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Cuba: U.S. Policy Overview

Since the early 1960s, when the United States imposed a trade embargo on Cuba, the centerpiece of U.S. policy toward Cuba has consisted of economic sanctions aimed at isolating the Cuban government. In December 2014, however, the Obama Administration initiated a major policy shift, moving away from sanctions toward a policy of engagement and the normalization of relations. The policy change included the rescission of Cuba's designation as a state sponsor of international terrorism in May 2015; the restoration of diplomatic relations in July 2015; and efforts to increase travel, commerce, and the flow of information to Cuba.

President Trump unveiled a new policy toward Cuba in 2017 introducing new sanctions and partially rolling back some of the Obama Administration's efforts to normalize relations. On March 4, 2019, the Administration ratcheted up its economic pressure on Cuba by allowing some lawsuits to go forward against some 200 Cuba entities operated by the Cuban military, intelligence, or security services for trafficking in confiscated property.

Cuban Political Developments. First Vice President Miguel Díaz-Canel succeeded Raúl Castro as president in April 2018, but Castro continues to head the Cuban Communist Party until 2021. The selection of Díaz-Canel, now 58 years old, reflects the generational change in Cuban leadership that began several years ago and marks the first time since the 1959 Cuban revolution that a Castro is not in charge of the government.

Raúl Castro (2006-2018) began the implementation of significant economic policy changes, moving toward a more mixed economy with a stronger private sector. His government's slow, gradualist approach, however, did not produce major improvements to the Cuban economy, which has experienced minimal growth in recent years.

In December 2018, President Díaz-Canel backtracked on implementing regulations that likely would have shrunk the private sector and slowed implementation of a controversial decree regulating artistic expression, actions that appeared to demonstrate his responsiveness to public criticism and his independence from the previous government. Díaz-Canel continues to face two significant challenges—moving forward with economic reforms that produce results and responding to desires for greater freedom.

On February 24, 2019, almost 87% of Cubans approved a new constitution in a national referendum. Among the changes are the addition of an appointed prime minister to oversee government operations; age and term limits on the president; and some market-oriented economic reforms, including the right to private property and the promotion of foreign investment. However, the new constitution still

ensures the state sector's dominance over the economy and the predominant role of the Communist Party in Cuba's political system.

Government-to-Government Engagement. With the restoration of relations in 2015, government-to-government engagement increased significantly. U.S. and Cuban officials have held seven Bilateral Commission meetings, the most recent in June 2018, to coordinate efforts to advance engagement. Officials have negotiated numerous bilateral agreements, including on such issues as environmental cooperation, direct mail, civil aviation, maritime navigation, agriculture, health cooperation, counternarcotics cooperation, federal air marshals, cancer research, seismology, meteorology, wildlife conservation, animal and plant health, oil-spill preparedness and response, law enforcement cooperation, search and rescue, and the delimitation of the U.S.-Cuban maritime boundary in the eastern Gulf of Mexico. Bilateral dialogues have been held on these and other issues, including counterterrorism, U.S. property claims, human rights, renewable energy and efficiency, trafficking in persons, migration, and cybersecurity.

Travel and Commerce. The Obama Administration's policy change of increasing travel and commerce with Cuba required amendments to U.S. regulations administered by the Department of the Treasury, Office of Foreign Assets Control (Cuban Assets Control Regulations [CACR]; 31 C.F.R. Part 515) and the Department of Commerce, Bureau of Industry and Security (Export Administration Regulations [EAR]; 15 C.F.R. Parts 730-774). To implement the policy, the two agencies issued five rounds of amendments to the regulations in 2015-2016 that eased restrictions on travel, remittances, trade, telecommunications, and banking and financial services.

Trump Administration Sanctions. President Trump issued a national security presidential memorandum on Cuba in June 2017 that introduced new sanctions. These sanctions include restrictions on transactions with companies controlled by the Cuban military and the elimination of individual people-to-people travel.

To implement these policy changes, the Treasury and Commerce Departments amended the CACR and EAR in November 2017. The amended regulations require people-to-people travel to be under the auspices of an organization specializing in such travel and prohibit financial transactions with entities controlled by the Cuban military, intelligence, or security services, albeit with several exceptions.

The State Department issued a list of "restricted entities" in November 2017, which was updated in November 2018.

Currently, the “Cuba Restricted List” includes 205 entities and subentities, including 2 ministries, 5 holding companies (including GAESA) and 43 of their subentities (including the Mariel Special Development Zone), 99 hotels (with 28 in Havana), 2 tourist agencies, 5 marinas, 10 stores in Old Havana, and 39 entities serving the defense and security sectors.

On March 4, 2019, Secretary of State Pompeo, pursuant to Title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (P.L. 104-114), allowed certain lawsuits to go forward against those trafficking in confiscated property in Cuba. Since 1996, pursuant to the provisions of Title III, all Administrations have suspended, at six-month intervals, the right to file such lawsuits. The next six-month suspension was due by February 1, 2019, but on January 16, Secretary Pompeo suspended the right to file lawsuits for an additional 45 days, maintaining that the extension would permit a careful review taking into account U.S. national interests and efforts to expedite a transition to democracy in Cuba. Then, on March 4, Secretary Pompeo partially suspended the right to file lawsuits for an additional 30 days (through April 17) but allowed lawsuits, beginning March 19, against an entity or subentity on the State Department’s “Cuba Restricted List” controlled by the Cuban military, intelligence, or security services. Lawsuits can be brought by any U.S. national, including those who were not U.S. nationals at the time of the confiscation. However, lawsuits may not be brought against third-country foreign investors in Cuba.

Change in U.S. Immigration Policy. In January 2017, the Obama Administration announced the ending of the so-called wet foot/dry foot policy, under which thousands of undocumented Cuban migrants have entered the United States in recent years. Cuban nationals who attempt to enter the United States illegally and do not qualify for humanitarian relief are now subject to removal.

Continued Human Rights Concerns. Human rights violations in Cuba have remained a fundamental U.S. policy concern for many years. When President Obama announced the Cuba policy shift, he maintained that the United States would continue to speak out on human rights but stressed that more could be done through engagement. President Trump’s policy also emphasizes human rights but links any changes to the bilateral relationship to an end to the Cuban government’s abuse of dissidents.

On October 15, 2018, the U.S. Mission to the United Nations launched a campaign to call attention to Cuba’s “estimated 130 political prisoners.” In recent years, Cuba has shifted to using short-term detentions and harassment to repress dissent, with at least 5,155 such detentions in 2017, according to the Cuban Commission for Human Rights and National Reconciliation (CCDHRN). In 2018, according to CCDHRN, there were 2,873 short-term detentions, almost a 45% decline from 2017 and the lowest level since 2010.

Injuries of U.S. Embassy Personnel in Havana.

According to the Department of State, 26 U.S. Embassy community members suffered a series of unexplained injuries, including hearing loss and cognitive issues (most

occurred from November 2016 to August 2017, but two incidents occurred in May 2018.) The State Department maintains that the U.S. investigation has not reached a definitive conclusion regarding the cause, source, or any kind of technologies that might have been used.

In September 2017, the State Department ordered the departure of nonemergency personnel from the U.S. Embassy to minimize the risk of their exposure to harm; embassy staff was reduced by about two-thirds. In early October 2017, the State Department ordered the departure of 15 diplomats from the Cuban Embassy in Washington, DC. According to then-Secretary of State Rex Tillerson, the action was taken because of Cuba’s failure to protect U.S. diplomats in Havana and to ensure equity in the impact on diplomatic operations. Cuba strongly denies responsibility for the injuries. The staff reduction at the U.S. Embassy has affected embassy operations, especially visa processing, and has made bilateral engagement more difficult.

115th Congress. The 115th Congress continued to provide funding for democracy assistance and U.S.-government sponsored broadcasting to Cuba. For FY2017, Congress appropriated \$20 million in democracy funding and \$28.1 million for Cuba broadcasting (P.L. 115-31). For FY2018, Congress appropriated \$20 million for democracy programs and \$28.9 million for Cuba broadcasting (P.L. 115-141; explanatory statement to H.R. 1625). The 2018 farm bill, P.L. 115-334 (H.R. 2), permits funding for two U.S. agricultural export promotion programs in Cuba, the Market Access Program and the Foreign Market Development Cooperation Program, marking the first time Congress has eased Cuba sanctions in almost a decade.

In other action, several measures (P.L. 115-232, P.L. 115-244, and P.L. 115-245) extended a prohibition on the use of funds in FY2019 to close or relinquish control of the U.S. Naval Station at Guantanamo Bay, Cuba; the conference report to P.L. 115-232 also requires a report on security cooperation between Russia and Cuba. The FAA Reauthorization Act of 2018, P.L. 115-254, requires the Transportation Security Administration to brief Congress on certain aspects of Cuban airport security and to develop and implement a mechanism to better track public air charter flights between the United States and Cuba. In 2018, the Senate approved S.Res. 224, commemorating the legacy of Cuban democracy activist Oswaldo Payá.

116th Congress. For FY2019, Congress appropriated \$20 million for democracy programs in Cuba and \$29.1 million for Cuba broadcasting in the Consolidated Appropriations Act, 2019 (P.L. 116-6, H.J.Res. 31, conference report H.Rept. 116-9).

For additional information, see CRS Report R44822, *Cuba: U.S. Policy in the 115th Congress*; CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*; and CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*.

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