricultural Export Expansion Act of 2017. The bill would amend TSRA to allow private financing by U.S. persons of sales of agricultural commodities to Cuba. Introduced February 2, 2017; referred to Senate Committee on Banking, Housing, and Urban Affairs.

**S. 539 (Cruz).** The bill would designate the area between the intersections of 16th Street, Northwest and Fuller Street, Northwest, and 16th Street, Northwest, and Euclid Street, Northwest, in Washington, DC, as "Oswaldo Paya Way." Introduced March 7, 2017; referred to the Committee on Homeland Security and Governmental Affairs.

**S. 1286 (Klobuchar).** Freedom to Export to Cuba Act of 2017. The bill would repeal or amend many provisions of law restricting trade and other relations with Cuba, including certain restrictions in the CDA, the LIBERTAD Act, and TSRA. Introduced May 25, 2016; referred to the Senate Committee on Banking, Housing, and Urban Affairs.

**S. 1287 (Flake).** Freedom for Americans to Travel Act of 2017. The bill would prohibit 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. It would provide for the President to regulate such travel or restrictions on a case-by-case basis if the President determines that such restriction is necessary to protect the national security of the United States or is necessary to protect the health or safety of U.S. citizens or legal residents resulting from traveling to or from Cuba; to implement such a restriction, the President would be required to submit a written justification not later than seven days to several congressional committees. Introduced May 25, 2017; referred to the Committee on Foreign Relations.

**S. 1655 (Collins).** Transportation, Housing, and Urban Development, and Related Agencies Appropriations Act, 2018. Introduced and reported (S.Rept. 115-138) July 27, 2017. Section 119E would allow foreign air carriers traveling to or from Cuba to make transit stops in the United States for refueling and other technical services.

**S. 1699 (Wyden).** United States-Cuba Trade Act of 2017. The bill, among its provisions, would repeal or amend provisions of law restricting trade and other relations with Cuba; amend authorize common carriers to install, maintain, and repair telecommunications equipment and facilities in Cuba and provided telecommunications services between the United States and Cuba; prohibit restrictions on travel to Cuba; call for the President to take all necessary steps to advance negotiations with the Cuban government for settling property claims of U.S. nationals and for securing the protection of internationally recognized human rights; extend nondiscriminatory trade treatment to Cuba; prohibit restrictions on remittances to Cuba; and require a presidential report to Congress prior to the denial of foreign tax credit with respect to certain foreign countries. Introduced August 1, 2017; referred to the Senate Committee on Finance.

# Appendix B. Links to U.S. Government Reports

**U.S. Relations with Cuba, Fact Sheet**, Department of State

*Date:* November 8, 2017
*Full Text:* https://www.state.gov/r/pa/ei/bgn/2886.htm

**Congressional Budget Justification for Foreign Operations FY2019, Appendix 2**, pp. 474-475, Department of State

*Date:* March 14, 2018
*Full Text:* https://www.state.gov/documents/organization/279517.pdf

**Country Reports on Human Rights Practices for 2017, Cuba**, Department of State

*Date:* April 20, 2018
*Full Text:* https://www.state.gov/documents/organization/277567.pdf

**Cuba** web page, Department of State

*Link:* https://www.state.gov/p/wha/ci/cu/index.htm

**Cuba** web page, Department of Commerce, Bureau of Industry and Security

*Link:* https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations/cuba

**Cuba** web page, Department of Agriculture, Foreign Agricultural Service

*Link:* https://www.fas.usda.gov/regions/cuba

**Cuba Sanctions** web page, Department of the Treasury, Office of Foreign Assets Control

*Link:* https://www.treasury.gov/resource-center/sanctions/Programs/Pages/cuba.aspx

**International Religious Freedom Report for 2016, Cuba**, Department of State

*Date:* August 15, 2017
*Full Text:* https://www.state.gov/j/drl/rls/irf/2016/wha/268972.htm

**International Narcotics Control Strategy Report 2018, Volume I,** Drug and Chemical Control, p. 146, Department of State

*Date:* March 2018
*Link:* http://www.state.gov/documents/organization/278759.pdf

**International Narcotics Control Strategy Report 2018, Volume II,** Money Laundering, pp. 85-87, Department of State

*Date:* March 2018
*Link:* http://www.state.gov/documents/organization/278760.pdf

**Overview of Cuban Imports of Goods and Services and Effects of U.S. Restrictions**, U.S. International Trade Commission, Publication 4597

*Date:* March 2016
*Link:* https://www.usitc.gov/sites/default/files/publications/332/pub4597_0.pdf

**Trafficking in Persons Report 2018, Cuba,** Department of State

*Date:* June 2018

*Link:* https://www.state.gov/j/tip/rls/tiprpt/countries/2018/282640.htm

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