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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 Raúl Castro succeeded his long-ruling brother Fidel Castro in 2006, and the succession was characterized by a remarkable degree of stability. Raúl began his second and final five-year term as president in 2013, which is scheduled to end in February 2018, when he would be 86 years of age. Most observers see First Vice President Miguel Diaz-Canel as the “heir apparent” as president, although Raúl likely will continue in his position as first secretary of Cuba’s Communist Party (PCC). Under Raúl, Cuba has implemented gradual market-oriented economic policy changes over the past decade, but critics maintain that the government has not taken enough action to foster sustainable economic growth. Few observers expect the government to ease its tight control over the political system, especially as the country approaches its political succession in 2018. Short-term detentions and harassment against democracy and human rights activists have increased over the past several years.

U.S. Policy

Congress has played an active role in shaping policy toward Cuba, including the enactment of legislation strengthening and at times easing various U.S. economic sanctions. Since the early 1960s, when the United States first imposed a trade embargo on Cuba, the centerpiece of U.S. policy has consisted of economic sanctions aimed at isolating the Cuban government. In December 2014, however, the Obama Administration initiated a major Cuba policy shift, moving away from sanctions toward a policy of engagement and a normalization of relations. 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. To implement this third step, the Treasury and Commerce Departments eased the embargo regulations five times (most recently in October 2016) in such areas as travel, remittances, trade, telecommunications, and financial services. The overall embargo, however, remains in place, and can be lifted only with congressional action or if the President determines and certifies to Congress that certain conditions in Cuba are met, including that a democratically elected government is in place.

After the Trump Administration conducted a review of U.S. policy toward Cuba, the President unveiled a new policy on June 16, 2017, that partially rolls back some of the Obama Administration’s efforts to normalize relations with Cuba. The most significant forthcoming changes include restrictions on transactions with companies controlled by the Cuban military, intelligence, or security services or personnel and the elimination of individual people-to-people travel. Notably, the policy leaves most Obama-era policy changes in place.

Legislative Activity

There are contrasting congressional views on the appropriate U.S. policy approach toward Cuba. Numerous legislative initiatives and provisions in appropriations bills in the 114th Congress would have further eased or lifted the embargo, whereas other initiatives would have blocked efforts toward normalization. Ultimately, none of these initiatives were enacted.

In the 115th Congress, debate over Cuba policy is continuing, especially with regard to U.S. economic sanctions. To date, several bills have been introduced to ease or lift economic 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 and H.R. 2966 (overall embargo), and S. 275 (private financing for U.S. agricultural exports). The Consolidated Appropriations Act, 2017 (H.R. 244, P.L. 115-31), signed into law May 5, 2017, provided \$20 million in democracy

assistance for Cuba for FY2017, provided \$28.1 million for broadcasting to Cuba, and prohibited funding to carry out the closure or realignment of the U.S. Naval Station at Guantanamo Bay, Cuba.

Several FY2018 House appropriations bills have Cuba policy provisions: H.R. 2998 (Military Construction) and H.R. 3219 (Defense), with provisions related to the U.S. naval station; H.R. 3267 (Commerce), H.R. 3280 (Financial Services), and H.R. 3355 (Homeland Security), with provisions tightening economic sanctions; and H.R. 3362 (State Department and Foreign Operations), which would provide \$30 million in democracy assistance (the Administration had zeroed this out) and \$28.1 million for Cuba broadcasting (\$4.4 million more than requested) and would prohibit funding for a U.S. diplomatic presence in Cuba beyond that in place in December 2014. For more on bills introduced in the 115th Congress, see **Appendix A**.

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Recent Developments

On July 24, 2017, the House Appropriations Committee reported the FY2018 State Department and Foreign Operations appropriations bill, H.R. 3362 (H.Rept. 115-253), which would provide \$30 million in democracy assistance for Cuba and \$28.1 million for broadcasting to Cuba. The bill also would prohibit funding for the establishment or operation of a U.S. diplomatic presence in Cuba beyond that which was in existence prior to December 17, 2014. (See “Democracy and Human Rights Funding,” “Radio and TV Martí,” and **Appendix A**, below.)

On July 21, 2017, the House Appropriations Committee reported the FY2018 Homeland Security appropriations bill, H.R. 3355 (H.Rept. 115-239), with a provision that 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 **Appendix A**, below.)

On July 18, 2017, the House Appropriations Committee reported the FY2018 Financial Services appropriations bill, H.R. 3280 (H.Rept. 115-234), with two Cuba provisions that would prohibit funding (1) to allow the trafficking or import of property confiscated by the Cuban government or (2) to approve or otherwise allow the licensing 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. (See **Appendix A**, below.)

On July 17, 2017, the House Committee on Appropriations reported the FY2018 Commerce appropriations bill, H.R. 3267 (H.Rept. 115-231), with a provision that would prohibit funds to approve the registration, renewal, or 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. (See “Trademark Sanction” and **Appendix A**, below.)

On July 14, 2017, Cuban President Raúl Castro criticized the Trump Administration’s new policy toward Cuba as a setback to bilateral relations, but he also reiterated that Cuba has the will to continue negotiating on outstanding bilateral issues. (See “Trump Administration Policy,” below.)

On July 3, 2017, the Cuban Commission for Human Rights and National Reconciliation (CCDHRN) reported that there were at least 2,620 short-term detentions for political reasons in the first six months of 2017. In May 2017, the CCDHRN reported that Cuba held at least 140 political prisoners, including 54 members of the Patriotic Union of Cuba (see “Human Rights,” below.)

On June 27, 2017, the State Department released its *Trafficking in Persons Report 2017* in which Cuba, for the third consecutive year, was placed on the Tier 2 Watchlist. Because this was Cuba’s third year on the Tier 2 Watchlist, normally it automatically would have been downgraded to Tier 3. However, the State Department issued a waiver, maintaining that the Cuban 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. (See “Human Rights,” below.)

On June 16, 2017, President Trump unveiled his Administration’s policy approach toward Cuba, which partially rolls back some of the Obama Administration’s efforts to normalize relations but leaves most of the Obama-era policy changes in place. The most significant forthcoming changes include (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. (See “Trump Administration Policy” and “Restrictions on Travel,” below.)

On May 23, 2017, President Trump released his Administration's FY2018 budget request. The Administration did not request any democracy and human rights assistance for programs in Cuba (Congress appropriated \$20 million in FY2017), but it requested \$23.656 million for U.S.-government sponsored broadcasting to Cuba (\$4.4 million less than appropriated for FY2017). (See "Democracy and Human Rights Funding" and "Radio and TV Martí," below).

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 (the 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). In a 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." Cuba's state television published an "official note" describing the statement as "controversial and ridiculous," although the note was not carried by other official state media. (See "Trump Administration Policy," below.)

On May 5, 2017, President Trump signed into law an FY2017 omnibus appropriations measure, the Consolidated Appropriations Act, 2017 (H.R. 244, P.L. 115-31), providing \$20 million in democracy assistance for Cuba (\$5 million more than requested) and \$28.1 million for broadcasting to Cuba (\$1 million more than requested). The measure did not include several controversial Cuba policy provisions (some that would have blocked previous Cuba policy changes and others that would have eased sanctions further) that had been contained in House and Senate versions of several FY2017 appropriations bills in the 114th Congress. (For more, see "Democracy and Human Rights Funding," "Radio and TV Martí," and **Appendix A**, 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 (2015, ONEI)

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

GDP: \$90.5 billion (2016, nominal U.S. \$, EIU est.)

Real GDP Growth: 4.4% (2015); -0.9% (2016, EIU est.)

Key Trading Partners: Exports (2015): Venezuela, 42.9%; Canada, 10.8%; China, 8%; the Netherlands, 6.6%.

Imports (2015): Venezuela, 23.9%; China, 19.9%; Spain, 10.1%; Brazil, 5.5%; Mexico, 3.9%. (ONEI)

Life Expectancy: 79.6 years (2015, UNDP)

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

Legislature: National Assembly of Peoples Power, 612 members (five-year terms); last election 2013; next election 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 introduced bills. **Appendix B** provides links to U.S. government information and reports on Cuba. For more on Cuba from CRS, see

- CRS Insight IN10722, *Cuba: President Trump Partially Rolls Back Obama Engagement Policy*, by (name redacted) ;
- CRS In Focus IF10045, *Cuba: U.S. Policy Overview*, by (name redacted) ;
- CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*, by (name redacted) and (name redacted) ;
- CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*, by (name redacted) ;
- CRS Report R43926, *Cuba: Issues and Actions in the 114th Congress*, by (name redacted) ;
- CRS Insight IN10616, *Fidel Castro's Death: Implications for Cuba and U.S. Policy*, by (name redacted) ;
- CRS Report R44119, *U.S. Agricultural Trade with Cuba: Current Limitations and Future Prospects*, by (name redacted) ;
- CRS Report R44137, *Naval Station Guantanamo Bay: History and Legal Issues Regarding Its Lease Agreements*, by (name redacted) and (name redacted)
- CRS Legal Sidebar WSLG1405, *Can Creditors Enforce Terrorism Judgments Against Cuba?*, by (name redacted) ;
- CRS Legal Sidebar WSLG1717, *Rescission of the Wet-Foot/Dry-Foot Policy as to Aliens from Cuba Raises Legal Questions*, by (name redacted); and
- CRS Report R44714, *U.S. Policy on Cuban Migrants: In Brief*, by (name redacted)

Figure 1. Provincial Map of Cuba



Source: Congressional Research Service (CRS).

Cuba's Political and Economic Environment

Brief Historical Background¹

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/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. 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

Cuba's political succession from Fidel to Raúl Castro in 2006 occurred smoothly. As noted above, after two and a half years of provisionally serving as president, Raúl officially became Cuba's president in February 2008, when Cuba's legislature selected him as president of the 31-member Council of State.⁴ Although Raúl Castro began implementing economic reforms in 2008, there has been no change to his government's tight control over the political system. Few observers expect such changes to occur as the country faces another political succession in February 2018.

The Cuban Communist Party held its sixth congress in April 2011. Although the party concentrated on making changes to Cuba's economic model, some political changes also

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

⁴ For more on Cuba's political succession, see CRS Report RS22742, *Cuba's Political Succession: From Fidel to Raúl Castro*, by (name redacted). For background discussion of potential Cuban political scenarios envisioned in the aftermath of Fidel Castro's stepping down from power in 2006, see CRS Report RL33622, *Cuba's Future Political Scenarios and U.S. Policy Approaches*, by (name redacted).

occurred. As expected, Raúl became first secretary of the PCC, officially replacing his brother Fidel. Most significantly, Raúl proposed two five-year term limits for top positions in the party and in the government, a change that was confirmed by a January 2012 national PCC conference.⁵

In February 2013, Cuba held elections for 612 members of the National Assembly of People's Power, the national legislature, and more than 1,600 provincial government representatives, both for five-year terms. Under Cuba's one-party system, the overwhelming majority of officials elected are PCC members. Critics maintain that elections in Cuba are a sham and entirely controlled by the PCC.⁶ The new National Assembly selected Raúl Castro for a second five-year term as president of the Council of State. In conformity with the new two-term limit for top officials, Castro indicated that this would be his last term, which means he would serve until February 2018, when he would be 86 years of age.

Most significantly, a much younger official, Miguel Díaz-Canel Bermúdez (currently aged 56), was selected to serve as first vice president of the Council of State, replacing then-82-year-old José Ramón Machado, part of the older generation of so-called *históricos* of the 1959 Cuban revolution. The position of first vice president is significant because, according to the Cuban Constitution, the person holding the office is the official successor in case the president succumbs or cannot fulfill his duties. Prior to his appointment, Díaz-Canel—an engineer by training—was serving as one of the Council of State's six other vice presidents. His appointment as the official constitutional successor to Castro represented a move toward bringing about generational change in Cuba's political system. Díaz-Canel became a member of the Politburo in 2003 and also held top PCC positions in the provinces of Villa Clara and Holguín. He became education minister in 2009 until he was tapped to be a vice president of the Council of State. Díaz-Canel has been described in media reports as an experienced manager with good relations with the military and as someone that worked his way up through the party.⁷

At the PCC's seventh party congress, held in April 2016, Raúl Castro proposed age limits for officials to assume top positions in the party and government institutions—a maximum of 60 years of age to join the PCC's Central Committee and a maximum of 70 years of age to assume leadership positions in the party and government. He noted that there would be a five-year period of transition for the introduction of these age limits. Ironically, the congress reelected Castro and José Ramón Machado Ventura (currently 86 years of age) as first and second secretaries of the PCC. However, the membership of the Central Committee grew from 116 to 142, with 55 new members younger than 60 years of age.⁸ Although Castro reiterated his intention to step down as head of government, or president, in February 2018, at this juncture it appears that he will retain his position as first secretary of the PCC. Some observers had expected a preview of forthcoming economic changes, but no new reform measures were announced, a reflection of the

⁵ Juan O. Tamayo, "Cuban Communists OK Term Limits for Party and Government Officials," *Miami Herald*, January 29, 2012, and "Cuba's Communists Meet to Update Party, Not Much Buzz on Street," *Miami Herald*, January 28, 2012; Patricia Grogg, "Cuba: Party Aims for Efficient, Inclusive Socialism," Inter Press Service, February 1, 2012.

⁶ As noted in the State Department's *Country Reports on Human Rights Practices 2016*: "While a voting process to choose candidates exists, citizens do not have the ability to choose their government through the right to vote in free and fair elections or run as candidates from outside the Communist Party, and the government retaliated against those who sought peaceful political change."

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

⁸ William M. Leogrande, "Updating the Party: Cuba's New (and Not So New) Leaders," *Huffington Post*, April 23, 2016.

government's extreme cautiousness in taking economic actions that could have negative social or political consequences.

As Cuba approaches its February 2018 transition, many observers see First Vice President Díaz-Canel as the "heir apparent," although nothing is certain. Some Cuba watchers maintain that Díaz-Canel is still very much in the shadow of Raúl, and he has not yet taken on a prominent role. They contend that the Cuban military is perhaps the most important institution to watch as the transition to a post-Castro government unfolds.⁹ Under Raúl, who served as defense minister from the beginning of the Cuban revolution until 2008, the Cuban military has played an increasing role in government, with several military officers and confidants of Raúl serving as ministers. In April 2017, comments by Raúl Castro's daughter, Mariela Castro Espín, suggested that there could be more than one candidate for president.¹⁰

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 (*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.¹¹

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.

Political Prisoners. The State Department's human rights report on Cuba covering 2016 stated that it was difficult to determine the number of political prisoners because of the Cuban government's lack of transparency and its systematic violation 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." According to the report, the Cuban government also continued to deny independent monitors access to Cuban

⁹ Tracy Wilkinson, "New Face Waits in Cuba," *Los Angeles Times*, February 7, 2015.

¹⁰ Nora Gámez Torres, "'There are Several People with Qualities' to Replace Raúl Castro, Says the Cuban Leader's Daughter," *Miami Herald*, May 18, 2017.

¹¹ "La CCDHRN denuncia la muerte de un preso político a la espera de juicio," *14ymedio.com*, March 7, 2017.

jails.¹² Nevertheless, the State Department’s human rights report noted that at least two independent organizations in Cuba estimated that the government held 75-95 political prisoners.¹³

The Havana-based Cuban Commission for Human Rights and National Reconciliation (CCDHRN) estimated in an April 2016 report that the Cuban government held 82 people imprisoned for political motives (up from 60 people in June 2015), with 11 others released from prison but still on parole—for a total of 93 convicted for political reasons. The CCDHRN’s report included dozens of opposition activists, many of whom are members of UNPACU, as well as those convicted on such charges such as hijacking, terrorism, sabotage, other acts of violence, and espionage.¹⁴ In May 2017, the CCDHRN maintained that Cuba had at least 140 political prisoners (54 members of UNPACU), although it was unclear if that number included those released on parole; the organization did not publicly publish a list of the political prisoners as it has in the past.¹⁵

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.¹⁶

In 2017, the Cuban government has released several political prisoners dubbed “prisoners of conscience” by Amnesty International (AI).¹⁷ On January 21, graffiti artist Danilo Maldonado Machado (known as El Sexto), who had been arrested in November 2016 after he made a video celebrating the death of Fidel Castro, was released from prison; he subsequently testified before a Senate Foreign Relations Committee hearing in February examining U.S. policy on human rights issues worldwide.¹⁸ Maldonado had previously spent 10 months in prison in 2015. On April 2, 2017, the Cuban government conditionally released three siblings—twin sisters Anairis and Adairis Miranda Leyva and their brother Fidel Manuel Batista Leyva—who had been arrested in November 2016 for defamation and public disorder after the death of Fidel Castro; the three had been on a hunger strike for almost a month.¹⁹ AI has continued to express concern about ongoing

¹² U.S. Department of State, *Country Reports on Human Rights Practices for 2016*, March 3, 2017.

¹³ Ibid.

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

¹⁵ CCDHRN, “Cuba: Algunos Actos de Represión Política en el Mes de Abril de 2017,” May 8, 2017.

¹⁶ 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.

¹⁷ Amnesty International 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.

¹⁸ 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>.

¹⁹ AI, “Prisoner of Conscience Siblings Released,” April 4, 2017.

harassment of the three siblings and their mother, Maydolis Leyva Portelles, who also was arrested in November 2016.²⁰

AI reports that Cuba holds two prisoners of conscience. Dr. Eduardo Cardet Concepción, a member of the Christian Liberation Movement, was arrested after Fidel Castro's death in November 2016 for publicly criticizing the former Cuban leader. In March 2017, Cardet was sentenced to three years in prison. AI maintains that his sentence "is a stark illustration of ongoing restrictions to the right to free expression in Cuba."²¹ In early July 2017, AI issued an alert about Jorge Cervantes, a member of UNPACU who allegedly was detained for contempt and resistance in May 2017. Cervantes reportedly has ended a 39-day hunger strike but has been transferred to a maximum-security prison.²²

Short-Term Detentions. Short-term detentions for political reasons have increased significantly over the past several years, a reflection of the government's change of tactics in repressing dissent away from long-term imprisonment. The CCDHRN reports that 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 the first six months of 2017, there were at least 2,620 short-term detentions.²³

Bloggers and Civil Society Groups. Over the past several years, numerous independent Cuban blogs have been established that are often critical of the Cuban government. Cuban blogger Yoani Sánchez has received considerable international attention since 2007 for her website, *Generación Y*, which includes commentary critical of the Cuban government. In May 2014, Sánchez launched an independent digital newspaper in Cuba, *14 y medio*, available on the Internet, distributed through a variety of methods in Cuba, including CDs, USB flash drives, and DVDs.²⁴

The Catholic Church became active in broadening the debate on social and economic issues through its publications *Palabra Nueva* (New Word) and *Espacio Laical* (Space for Laity).²⁵ The Church also has played an increasing role in providing social services, including soup kitchens, services for the elderly and other vulnerable groups, after-school programs, job training, and even college coursework. In 2014, the two former editors of *Espacio Laical*, Roberto Veiga and Lenier Gonzalez, launched an online forum known as *Cuba Posible*.²⁶

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

²⁰ AI, "Urgent Action Update: Ex-Prisoners of Conscience Intimidated," July 5, 2017.

²¹ Amnesty International (AI), "Cuba: Activist Sentenced to Three Years in Jail after Criticising Fidel Castro," March 21, 2017. The Christian Liberation Movement was founded by world renowned political activist Oswaldo Payá in 1988, and calls for peaceful democratic change. Payá was killed in a mysterious car accident in 2012 along with another Cuban human rights activist. His daughter, Rosa María Payá, has called for an international investigation into the crash.

²² AI, "Urgent Action, Opposition Activist in Maximum Security Prison," July 5, 2017.

²³ CCDHRN, "Cuba: Algunos Actos de Represión Política en el Mes de Mayo de 2017," June 5, 2017; and "CCDHRN: '2.620 detenciones arbitrarias por motivos políticos' en el primer semestre de 2017," *Diario de Cuba*, July 3, 2017.

²⁴ Sánchez's website, which has links to numerous other independent blogs and websites, is available at <http://generacionyen.wordpress.com/>, and her online digital newspaper is available at <http://www.14ymedio.com/>.

²⁵ See <http://www.palabranueva.net> and <http://www.espaciolaical.org/>.

²⁶ Marc Frank, "Cuba's Catholic Church May Restrict Rare Forum for Open Debate," Reuters, June 16, 2014; Daniel Trotta and Rosa Tania Valdés, "Cuban Editors, Pressured to Leave Magazine, Announce New Venture," Reuters, July 1, 2014. The *Cuba Posible* website is available at <http://cubaposible.net/>.

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

Trafficking in Persons. The State Department released its 2017 *Trafficking in Persons (TIP) Report* on June 27, 2017, and for the third consecutive year Cuba was placed on the Tier 2 Watchlist (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 Watchlist status refers to countries whose governments, despite making significant efforts, do not fully comply with the minimum standards and still have some specific problems (e.g., an increasing number of victims or failure to provide evidence of increasing anti-trafficking efforts) or whose governments have made commitments to take additional anti-trafficking steps over the next year. Because this was Cuba's third year on the Tier 2 Watchlist, normally it automatically would have been downgraded to Tier 3. However, the State Department issued a waiver because the Cuban 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.

The State Department had maintained in its 2015 TIP report that Cuba was upgraded to Tier 2 Watchlist status 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 Watchlist for the second consecutive year because the country did not improve anti-trafficking efforts compared to 2015. Nevertheless, the 2016 report noted that the Cuban government continued efforts to address sex trafficking, including prosecution and conviction, and the provision of services to victims. The State Department noted that the Cuban government released a report on its anti-trafficking efforts in October 2015; that multiple government ministries were engaged in anti-trafficking efforts; and that the government funded child protection centers and guidance centers for women and families, which served crime victims, including trafficking victims. However, the report also noted that the Cuban government did not prohibit forced labor, report efforts to prevent forced labor, or recognize forced labor as a possible issue affecting Cubans in medical missions abroad.²⁹

In January 2017, U.S. officials met with Cuban counterparts to discuss bilateral efforts to address human trafficking, the fourth such exchange.³⁰ 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.³¹

The U.N. Special Rapporteur on Trafficking in Persons conducted a site visit of Cuba in April 2017 and described Cuba's anti-trafficking effort as "at its initial stage."³² In an end-of-visit

²⁷ U.S. Department of State, *Trafficking in Persons Report 2017*, Cuba, June 2017, at <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271173.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, "United States and Cuba to Hold Meeting to Fight Trafficking in Persons," media note, January 11, 2017.

³¹ U.S. Department of State, "United States and Cuba to Sign Law Enforcement Memorandum of Understanding," media note, January 16, 2017.

³² U.N. Office of the High Commissioner for Human Rights, "End of Visit Statement by Maria Grazia Giammarinaro, (continued...)"

statement, the Special Rapporteur commended Cuba's political will to address trafficking, including the establishment of a National Action Plan on anti-trafficking, the government's strong focus on prevention efforts, and steps to foster bilateral, regional, and international cooperation to combat human trafficking. However, the Special Rapporteur also listed multiple "areas of concern"—including the lack of a comprehensive legal definition of trafficking in persons that is consistent with international standards, limited capacity to identify trafficking cases, and a low prosecution rate for trafficking cases. Accordingly, the Special Rapporteur made a number of recommendations for Cuba to improve its anti-trafficking efforts that could contribute to the government's implementation of its National Action Plan.

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 anti-trafficking efforts, and coordinating anti-trafficking 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.³³

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 Mayo de 2017," June 5, 2017, at http://www.14ymedio.com/nacional/OVERVIEW-MAYO_CYMFIL20170605_0001.pdf.

CCDHRN, "Comunicado" April 25, 2016 (list of political prisoners), at http://www.14ymedio.com/nacional/LISTA-PRESOS-COMUNICADO2_CYMFIL20160425_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 2017 *World Report* maintains that "the Cuban government continues to repress dissent and punish public criticism," at <https://www.hrw.org/world-report/2017/country-chapters/cuba>.

Inter-American Commission on Human Rights, *Annual Report 2016*, April 27, 2016, Chapter IV has a section on Cuba, at <http://www.oas.org/en/iachr/docs/annual/2016/docs/InformeAnual2016cap.B.Cuba-en.pdf>.

U.S. Department of State, *Country Report on Human Rights Practices for 2016*, March 3, 2017, at <https://www.state.gov/documents/organization/265790.pdf>.

Economic Conditions

Cuba's economy is largely state-controlled, with the government owning most means of production and employing a majority of the workforce. Key sectors of the economy that generate foreign exchange include the export of professional services (largely medical personnel to Venezuela); tourism, which has grown significantly since the mid-1990s, with more than 4 million tourists visiting Cuba in 2016; nickel mining, with the Canadian mining company Sherritt

(...continued)

Special Rapporteur on Trafficking in Persons, Especially Women and Children, on her Visit to Cuba (10-14 April 2017)," April 20, 2017.

³³ U.S. Department of State, *Trafficking in Persons Report 2017*, Cuba, June 2017.

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 2015. The once-dominant sugar industry has declined significantly over the past 20 years; in 1990, Cuba produced 8.4 million tonnes of sugar, whereas in the 2015-2016 harvest it produced just over 1.5 million tonnes and will reportedly reach over 1.8 million tonnes for the 2016-2017 harvest.³⁴

Cuba depends 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 difficulties, has raised Cuban concerns about the security of the support received from Venezuela. In 2015 and 2016, Venezuela reportedly cut the amount of oil that it sent to Cuba.³⁵ In March 2017, the Cuban government announced restrictions on the sale of premium-grade gasoline because of declines in such imports from Venezuela.³⁶ Cuba has increasingly focused on the need to diversify its trading partners and seek alternative energy suppliers in the case of a significant cutback or cutoff of Venezuelan oil. In early May 2017, press reports indicated that Russia had begun to ship large quantities of oil to Cuba, a reflection of Cuba's efforts to diversify its sources of foreign oil.³⁷

In terms of economic growth, Cuba experienced severe 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. Growth improved modestly from 2010 to 2013, averaging 2.7% annually, but fell to just 1% in 2014 in part because of Cuba's challenges in shifting from a centrally planned to a more decentralized economy (see **Figure 2**).

The Cuban economy grew by 4.4% in 2015, with the growth reportedly attributed in part to improvement in relations with the United States. In 2016, however, the economy contracted by almost 1% because of lower export earnings, reduced support from Venezuela, and austerity measures. In particular, as noted above, Venezuela's economic crisis has affected its oil exports to Cuba. Looking ahead, the Economist Intelligence Unit forecasts economic growth of 1% in 2017 and 2.1% in 2018.³⁸

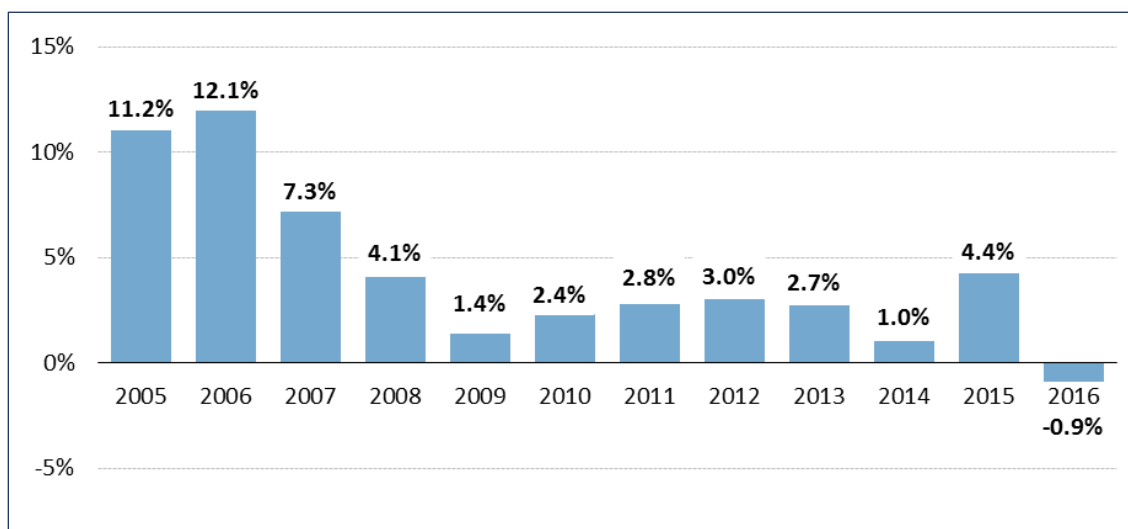
³⁴ Information and statistics were drawn from several sources: U.S. Department of State, "U.S. Relations with Cuba," September 7, 2016; José Luis Perelló, "Una mirada al turismo internacional en Cuba rumbo a 2017," *Revista Temas*, March 25, 2017; and "Cuban Raw Sugar Output Rises 20 Pct But Still Below Expectations," Reuters, April 26, 2017.

³⁵ Marianna Parraga and Alexandra Ulmer, "Venezuela's Energy Woes Spread to its Closest Ally: Cuba," Reuters, July 8, 2016.

³⁶ "Hit by Venezuela Shortage, Cuba to Restrict Premium Gasoline Sales," Reuters, March 30, 2017.

³⁷ "Russia Resumes Oil Shipments to Cuba, Helps Fill Venezuelan Breach," Reuters News, May 3, 2017.

³⁸ Economic growth figures are from the Economist Intelligence Unit, Country Data Tool, 2017.

Figure 2. Cuba: Real Gross Domestic Product Growth (%), 2005-2016

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

The government of Raúl Castro has implemented a number of economic policy changes, but economists have been disappointed that more far-reaching reforms have not been forthcoming. 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 has risen from 144,000 in 2009 to some 535,000 in 2016.³⁹ 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.

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 600 CUPs (\$25) does not provide for a reasonable standard of living.⁴⁰ 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.⁴¹ At the PCC's April 2016 Congress, Raúl Castro

³⁹ "Cuba: Stuck in the Past," *The Economist*, April 1, 2017.

⁴⁰ U.S. Department of State, *Country Reports on Human Rights Practices for 2016*, March 3, 2017.

⁴¹ "Cuba: Exchange Rate Unification Approaching," *Latin America Regional Report: Caribbean & Central America*, March 2014.

called for moving toward a single currency as soon as possible to resolve economic distortions. Given the current difficult economic situation, some economists do not expect currency unification to occur this year.⁴² Moreover, the Cuban government likely will continue its cautious approach toward economic reforms in the lead-up to the 2018 political succession.

A reform effort under Raúl Castro has focused on the agricultural sector, a vital issue because Cuba reportedly imports some 70%-80% of its food needs, according to the World Food Programme.⁴³ In an effort to boost food production, the government has turned over idle land to farmers and given farmers more control over how to use their land and what supplies to buy. Despite these and other efforts, overall food production has been significantly below targets.

The Cuban government adopted a new foreign investment law in 2014 with the goal of attracting increased levels 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.⁴⁴ A Mariel Special Development Zone was established near the port of Mariel to attract foreign investment. In November 2016, the Cuban government updated its wish list for foreign investment, which includes 395 projects representing potential investment of \$9.5 billion in such high-priority areas as tourism, renewable energy, infrastructure, and agriculture and food production. Since the 2014 foreign investment law was approved, however, Cuba has attracted just \$1.3 billion in foreign direct investment.⁴⁵

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." However, as noted above, no new economic measures emanated from the congress.⁴⁶ 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.⁴⁷ Cuba's economic potential, according to one analysis, is held back by several factors, including the lack of political will; dilapidated infrastructure; a transportation sector in need of repair and modernization; an inefficient and poorly resourced construction sector; and a government bureaucracy that suffers from morale problems, a weak decisionmaking process, and a lack of familiarity with international practice.⁴⁸

⁴² Mimi Whitefield, "Cuba: The Next Year Will Determine Raúl Castro's Economic Legacy," *Miami Herald*, March 23, 2017.

⁴³ "Cuba, Current issues and what the World Food Programme is doing," World Food Programme, at <https://www.wfp.org/countries/cuba>.

⁴⁴ "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.

⁴⁵ Mimi Whitefield, "Cuba Opens to World at Havana Trade Fair but Few U.S. Companies Are Present," *Miami Herald*, November 1, 2016.

⁴⁶ 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>.

⁴⁷ Marc Frank, "As Cuban Economy Stagnates, Economists Press for Deeper Reforms," Reuters News, October 24, 2014.

⁴⁸ Fulton Armstrong, "Cuba's Limited Absorptive Capacity Will Slow Normalization," Center for Latin American & (continued...)

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

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 2015, the leading sources of Cuba's imports in terms of value were Venezuela (24%, down from 40% in 2014), followed by China (20%), and Spain (10%); the leading destination of Cuban exports was Venezuela (43%), followed by Canada (almost 11%), China (8%), and the Netherlands (almost 7%).⁴⁹

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

(...continued)

Latino Studies, Cuba Initiative, American University, October 20, 2015.

⁴⁹ Statistics drawn from Oficina Nacional de Estadística e Información, República de Cuba, *Anuario Estadístico de Cuba 2015, Sector Externo*, Edición 2016.

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.”⁵⁰

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.⁵¹ In the aftermath of Putin’s trip, press reports claimed that Russia would reopen its signals intelligence facility at Lourdes, Cuba, which had closed in 2002, but President Putin denied reports that his government would reopen the facility.⁵²

Although trade and investment relations between Russia and Cuba have not been significant, two Russian energy companies have been involved in oil exploration in Cuba, and a third announced its involvement in 2014. Gazprom had been in a partnership with the Malaysian state oil company, Petronas, 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, Cubapetroleo (Cupet), for the development of an offshore exploration block, and Rosneft agreed to cooperate with Cuba in studying ways to optimize existing production at mature fields.⁵³ Some energy analysts are skeptical about the prospects for the offshore project given the unsuccessful attempts by foreign oil companies to drill wells in Cuba’s deepwaters. In May 2017, as noted above, Rosneft began to ship large quantities of oil to Cuba, a reflection of Cuba’s efforts to diversify its sources of foreign oil in anticipation of a potential cutoff of oil from Venezuela.⁵⁴

Russian officials publicly welcomed the improvement in U.S.-Cuban relations, although the change in U.S. policy could be viewed as a potential setback for Russian overtures in the region. As U.S.-Cuban normalization talks were beginning in Havana in January 2015, a Russian intelligence ship docked in Havana. U.S. officials downplayed the ship’s arrival, maintaining that the occurrence was legal and not out of the ordinary.⁵⁵ 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.⁵⁶

China. Cuba’s relations with China also have strengthened in recent years. During the Cold War, the two countries did not have close relations because of Sino-Soviet tensions, but bilateral relations have grown close in recent years, with Chinese trade and investment in Cuba increasing. For more than a decade, Chinese leaders have made a series of visits to Cuba: then-President Hu

⁵⁰ 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.

⁵¹ Anna Andrianova and Bill Faries, “Russia Forgives \$32B of Debt, Wants to Do Business in Cuba,” Bloomberg News, July 13, 2014.

⁵² “Putin Denies Russia to Reopen Soviet-Era Spy Post in Cuba,” Reuters News, July 17, 2014.

⁵³ “Russia Cements Energy Ties with Latin America,” *Oil Daily*, July 15, 2014.

⁵⁴ “Russia Resumes Oil Shipments to Cuba, Helps Fill Venezuelan Breach,” Reuters News, May 3, 2017.

⁵⁵ “Russian Spy Ship Arrives in Havana Ahead of U.S.-Cuba Talks,” Radio Free Europe Documents and Publications, January 21, 2015.

⁵⁶ 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.

Jintao visited in 2004 and 2008; President Xi Jinping visited in 2014 (and when he was vice president in 2011); and, most recently, Chinese Prime Minister Li Keqiang visited in 2016, reportedly signing some 30 economic cooperation agreements.⁵⁷ Raúl Castro visited China in 2012 and signed cooperation agreements focusing on trade and investment issues.

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.⁵⁸

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.⁵⁹ 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.

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 medical 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 the imposition of austerity measures and economic contraction in 2016.

With El Salvador's restoration of relations with Cuba in 2009, all Latin American nations now have official diplomatic relations with Cuba. Cuba has increasingly become more 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 has been 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.

⁵⁷ "China, Cuba Agree to Deepen Ties During PM Li's Havana Visit," Reuters, September 24, 2016.

⁵⁸ 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 [http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/570485/EXPO_IDA\(2017\)570485_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/570485/EXPO_IDA(2017)570485_EN.pdf).

⁵⁹ 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.

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.

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.⁶⁰ 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.”⁶¹

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.⁶²

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.⁶³ 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

⁶⁰ 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>.

⁶¹ 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.

⁶² Marc Jones, “Interview – Latam Development Bank CAF Sees Cuba Joining in Weeks,” Reuters News, January 15, 2016; Development Bank of Latin America (CAF), “CAF and Cuba Sign First Agreement of Understanding To Establish a Joint Working Agenda,” September 3, 2016.

⁶³ For further background, see section on “Cuba and the OAS” in CRS Report R40193, *Cuba: Issues for the 111th Congress*, by (name redacted) ; also see CRS Report R42639, *Organization of American States: Background and Issues for Congress*, by (name redacted)

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.⁶⁴

U.S. Policy Toward Cuba

Background on U.S.-Cuban Relations⁶⁵

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 1962,⁶⁶ citing Section 620(a) of the Foreign Assistance Act of 1961 (FAA), which authorizes the President “to establish and maintain a total embargo upon all trade between the United States and Cuba.”⁶⁷ 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.⁶⁸ The authority for the embargo was later expanded in March 1962 to include the Trading with the Enemy Act (TWEA).⁶⁹

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.⁷⁰ 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

⁶⁴ “UN Chief Pushes Cuba on ‘Arbitrary Detentions,’” *Agence France Presse*, January 28, 2014.

⁶⁵ For additional background, see CRS Report RL30386, *Cuba-U.S. Relations: Chronology of Key Events 1959-1999*, by (name redacted) .

⁶⁶ Presidential Documents, “Proclamation 3447, Embargo on All Trade with Cuba,” 27 *Federal Register* 1085, February 7, 1962.

⁶⁷ 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.

⁶⁸ U.S. Department of the Treasury, 27 *Federal Register* 1116, February 7, 1962.

⁶⁹ U.S. Department of the Treasury, 27 *Federal Register* 2765-2766, March 24, 1962.

⁷⁰ 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.

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)).⁷¹ The Export Administration Regulations (EAR) are found at 15 C.F.R. Sections 730-774.⁷²

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.⁷³)
- 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 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.⁷⁴
- 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

⁷¹ 31 C.F.R. §515.533.

⁷² See especially 15 C.F.R. §746.2 on Cuba, which refers to other parts of the EAR.

⁷³ 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.

⁷⁴ See, for example, U.S. Department of State, "U.S. Determination of Six-Month Suspension Under Title III of LIBERTAD," July 14, 2017. For additional background, see the section on "Helms/Burton Legislation" in CRS Report RL32730, *Cuba: Issues for the 109th Congress*, by (name redacted) .

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.⁷⁵

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.

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."⁷⁶ 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.

⁷⁵ See CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*, by (name redacted) . 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 more information, see CRS Legal Sidebar WSLG254, *Can Victims of Terrorism in the United States Sue Foreign Governments?*, by (name redacted) ; and CRS Legal Sidebar WSLG1405, *Can Creditors Enforce Terrorism Judgments Against Cuba?*, by (name redacted) . For information on current sanctions, see CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*, by (name redacted) and (name redacted) .

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

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.”⁷⁷

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 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.”⁷⁸

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.⁷⁹ 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 2015.⁸⁰

⁷⁷ White House, “Statement by the President on Cuba Policy Changes,” December 17, 2014.

⁷⁸ Ibid.

⁷⁹ 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 (name redacted). Also see CRS Report R43835, *State Sponsors of Acts of International Terrorism—Legislative Parameters: In Brief*, by (name redacted).

⁸⁰ 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, (continued...)

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, the last in December 2016, to coordinate efforts to advance the normalization process.⁸¹

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 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.”⁸² 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.⁸³

In October 2016, President Obama issued a presidential policy directive on the normalization of relations with Cuba.⁸⁴ 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)

(...continued)

2015.

⁸¹ 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>.

⁸² White House, “Remarks by President Obama and President Raúl Castro of Cuba in a Joint Press Conference,” March 21, 2016.

⁸³ White House, “Remarks by President Obama to the People of Cuba,” March 22, 2016.

⁸⁴ 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>.

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 2016.⁸⁵

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

⁸⁵ 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 <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.

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.⁸⁶ 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."⁸⁷ 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."⁸⁸

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.⁸⁹ In May 2017, Acting Assistant Secretary of State 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."⁹⁰

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. 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."⁹¹ Cuba's state television published an "official note" describing the statement as "controversial and ridiculous," although the note was not carried by other official Cuban state media.⁹²

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 on Cuba replacing President Obama's October 2016 presidential policy directive (discussed above), which had laid out objectives for the

⁸⁶ Jeremy Diamond, "Trump Shifts on Cuba, Says He Would Reverse Obama's Deal," *CNN*, September 16, 2016.

⁸⁷ Eugene Scott, "Donald Trump: Fidel Castro Is Dead!" *CNN*, November 26, 2016.

⁸⁸ Donald Trump @realDonaldTrump, Twitter, November 28, 2016.

⁸⁹ White House, Press Briefing by Press Secretary Sean Spicer, February 3, 2017.

⁹⁰ "U.S. to Press Cuba on Human Rights," *Agence France Presse*, May 9, 2017.

⁹¹ White House, "Statement from President Donald J. Trump on Cuban Independence Day," May 20, 2017.

⁹² "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.

normalization process.⁹³ 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 the presidential memorandum, had "encouraged untold thousands of Cuban nationals to risk their lives to travel unlawfully to the United States."

The most significant policy changes include (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. The policy changes will not take place until the amended regulations are issued; the Department of the Treasury, for example, indicated that it expects to issue its regulatory amendments in the coming months.

Restrictions on Transactions with the Cuban Military. The State Department is 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.⁹⁴ Financial transactions with those entities are to be prohibited, 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. Moreover, transactions that further the national security or foreign policy interests of the United States are to be permitted. The memorandum specifically identifies 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.⁹⁵ Given the Cuban military's significant involvement in the economy, the new prohibitions could limit future U.S. economic engagement with Cuba, particularly in tourism, depending on the forthcoming amended regulations (including what is considered a "direct financial transaction") and their implementation.⁹⁶

Restrictions on People-to-People Travel. With regard to people-to-people travel, the Department of the Treasury will amend the CACR, specifically, 31 C.F.R. 515.565(b), to require people-to-people educational travel to take place under the auspices of an organization specializing in such travel, with travelers accompanied by a representative of the organization. Individuals will no longer be authorized to travel to Cuba for such travel on their own. The new policy will not affect other categories of permissible travel. The Obama Administration had authorized individual people-to-people 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. According to Cuban government statistics, the number of U.S. travelers increased

⁹³ 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 White House, "National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba," June 16, 2017, at <https://www.whitehouse.gov/the-press-office/2017/06/16/national-security-presidential-memorandum-strengthening-policy-united>.

⁹⁴ 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>.

⁹⁵ Nora Gámez Torres, "High on Cuba Policy Proposal: Restricting U.S. Business Deals with Cuba's Military-Run Entities," *Miami Herald*, June 12, 2017.

⁹⁶ Marc Frank, "Cuban Military's Tentacles Reach Deep into Economy," Reuters News, June 15, 2017.

from 91,254 in 2014 to some 285,000 in 2016, a figure almost matched in just the first five months of 2017.⁹⁷ This is in addition to the several hundreds of thousands of Cuban Americans who visit family in Cuba each year. The rising level of U.S. travel to Cuba could possibly slow or be reversed once the new regulations are in place. Moreover, the level of travel also could be affected by the increased Department of the Treasury scrutiny that President Trump's memorandum requires.

New Definition of “Prohibited Officials of the Cuban Government.” President Trump's national security presidential memorandum also calls for the Department of the Treasury to redefine “prohibited officials of the Government of Cuba” in the CACR (set forth in 31 C.F.R. 515.537) by broadening it to include a much wider swath of Cuban government officials. This would include, among other positions, all Ministers and Vice Ministers, all Director Generals and sub-Director Generals, all employees of the Ministry of Defense, Ministry of Interior, and Supreme Court, and all editors of Cuban state-run media organizations and programs. The current more narrow definition of such “prohibited officials” consists of members of the Council of Ministers and flag officers of the Revolutionary Armed Forces and was put in place by the Obama Administration in October 2016; prior to that, the broader definition called for by President Trump had been in place for many years.⁹⁸ The definition of the term is significant because of various prohibitions in the CACR against financial transactions with prohibited officials, including that they may not be recipients of authorized remittances (31 C.F.R. 515.570). To what extent the new regulations will affect the level of remittances to Cuba is uncertain.

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 2016.⁹⁹

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 (see discussion on “U.S. Fugitives from Justice,” below). 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.”¹⁰⁰

An area where the Trump Administration has diverged from past administrations is U.S. democracy and human rights funding for Cuba. The President's FY2018 budget request zeroes

⁹⁷ “Viajeros de EEUU a Cuba superan en lo que va de año las cifra total de 2016,” *El Nuevo Herald*, June 13, 2017.

⁹⁸ U.S. Department of the Treasury, “Cuban Assets Control Regulations,” 81 *Federal Register* 71372-71378, October 17, 2016.

⁹⁹ See U.S. Department of State, “Assistant Secretary Malinowski and Acting Assistant Secretary Aponte Travel to Cuba,” October 13, 2016.

¹⁰⁰ White House, “Remarks by President Trump on the Policy of the United States Toward Cuba,” June 16, 2017.

out such funding, which has been supported by Congress for many years (see “Democracy and Human Rights Funding,” below).

Cuban Government Reaction. Since President Trump’s inauguration, the Cuban government has expressed the desire to continue dialogue and cooperation with the United States. At a CELAC summit in the Dominican Republic in late January, President Castro expressed “Cuba’s willingness to continue negotiating pending bilateral issues with the United States, on the basis of equality, reciprocity and respect for the sovereignty and independence of our country, and to continue the respectful dialogue and cooperation on issues of common interest with the new government of President Donald Trump.” He maintained that “Cuba and the United States can cooperate and coexist in a civilized manner, respecting differences and promoting all that benefits both countries and peoples.”¹⁰¹ In April, Cuban Foreign Minister Bruno Rodríguez reiterated “our readiness for dialogue and cooperation on the basis of the absolute respect for our sovereignty.”¹⁰²

As expected, the Cuban government’s reaction to President Trump’s speech announcing Cuba policy changes was critical. Foreign Minister Rodríguez asserted that the speech “was a grotesque spectacle straight from the Cold War.”¹⁰³ 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.¹⁰⁴

On July 14, 2017, at a meeting of Cuba’s National Assembly, 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.¹⁰⁵

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

¹⁰¹ “Raúl Castro’s Speech at CELAC Summit,” Radio Cadena Agramonte (full text by Cuban News Agency) January 26, 2016, at <http://www.cadenagramonte.cu/english/show/articles/25978:raul-castro-s-speech-at-celac-summit>. Also see Mimi Whitefield, “Raúl Castro Says Cuba Wants a ‘Respectful Dialogue’ with Trump,” *Miami Herald*, January 25, 2017.

¹⁰² Nora Gámez Torres, “Cuba’s Foreign Minister Reiterates the Island’s Desire for Dialogue with the U.S.,” *Miami Herald*, April 24, 2017.

¹⁰³ Francois Murphy “Cuba Calls Trump Speech on Island ‘Grotesque Spectacle,’” Reuters News, June 19, 2017.

¹⁰⁴ 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>.

¹⁰⁵ 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.

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.¹⁰⁶

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, 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

¹⁰⁶ 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>.

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 the Castro government, politically and economically, and facilitates the survival of the communist regime. Opponents of softening U.S. policy argue that the United States should stay the course in its commitment to democracy and human rights in Cuba and that sustained sanctions can work. 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 Travel¹⁰⁷

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 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.

¹⁰⁷ For more information, see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*, by (name redacted) .

As noted 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; (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.

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

As noted above, in announcing his administration's policy toward Cuba, President Trump directed the Department of the Treasury to eliminate individual people-to-people travel to Cuba. Instead, people-to-people education travel will have to take place under the auspices of an organization specializing in such travel, with travelers accompanied by a representative of the organization. Until the regulations are amended, which could take several months, individual people-to-people travel is still authorized.

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

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.¹⁰⁹ 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.¹¹⁰ 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.¹¹¹ 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 roundtrip flights between Havana and 10 U.S. cities (Atlanta, Charlotte, Fort Lauderdale, Houston, Los Angeles, Miami, Newark, New York [JFK], Orlando, and Tampa).¹¹² American Airlines became the first airline to begin regular direct flights to Havana from Miami in November 2016.

In 2017, three U.S. airlines that had been awarded flights to Cuba—Silver Airways, Frontier Airlines, and Spirit Airlines—announced that they would be ending their service to Cuba, citing competition from other airlines and low demand. Silver Airways ended its flights from Fort Lauderdale to seven Cuban cities in April, whereas Frontier Airlines and Spirit Airline have plans to drop their flights from Miami and Fort Lauderdale, respectively, to Havana by June. American Airlines also cut some flights to Cuba. Southwest Airlines has plans to end its flights to Varadero and Santa Clara, Cuba, in September 2017, although it is applying to increase its flights to Havana.¹¹³ JetBlue has requested from the Department of Transportation to take up some of the slots from airlines ceasing flights to Cuba, and it also has requested permission to add a flight between Boston and Havana.¹¹⁴ The U.S. air cargo company FedEx was supposed to begin operations to Cuba by April 15, 2017, but the company has requested a six-month extension to inaugurate its service.¹¹⁵

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

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

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

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

¹¹² 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.

¹¹³ "Silver, Frontier Drop Cuba Services," *Aviation Daily*, March 16, 2017; Frances Robles, "Citing a Glut of Seats, Airlines Drop Flights to Cuba," *New York Times*, March 26, 2017; "Southwest Airlines to Scale Down Cuba Flights," Reuters News, June 28, 2017.

¹¹⁴ Chabeli Herrera, "As Other Airlines Cuba Service, JetBlue Applies for More Flights to the Island," *Miami Herald*, April 24, 2017; and Adam Vaccaro, "JetBlue Really, Really Wants to Fly Between Boston and Cuba," *Boston Globe*, April 24, 2017.

¹¹⁵ Lewis King, "Economic Realities Slow U.S. Aviation Ambitions in Cuba," *Air Cargo World*, March 6, 2017.

down or block the Administration's efforts to normalize relations with Cuba.¹¹⁶ 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.¹¹⁷ 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.¹¹⁸

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.¹¹⁹ 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, four bills have been introduced that would lift remaining restrictions on travel. H.R. 351 (Sanford) would prohibit restrictions on travel to Cuba, 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) and H.R. 2966 (Rush) would lift the economic embargo on Cuba and prohibit restrictions on travel.

¹¹⁶ Jacob Fischler, "Lawmakers Plan Bill to Stop Flights to Cuba Over Security," *CQ Roll Call*, July 12, 2016.

¹¹⁷ 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/>.

¹¹⁸ Nora Gámez Torres, "Cuba Approves U.S. Air Marshals on Commercial Flights," *El Nuevo Herald*, September 30, 2016.

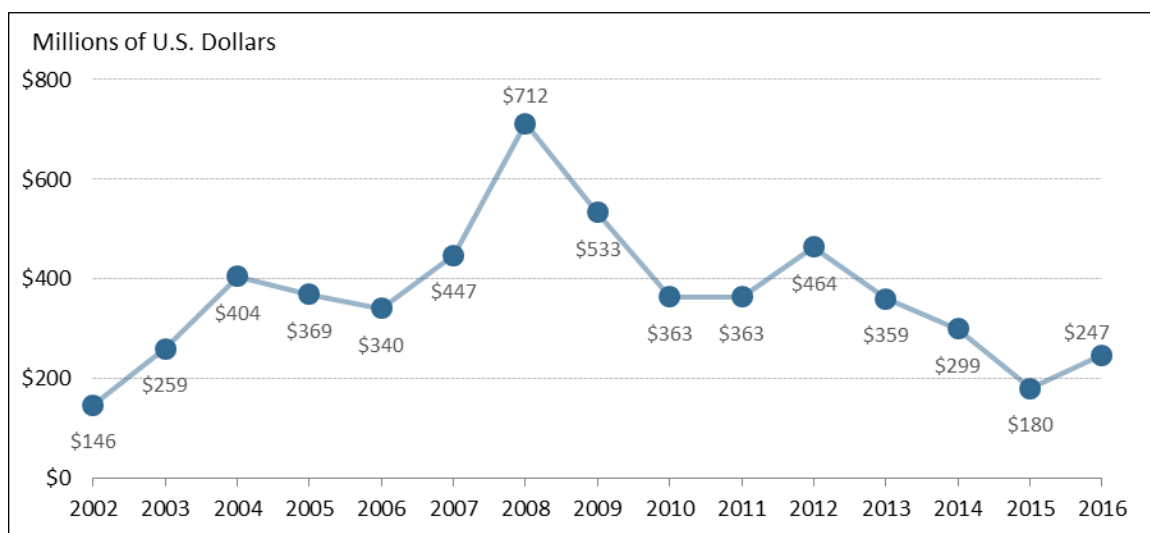
¹¹⁹ Laura Stevens, "Carnival Gets U.S. Approval to Start Cruises to Cuba," Dow Jones Newswires, July 7, 2015; Shivani Vora, "Carnival Will Begin Cruises to Cuba in May," *New York Times*, March 23, 2016.

U.S. Exports and Sanctions¹²⁰

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 \$5.5 billion in U.S. products from 2001 to 2016, 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. Reversing that trend, however, U.S. exports to Cuba increased to \$247 million in 2016, an increase of almost 37%. In the first quarter of 2017, U.S. exports to Cuba were valued at almost \$65 million, an increase of 22% over the same period in 2016.

Figure 3. U.S. Exports to Cuba, 2002-2016



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

¹²⁰ For additional information, see CRS Report R44119, *U.S. Agricultural Trade with Cuba: Current Limitations and Future Prospects*, by (name redacted) ; and CRS Insight IN10514, *Financing U.S. Agricultural Exports to Cuba*, by (name redacted) .

Looking at the composition of U.S. exports to Cuba from 2012 to 2016, 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 2016, for example, it accounted for almost 38% of U.S. exports.

Among the reasons for the overall decline in U.S. exports to Cuba in the 2012-2015 period, analysts cite Cuba's shortage of hard currency; financial support from Venezuela; credits and other arrangements offered by other governments to purchase their countries' products; Cuba's preferences to purchase products from government-controlled entities; and efforts by Cuba to increase the motivation of U.S. companies, organizations, local and state officials, and some Members of Congress to push for further changes in U.S. sanctions policy toward Cuba.¹²¹

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

¹²¹ Juan Tamayo, "Big Drop in U.S. Agricultural Sales to Cuba," *Miami Herald*, July 29, 2010; Marc Frank, "U.S. Food Sales to Cuba Continued Decline in 2011," Reuters News, February 22, 2012; U.S.-Cuba Trade and Economic Council, Inc. "Economic Eye on Cuba," May 2016.

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.

- 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.¹²²

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. exports could include such commodities as milk, wheat, rice, and dried beans, as well as intermediate and consumer-oriented commodities.¹²³

U.S. International Trade Commission (USITC) 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 2016.¹²⁴ 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

¹²² 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>.

¹²³ 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/>.

¹²⁴ 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>.

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.

- 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 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) and H.R. 2966 (Rush) 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.¹²⁵ 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 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.¹²⁶

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.¹²⁷ In March 2002, the United States agreed that it would come into compliance with the WTO ruling through legislative action by January 2003.¹²⁸ 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.¹²⁹

¹²⁵ 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.

¹²⁶ For additional background, see David Montgomery, “Havana Club v. Havana Club: Inside the Rum War Between Bacardi and Cuba,” *Washington Post*, July 24, 2016.

¹²⁷ For additional background, see CRS Report RL32014, *WTO Dispute Settlement: Status of U.S. Compliance in Pending Cases*, by (name redacted) .

¹²⁸ “U.S., EU Agree on Deadline for Complying with Section 211 WTO Finding,” *Inside U.S. Trade*, April 12, 2002.

¹²⁹ World Trade Organization (WTO), “United States—Section 211 Omnibus Appropriations Act of 1998, Understanding Between the European Communities and the United States,” WT/DC176/16, July 1, 2005; WTO, Dispute Settlement Body, “Minutes of Meeting, Held in the Centre William Rappard on 20 July 2005,” WT/DSB/M/194, August 26, 2005; and “Japan, EU Suspend WTO Retaliation Against U.S. in Two Cases,” *Inside U.S. Trade*, July 15, 2005.

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.¹³⁰ 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.¹³¹

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.¹³²

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.¹³³ The House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet held a hearing on February 11, 2016, on the trademark issue and on the issue of confiscated property, but this did not lead to any legislative action.

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 three broader bills on Cuba sanctions, H.R. 572 (Serrano), H.R. 574 (Serrano), and H.R. 2966 (Rush), have provisions that would repeal Section 211. Two FY2018 House appropriations bills, H.R. 3267 (Commerce) and H.R. 3280

¹³⁰ "PTO Cancels Cuban 'Havana Club' Mark; Bacardi Set to Sell Rum Under Same Mark," *International Trade Daily*, August 10, 2006.

¹³¹ 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.

¹³² U.S. Department of State, Testimony of Kurt Tong, Bureau of Economic and Business Affairs, 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.

¹³³ 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.

(Financial Services), have provisions that would introduce new sanctions related to Cuba and trademarks: H.R. 3267 has a provision that would prohibit 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 has a provision that would prohibit 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.

In March 2017, a bipartisan group of 25 House Members wrote to Secretary of State Rex Tillerson and Secretary of the Treasury Steven Mnuchin seeking clarification about OFAC's issuance of a specific license in 2016 that allowed Cubaexport to renew its trademark registration for Havana Club and questioning why OFAC declined to apply Section 211.¹³⁴

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 FY2017, Congress appropriated some \$324 million in funding for Cuba democracy efforts.¹³⁵ In recent years, this funding included \$20 million in each fiscal year from FY2014 through FY2017. 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.

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.¹³⁶

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

¹³⁴ Letter from Members of Congress to Secretary of the Treasury Mnuchin and Secretary of State Tillerson, March 29, 2017, available at <https://ros-lehtinen.house.gov/sites/ros-lehtinen.house.gov/files/03.29.17%20Ros-Lehtinen%20Wasserman%20Schultz%20Letter%20Regarding%20OFAC%20Bacardi%20IP....pdf>.

¹³⁵ 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.

¹³⁶ U.S. Agency for International Development, "Cuba," at <https://www.usaid.gov/where-we-work/latin-american-and-caribbean/cuba>.

information provided by NED on its website, its Cuba funding in recent years has been as follows: \$3 million in FY2014; \$3.68 million in FY2015; and \$5.84 million in FY2016.¹³⁷

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.”¹³⁸

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 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 have strongly opposed the Trump Administration’s zeroing out of the 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 provide \$30 million in democracy assistance for Cuba 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.

Oversight of U.S. Democracy Assistance to Cuba. The U.S. Government Accountability Office (GAO) has issued three major reports since 2006 examining USAID and State Department democracy programs for Cuba.¹³⁹ In the most recent report, issued in 2013, GAO concluded that

¹³⁷ See information about the National Endowment for Democracy’s (NED’s) 2016 projects in Cuba at <http://www.ned.org/region/latin-america-and-caribbean/cuba-2016/>.

¹³⁸ U.S. Department of State, *Congressional Budget Justification for Foreign Operations, Fiscal Year 2017, Appendix 3*, February 26, 2016, p. 406.

¹³⁹ A 2006 GAO report examined Cuba democracy programs from 1996 through 2005 and concluded that the U.S. 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* (continued...)

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.¹⁴⁰

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 2012.¹⁴¹ 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.¹⁴² 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."¹⁴³ 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."¹⁴⁴

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.¹⁴⁵

(...continued)

USAID's Oversight of U.S. Democracy Assistance for Cuba, GAO-09-165, November 2008.

¹⁴⁰ GAO, *Cuba Democracy Assistance, USAID's Program Is Improved, But State Could Better Monitor Its Implementing Partners*, GAO-13-285, January 2013.

¹⁴¹ Desmond Butler, Jack Gillum, and Alberto Arce, "U.S. Secretly Created 'Cuban Twitter' to Stir Unrest," Associated Press, April 3, 2014.

¹⁴² 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/>.

¹⁴³ Desmond Butler et al., "The Big Story, U.S. Sent Latin Youth Undercover in Anti-Cuba Ploy," Associated Press, August 4, 2014.

¹⁴⁴ USAID, "Statement from USAID Spokesperson Matt Herrick on Cuba Civil Society Story," August 4, 2014.

¹⁴⁵ USAID, Office of Inspector General, *Review of USAID's Cuban Civil Society Support Program*, December 22, 2015, at <https://oig.usaid.gov/node/1936>.

Radio and TV Martí

U.S.-government-sponsored radio and television broadcasting to Cuba—Radio and TV Martí—began in 1985 and 1990, respectively. According to the Broadcasting Board of Governors’ (BBG’s) *Fiscal Year 2017 Congressional Budget Request*, Radio and TV Martí and the Martinoticias.com website “inform and engage the people of Cuba by providing a reliable and credible source of news and information.”¹⁴⁶ According to the BBG, it is estimated that at least 2.2 million Cubans listen to Radio Martí every week. The BBG maintains that this estimate is based on a Bendixen and Amandi International April 2015 poll in which 20% of respondents said they had listened to Radio Martí in the seven days prior to the interviews. This figure is far higher than reported in the past for Radio Martí listenership.¹⁴⁷ The BBG’s Office of Cuba Broadcasting has expanded its distribution significantly through the Internet, mobile phones, and social media to help reach audiences in Cuba.

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

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

Funding. From FY1984 through FY2016, Congress appropriated about \$824 million for broadcasting to Cuba. In recent years, funding amounted to about \$27 million in each fiscal year from FY2014 to FY2016.

For FY2017, the Administration requested \$27.1 million for the OCB, about the same amount appropriated in FY2016. The Administration also requested authority for the BBG to establish a new Spanish-language, nonfederal media organization that would receive a BBG grant and perform the functions of the current OCB.¹⁴⁸ 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

¹⁴⁶ See Broadcasting Board of Governors (BBG) *Fiscal Year 2017 Congressional Budget Request*, February 9, 2016, at <http://www.bbg.gov/wp-content/media/2011/12/FY-2017-Budget-Submission.pdf>.

¹⁴⁷ In 2009, for example, GAO maintained that the best research suggested that Radio and TV Martí’s audience was small, with less than 2% of respondents to telephone surveys saying that they had reported tuning in to either Radio or TV Martí. See GAO, *Broadcasting to Cuba, Actions Are Needed to Improve Strategy and Operations*, GAO-09-127, January 2009.

¹⁴⁸ BBG, Executive Summary in *Fiscal Year 2017 Congressional Budget Request*, February 9, 2016.

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. The Senate version of the bill, S. 3117 (S.Rept. 114-290), would have provided \$27.4 million for the OCB, \$300,000 more than the Administration's request. The report to the bill stated that the committee did not support the proposed contractor reduction of \$300,000 at the OCB.

As noted previously, 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.

For FY2018, the 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.¹⁴⁹ 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) recommended \$28.1 million for broadcasting to Cuba, \$4.4 million above the request.

Migration Issues¹⁵⁰

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 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.¹⁵¹

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.¹⁵²

¹⁴⁹ Broadcasting Board of Governors (BBG), *Fiscal Year 2018 Congressional Budget Request*, May 23, 2017.

¹⁵⁰ For more information, see CRS Report R44714, *U.S. Policy on Cuban Migrants: In Brief*, by (name redacted) and CRS Legal Sidebar WSLG1717, *Rescission of the Wet-Foot/Dry-Foot Policy as to Aliens from Cuba Raises Legal Questions*, by (name redacted).

¹⁵¹ 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.

¹⁵² 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-cmppp-program>.

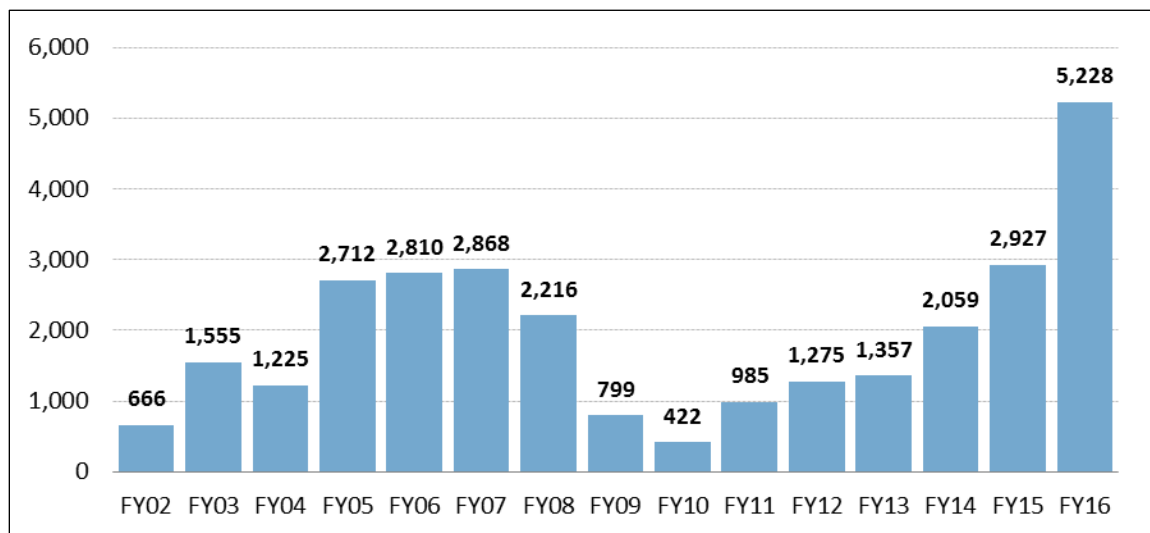
Background. Cuba and the United States reached two migration accords in 1994 and 1995 designed to stem the mass exodus of Cubans attempting to reach the United States by boat. On the minds of U.S. policymakers was the 1980 Mariel boatlift, in which 125,000 Cubans fled to the United States with the approval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

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 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.

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



Source: Created by CRS using information presented by the United States Coast Guard, Alien Migrant Interdiction, "Total Interdictions—Fiscal Year 1982 to Present," January 19, 2016. Information for FY2016 maritime interdiction of Cuban migrants provided to CRS by the U.S. Coast Guard, November 8, 2016.

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.¹⁵³ From FY2011 through FY2016, however, the number of Cubans interdicted by the Coast Guard increased each year, from 985 in FY2011 to 5,228 in FY2016. For FY2016, the number of Cubans interdicted rose almost 79% over interdictions in FY2015. The increase in the flow of maritime migrants in 2015 and 2016 appears to have been driven by concerns among Cubans that the favorable treatment granted to Cuban migrants would end.

With the change in U.S. immigration policy toward Cuba in January 2017, the number of Cubans interdicted by the Coast Guard has dropped to a trickle. Between October 2016 and April 2017, the Coast Guard interdicted 1,404 Cubans, with the majority of these interdictions occurring before the policy change. In February 2017, however, the Coast Guard interdicted just 22 Cubans, and in March and April, it did not interdict any Cubans.¹⁵⁴

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 56,178 in FY2016 (see **Table 1**). Between FY2014 and FY2015, the number of undocumented Cubans entering the United States increased by about 66%, and between FY2015 and FY2016, the number increased

¹⁵³ 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.

¹⁵⁴ Information through March 2017 provided to CRS by U.S. Coast Guard Congressional Affairs, April 7, 2017. Also see Nora Gámez Torres, "No More Cuban Rafters, Coast Guard Says," *Miami Herald*, May 12, 2017.

by just over 36%. In the first quarter of FY2017, from October through December 2016, the number of Cuban migrants amounted to 16,531.¹⁵⁵ 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 until recently, the number of undocumented Cubans entering by land increased significantly, with a majority entering through the southwestern border.¹⁵⁶

Table I. Undocumented Cuban Migrants, FY2010-FY2017

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

	Ports of Entry	Between Ports of Entry	Total
FY2010	7,458	712	8,170
FY2011	7,786	959	8,745
FY2012	12,048	606	12,654
FY2013	17,360	624	17,984
FY2014	23,751	1,061	24,812
FY2015	40,119	1,153	41,272
FY2016	54,248	1,930	56,178
FY2017	18,306 (as of 3/31/17)	611 (as of 4/10/17)	18,917
1 st Quarter FY2017	16,078	453	16,531
2 nd Quarter FY2017	2,228	158 (as of 4/10/17)	2,386

Source: U.S. Department of Homeland Security, U.S. Customs and Border Protection, Office of Congressional Affairs, April 10, 2017.

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 the second quarter of FY2017, 2,386 undocumented Cubans entered the United States compared to 16,531 during the first quarter of FY2017. Press reports have indicated that Mexico will grant residency to almost 600 Cubans in Mexico who had hoped to enter the United States but were stranded in Mexico following the change in U.S. policy.¹⁵⁷

¹⁵⁵ 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.

¹⁵⁶ 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.

¹⁵⁷ Mexico reportedly will grant residency permits (not refugee status or political asylum) to 588 Cubans located in the Mexican city of Nuevo Laredo across from Laredo, TX. "Mexico to Grant Residency to 588 Stranded Cubans," Reuters News, April 7, 2017.

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. 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 held 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.¹⁵⁸ 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.¹⁵⁹

According to the State Department's 2017 *International Narcotics Control Strategy Report* (INCSR), issued March 2, 2017, Cuba has 40 bilateral agreements for antidrug cooperation with countries worldwide, including the 2016 U.S.-Cuban agreement noted above.¹⁶⁰ 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

¹⁵⁸ U.S. Department of State, "United States and Cuba Hold Counter-Narcotics Dialogue," media note, December 2, 2015.

¹⁵⁹ U.S. Department of State, "Counternarcotics Arrangement Signed During Third Counternarcotics Technical Exchange Between the United States and Cuba," media note, July 22, 2016.

¹⁶⁰ U.S. Department of State, *International Narcotics Control Strategy Report* (INCSR), Volume I: Drug and Chemical Control, March 2, 2017.

responses; in addition, Cuba was reported to share real-time tactical information with the Bahamas, Jamaica, and Mexico. 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. Cuba also was reported to have assisted U.S. judicial proceedings by providing documentation, witnesses, and background for cases in U.S. courts.

As in the past, the State Department contended in the 2017 INCSR that “enhanced communication and cooperation between the United States, international partners, and Cuba, particularly in terms of real-time information-sharing, may lead to increased interdictions and disruptions of illegal drug trafficking.” As noted in the INCSR, Cuba reported seizing 906 kilograms (kg) of drugs (with marijuana accounting for 700 kg and cocaine 182 kg) in 2015 and detecting 48 suspected “go-fast” boats on its southeastern coast.

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.¹⁶¹ 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.¹⁶²

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.¹⁶³ 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.¹⁶⁴

Several provisions in U.S. law specifically address the issue of compensation for properties expropriated by the Cuban government.¹⁶⁵ Section 620(a)(2) of the Foreign Assistance Act of

¹⁶¹ “A Road Map for Restructuring Future U.S. Relations with Cuba,” policy paper, Atlantic Council, June 1995, Appendix D.

¹⁶² 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.

¹⁶³ Timothy Ashby, “U.S. Certified Claims Against Cuba: Legal Reality and Likely Settlement Mechanisms,” *Inter-American Law Review*, March 2009.

¹⁶⁴ 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.

¹⁶⁵ 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 (continued...)

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 2016.¹⁶⁶

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.¹⁶⁷ A second claims meeting was held in July 2016, in Washington, DC. According to the State

(...continued)

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 U.S. citizen. For additional information, see CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*, by (name redacted) and (name redacted).

¹⁶⁶ 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/>.

¹⁶⁷ 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.

Department, the talks allowed for an exchange of views on historical claims-settlement practices and processes going forward.¹⁶⁸ A third claims meeting was held in Havana in January 2017.

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."¹⁶⁹ 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.¹⁷⁰ 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 1984.¹⁷¹ 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.¹⁷² 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.¹⁷³

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,¹⁷⁴ and in April 2013, Cuba returned a Florida couple who allegedly had kidnapped their

¹⁶⁸ U.S. Department of State, "United States and Cuba Hold Claims Discussion," *Miami Herald*, July 28, 2016.

¹⁶⁹ U.S. Department of State, *Country Reports on Terrorism 2014*, April 2015.

¹⁷⁰ U.S. Department of State, *Country Reports on Terrorism 2007*, April 30, 2008.

¹⁷¹ FBI, Most Wanted Terrorists, Joanne Deborah Chesimard, poster, at http://www.fbi.gov/wanted/wanted_terrorists/joanne-deborah-chesimard/view.

¹⁷² James Anderson, "Living in Exile, Maimed Guerrilla Maintains Low-Key Profile in Cuba," *Fort Worth Star-Telegram*, January 16, 2000; Vanessa Bauza, "FBI's Fugitive Is Cuba's Political Refugee," *South Florida Sun-Sentinel*, May 26, 2002; Mary Jordan, "Fugitives Sought by U.S. Find a Protector in Cuba," *Washington Post*, September 2, 2002; FBI, Wanted by the FBI, William "Guillermo" Morales, poster, at <http://www.fbi.gov/wanted/dt/william-guillermo-morales/view>.

¹⁷³ 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.

¹⁷⁴ George Mast, "Murder Suspects Caught in Cuba," *Courier-Post* (New Jersey), September 30, 2011.

own children (who were in the custody of the mother's parents) and fled to Havana.¹⁷⁵ 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, 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.¹⁷⁶ Cuban Foreign Minister Bruno Rodríguez rejected the return of certain political refugees, such as Chesimard, who had received asylum from the Cuban government.

Outlook

Although any near-term change to the government's one-party communist political system appears unlikely, Cuba is moving toward a post-Castro era. Raúl Castro has said that he will step down from power once his term of office is over in February 2018. Moreover, generational change in Cuba's governmental institutions has already begun. Under Raúl and beyond, the Cuban government is likely to continue its gradual economic policy changes, moving toward a more mixed economy with a stronger private sector, although it is uncertain whether the pace of reform will produce major improvements to the Cuban economy. The Cuban Communist Party's seventh congress, held in April 2016, confirmed that Cuba will continue its gradual pace toward economic reform.

The Obama Administration's shift in U.S. policy toward Cuba opened up engagement with the Cuban government in a variety of areas. Economic linkages with Cuba are increasing 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 economic engagement could potentially curb continued growth in Americans visiting Cuba as well as business deals. 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. 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 sanctions.

¹⁷⁵ Paul Haven and Peter Orsi, "Cuba Says It Will Give U.S. Florida Couple Who Allegedly Kidnapped Children," Associated Press, April 9, 2013.

¹⁷⁶ White House, "Remarks by President Trump on the Policy of the United States Toward Cuba," June 16, 2017.

Appendix A. Legislation in the 115th Congress

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).

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. 2810 (Thornberry)/S. 1519 (McCain). National Defense Authorization Act 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. House passed H.R. 2810, amended, July 14, 2017. Section 1026 of 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 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. S. 1519 introduced and reported (S.Rept. 115-125) by the Senate Committee on Armed Services July 10, 2017. Section 1034 of S. 1519 would extend the provision regarding the realignment or closure of the U.S. naval station in P.L. 114-228 from FY2017 through FY2021.

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 is likely to become part of a “minibus” appropriations package.

H.R. 3219 (Granger). Department of Defense Appropriations Act, 2018. Introduced and reported (H.Rept. 115-219) July 13, 2017, by the House Committee on Appropriations. 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. The provision (similar to a provision in H.R. 2998, the FY2018 military construction appropriations bill noted above) would extend the current similar provision for FY2017 set forth in P.L. 115-31 (Division C, Section 8127). The bill is likely to become part of a “minibus” appropriations package.

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.

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.

H.R. 3328 (Katko). The bill would require, among other provisions, a study regarding security measures and equipment at Cuba's airports, the standardization of Federal Air Marshal Service agreements, and efforts to raise international aviation security standards. Introduced July 20, 2017; referred to the House Committee on Homeland Security and in addition to the Committees on Foreign Affairs and Transportation and Infrastructure.

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.

H.R. 3362 (Rogers). Department of State, Foreign Operations, and Related Programs Appropriations, 2018. Introduced and reported (H.Rept. 115-253) by the House Committee on Appropriations on July 24, 2017.

- The bill 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) 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) 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.
- The report to the bill would provide not less than \$28.056 million for the Office of Cuba Broadcasting.

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, Title 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. 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.

Appendix B. Links to U.S. Government Reports

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

Date: June 20, 2017

Full Text: <https://www.state.gov/r/pa/ei/bgn/2886.htm>

Congressional Budget Justification for Foreign Operations FY2017, Appendix 3, pp. 406-407, Department of State

Date: February 26, 2016

Full Text: <https://2009-2017.state.gov/documents/organization/252734.pdf>

Country Reports on Human Rights Practices 2016, Cuba, Department of State

Date: March 3, 2017

Full Text: <https://www.state.gov/documents/organization/265790.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 2015, Cuba, Department of State

Date: August 2016

Full Text: <https://www.state.gov/documents/organization/256559.pdf>

International Narcotics Control Strategy Report 2017, Volume I, Drug and Chemical Control, p. 142, Department of State

Date: March 2017

Link: <http://www.state.gov/documents/organization/268025.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 2017, Cuba, Department of State

Date: June 2017

Link: <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271173.htm>

Author Contact Information

(name redacted)
Specialist in Latin American Affairs
[redacted]@crs.loc.gov , 7-....

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