Cuba: Issues for the 111th Congress

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Summary

Cuba, which remains a hard-line communist state with a poor record on human rights, commemorated the 50th anniversary of its revolution on January 1, 2009. Cuba's political succession from the long-ruling Fidel Castro to his brother Raúl in 2006 was characterized by a remarkable degree of stability. Fidel stepped down from power temporarily in July 2006 because of health reasons, and Raúl assumed provisional control of the government until February 2008, when he officially became President.

After Raúl Castro officially assumed the presidency, his government announced a series of economic changes that included lifting restrictions on the sale of some electronic consumer products and cell phones. A major reform effort has also focused on the agriculture sector in an effort to boost food production. While additional economic changes under Raúl Castro are likely, there was disappointment that further reforms were not forthcoming in the second half of 2008. The economy was hard hit by a series of hurricanes and storms from August to November 2008 that caused some $10 billion in damages, and the current global financial crisis is causing further strains on the economy. Few observers expect that there will be any change to the government's tight control over the political system, which is backed up by a strong security apparatus.

Since the early 1960s, U.S. policy toward Cuba has consisted largely of isolating the communist nation through economic sanctions. The Bush Administration tightened sanctions significantly in 2004 through increased restrictions on travel to Cuba, especially family travel. A second U.S. policy component over the years has consisted of support measures for the Cuban people, including private humanitarian donations, U.S.-sponsored radio and television broadcasting to Cuba (Radio and TV Marti), and support for human rights and democracy on the island. The Bush Administration significantly increased support for Cuba democracy funding in recent years.

As in past years, the main issue for U.S. policy toward Cuba in the 111th Congress will likely be how best to support political and economic change in Cuba. In light of Fidel Castro's departure as head of government, many observers have called for a re-examination of U.S. policy toward Cuba. In this new context, two broad policy approaches have been advanced: a status-quo or a stay the course approach that would maintain the U.S. dual-track policy of isolating the Cuban government while providing support to the Cuban people; and an approach aimed at changing attitudes within the Cuban government and Cuban society through increased contact and engagement.

President Barack Obama vowed during the electoral campaign to change U.S. policy by allowing unlimited family travel and remittances to Cuba, although he also pledged to maintain the embargo as a source of leverage to bring about change in Cuba. Over the past several years, various legislative initiatives have been introduced to ease U.S. economic sanctions on Cuba, but none of these have been enacted. Many of these and others may be introduced in the 111th Congress.

This report tracks developments in U.S. policy toward Cuba and legislative initiatives in the 111th Congress. Also see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*, CRS Report RL33819, *Cuba: Issues for the 110th Congress*, and CRS Report R40139, *Closing the Guantanamo Detention Center: Legal Issues*.

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Recent Developments

On January 22, 2009, Fidel Castro stated that he had reduced the number of his published essays ("Reflections of the Commander") so as not to interfere with the authority of party or government officials, and insisted that they should not feel bound by his occasional essays or even his state of health or death. Castro also maintained that he does not expect to be in such a position to meditate and write about events when Obama's first term has ended. ("Text of Fidel Castro's Online Essay," *Associated Press Newswires*, January 22, 2009)

On January 15, 2009, during her Senate Foreign Relations Committee confirmation hearing for Secretary of State, Senator Hillary Clinton reiterated President-elect Obama's pledge to lift restrictions on family travel and remittances as well as his position that it is not time to lift the embargo since it provides an important source of leverage for further change in Cuba. Clinton also responded to written questions for the record that the new Administration expected to undertake a review of U.S. policy toward Cuba. (See "Obama Administration Policy" below.)

On January 15, 2009, Cuba released Varela Project activist Reynaldo Labrada Peña from prison following the completion of his six-year sentence. Peña was one of the "group of 75" political prisoners who have been incarcerated since 2003. With Peña's release, 54 of the "group of 75" remain in prison. Overall, there are more than 200 political prisoners in Cuba. (See "Human Rights" below.)

On January 1, 2009, Cuba celebrated the 50th anniversary of the Cuban Revolution.

On December 17, 2008, Cuban President Raúl Castro offered to exchange some imprisoned Cuban political dissidents for five Cubans imprisoned in the United States since 2001 for espionage. The State Department rejected the offer, insisting that the jailed dissidents in Cuba should be released immediately without any conditions.

On December 10, 2008, the House Appropriations Committee reported its version of the FY2009 Financial Services and General Government Appropriations bill, H.R. 7323, with several provisions that would have eased restrictions on the sale of U.S. agricultural exports and family travel to Cuba. No final action was taken on the measure.

On November 26, 2008, Cuban President Raúl Castro stated in an interview that he would be willing to meet with President-elect Barack Obama, and suggested the U.S. Naval Base at Guantanamo Bay, Cuba, as a location.

On November 24, 2008, the Government Accountability Office (GAO) issued a second report examining USAID's Cuba democracy program. While GAO lauded the efforts taken by USAID to improve oversight and address problems with the program, it also maintained that USAID needed to hire more staff to implement monitoring activities, and that it needed to periodically assess the program's efforts regarding grantees' adherence to internal controls, procurement practices, and compliance with laws and regulations. (U.S. GAO, *Foreign Assistance: Continued Efforts Needed to Strengthen USAID's Oversight of U.S. Democracy Assistance for Cuba*, GAO-09-165, November 2008.)

On November 8, 2008, Hurricane Paloma struck Cuba devastating the town of Santa Cruz del Sur. Raúl Castro stated that overall damages from the series of hurricanes and tropical storm since August amounted to some $10 billion.

Figure 1. Map of Cuba

Source: Adapted by CRS from Magellan Geographix

Political Conditions

Raúl Castro officially became Cuba's President on February 24, 2008. On that day, Cuba's legislature selected him as President of the 31-member Council of State, a position that officially made him Cuba's head of government and state. Most observers expected this since he already had been heading the Cuban government on a provisional basis since July 2006 when his brother Fidel Castro, Cuba's long-ruling communist leader, stepped down as President because of poor health.[1]

For many years, Raúl, as First Vice President of the Council of State and the Council of Ministers, had been the officially designated successor and was slated to become chief of state with Fidel's departure. Raúl also had served as Minister of the Revolutionary Armed Forces (FAR) since the beginning of the Cuban Revolution. When Fidel stepped down from power in late July 2006 because of poor health, he signed a proclamation that ceded political power to Raúl on a provisional basis, including the positions of First Secretary of the Cuban Communist Party (PCC), Commander in Chief of the Revolutionary Armed Forces (FAR), and President of the Council of State. Despite the change in government in February 2008, Fidel still holds the official title of First Secretary of the PCC.

While it was not a surprise to observers for Raúl to succeed his brother Fidel as head of government, the selection of José Ramón Machado Ventura as the Council of State's First Vice President was a surprise. A physician by training, Machado is 77 years old, and is part of the older generation of so-called *históricos* of the 1959 Cuban revolution. He has been described as a hard-line communist party ideologue, and reportedly has been a close friend and confident of Raul for many years.[2] Machado's position is significant because it makes him the official successor to Raúl, according to the Cuban Constitution. Many observers had expected that Carlos Lage, one of five other Vice Presidents on the Council of State, would have been chosen as First Vice President. He was responsible for Cuba's economic reforms in the 1990s, and at 56 years of age, represents a younger generation of Cuban leaders. While not rising to First Vice President, Lage nevertheless retained his position as a Vice President on the Council of State, and will continue to serve as the Council's Secretary.

Several key military officers and confidants of Raúl also became members of the Council, increasing the role of the military in the government. General Julio Casas Regueiro, 72 years of age, who already was on the Council, became one of its five vice presidents. Most significantly, Casas, who had been first vice minister in the FAR, was selected by Raúl as the country's new Minister of the FAR, officially replacing Raúl in that position. Casas also is chairman of GAESA (Grupo de Administracion Empresarial, S.A.), the Cuban military's holding company for its extensive business operations. Two other military appointments to the Council were Gen. Alvaro López Miera, the army's chief of staff, and Gen. Leopoldo Cintra Frías, who commanded the Western army, one of Cuba's three military regions.[3]

[1] For more on Cuba's political succession, see CRS Report RS22742, *Cuba's Political Succession: From Fidel to Raul Castro*, by Mark P. Sullivan.

[2] Daniel Dombey, Richard Lapper, and Andrew Ward, "A Family Business, Cuban-Americans Look Beyond the Havana Handover," Financial Times, February 27, 2008.

[3] Pablo Bachelet, "New Cuban Leader Adds Military Loyalists to Team," *Miami Herald*, February 25, 2008.

Since Fidel stepped down from power in 2006, Cuba's political succession from Fidel to Raúl Castro has been characterized by a remarkable degree of stability. Although initially there were not any significant economic changes under Raúl, there were signs that changes could be coming. In a July 2007 speech, Raúl maintained that structural changes were needed in the Cuban economy in order to increase efficiency and production. In his first speech as President in February 2008, Raúl promised to make the government smaller and more efficient, to review the potential revaluation of the Cuban peso, and to eliminate excessive bans and regulations that curb productivity.[4] Since March 2008, the government has implemented a number of economic changes that from the outside might not seem significant, but are noteworthy policy changes for a government that has heretofore followed a centralized communist economic model. (See "Economic Changes Under Raúl" below.)

While additional economic changes under Raúl Castro are likely, few expect there will be any change to the government's tight control over the political system, which is backed up by a strong security apparatus. Some observers point to the reduced number of political prisoners, from 283 at the end of 2006 to around 219 in mid-2008, as evidence of a lessening of repression, but dissidents maintain that the overall situation has not improved. Some observers contend that if the new government of Raúl Castro becomes more confident of ensuring social stability and does not feel threatened, it could move to soften its hard repression, but for now the government is continuing its harsh treatment of the opposition. The selection of José Ramón Machado as First Vice President also appears to be a clear indication that the Cuban government has no intention of easing tight control over the political system.

In early 2009, there were numerous press reports about a setback in Fidel Castro's health, but by late January 2009 new reports and photos of Castro with visiting Argentine President Cristina Fernández de Kirchner dispelled rumors that he was on his deathbed. Fidel did note in one of his published essays ("Reflections of the Commander") on January 22, 2009, that he had reduced the number of essays so as not to interfere with the authority of party or government officials, and insisted that they should not feel bound by his occasional writings or even his state of health or death. Castro also maintained that does not expect to be in such a position to meditate or write about events when Obama's first term has ended.[5]

In late April 2008, Raúl announced that the PCC's sixth congress would be held at the end of 2009 (the last was held in 1997). Some analysts believe that additional policy changes will become evident, with a more invigorated role for the party. Some observers speculate that Fidel Castro could officially be replaced as the head of the party at that time, and it is likely that some of the PCC's 25-member Political Bureau (Politburo) will also be replaced.

Some analysts maintain that once Fidel is gone, hardliners in Cuba's political system will have a more difficult time holding back the advance of needed economic reforms.[6] Some maintain that Raúl will be liberated to move more quickly to usher in needed economic reforms, although few observers believe that the Cuban leader will take any actions that could threaten the stability of the communist government. Some observers also do not expect Raúl Castro to serve another term

[4] "Cuba: Full Text of Raúl Castro's National Assembly Address," *Cubavisión*, Havana (as translated by Open Source Center) February 24, 2008.

[5] "Text of Fidel Castro's Online Essay," *Associated Press Newswires*, January 22, 2009.

[6] Frances Robles, "Raúl Castro May Usher in More Economic Reforms," *Miami Herald*, January 15, 2009.

as President, and believe that the government will pass to a younger generation after the next National Assembly election and selection of a new President in early 2013.

Background to the Succession

Until Fidel stepped down in 2006, he had ruled the island nation since the 1959 Cuban Revolution, which ousted the corrupt government of Fulgencio Batista. In April 1961, Castro stated that the Cuban Revolution was socialist, and in December 1961, he proclaimed himself to be a Marxist-Leninist. From 1959 until 1976, Castro ruled by decree. A Constitution was enacted in 1976 setting forth the PCC as the leading force in state and society, with power centered in a Political Bureau headed by Fidel Castro. In October 1997, the Cuban Communist Party held its 5th Congress (the prior one was held in 1991) in which the party reaffirmed its commitment to a single party state and reelected Fidel and Raúl Castro as the party's first and second secretaries.

Cuba's Constitution also outlines national, provincial, and local governmental structures. Legislative authority is 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, i.e. the President of the Council of State. From the promulgation of the 1976 Constitution until February 24, 2008, Fidel served as served as head of state and government through his position as President of the Council of State.

Although National Assembly members were directly elected for the first time in February 1993, only a single slate of candidates was offered. Direct elections for the National Assembly were again held in January 1998 and January 2003, but voters again were not offered a choice of candidates. In contrast, municipal elections at the local level are competitive, with from two to eight candidates. To be elected, the candidate must receive more than half of the votes cast. As a result, runoff elections between the two top candidates are common.

National Assembly elections were held on January 20, 2008 (along with elections for 1,201 delegates to 14 provincial assemblies), and Fidel Castro was once again among the candidates elected to the now 614-member legislative body. As in the past, voters were only offered a single slate of candidates.

On February 24, 2008, the new Assembly was scheduled to select from among its ranks the members of the Council of State and its President. Many observers speculated that because of his poor health, Fidel would choose not be re-elected as President of the Council of State, which would officially confirm his departure from heading the Cuban government. Statements from Castro himself in December 2007 hinted at his potential retirement. That proved true on February 19, 2008, when Fidel announced that he would not accept the position as President of the Council of State, essentially confirming his departure as titular head of the Cuban government.

Before Fidel stepped down from power in July 2006 for health reasons, observers discerned several potential scenarios for Cuba's future after Fidel. These fit into three broad categories: the continuation of a communist government; a military government; or some type of democratic government, whether it be a democratic transition or fully democratic government. According to most observers, the most likely scenario, at least in the short term, was the continuation of the regime under the leadership of Raúl. This was likely for a variety of reasons, but especially

because of Raúl's designation by Fidel as successor in the party and his position as leader of the FAR. The FAR has been in control of the government's security apparatus since 1989 and has played an increasing role in Cuba's economy through the ownership of numerous business enterprises. The scenario of a military-led government was viewed by some observers as a possibility only if a successor communist government failed because of divisiveness among leaders or political instability. For many observers, the least likely scenario upon Fidel's death or departure was a democratic transition government. With a strong totalitarian security apparatus, the Castro government successfully impeded the development of independent civil society, with only a small and tightly regulated private sector, no independent labor movement, and no unified political opposition.[7]

Human Rights

Overview

Cuba has a poor record on human rights, with the government sharply restricting freedoms of expression, association, assembly, movement, and other basic rights. It has cracked down on dissent, arrested human rights activists and independent journalists, and staged demonstrations against critics. Although some anticipated a relaxation of the government's oppressive tactics in the aftermath of the January 1998 visit of Pope John Paul II, government attacks against human rights activists and other dissidents have continued since that time. The Inter-American Commission on Human Rights maintains in its 2007 annual human rights report that the Cuban government's "restrictions on political rights, freedom of expression, and dissemination of ideas have created, over a period of decades, a situation of permanent and systematic violations of the fundamental rights of Cuban citizens."[8]

According to the State Department's human rights report for 2007, issued in March 2008, the Cuban government continued to commit numerous serious abuses during the year. Among the human rights problems cited in the State Department report were arbitrary arrest and detention of human rights advocates and members of independent professional organizations; harassment, beatings, and threats against political opponents by government-recruited mobs, police, and state security officials; beatings and abuse of detainees and prisoners (which led to the death of two prisoners in 2007); denial of fair trial; harsh and life-threatening prison conditions, including denial of medical care; and interference with privacy, including pervasive monitoring of private communications. As noted in the report, the government tightly controlled Internet access, with citizens only accessing it through government-approved institutions or through a few Internet facilities offered by foreign diplomatic offices. The government reviewed and censored e-mail, and forbade attachments. (See the full State Department human rights report on Cuba, available at http://www.state.gov/g/drl/rls/hrrpt/2007/100635.htm.)

In March 2003, the government conducted a severe crackdown and imprisoned 75 democracy activists, including independent journalists and librarians and leaders of independent labor unions

[7] For further discussion of potential Cuban political scenarios in the aftermath of Fidel Castro's stepping down from power in 2006 because of poor health, see CRS Report RL33622, *Cuba's Future Political Scenarios and U.S. Policy Approaches*, by Mark P. Sullivan.

[8] Organization of American States, Inter-American Commission on Human Rights, "Annual Report of the IACHR 2007," December 29, 2007, "Chapter IV, Cuba" available at http://www.cidh.org/annualrep/2007eng/Chap.4b.htm.

and opposition parties. At present, 54 of the "group of 75" political prisoners remain incarcerated. On January 15, 2009, one of the detainees, Reynaldo Labrada Pena who had worked with the Varela Project, was released from prison after completing his sentence. In February 2008, Cuba released four political prisoners—union activist Pedro Pablo Alvarez Ramos, human rights activist Omar Pernet Hernández, and journalists Jose Gabriel Ramón Castillo and Alejandro González Raga—but sent them into forced exile to Spain. Prior to that, Hector Palacios was released for health reasons in December 2006.

In late January 2009, the independent Cuban Commission on Human Rights and National Reconciliation (CCDHRN) documented at least 205 political prisoners, down from 234 in January 2008. The number also reflected the continued decline from previous years when the Commission estimated at least 283 prisoners at the beginning of 2007 and 333 at the beginning of 2006. The Commission maintains, however, that the government has resorted to short-term arbitrary detentions to target suspected dissidents, with more than 1,500 such detentions in 2008.[9]

Despite the reduction in the number of prisoners, human rights activists maintain that the overall situation has not improved. Cuban human rights activist Elizardo Sánchez, the head of the CCDHRN, asserts that the government is still repressing dissidents, with threats, police searches of people's homes, interrogations, and short detentions. Sánchez asserts that the police state is still in force in Cuba, reflected in almost every aspect of national life.[10]

In late February 2008, Cuba signed two U.N. human rights treaties: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. Some considered this a positive step, but others stressed that it remains to be seen whether the Cuban government will take action to guarantee civil and political freedoms.[11] One significant step taken by the government in late March 2008 was the lifting of a ban on Cubans staying at tourist hotels. Although few Cubans will be able to afford the cost of staying in such hotels, the move is symbolically significant and ends the practices of what critics had dubbed "tourism apartheid." On the other hand, prior to the 60th anniversary of the signing of the Universal Declaration of Human Rights on December 10, 2008, up to a dozen Cuban human rights activists reportedly were detained in order to prevent them from attending planned events.[12]

In April 2003, a human rights group known as the Ladies in White (Damas de Blanco) was formed by the wives, mothers, daughters, sisters, and aunts of the members of the "group of 75" dissidents arrested a month earlier in Cuba's human rights crackdown.[13] The group conducts peaceful protests calling for the unconditional release of political prisoners. Dressed in white, its members attend Mass each Sunday at St. Rita's church in Havana and then walk silently through the streets to a nearby park. On April 21, 2008, ten members of the Ladies in White were physically removed from a park near the Plaza of the Revolution in Havana when they demanded the release of their husbands and the other members of the "group of 75" still imprisoned.

[9] Anita Snow, "Cuban Rights Group: Political Prisoners Down, But Brief Detentions of Activists Up," *Associated Press Newswires*, February 2, 2009; and "Cuba Has Fewer Political Prisoners, Report Says," *Reuters News*, February 2, 2009.

[10] Ibid; Isabel Sanchez, "Cuba's Raúl Castro Marks 100 Days in Power," *Agence France-Presse*, June 2, 2008.

[11] James C. McKinley, Jr, "Cuban Signs Rights Pacts That It Long Had Fought," *New York Times*, March 1, 2008.

[12] Frances Robles, "Cuban Police Are Detaining Activists Prior to Human Rights Day," *Miami Herald*, December 11, 2008.

[13] The website of the Damas de Blanco is available at http://www.damasdeblanco.com/.

Although Cuban authorities continue to stifle dissent and repress freedoms, pro-democracy and human rights activists continue to call attention to Cuba's poor human rights record, and many have been recognized by the international community for their efforts. In October 2005, The Ladies in White group noted above received the Sakharov Prize for Freedom of Thought from the European Parliament.

In December 2006, independent Cuban journalist Guillermo Fariñas Hernández received the 2006 Cyber Dissident award from the Paris-based Reporters Without Borders. Fariñas went on a seven-month hunger strike in 2006, demanding broader Internet access for Cubans.

In November 2007, President Bush awarded Cuban dissident Dr. Oscar Elias Biscet with the Presidential Medal of Freedom. Biscet, who has spent most of the last eight years in jail, was sentenced in 2003 to 25 years in prison. Legislation was introduced in the 110th Congress in March 2008—H.R. 5627 (Diaz-Balart, Lincoln) and S. 2777 (Martinez)—to award the congressional gold medal to Biscet, although no action was taken on the measures.

Since late 2007, Cuban Internet blogger Yoaní Sánchez has received considerable international attention for her website, Generación Y, that includes commentary critical of the Cuban government. In May 2008, Sánchez was awarded Spain's Ortega y Gasset award for digital journalism, but the Cuban government did not provide her with an exit permit to accept the award. (Sánchez's website is available at http://www.desdecuba.com/generaciony/).

In late 2008, two international press rights groups gave awards to two Cuban independent journalists who have been imprisoned since 2003. In November 2008, the New York-based Committee for the Protection of Journalists selected Héctor Maseda Gutiérrez as a recipient of its international press freedom award, while in early December 2008, Reporters Without Borders awarded Ricardo González Alfonso its journalist of the year award. While in prison, Gutiérrez wrote a memoir that he managed to smuggle out of prison one page at a time. Before his imprisonment, González had started an association to improve independent journalism. As of December 2008, 23 journalists were imprisoned in Cuba.[14]

On December 17, 2008, Cuban President Raúl Castro offered to exchange some imprisoned Cuban political dissidents for five Cubans imprisoned in the United States since 2001 for espionage. The five Cubans are serving sentences ranging from 15 years to life. Cuba's National Assembly had dubbed the so-called Cuban Five as "Heroes of the Republic," and the Cuban government has called for their return to Cuba. In response to Raúl Castro's offer, the State Department rejected the offer, insisting that the jailed dissidents in Cuba should be released immediately without any conditions.[15]

[14] Frances Robles, "Jailed Cuban Journalist Wins Prize," *Miami Herald*, December 5, 2008; and "Cuba's Repression," *Miami Herald*, November 24, 2008.

[15] Marco Sibaja, "Raul Castro Offers To Free Dissidents in Exchange for Alleged Cuban Spies Jailed in U.S.," *Associated Press Newswires*, December 18, 2008.

Varela Project

Named for the 19th century priest, Felix Varela, who advocated independence from Spain and the abolition of slavery, the Varela Project has collected thousands of signatures supporting a national plebiscite for political reform in accordance with a provision of the Cuban Constitution. The referendum, if granted, would call for respect for human rights, an amnesty for political prisoners, private enterprise, and changes to the country's electoral law that would result in free and fair elections. The initiative is organized by Oswaldo Payá, who heads the Christian Liberation Movement.[16]

In May 2002, organizers of the Varela Project submitted 11,020 signatures to the National Assembly calling for a national referendum. This was more than the 10,000 required under Article 88 of the Cuban Constitution. Former President Jimmy Carter noted the significance of the Varela Project in his May 14, 2002 address in Havana that was broadcast in Cuba. Carter noted that "when Cubans exercise this freedom to change laws peacefully by a direct vote, the world will see that Cubans, and not foreigners, will decide the future of this country."[17] In response to the Varela Project, the Cuban government orchestrated its own referendum in late June 2002 that ultimately led to the National Assembly amending the Constitution to declare Cuba's socialist system irrevocable. The Varela Project has persevered despite the 2003 human rights crackdown, which included the arrest of 21 Project activists. In October 2003, Oswaldo Payá delivered more than 14,000 signatures to Cuba's National Assembly, again requesting a referendum on democratic reforms. More recently, in October 2008, Varela Project activists launched a third campaign to collect signatures.

Economic Conditions

After the collapse of the former Soviet Union, Russian financial assistance to Cuba practically ended, and as a result, Cuba experienced severe economic deterioration from 1989-1993, with estimates of economic decline ranging from 35-50%. Since then, however, there has been considerable improvement. From 1994-2000, as Cuba moved forward with some limited market-oriented economic reforms, economic growth averaged 3.7% annually.

Economic growth was strong in the 2005-2007 period, registering an impressive 11.2% in 2005 (despite widespread damage caused by Hurricanes Dennis and Wilma), 12.1% in 2006, and 7.3% in 2007.[18] The economy benefitted from the growth of the tourism, nickel, and oil sectors, and support from Venezuela and China in terms of investment commitments and credit lines. Cuba benefits from a preferential oil agreement with Venezuela, which provides Cuba with more than 90,000 barrels of oil a day. Some observers maintain that Venezuela's oil subsidies amounted to more than $3 billion a year in 2006.[19] Venezuela also helped Cuba upgrade an oil refinery in Cienfuegos, which was inaugurated in 2007.

In 2008, economic growth slowed to an estimated 4.5%. This was prompted by several problems, including the declining price of nickel, which accounts for a major share of Cuba's exports, the

[16] For further information, see the website of Oswaldo Payá, at http://www.oswaldopaya.org/es/.

[17] "Text of Jimmy Carter's Speech, Broadcast Live to Cuban People," Associated Press, May 15, 2002.

[18] "Cuba Country Report," *Economist Intelligence Unit*, December 2008.

[19] Frances Robles, "Venezuelan Oil Subsidies to Cuba Balloon," *Miami Herald*, August 2, 2007.

rising cost of food imports, and the devastation wrought by Hurricanes Gustav and Ike, particularly in the agricultural sectors.[20] The current global financial crisis is likely to have an effect on the Cuban economy because of lower world prices for nickel and a reduction in tourism from Canada and Europe. Cuba's reliance on Venezuela for oil could also be threatened as Venezuela faces a difficult domestic fiscal situation due to the rapid decline in the price of oil.

Over the years, Cuba has expressed pride for the nation's accomplishments in health and education. According to the U.N. Development Program's 2007/2008 *Human Development Report*, life expectancy in Cuba in 2005 was 77.7 years, adult literacy was estimated at almost 100%, and the infant mortality rate was 6 per 1,000 live births, the lowest rate in Latin America. For 2006 and 2007, Cuba has boasted an infant mortality rate of 5.3.[21]

When Cuba's economic slide began in 1989, the government showed little willingness to adopt any significant market-oriented economic reforms, but in 1993, faced with unprecedented economic decline, Cuba began to change policy direction. Beginning in 1993, Cubans were allowed to own and use U.S. dollars and to shop at dollar-only shops previously limited to tourists and diplomats. Self-employment was authorized in more than 100 occupations in 1993, most in the service sector, and by 1996 that figure had grown to more than 150 occupations. Also in 1993, the government divided large state farms into smaller, more autonomous, agricultural cooperatives (Basic Units of Cooperative Production, UBPCs). It opened agricultural markets in 1994, where farmers could sell part of their produce on the open market, and it also permitted artisan markets for the sale of handicrafts. In 1995, the government allowed private food catering, including home restaurants (*paladares)*, in effect legalizing activities that were already taking place), and approved a new foreign investment law that allows fully owned investments by foreigners in all sectors of the economy with the exception of defense, health, and education. In 1996, it authorized the establishment of free trade zones with tariff reductions typical of such zones. In 1997, the government enacted legislation to reform the banking system and established a new Central Bank (BCC) to operate as an autonomous and independent entity.

After Cuba began to recover from its economic decline, the government began to backtrack on some of its reform efforts. Regulations and new taxes made it extremely difficult for many of the nation's self-employed. Some home restaurants were forced to close because of the new regulations. In 2004, the Cuban government limited the use of dollars by state companies for any services or products not considered part of their core business. Some analysts viewed the measure as an effort to turn back the clock on economic reform measures.[22] Also in 2004, Fidel Castro announced that U.S. dollars no longer would be used in entities that at the time accepted dollars (such as stores, restaurants, and hotels). Instead, dollars had to be exchanged for "convertible pesos," with a 10% surcharge for the exchange. Dollar bank accounts are still allowed, but Cubans are not able to deposit new dollars into the accounts. Beginning in April 2005, convertible pesos were no longer on par with the U.S. dollar, but instead were linked to a basket of foreign currencies. This reduces the value of dollar remittances sent to Cuba and provides more hard currency to the Cuban government.[23]

[20] "Cuba Country Report," *Economist Intelligence Unit*, December 2008.

[21] "Infant Mortality, 5.3 in 2007!" *Granma Internacional*, January 4, 2008.

[22] Larry Luxner, "New Decree Limits Dollar Transactions as Cuba Tightens Controls Once Again," *CubaNews*, April 2004.

[23] Larry Luxner, "Cuba's 'Convertible Peso' No Longer Linked to U.S. Dollar," *CubaNews*, April 2005, p. 3.

Economic Changes Under Raúl

When Raúl Castro assumed provisional power in July 2006, there was some expectation that the government would be more open to economic policy changes, and a debate about potential economic reforms re-emerged in Cuba. On July 26, 2007, in a speech commemorating Cuba's revolutionary anniversary, Raúl Castro acknowledged that Cuban salaries were insufficient to satisfy needs, and maintained that structural changes were necessary in order to increase efficiency and production. He also maintained that the government was considering increasing foreign investment in the country. Some observers maintain that the speech was a forecast for economic reforms under Raúl, while others stress that only small marginal changes occurred in Raúl's first year in power.[24]

In the aftermath of Raúl's July 2007 speech, Cuban public expectations for economic reform increased. Thousands of officially sanctioned meetings were held in workplaces and local PCC branches around the country where Cubans were encouraged to air their views and discuss the future direction of the country. Complaints focused on low salaries and housing and transportation problems, and some participants advocated legalization of more private businesses.[25] Raised expectations for economic change in Cuba increased the chance that the government actually would adopt some policy changes. Doing nothing would run the risk of increased public frustration and a potential for social unrest. Increased public frustration was evident in a clandestine video, widely circulated on the Internet in early February 2008, of a meeting between Ricardo Alarcón, the head of Cuba's legislature, and university students in which a student was questioning why Cuban wages are so low and why Cubans are prohibited from visiting tourist hotels (a policy subsequently changed in late March 2008) or traveling abroad. The video demonstrated the disillusionment of many Cuban youth with the poor economic situation and repressive environment in Cuba.

Since Raúl Castro officially assumed the presidency in 2008, his government has announced a series of economic changes. In his first speech as President in February 2008, Raúl promised to make the government smaller and more efficient, to review the potential revaluation of the Cuban peso, and to eliminate excessive bans and regulations that curb productivity.[26] In mid-March, the government announced that restrictions on the sales of consumer products such as computers, microwaves, and DVD and video players would be lifted. In late March, it announced that it would lift restrictions on the use of cell phones. This officially occurred in mid-April.

One of Cuba's major reform efforts under Raúl Castro in 2008 was focused on the agriculture sector, a vital issue because Cuba reportedly imports some 80% of its food needs and is paying an increasing amount for such imports due to rising food prices. In an effort to boost food production, the government began giving farmers more discretion over how to use their land and what supplies to buy. Decision-making on agriculture reportedly has shifted from the national government to the local municipal level, with government bureaucracy cut significantly.[27]

[24] Manuel Roig-Franzia, "Cuba's Call for Economic Detente," *Washington Post*, July 27, 2007.

[25] Frances Robles, "Cubans Urged to Vent Views," *Miami Herald*, October 2, 2007.

[26] "Cuba: Full Text of Raúl Castro's National Assembly Address," *Cubavisión*, Havana (as translated by Open Source Center) February 24, 2008.

[27] Marc Frank, "Raúl Castro Overhauls Cuba's Farm Bureaucracy," *Reuters News*, May 1, 2008.

In April 2008, the government announced that it would begin revamping the state's wage system by removing the limit that a state worker can earn. This is an effort to boost productivity and to deal with one of Cuba's major economic problems: how to raise wages to a level where basic human needs can be satisfied. The problem of low wages in Cuba is closely related to another major economic problem: how to unify the two official currencies circulating in the country—the Cuban convertible peso (CUC) and the Cuban peso, which traded at about 24 to 1 CUC in 2008. Most people are paid in Cuban pesos, and the minimum monthly wage in Cuba is about 225 pesos (about $9 U.S. dollars[28]), but for increasing amounts of consumer goods, convertible pesos are used. Cubans with access to foreign remittances or who work in jobs that give them access to convertible pesos are far better off than those Cubans who do not have such access.

Looking ahead, several factors could restrain the magnitude of economic policy change in Cuba. A number of observers believe that as long as Fidel Castro is around, it will be difficult for the government to move forward with any major initiatives that are viewed as deviating from Fidel's orthodox policies. Other observers point to the significant oil subsidies and investment that Cuba now receives from Venezuela that have helped spur Cuba's high economic growth levels over the past several years and maintain that such support lessens the government's impetus for economic reforms. Another factor that bodes against rapid economic policy reform is the fear that it could spur momentum for political change. Given that one of the highest priorities for Cuba's government has been maintaining social and political stability, any economic policy changes are likely to be smaller changes introduced over time that do not threaten the state's control.

There was some expectation that Raúl Castro would announce additional economic reforms in his July 26, 2008 speech on Cuba's revolutionary anniversary, but there were no such announcements. Instead, Castro acknowledged the "large number of problems that still need to be resolved, the majority of which directly affect the population."[29] Nevertheless, in an address earlier in the month to the National Assembly, Raúl pointed to the goal of increasing salaries based on job performance. According to Castro: "Socialism means social justice and equality, but equality of rights and opportunities, not salaries. Equality does not mean egalitarianism."[30]

Cuba's Foreign Policy

During the Cold War, Cuba had extensive relations with and support from the Soviet Union, with billions in annual subsidies to sustain the Cuban economy that helped fund an activist foreign policy and support for guerrilla movements and revolutionary governments abroad in Latin America and Africa. With the dissolution of the Soviet Union, an end to the Cold War, and the loss of Soviet financial support, Cuba was forced to abandon its revolutionary exploits abroad. As its economy reeled from the loss of Soviet support, Cuba was forced to open up its economy and economic relations with countries worldwide, and developed significant economic linkages with Canada, Spain, other European countries, and China. In recent years, Venezuela -- under populist President Hugo Chávez -- has become a significant source of support for subsidized oil imports and investment. Relations with Russia have also intensified recently, with the visit of Russian President Dmitry Medvedev to Havana in November, the visit of several Russian warships to

[28] U.S. Department of State, "Country Reports on Human Rights Practices 2007, Cuba," March 11, 2008.

[29] "Cuba: Raúl Castro's 26 July Rebellion Day Speech," Havana Cubavisión (Open Source Center), July 26, 2006.

[30] "Cuba: Text of Raúl Castro's 11 July National Assembly Speech," Havana Cubavisión (Open Source Center), July 11, 2008.

Cuba in December 2008, and Raúl Castro's visit to Moscow in late January 2009. Chinese President Hu Jintao also visited Cuba in November signing a dozen agreements.

In Latin America, Cuba has diplomatic relations with all nations with the exception of El Salvador, and has increasingly become more engaged in Latin America beyond the already close relations with Venezuela. Brazilian President Luiz Inácio Lula da Silva visited Cuba twice in 2008, and Cuba seems especially interested in expanding relations with Brazil. Cuba became a full member of the 23 member Rio Group of Latin American and Caribbean nations in November 2008; some observers see the group, which excludes the United States, as an alternative to the Organization of American States (OAS). (Cuba's participation in the OAS has been suspended since 1962.) Raúl Castro made his first foreign trip as President in December 2008, when he traveled to Venezuela, and then to Bahia, Brazil, where he attended the Latin American and Caribbean Integration and Development Summit, a regional initiative of President Lula.[31]

Cuba is an active participant in international forums, including the United Nations and the controversial United Nations Human Rights Council. Cuba hosted the 14th summit of the Non-aligned Movement (NAM) in 2006, and holds the Secretary Generalship of the NAM until its next summit in 2009. It is a member of the Bolivarian Alternative for the Americas, (ALBA), a Venezuelan-led integration and cooperation scheme founded as an alternative to U.S. efforts to negotiate a region-wide Free Trade Area of the Americas (FTAA).

U.S. Policy Toward Cuba

Policy Overview

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 and Panama; and the February 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 death of four U.S. crew members.

Since the early 1960s, U.S. policy toward Cuba has consisted largely of isolating the island nation through comprehensive economic sanctions, including an embargo on trade and financial transactions. The Cuban Assets Control Regulations (CACR), first issued by the Treasury Department in July 1963, lay out a comprehensive set of economic sanctions against Cuba, including a prohibition on most financial transactions with Cuba and a freeze of Cuban

[31] "Cuba: Bringing Cuba in from the cold," *Latin American Regional Report, Caribbean & Central America*, December 2008.

government assets in the United States. The CACR have been amended many times over the years to reflect changes in policy, and remain in force today.

These sanctions were made stronger with the Cuban Democracy Act (CDA) of 1992 (P.L. 102-484, Title XVII) and with the Cuban Liberty and Democratic Solidarity Act of 1996 (P.L. 104-114), the latter often referred to as the Helms/Burton legislation. The CDA prohibits U.S. subsidiaries from engaging in trade with Cuba and prohibits entry into the United States for any sea-borne vessel to load or unload freight if it has been involved in trade with Cuba within the previous 180 days. The Cuban Liberty and Democratic Solidarity Act, enacted in the aftermath of Cuba's shooting down of two U.S. civilian planes in February 1996, combines a variety of measures to increase pressure on Cuba and provides for a plan to assist Cuba once it begins the transition to democracy. Most significantly, the law codified the Cuban embargo, including all restrictions under the CACR. This provision is especially noteworthy because of its long-lasting effect on U.S. policy options toward Cuba. The executive branch is circumscribed in lifting or substantially loosening the economic embargo without congressional concurrence until certain democratic conditions are met. Another significant sanction in the law is a provision in Title III that 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, both President Clinton and President Bush have suspended the implementation of Title III at six-month intervals.

In addition to sanctions, another component of U.S. policy, a so-called second track, consists of support measures for the Cuban people. This includes U.S. private humanitarian donations, medical exports to Cuba under the terms of the Cuban Democracy Act of 1992, U.S. government support for democracy-building efforts, and U.S.-sponsored radio and television broadcasting to Cuba. In addition, the 106th Congress approved the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX) that allows for agricultural exports to Cuba, albeit with restrictions on financing such exports. This led to the United States becoming Cuba's largest supplier of food and agricultural products since 2002.

Debate on the Direction of U.S. Policy

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

Dating back to 2000, there have been significant 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. Ultimately, these provisions were stripped out of final enacted measures, in part because of presidential veto threats.

In light of Fidel Castro's departure as head of government, many observers have called for a re-examination of U.S. policy toward Cuba. In this new context, there are two broad policy approaches to contend with political change in Cuba: a status-quo approach that would maintain

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.

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 diplomatic dialogue—then the seeds of reform would be planted, which would stimulate and strengthen 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 and the potential of involving the United States in a civil war scenario. They argue that since the demise of Cuba's communist government does not appear imminent, even without Fidel Castro at the helm, the United States should espouse a more pragmatic approach in trying to induce change in Cuba. Supporters of changing policy also point to broad international support for lifting the U.S. embargo, to the missed opportunities for U.S. businesses because of the unilateral nature of the embargo, and to the increased suffering of the Cuban people because of the embargo. Proponents of change also argue that the United States should be consistent in its policies with the world's few remaining communist governments, including China and Vietnam, and also maintain that moderating policy will help advance human rights.

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

Clinton Administration's Easing of Sanctions

The Clinton Administration made several changes to U.S. policy in the aftermath of Pope John Paul II's 1998 visit to Cuba, which were intended to bolster U.S. support for the Cuban people. These included the resumption of direct flights to Cuba (which had been curtailed after the February 1996 shootdown of two U.S. civilian planes), the resumption of cash remittances by U.S. nationals and residents for the support of close relatives in Cuba (which had been curtailed in August 1994 in response to the migration crisis with Cuba), and the streamlining of procedures for the commercial sale of medicines and medical supplies and equipment to Cuba.

In January 1999, President Clinton announced several additional measures to support the Cuban people. These included a broadening of cash remittances to Cuba, so that all U.S. residents (not just those with close relatives in Cuba) could send remittances to Cuba; an expansion of direct passenger charter flights to Cuba from additional U.S. cities other than Miami (direct flights later in the year began from Los Angeles and New York); and an expansion of people-to-people contact by loosening restrictions on travel to Cuba for certain categories of travelers, such as professional researchers and those involved in a wide range of educational, religious, and sports activities.

Bush Administration Policy

The Bush Administration essentially continued the two-track U.S. policy of isolating Cuba through economic sanctions while supporting the Cuban people through a variety of measures. However, within this policy framework, the Administration emphasized stronger enforcement of economic sanctions and further tightened restrictions on travel, remittances, and humanitarian gift parcels to Cuba. There was considerable reaction to the Administration's June 2004 tightening of restrictions for family visits and other categories of travel, and to the Administration's February 2005 tightening of restrictions on payment terms for U.S. agricultural exports to Cuba. Nevertheless, the Bush Administration did not completely eliminate the easing of sanctions that occurred under the Clinton Administration. For example, Americans may travel to Cuba to participate in educational activities, but these now need to be part of a structured academic program. Direct flights to Cuba also still run from Miami and New York, although flights from Los Angeles were curtailed for economic reasons in the aftermath of the tightening of travel restrictions in 2004 that reduced the number of Americans visiting Cuba.

Commission for Assistance to a Free Cuba

In October 2003, President Bush called for the establishment of an interagency Commission for Assistance to a Free Cuba, a Cabinet-level commission chaired by then -Secretary of State Colin Powell. The Commission, which had its first meeting in December 2003, was tasked with the objectives of 1) identifying additional means to help the Cuban people bring about an expeditious end to Cuba's dictatorship and 2) considering the requirements for U.S. assistance to a post-dictatorship Cuba.[32]

In May 2004, President Bush endorsed the recommendations of the Commission's first report, which made recommendations for immediate measures to "hasten the end of Cuba's dictatorship" as well as longer-term recommendations to help plan for Cuba's transition from communism to democracy in various areas. The President directed that up to $59 million be committed to implement key recommendations of the Commission, including support for democracy-building activities and for airborne broadcasts of Radio and TV Marti to Cuba. The report's most significant recommendations included a number of measures to tighten economic sanctions on family visits and other categories of travel and on private humanitarian assistance in the form of remittances and gift parcels. Subsequent regulations issued by the Treasury and Commerce Departments in June 2004 implemented these new sanctions. (The full Commission report is on the State Department website at http://www.state.gov/p/wha/rt/cuba/commission/2004/.) In February 2005, the Administration continued to tighten U.S. economic sanctions against Cuba by further restricting the process of how U.S. agricultural exporters may be paid for their cash sales, a move opposed by many U.S. agricultural exporters (For more, see "Agricultural Exports and Sanctions" below.)

In July 2005, Secretary of State Condoleezza Rice appointed Caleb McCarry as the State Department's new Cuba Transition Coordinator to direct U.S. government "actions in support of a free Cuba." Secretary Rice reconvened the Commission for Assistance to a Free Cuba in December 2005 to identify additional measures to help Cubans hasten the transition to democracy and to develop a plan to help the Cuban people move toward free and fair elections.

[32] U.S. Department of State, "Commission for Assistance to a Free Cuba," White House Fact Sheet, December 8, 2003.

In July 2006, the Commission issued its second report, making recommendations to hasten political change in Cuba toward a democratic transition. (The full report is available at http://www.cafc.gov/rpt/.)

In the report, the Commission called for the United States to provide $80 million over two years for the following: to support Cuban civil society ($31 million); to fund education programs and exchanges, including university training in Cuba provided by third countries and scholarships for economically disadvantaged students from Cuba at U.S. and third country universities ($10 million); to fund additional efforts to break the Cuban government's information blockade and expand access to independent information, including through the Internet ($24 million); and to support international efforts at strengthening civil society and transition planning ($15 million). According to the Cuba Transition Coordinator, this assistance would be additional funding beyond what the Administration is already currently budgeting for these programs.[33] Thereafter, the Commission recommended funding of not less than $20 million annually for Cuba democracy programs "until the dictatorship ceases to exist." This would roughly double the amount currently spent on Cuba democracy programs.

The report also set forth detailed plans of how the U.S. government, along with the international community and the Cuban community abroad, could provide assistance to a Cuban transition government to help it respond to critical humanitarian and social needs, to conduct free and fair elections, and to move toward a market-based economy. The report also outlined a series of preparatory steps in the areas of government organization, electoral preparation, and anticipating humanitarian and social needs that the U.S. government could take now, before Cuba's transition begins, so that it would be well prepared in the event that assistance was requested by the new Cuban government.

The Commission's second report received a mixed response from Cuba's dissident community. Although some dissidents, like former political prisoner Vladimiro Roca, maintain that they would welcome any U.S. assistance that helps support the Cuban dissident movement, others expressed concerns about the report. Dissident economist and former political prisoner Oscar Espinosa Chepe stressed that Cubans have to be the ones to solve their own problems. According to Chepe, "We are thankful for the solidarity we have received from North America, Europe, and elsewhere, but we request that they do not meddle in our country."[34] Miriam Leiva, a founding member of the Ladies in White, a human rights organization, expressed concern that the report could serve as a rationale for the government to imprison dissidents.[35] Leiva also faulted the Commission's report for presuming what a Cuban transition must be before U.S. recognition or assistance can be provided. According to Leiva, "Only we Cubans, of our own volition ... can decide issues of such singular importance. Cubans on the island have sufficient intellectual ability to tackle a difficult, peaceful transition and reconcile with other Cubans here and abroad."[36]

[33] U.S. Department of State, Second Report of the Commission for Assistance to a Free Cuba, Briefing, July 10, 2006.

[34] Nicholas Kralev, "Bush OKs Initiative to Support Opposition," *Washington Times*, July 11, 2006.

[35] Frances Robles and Pablo Bachelet, "Plan for Change in Cuba Gets OK," *Miami Herald,* July 11, 2006.

[36] Miriam Leiva, "We Cubans Must Decide," *Miami Herald*, July 15, 2006.

U.S. Reaction to Cuba's Political Succession

In response to Fidel Castro's announcement that he was temporarily ceding power to his brother Raúl, President Bush issued a statement on August 3, 2006, that "the United States is absolutely committed to supporting the Cuban people's aspiration for democracy and freedom." The President urged "the Cuban people to work for democratic change" and pledged U.S. support to the Cuban people in their effort to build a transitional government in Cuba. U.S. officials, a the time, indicated that there were no plans for the United States to "reach out" to the new leader. Secretary of State Condoleezza Rice reiterated U.S. support for the Cuban people in an August 4, 2006, statement broadcast on Radio and TV Marti. According to Secretary Rice, "All Cubans who desire peaceful democratic change can count on the support of the United States."[37]

Although there was some U.S. concern that political change in Cuba could prompt a migration crisis, there was no unusual traffic after Castro ceded provisional power to his brother. The U.S. Coast Guard had plans to respond to such a migration crisis, with support from the Navy if needed. In her August 4, 2006, message to the Cuban people, Secretary of State Rice encouraged "the Cuban people to work at home for positive change." Department of Homeland Security officials also announced several measures to discourage Cubans from risking their lives on the open seas. U.S. officials also discouraged those in the Cuban American community wanting to travel by boat to Cuba to speed political change in Cuba. (For more, see "Migration Issues" below.)

Response to Raúl's Overtures

Raúl Castro asserted in an August 18, 2006, published interview that Cuba has "always been disposed to normalize relations on an equal plane," but at the same time he expressed strong opposition to current U.S. policy toward Cuba, which he described as "arrogant and interventionist."[38] In response, Assistant Secretary of State for Western Hemisphere Affairs Thomas Shannon reiterated a U.S. offer to Cuba, first articulated by President Bush in May 2002, that the Administration was willing to work with Congress to lift U.S. economic sanctions if Cuba were to begin a political opening and a transition to democracy. According to Shannon, the Bush Administration remained prepared to work with Congress for ways to lift the embargo if Cuba was prepared to free political prisoners, respect human rights, permit the creation of independent organizations, and create a mechanism and pathway toward free and fair elections.[39]

In a December 2, 2006 speech, Raúl reiterated an offer to negotiate with the United States. He said that "we are willing to resolve at the negotiating table the longstanding dispute between the United States and Cuba, of course, provided they accept, as we have previously said, our condition as a country that will not tolerate any blemishes on its independence, and as long as said resolution is based on the principles of equality, reciprocity, non-interference, and mutual respect."[40]

[37] U.S. Department of State, "Secretary of State Condoleezza Rice Message to the People of Cuba," August 4, 2006.

[38] "No Enemy Can Defeat Us," interview of Raúl Castro by Laszar Barredo Medina, *Diario Granma*, August 18, 2006.

[39] U.S. Department of State, "U.S. Policy Toward Cuba," Thomas Shannon, Assistant Secretary for Western Hemisphere Affairs, August 23, 2006.

[40] "English Transcript of Raul Castro's Speech," *Miami Herald*, December 2, 2006.

On July 26, 2007, in a speech on Cuba's revolutionary anniversary (commemorating the 1953 attack on the Moncada military barracks), Raúl Castro reiterated for the third time an offer to engage in dialogue with the United States, and strongly criticized U.S. trade and economic sanctions on Cuba. A U.S. State Department spokesman responded that "the only real dialogue that's needed is with the Cuban people."[41]

In the second half of 2007, President Bush and other U.S. officials continued to call for a transition to democracy in Cuba. In a September 25, 2007 speech before the U.N. General Assembly, President Bush stated that "the long rule of a cruel dictator is nearing its end," and called on the United Nations to insist on free speech, free assembly, and free elections as Cuba "enters a period of transition."[42] U.S. Commerce Secretary Carlos Gutierrez stated in a speech on September 17 that "unless the regime changes, our policy will not," but indicated that the United States is "prepared to respond to genuine democratic change in Cuba."[43]

On October 24, 2007, President Bush made a policy speech on Cuba that reflected a continuation of the sanctions-based approach toward Cuba. According to the President: "As long as the [Cuban] regime maintains its monopoly over the political and economic life of the Cuban people, the United States will keep the embargo in place." In his speech, President Bush also sent a message to Cuban military, police, and government officials that "when Cubans rise up to demand their liberty," they have a choice to embrace the Cuban people's desire for change or "defend a disgraced and dying order by using force." The President conveyed to these officials that "there is a place for you in a free Cuba."[44]

Response to Raúl's Official Selection as President

In the aftermath of Fidel Castro's February 19, 2008 announcement that he was officially stepping down as head of state, President Bush maintained that he viewed "this as a period of transition and it should be the beginning of a democratic transition in Cuba." State Department officials made clear that U.S. policy would not change. On February 24, 2008, the day that Raúl Castro officially became Cuba's head of state, Secretary of State Condoleezza Rice issued a statement urging "the Cuban government to begin a process of peaceful, democratic change by releasing all political prisoners, respecting human rights, and creating a clear pathway towards free and fair elections."

In remarks on Cuba policy in early March 2008, President Bush maintained that in order to improve U.S.-Cuban relations, "what needs to change is not the United States; what needs to change is Cuba." The President asserted that Cuba "must release all political prisoners ... have respect for human rights in word and deed, and pave the way for free and fair elections."[45] He reiterated these words again in a speech to the Council of the Americas on May 7, 2008.[46] On

[41] Frances Robles, "Raúl Again Offers 'Olive Branch' to U.S.," *Miami Herald*, July 27, 2007; "U.S. Government Rejects Dialogue with Cuba," *EFE*, July 27, 2007.

[42] White House, Office of the Press Secretary, "President Bush Addresses the United Nations General Assembly," September 25, 2007.

[43] U.S. Department of Commerce, "Commerce Secretary Carlos M. Gutierrez Remarks at the Heritage Foundation," September 17, 2007.

[44] White House, "President Bush Discusses Cuba Policy," October 24, 2007.

[45] White House, "President Bush Delivers Remarks on Cuba," March 7, 2008.

[46] "Text of Bush Speech to Council of the Americas," *Miami Herald*, May 9, 2008.

May 21, 2008, President Bush called for the Cuban government to take steps to improve life for the Cuban people, including opening up access to the Internet. He also announced that the United States would change regulations to allow Americans to send mobile phones to family members in Cuba.[47]

Obama Administration Policy

During the electoral campaign, President Obama had pledged to lift restrictions on family travel to Cuba as well as restrictions on Cuban Americans sending remittances to Cuba. At the same time, he also pledged to maintain the embargo as a source of leverage to bring about change in Cuba. However, Obama also asserted that if the Cuban government takes significant steps toward democracy, beginning with the freeing of all political prisoners, then the United States would take steps to normalize relations and ease the embargo. He also maintained that, after careful preparation, his Administration would pursue direct diplomacy with Cuba without preconditions, but only when there is an opportunity to advance U.S. interests and advance the cause of freedom for the Cuban people.[48]

During her Senate Foreign Relations Committee confirmation hearing for Secretary of State on January 15, 2009, Senator Hillary Clinton reiterated President Obama's pledge to lift restrictions on family travel and remittances. She indicated that the Administration did not yet have a timeline on the change, but maintained that the Administration would consult closely with Congress as it proceeds. Clinton also reiterated Obama's position that it is not time to lift the embargo since it provides an important source of leverage for further change in Cuba.

Perhaps most significantly, in response to written questions for the record regarding U.S. agricultural sales to Cuba, Cuba's retention on the State Department's state sponsors of terrorism list since 1982, and potential cooperation with Cuba on energy security and environmentally sustainable resource management, Clinton maintained that the new Administration anticipated a review of U.S. policy. She indicated that she looked forward to working with Members of Congress as the Administration moves forward in the consideration of appropriate steps to advance U.S. interests and values in the context of U.S. relations with Cuba. With regard to a question regarding a potential anti-drug agreement with Cuba, Clinton maintained the importance of anti-drug cooperation with Cuba where such cooperation is effective in stopping trafficking.

Issues in U.S.-Cuban Relations

Aftermath of 2008 Hurricanes and Tropical Storms

From mid-August through early November 2008, three hurricanes and two tropical storms caused widespread damage throughout Cuba. Tropical Storm Fay passed through central Cuba on August 18, causing severe flooding. On August 31, Hurricane Gustav struck the tobacco-growing province of Piñar del Río in western Cuba and the Isle of Youth. Tropical Storm Hanna, which did

[47] White House, "President Bush Discusses Cuba, Marks Day of Solidarity," May 21, 2008.

[48] "Remarks of Senator Barack Obama, Renewing U.S. Leadership in the Americas," May 23, 2008, and "Renewing U.S. Leadership in the Americas," Factsheet, June 6, 2008, BarackObama.com

not strike Cuba directly, caused flooding in eastern Cuba in early September. Hurricane Ike made landfall in eastern Cuba on September 7 as a Category Four hurricane and severely affected both the eastern and western parts of the island, but especially the provinces of Holguin, Camaguey, and Las Tunas in the eastern part of the island. The two hurricanes caused most of the damage. Overall, just 7 people were killed, but the hurricanes severely affected the housing sector (with almost 500,000 homes damaged and over 63,000 destroyed), the power grid, and the agricultural sector.[49] On November 8, 2008, Hurricane Paloma struck Cuba, devastating the town of Santa Cruz del Sur. Initially damages from the storms in August and September were estimated to amount to $5 billion, but Raúl Castro noted in the aftermath of Hurricane Paloma that overall damages from the storms since August amounted to some $10 billion.[50]

The U.S. Chief of Mission at the U.S. Interests Section in Havana, Jonathan Farrar, issued a disaster declaration for Cuba on September 3, 2008, and the U.S. Agency for International Development (USAID) approved the release of $100,000 in emergency relief funds to non-governmental organizations in Cuba in response to Hurricane Gustav.[51] On September 12, in response to Hurricane Ike, the U.S. government provided another $100,000 in cash assistance to relief organizations on the ground in Cuba. The State Department maintains that the United States offered to send a humanitarian assessment team to Cuba to determine additional assistance needs, but that the Cuban government rejected the offer. U.S. officials subsequently offered a $5 million aid package for disaster relief for Cuba on September 13 that was also rejected by the Cuban government. USAID Administrator Henrietta Fore reportedly maintained that $2 million in plastic sheeting, hygiene kits, and other relief items would have been provided directly to the Cuban government, but that about $3 million in cash would still be provided through NGOs.[52] The State Department made a new offer to Cuba on September 19 to supply some $6.3 million in corrugated zinc roofs, nails, tools, lumber, sheeting, and light shelter kits that would help some 48,000 people, but the Cuban government did not accept the offer.[53]

In addition, according to the State Department, the U.S. government increased authorizations for U.S.-based non-governmental organizations (NGOs) to provide larger amounts of assistance to Cuba in the aftermath of the hurricanes, including expedited authorization over 90 days for up to $10 million per NGO.[54]

In response to the U.S. offer to send a disaster assessment team, the Cuban government maintained that it already had a sufficient number of well-trained experts in Cuba, and noted that other countries worldwide were sending humanitarian aid without inspecting the affected areas. Instead, Cuba asked the United States to allow U.S. companies 1) to sell needed relief supplies to Cuba for the repair of housing and electrical networks; and 2) to grant private commercial credit

[49] U.N. Office for the Coordination of Humanitarian Affairs (OCHA), "Situation Report 17 – Caribbean Hurricane Season," September 22, 2008.

[50] ""Paloma Brings 2008 Hurricane Season to a Close; Damages Exceed $10 Billion,"," *CubaNews*, December 2008.

[51] USAID, Bureau for Democracy, Conflict, and Humanitarian Assistance (DCHA), Office of U.S. Foreign Disaster Assistance (OFDA), "Latin America and the Caribbean – Hurricane Season 2008, Fact Sheet #3, FY2008," September 10, 2008.

[52] Frances Robles, "Cuba Rejects U.S. Supplies, Asks for Suspension of Trade Embargo," *Miami Herald*, September 16, 2008.

[53] Frances Robles, "U.S. Offers $6.3M in Construction Materials to Cuba," *Miami Herald*, September 22, 2008; Joshua Partlow, "Hurricanes Shift Debate on Embargo Against Cuba," *Washington Post*, September 24, 2008.

[54] U.S. Department of State, "Humanitarian Assistance to the Cuban People Following Hurricanes Gustav and Ike," September 15, 2008.

to Cuba in order to buy food in the United States.[55] In response to the U.S. offer to send $2 million in supplies to the Cuban government, the Cuban Interests Section in Washington rejected the request and called for the United States to allow U.S. companies to sell relief supplies to Cuba, if not on a permanent basis, then at least for the next six months.[56]

Legislative Initiatives

In the aftermath of the hurricanes, a number of observers, including some Members of Congress, called for the temporary relaxation of restrictions on family travel and remittances (limited to $300 per quarter) as well as on the provision of gift parcels[57] to Cuba, but the Administration did not take any of these actions. Some observers also called for temporary changes to the U.S. embargo regulations to allow for unrestricted U.S. cash sales to Cuba of food and medicines, farm machinery or equipment, and relief supplies, including building materials and electrical supplies. On September 5, 2008, Chairman of the House Foreign Affairs Committee Howard Berman asked President Bush to suspend for 90 days restrictions on family visits, remittances, and gift parcels.

Several legislative initiatives were introduced in the 110th Congress that would have temporarily eased U.S. embargo restrictions in several areas. On September 15, 2008, Senator Dodd offered S.Amdt. 5581 to the Department of Defense authorization bill (S. 3001) that would have, for a 180-day period: allowed unrestricted family travel; eased restrictions on remittances by removing the limit and allowing any American to send remittances to Cuba; expanded the list of allowable items that may be included in gift parcels; and allowed for unrestricted U.S. cash sales of food, medicines, and relief supplies to Cuba. The amendment was not considered, and therefore not part of the final bill.

In the House, two legislative initiatives were introduced. On September 16, 2008, Representative Flake introduced H.R. 6913, which would have prohibited any funds from going to the Department of Commerce to implement, administer, or enforce tightened restrictions on the contents of gift parcels to Cuba that were introduced in June 2004. On September 18, 2008, Representative Delahunt introduced H.R. 6962, the Humanitarian Relief to Cuba Act, which would have, for a 180-day period: allowed unrestricted family travel; eased restrictions on remittances by removing the limit and allowing any American to send remittances to Cuba; and expanded the list of allowable items that may be included in gift parcels.

Restrictions on Travel and Remittances

Restrictions on travel to Cuba have been a key and often contentious component of U.S. efforts to isolate the communist government of Fidel Castro for much of the past 40 years. Over time there have been numerous changes to the restrictions and for five years, from 1977 until 1982, there

[55] Cuban Ministry of Foreign Affairs, "Cuba Asks Washington to Lift Commercial Restrictions," September 11, 2008; and "Statement by the Ministry of Foreign Affairs," September 6, 2008.

[56] Karen DeYoung, "U.S. Urges Cuba to Accept Aid; Storm Relief Would Be Sent Directly to Havana Government," *Washington Post*, September 16, 2008.

[57] In June 2004, the Department of Commerce's Bureau of Industry and Security (BIS) published changes to the Export Administration Regulations that placed new limits on gift parcels sent to Cuba. This included prohibiting the inclusion of previously-allowed items such as seeds, clothing, personal hygiene items, veterinary medicines and supplies, fishing equipment and supplies, and soap-making equipment. (*Federal Register*, June 22, 2004, pp. 34565-34567).

were no restrictions on travel. Restrictions on travel and remittances to Cuba are part of the CACR, the overall embargo regulations administered by the Treasury Department's Office of Foreign Assets Control (OFAC).

Major arguments made for lifting the Cuba travel ban are that it contributes to the suffering of Cuban families; it hinders efforts to influence conditions in Cuba and may be aiding Castro by helping restrict the flow of information; it abridges the rights of ordinary Americans; and Americans can travel to other countries with communist or authoritarian governments. Major arguments in opposition to lifting the Cuba travel ban are that more American travel would support Castro's rule by providing his government with potentially millions of dollars in hard currency; that there are legal provisions allowing travel to Cuba for humanitarian purposes that are used by thousands of Americans each year; and that the President should be free to restrict travel for foreign policy reasons.

Under the former Bush Administration, enforcement of U.S. restrictions on Cuba travel increased, and restrictions on travel and on private remittances to Cuba were tightened. In March 2003, the Administration eliminated travel for people-to-people educational exchanges unrelated to academic course work. In June 2004, the Administration significantly restricted travel, especially family travel, and the provision of private humanitarian assistance to Cuba in the form of remittances and gift parcels. In April 2005, OFAC cracked down on certain religious organizations promoting licensed travel to Cuba and warned them not to abuse their license by taking individuals not affiliated with their organizations. OFAC's actions were prompted by reports that groups practicing the Afro-Cuban religion Santería had been taking large groups to Cuba as a means of skirting U.S. travel restrictions.[58] In 2006, the Administration suspended the licenses of several travel service providers, including one of the largest such providers in Florida, La Estrella de Cuba. Several religious organizations also had their licenses suspended, and church groups and several Members of Congress expressed concern about more restrictive licenses for religious travel.[59]

Among the June 2004 restrictions that remain in place are the following:

- Family visits were restricted to one trip every three years under a specific license and are restricted to immediate family members, with no exceptions. Under previous regulations, family visits could occur once a year under a general license, with travel more than once a year allowed, but under a specific license. Previously travel had been allowed to visit relatives to within three degrees of relationship to the traveler.
- Cash remittances were further restricted. Quarterly remittances of $300 may still be sent, but are now restricted to members of the remitter's immediate family and may not be remitted to certain government officials and certain members of the Cuban Communist Party. The regulations were also changed to reduce the amount of remittances that authorized travelers may carry to Cuba, from $3000 to $300.

[58] Oscar Corral, "Is Santería Used as Ploy to Skirt Travel Rules?," *Miami Herald*, February 27, 2005.

[59] Oscar Corral, "Feds Lay Down the Law on Cuba to Travel Agents," *Miami Herald*, April 29, 2006; Pablo Bachelet, "New Rules Impede Religious Travel," *Miami Herald*, March 16, 2006.

- Gift parcels were limited to immediate family members and were denied to certain Cuban officials and certain members of the Cuban Communist Party. The contents of gift parcels may no longer include seeds, clothing, personal hygiene items, veterinary medicines and supplies, fishing equipment and supplies, or soap-making equipment.
- The authorized per diem allowed for a family visit was reduced from the State Department per diem rate (currently $179 per day for Havana) to $50 per day.
- With the exception of informational materials, licensed travelers may not purchase or otherwise acquire merchandise and bring it back into the United States. Previous regulations allowed visitors to Cuba to import $100 worth of goods as accompanied baggage.
- Fully-hosted travel, by a person not subject to U.S. jurisdiction, was prohibited as a permissible category of travel.
- Travel for educational activities was further restricted, including the elimination of educational exchanges sponsored by secondary schools.

There was mixed reaction to the tightening of Cuba travel and remittance restrictions. Supporters maintain that the increased restrictions deny the Cuban government dollars that help maintain its repressive control. Opponents argue that the tightened sanctions are anti-family and only result in more suffering for the Cuban people. There were also concerns that the new restrictions were drafted without considering the full consequences of their implementation. For example, the elimination of fully-hosted travel raised concerns about the status of 70 U.S. students receiving full scholarships at the Latin American School of Medicine in Havana. Members of the Congressional Black Caucus, who were instrumental in the establishment of the scholarship program for U.S. students, expressed concern that the students may be forced to abandon their medical education because of the new OFAC regulations. As a result of these concerns, OFAC ultimately licensed the medical students in August 2004 to continue their studies and engage in travel-related transactions.

On July 19, 2007, the U.S. International Trade Commission issued a report, requested by the Senate Committee on Finance, maintaining that lifting travel restrictions would result in travel by U.S. citizens to Cuba rising to between 550,000 and 1 million from an estimate of 171,000 in 2005.

As noted above, during the electoral campaign, President Obama pledged to lift restrictions on family travel to Cuba as well as restrictions on Cuban Americans sending remittances to Cuba. Senator Hillary Clinton reiterated President Obama's pledge during her confirmation hearing for Secretary of State on January 15, 2009, but indicated that the Administration did not yet have a timeline on the change.

Legislative Initiatives

From 2000-2004, one or both houses of Congress approved amendments to appropriations bills that would have eased restrictions on travel to Cuba in various ways, but these provisions ultimately were stripped out of final enacted measures. The Bush Administration regularly threatened to veto legislation if it contained provisions weakening Cuba sanctions.

In the 110th Congress, several House and Senate appropriations bills had provisions that would have eased restrictions on travel to Cuba in various ways (H.R. 2829, S. 1859, H.R. 7323, S. 3260, and , S. 3289), but none of these provisions were included in final enacted measures.

A number of other legislative initiatives were introduced in the 110th Congress that would have eased Cuba travel restrictions in various ways, including bills that would have temporarily eased restrictions on travel and remittances in the aftermath of the 2008 storms, but no action was taken on these measures. Two of these initiatives already have been re-introduced in the 111th Congress: H.R. 332 (Lee), which would ease restrictions on educational travel to Cuba, and H.R. 188 (Serrano), which would lift overall economic sanctions on Cuba, including restrictions on travel and remittances.

(For additional information, see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*.)

Agricultural Exports and Sanctions

U.S. commercial agricultural exports to Cuba have been allowed for several years, but with numerous restrictions and licensing requirements. The 106th Congress passed the Trade Sanctions Reform and Export Enhancement Act of 2000 or TSRA (P.L. 106-387, Title IX) that 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. TSRA reiterates the existing ban on importing goods from Cuba but authorizes travel to Cuba, under a specific license, to conduct business related to the newly allowed agricultural sales.

Since 2002, the United States has been Cuba's largest supplier of food and agricultural products.[60] Cuba has purchased almost $2.6 billion in agricultural products from the United States since late 2001. Overall U.S exports to Cuba rose from about $7 million in 2001 to $404 million in 2004. U.S. exports to Cuba declined in 2005 and 2006 to $369 million and $340 million, respectively, but increased to $447 million in 2007. In the first 10 months of 2008, U.S. agricultural exports to Cuba amounted to $608 million, far higher than the same time period in previous years, 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 Cuba's agricultural sector.[61]

In February 2005, OFAC amended the Cuba embargo regulations to clarify that TSRA's term of "payment of cash in advance" means that the payment is received by the seller or the seller's agent prior to the shipment of the goods from the port at which they are loaded. U.S. agricultural exporters and some Members of Congress strongly objected that the action constitutes a new sanction that violates the intent of TSRA and could jeopardize millions of dollars in U.S. agricultural sales to Cuba. OFAC Director Robert Werner maintained that the clarification "conforms to the common understanding of the term in international trade."[62] On July 29, 2005,

[60] U.S. Department of Agriculture, Foreign Agricultural Service, Office of Global Analysis, "Cuba's Food & Agriculture Situation Report," March 2008.

[61] World Trade Atlas, which uses Department of Commerce Statistics.

[62] U.S. Department of the Treasury, Testimony of Robert Werner, Director, OFAC, before the House Committee on (continued...)

OFAC clarified that, for "payment of cash in advance" for the commercial sale of U.S. agricultural exports to Cuba, vessels can leave U.S. ports as soon as a foreign bank confirms receipt of payment from Cuba. OFAC's action was aimed at ensuring that the goods would not be vulnerable to seizure for unrelated claims while still at the U.S. port. Supporters of overturning OFAC's February 22, 2005 amendment, such as the American Farm Bureau Federation, were pleased by the clarification but indicated that they would still work to overturn the February rule.[63]

Some groups favor further easing restrictions on agricultural exports to Cuba. They argue that the restrictions harm the health and nutrition of the Cuban population. U.S. agribusiness companies that support the removal of restrictions on agricultural exports to Cuba believe that U.S. farmers are missing out on a market of over $700 million annually so close to the United States. Some exporters want to change U.S. restrictions so that they can sell agriculture and farm equipment to Cuba.[64] Agricultural exporters who support the lifting of the prohibition on financing contend that allowing such financing would help smaller U.S. companies expand purchases to Cuba more rapidly.[65]

On July 19, 2007, the U.S. International Trade Commission issued a report, requested by the Senate Committee on Finance, maintaining that the U.S. share of Cuba's agricultural, fish, and forest imports would rise from one-third to between one-half and two-thirds if trade restrictions were lifted. (See the full report available at http://www.usitc.gov/ext_relations/news_release/2007/er0719ee1.htm.)

Opponents of further easing restrictions on agricultural exports to Cuba maintain that U.S. policy does not deny such sales to Cuba, as evidenced by the large amount of sales since 2001. Moreover, according to the State Department, since the Cuban Democracy Act was enacted in 1992, the United States has licensed billions of dollars in private humanitarian donations. Opponents further argue that easing pressure on the Cuban government would in effect be lending support and extending the duration of the Castro regime. They maintain that the United States should remain steadfast in its opposition to any easing of pressure on Cuba that could prolong the Castro regime and its repressive policies. Some agricultural producers that export to Cuba support continuation of the prohibition on financing for agricultural exports to Cuba because it ensures that they will be paid.

Legislative Initiatives

In the 110th Congress, several House and Senate appropriations bills included provisions that would have eased restrictions on U.S. agricultural exports to Cuba (H.R. 2829, S. 1859, H.R. 7323, S. 3260, and , S. 3289) but none of these provisions were included in final enacted measures. These included provisions that would have 1) prevented the Treasury Department from implementing the Administration's February 2005 tightening of policy that required the payment

(...continued)

Agriculture, March 16, 2005.

[63] Christopher S. Rugaber, "Treasury Clarifies Cuba Farm Export Rule, and Baucus Relents on Nominees," *International Trade Reporter*, August 4, 2005.

[64] "Ag Groups Split Over Trade With Cuba," *Congress Daily AM*, National Journal, February 11, 2003.

[65] "Farm Equipment Exports Likely to Face Tough Opposition from White House, Congress," *Cuba Trader*, Vol. III, No. 7, February 17, 2003.

of cash in advance prior to the shipment of U.S. agricultural goods to Cuba and 2) authorized general licenses for travel to Cuba for the marketing and sale of agricultural and medical goods.

In other action during the 110th Congress, the House, on July 27, 2007, rejected (by a vote of 182-245) H.Amdt. 707 (Rangel) to H.R. 2419, the Farm, Nutrition, and Bioenergy Act of 2007, also known as the 2007 farm bill. The amendment would have eased restrictions on the commercial sale of agricultural products to Cuba by clarifying the meaning of "payment of cash in advance" for the sale of such products; authorizing direct transfers between U.S. and Cuban financial institutions for such sales; and authorizing the issuance of U.S. visas for Cubans to conduct activities, including phytosanitary inspections, related to such sales.

A number of other legislative initiatives were introduced in the 110th Congress that would have eased restrictions on U.S. agricultural exports to Cuba in various ways, but no action was taken on these measures. Several of these may be re-introduced in the 111th Congress.

Trademark Sanction[66]

For over a decade, the United States has imposed a sanction that denies protection for trademarks connected with businesses confiscated from their owners by the Cuban government. A provision in the FY1999 omnibus appropriations measure (Section 211 of Division A, Title II, P.L. 105-277, signed into law October 21, 1998) prevents the United States from accepting payment for trademark registrations and renewals from Cuban or foreign nationals that were used in connection with a business or assets in Cuba that were confiscated, unless the original owner of the trademark has consented. The provision 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 Ltd. Pernod Ricard entered into a joint venture with the Cuban government to produce and export Havana Club rum, but Bacardi, whose company in Cuba was expropriated in the 1960s, maintains that it holds the right to the Havana Club name. Although Pernod Ricard cannot market Havana Club in the United States because of the trade embargo, it wants to protect its future distribution rights should the embargo be lifted.

The European Union initiated World Trade Organization dispute settlement proceedings in June 2000, maintaining that the U.S. law violates the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). In January 2002, the WTO ultimately found that the trademark sanction violated WTO provisions on national treatment and most-favored-nation obligations in the TRIPS Agreement.

On March 28, 2002, the United States agreed that it would come into compliance with the WTO ruling through legislative action by January 3, 2003.[67] That deadline was extended several times since no legislative action had been taken to bring Section 211 into compliance with the WTO ruling. On July 1, 2005, however, in an EU-U.S. bilateral agreement, 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.[68] On August 3, 2006, the U.S.

[66] For additional information, see CRS Report RS21764, *Restricting Trademark Rights of Cubans: WTO Decision and Congressional Response*, by Margaret Mikyung Lee.

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

[68] "Japan, EU Suspend WTO Retaliation Against U.S. in Two Cases," *Inside U.S. Trade*, July 15, 2005.

Patent and Trademark Office announced that Cuba's Havana Club trademark registration was "cancelled/expired," a week after OFAC had denied a Cuban government company the license that it needed to renew the registration of the trademark.[69]

Two different approaches have been advocated to bring Section 211 into compliance with the WTO ruling. Some want a narrow fix in which Section 211 would be amended so that it also applies to U.S. companies instead of being limited to foreign companies. Advocates of this approach argue that it would affirm that the United States "will not give effect to a claim or right to U.S. property if that claim is based on a foreign compensation."[70] Others want Section 211 repealed altogether. They argue that the law endangers over 5,000 trademarks of over 500 U.S. companies registered in Cuba.[71] They maintain that Cuba could retaliate against U.S. companies under the Inter-American Convention for Trademark and Commercial Protection.

Several legislative initiatives were introduced during the 110th Congress reflecting these two approaches to bring Section 211 into compliance with the WTO ruling, but no action was taken on these measures. Several of these could be re-introduced in the 111th Congress. The July 2005 EU-U.S. bilateral agreement, in which the EU agreed not to retaliate against the United States, but reserved the right to do so at a later date, reduced pressure on Congress to take action to comply with the WTO ruling.

Offshore Oil Sector Development

The issue of Cuba's development of its deepwater offshore oil reserves in the Gulf of Mexico has been a concern among some Members of Congress. According to the U.S. Energy Information Administration, industry analysts maintain that there could be at least 1.6 billion barrels of crude oil reserves in Cuba's offshore sector; the U.S. Geological Survey estimated a mean of 4.6 billion barrels of undiscovered oil.[72] In October 2008, an official of Cuba's state oil company, Cubapetroleo (Cupet), maintained there may be more than 20 billion barrels of oil in Cuba's deepwaters, but energy analysts expressed skepticism for such a claim.[73]

To date, Cuba has signed agreements for seven concessions involving eight foreign oil companies for the exploration of offshore oil and gas. Repsol (Spain), Norsk-Hydro (Norway), and ONGC (India) are partners in a joint project, while Sherritt International (Canada), ONGC (India), PdVSA (Venezuela), Petronas (Malaysia), PetroVietnam, and Petrobras (Brazil) also have additional concessions. In February 2008, Petrobras signed a wide-ranging agreement for potential exploration and production cooperation with Cuba's state oil company, Cupet. This ultimately led to an oil exploration agreement between Petrobras and Cupet signed in late October 2008. Some Members of Congress have expressed concern about oil development so close to the

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

[70] Brian Lehman, testimony before the Senate Committee on the Judiciary, hearing on "An Examination of Section 211 of the Omnibus Appropriations Act of 1998," July 13, 2004.

[71] "USA-Engage Joins Cuba Fight," *Cuba Trader*, April 1, 2002.

[72] U.S. Energy Information Administration , "Country Analysis Briefs: Caribbean," September 2007; U.S. Geological Survey, "Assessment of Undiscovered Oil and Gas Resources of the North Cuban Basin, Cuba, 2004," Fact Sheet 2005-3009, February 2005.

[73] Jeff Franks, "Cuba Oil Claims Raise Eyebrows in Energy World," October 24, 2008; and Larry Luxner, "Cuba May have 20 Billion Barrels of Oil But Cash Crunch Threatens Investment," *CubaNews*, November 2008.

United States and about potential environmental damage to the Florida coast. The Repsol project has plans to drill a second well (the first was drilled in 2004) in mid-2009, and some press reports maintain that if that goes well, Cuban oil could be flowing to the market by 2013.[74]

Although there have been some claims that China is drilling in Cuba's offshore deepwater oil sector, to date its involvement in Cuba's oil sector has been focused on exploring onshore/close coastal oil extraction in Piñar del Rio province through its state-run China Petroleum and Chemical Corporation (Sinopec).[75] China does not have a concession in Cuba's offshore oil sector in the deepwaters of the Gulf of Mexico.[76]

In the 110th Congress, several legislative initiatives (H.R. 1679, S. 876, and S. 2503) would have imposed sanctions related to Cuba's offshore oil development on its northern coast, while several other initiatives (S. 1268, S. 2953, H.R. 3182, H.R. 3435, and H.R. 6735) would have allowed U.S. companies to work with Cuba for the offshore exploration and extraction of oil. No action was taken on any of these initiatives.

Drug Interdiction Cooperation

Because of Cuba's geographic location, the country's waters and airspace have been used by illicit narcotics traffickers to transport drugs for ultimate destinations in the United States. Over the past several years, Cuban officials have expressed concerns over the use of their waters and airspace for drug transit as well as 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 anti-drug efforts. Cuba has bilateral counternarcotics agreements with 33 countries and less formal arrangements with 16 others, according to the Department of State. For several years, Cuba's Operation Hatchet has focused on maritime and air interdiction and the recovery of narcotics washed up on Cuban shores. Narcotics smuggling through Cuban territory decreased in 2006, according to both U.S. and Cuban officials.[77] According to the Department of State, Cuba aggressively pursues an internal enforcement and investigation program against its incipient drug market with an effective nationwide drug prevention and awareness campaign, Operation Popular Shield.

Over the years, there have been varying levels of U.S.-Cuban cooperation on anti-drug 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

[74] Jorge Piñon, "Cuba's Energy Future," Canadian Foundation for the Americas, *FocalPoint*, April 2007, Vol. 6, No. 3; "PetroVietnam Gets Go-Ahead to Explore Seven Cuban Oil Fields," *Dow Jones International News*, November 20, 2007; and Larry Luxner, "Cuba May have 20 Billion Barrels of Oil But Cash Crunch Threatens Investment," *CubaNews*, November 2008.

[75] Domingo Amuchastegui, "Cuban Again Invites U.S. Oil Giants to Invest in Oil Sector," *CubaNews*, May 2007.

[76] Lesley Clark and Erika Bolstad, "China-Cuba Rumors Fuel Renewed Offshore Drilling Debate, Rumors of China Drilling in Cuban Waters Are Rallying Support for Drilling off Florida's Coast, But Experts Say They're Untrue," *Miami Herald*, June 12, 2008.

[77] Frances Robles, "Drug-Trafficking at 11-Year Low, Cuba Says," *Miami Herald*, March 3, 2007; U.S. Department of State, International Narcotics Control Strategy Report, March 2007, p. 188.

Cuban officials met in Havana to discuss ways of improving anti-drug cooperation. Cuba accepted an upgrading of the communications link between the Cuban Border Guard and the U.S. Coast Guard as well as the stationing of a U.S. Coast Guard Drug Interdiction Specialist (DIS) at the U.S. Interests Section in Havana. The Coast Guard official was posted to the U.S. Interests Section in September 2000, and since that time, coordination has increased.

The State Department, in its March 2008 *International Narcotics Control Strategy Report*, reported that narcotics cooperation, including operations in coordination with the Coast Guard DIS, increased in 2007. These included cooperation in the interception of a drug-laden aircraft destined for the Bahamas in February and a joint U.S.-Cuba container inspection at the port of Havana in June. The report also noted that Cuban authorities have provided the DIS more exposure to Cuban counternarcotics efforts, including investigative criminal information, debriefings on drug trafficking cases, visits to the Cuban national canine training center and anti-doping laboratory in Havana, and access to meet with the Chiefs of Cuba's INTERPOL and Customs office.

Cuba maintains that it wants to cooperate with the United States to combat drug trafficking, and on various occasions has called for a bilateral anti-drug cooperation agreement with the United States.[78] In January 2002, Cuba deported to the United States Jesse James Bell, a U.S. fugitive wanted on drug charges, and in early March 2002, Cuba arrested a convicted Colombian drug trafficker, Rafael Bustamante, who escaped from jail in Alabama in 1992. At the time, then Drug Enforcement Administration head Asa Hutchison expressed appreciation for Cuba's actions, but indicated that cooperation would continue on a case-by-case basis, not through a bilateral agreement.[79] In February 2007, Cuba extradited drug trafficker Luis Hernando Gómez Bustamante to Colombia, an action that drew praise from U.S. Assistant Secretary of State for International Narcotics and Law Enforcement Affairs Anne Patterson.[80] Gómez Bustamante was subsequently extradited to the United States in July 2007 to face drug trafficking charges.

In April 2008, John Walters, Director of the White House Office of National Drug Control Policy, lauded U.S. anti-drug cooperation with Cuba as a good example of how cooperation has been achieved despite overall political differences between the two countries.[81]

In early January 2009, Assistant Secretary of State for Western Hemisphere Affairs Tom Shannon maintained in an interview with Spain's *El País* newspaper that a drug trafficking accord with Cuba would be logical, although he could not anticipate what the next Administration would do.[82]

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

[79] Anthony Boadle, "U.S. Thanks Cuba, But Declines Anti-Drug Accord," Reuters, March 19, 2002.

[80] U.S. Department of State, Release of the 2007 International Narcotics Control Strategy Report, Anne W. Patterson, Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, On-The-Record Briefing, March 1, 2007.

[81] "White House Office of National Drug Control Policy Director Waters Holds News Briefing on Emerging Transatlantic Drug Threats at the Foreign Press Center," *Newsmakers Transcripts, CQ.com*, April 28, 2008.

[82] José Manuel Calvo, "Thomas Shannon Secretario de Estado adjunto para Latinoamérica: "Sería un acuerdo contra el narcotráfico entre Cuba y EE UU," *El País*, January 11, 2009.

Legislative Initiatives

Over the past several years, House and Senate versions of Foreign Operations appropriations bills have contained contrasting provisions related to funding for cooperation with Cuba on counternarcotics efforts. House bills have generally prohibited funds for such efforts, while Senate versions would have funded such efforts. Ultimately, none of these provisions were included in enacted measures.

Most recently, in the second session of the 110th Congress, the Senate Appropriations Committee version of the FY2009 State, Department, Foreign Operations, and Related Agencies Appropriations Act, S. 3288, contained a provision (section 779) that would have provided for $1 million for preliminary work by the Department of State, or other entity designated by the Secretary of State, to establish cooperation with appropriate Cuban agencies on counternarcotics matters. The money would not be available, however, if the Secretary certified that Cuba 1) does not have in place procedures to protect against the loss of innocent life in the air and on the ground in connection with the interdiction of illegal drugs; and 2) there is credible evidence of involvement of the government of Cuba in drug trafficking during the preceding 10 years. No action was taken on the measure, and no such provision was included in the Consolidated Appropriations Act for FY2009 (P.L. 110-329) that provided foreign operations funding until March 6, 2009.

Cuba and Terrorism[83]

Cuba was added to the State Department's list of states sponsoring international terrorism in 1982 because of its alleged ties to international terrorism and support for terrorist groups in Latin America. Cuba had a long history of supporting revolutionary movements and governments in Latin America and Africa, but in 1992, Fidel Castro said that his country's support for insurgents abroad was a thing of the past. Cuba's change in policy was in large part due to the breakup of the Soviet Union, which resulted in the loss of billions of dollars in annual subsidies to Cuba, and led to substantial Cuban economic decline.

Cuba remains on the State Department's terrorism list. According to the State Department's *Country Reports on Terrorism 2007* report (issued April 30, 2008), Cuba has "remained opposed to U.S. counterterrorism policy, and actively and publicly condemned many associated U.S. policies and actions." The report also noted that Cuba maintains close relationships with other state sponsors of terrorism, such as Iran and Syria, and has provided safe haven for members of several Foreign Terrorist Organizations (FTOs): the Basque Homeland and Freedom (ETA) and two Colombian insurgent groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN). Colombia has publicly acknowledged that it wants Cuban mediation with the ELN.

The 2007 report also maintained that Cuba continued to permit U.S. fugitives from justice to live legally in Cuba. Most of the fugitives entered Cuba in the 1970s, and are accused of hijacking or committing violent actions in the United States. The State Department report noted that Cuba stated in 2006 that it would no longer provide safe haven to new fugitives who may enter Cuba. In 2006, Cuba returned a U.S. fugitive who had sequestered his son and flew a stolen plane to

[83] For further information, see CRS Report RL32251, *Cuba and the State Sponsors of Terrorism List*, by Mark P. Sullivan.

Cuba in September. In April 2007, Cuba returned another U.S. fugitive, Joseph Adjmi, who was convicted of mail fraud in the 1960s, but disappeared before beginning his 10-year sentence. On June 13, 2008, Cuba's Ministry of Foreign Affairs announced that it deported another U.S. citizen, Leonard Auerbach, wanted in the United States for sexual exploitation of a minor and for child pornography, who had entered Cuba from Mexico in April.[84] More recently, press reports maintain that a number of fugitives from Florida accused of bilking the U.S. government of millions through Medicare fraud have fled to Cuba.[85]

Critics of retaining Cuba on the terrorism list maintain that it is a holdover from the Cold War. They argue that domestic political considerations keep Cuba on the terrorism list and maintain that Cuba's presence on the list diverts U.S. attention from struggles against serious terrorist threats. Those who support keeping Cuba on the terrorism list argue that there is ample evidence that Cuba supports terrorism. They point to the government's history of supporting terrorist acts and armed insurgencies in Latin America and Africa. They point to the government's continued hosting of members of foreign terrorist organizations and U.S. fugitives from justice.

Cuba as the Victim of Terrorism

Cuba has been the target of various terrorist incidents over the years. In 1976, a Cuban plane was bombed, killing 73 people. In 1997, there were almost a dozen bombings in the tourist sector in Havana and in the Varadero beach area in which an Italian businessman was killed and several others were injured. Two Salvadorans were convicted and sentenced to death for the bombings in March 1999, and three Guatemalans were sentenced to prison terms ranging from 10-15 years in January 2002. Cuban officials maintain that Cuban exiles funded the bombings.

In November 2000, four anti-Castro activists were arrested in Panama for a plot to kill Fidel Castro. One of the accused, Luis Posada Carriles, was also allegedly involved in the 1976 Cuban airline bombing noted above.[86] The four stood trial in March 2004 and were sentenced on weapons charges in the case to prison terms ranging from seven to eight years. In late August 2004, Panamanian President Mireya Moscoso pardoned the four men before the end of her presidential term. Three of the men are U.S. citizens and traveled to Florida, where they received strong support from some in the Cuban American community, while Posada reportedly traveled to another country.

On April 13, 2005, Posada's lawyer said that his client, reportedly in the United States after entering the country illegally, would seek asylum in the United States because he has a "well-founded fear of persecution" for his opposition to Fidel Castro.[87] Posada, a Venezuelan citizen, had been imprisoned in Venezuela for the bombing of the Cuban airliner in 1976, but reportedly was allowed to "escape" from prison in 1985 after his supporters paid a bribe to the prison warden.[88] He had been acquitted for the bombing but remained in prison pending a prosecutorial appeal.[89] Posada also reportedly admitted, but later denied, involvement in the string of bombings

[84] Patricia Grogg, "Cuba: Government Deports U.S. Citizen Charged with Child Abuse," *Inter Press Service*, June 16, 2008.

[85] Jay Weaver, "Fugitives Flee South Florida with Medicare Millions," *Miami Herald*, January 2, 2009.

[86] Frances Robles, "An Old Foe of Castro Looks Back on His Fight," *Miami Herald*, September 4, 2003.

[87] Alfonso Chardy and Nancy San Martin, "Lawyer Expects Posada to Show Soon," *Miami Herald*, April 14, 2005.

[88] Ann Louise Bardach, "Our Man's in Miami. Patriot or Terrorist?," *Washington Post*, April 17, 2005.

[89] Although Posada was acquitted by a military court, a higher court ordered a new civilian trial. Reportedly a first set (continued...)

in Havana in 1997, one of which killed an Italian tourist.[90] Posada subsequently withdrew his application for asylum on May 17, 2005. Later that day, U.S. Immigration and Customs Enforcement (ICE) arrested Posada, and subsequently charged him with illegally entering the United States. A Department of Homeland Security press release indicated that ICE does not generally deport people to Cuba or countries believed to be acting on Cuba's behalf.[91] Venezuela requested Posada's extradition and pledged that it would not hand Posada over to Cuba. On September 26, 2005, however, a U.S. immigration judge ruled that Posada likely faced torture in Venezuela and could not be deported in keeping with U.S. obligations under the Convention Against Torture.[92]

ICE reviewed the case and determined on March 22, 2006, that Posada would not be freed from a federal immigration facility in El Paso, Texas.[93] In November 2006, however, a U.S. federal judge, who was considering Posada's plea that he be released, ordered the government to supply evidence, by February 1, 2007, justifying his continued detention. On January 11, 2007, a federal grand jury in Texas indicted Posada on seven counts for lying about how he entered the United States illegally in March 2005, whereupon he was transferred from immigration detention in El Paso to a county prison in New Mexico near the Texas border. The Cuban government responded by maintaining that Posada needs to be charged with terrorism, not just lying about how he entered the United States. Another grand jury in New Jersey is reportedly examining Posada's alleged role in the 1997 bombings in Cuba.[94] Press articles in early May 2007 reported that the FBI has been gathering evidence in the 1997 bombing and that FBI agents have visited Havana as part of their investigation.[95]

Posada was released from jail in New Mexico on April 19, 2007, and allowed to return to Miami under house arrest to await an upcoming trial on immigration fraud charges, but on May 9, 2007 a federal judge in Texas dismissed the charges. The judge maintained that the U.S. government mistranslated testimony from Posada and manipulated evidence.[96] On June 5, 2007, Justice Department prosecutors filed a notice of appeal with the 5th U.S. Circuit Court of Appeals in New Orleans and on November 6, 2007, federal prosecutors filed a brief requesting that the court reverse the lower court's decision.[97] On June 4, 2008, the appeals court heard arguments from both sides in the case; a ruling reportedly could take several months.[98] Both Cuba and Venezuela strongly denounced Posada's release, contending that he is a terrorist. In late June 2008, Panama's

(...continued)

of prosecutors recommended against charging Posada, but a second set of prosecutors took the case to trial, and Posada escaped during that time in 1985. See Oscar Corral, "Debate Focuses on Escape," *Miami Herald*, June 19, 2005.

[90] Oscar Corral and Alfonso Chardy, "Victim's Kin Oppose Posada Bid for Asylum," *Miami Herald*, May 7, 2005.

[91] Department of Homeland Security, Office of Public Affairs, Statement, May 17, 2005.

[92] Alicia Caldwell, "Judge Says Cuban Militant Can't Be Deported to Venezuela," *Associated Press*, September 28, 2005.

[93] Oscar Corral, "Cuban Exile Militant Luis Posada Denied Release," *Miami Herald*, March 22, 2006.

[94] Alfonso Chardy and Jay Weaver, "Posada a Target of New Federal Probes," *Miami Herald*, November 12, 2006, and "Grand Jury Indicts Cuban Exile Militant Luis Posada Carriles," *Miami Herald*, January 12, 2007.

[95] Alfonso Chardy, Oscar Corral, and Jay Weaver, "FBI, Cuba Cooperating on Posada," *Miami Herald*, May 3, 2007; "U.S., Cuba Unite to Investigate Former CIA Op," National Public Radio, Morning Edition, May 4, 2007.

[96] Carol J. Williams, "Pressure Grows to Prosecute Cuban Exile," *Los Angeles Times*, May 10, 2007.

[97] The federal prosecutors' brief is available at http://media.miamiherald.com/smedia/2007/11/06/20/Posada_5CA_07-50737_electronic_copy.source.prod_affiliate.56.pdf.

[98] Michael Kunzelman, "Appeals Court Hears Cuban Militant's Immigration Case," *Associated Press*, June 4, 2008.

Supreme Court ruled that Posada's 2004 pardon was unconstitutional, and in July 2008, a Panamanian court initiated a request for Posada's extradition to the Panamanian government.

U.S. Funding to Support Democracy and Human Rights

Since 1996, the United States has provided assistance—primarily through the U.S. Agency for International Development (USAID), but also through 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's Cuba program has supported a variety of U.S.-based non-governmental organizations with the goals of promoting a rapid, peaceful transition to democracy, helping develop civil society, and building solidarity with Cuba's human rights activists.[99] These efforts are largely funded through Economic Support Funds (ESF) in the annual foreign operations appropriations bill. From FY2001-FY2007, the United States provided a total of almost $71 million in funding for Cuba democracy efforts.

For FY2008, Congress fully funded the Administration's request for $45.7 million in ESF for democracy assistance for Cuba in the Consolidated Appropriations Act for FY2008 (P.L. 110-161); an estimated $45.33 million, however, will be provided because of an overall 0.81% rescission. The amount was more than five times the amount requested in FY2007 ($9 million). According to the State Department's FY2008 Congressional Budget Justification (CBJ), the increase in assistance was in order to fulfill the recommendations of the July 2006 report of the Commission for Assistance to a Free Cuba to provide support for Cuban civil society, expand international awareness, break the regime's information blockade, and continue support for a democratic transition. That report, as described above, recommended $80 million over two years for a variety of measures to hasten Cuba's transition to democracy, and not less than $20 million annually thereafter for Cuba democracy programs.

Both the House- and Senate-passed versions of the FY2008 State, Foreign Operations, and Related Agencies Appropriations Act, H.R. 2764, fully funded the Administration's request for $45.7 million in ESF for Cuba democracy programs. The House committee-reported version of the bill would have provided just $9 million in ESF for such programs, but during June 21, 2007, floor consideration, the House approved H.Amdt. 351 (Diaz-Balart) by a vote of 254-170 that increased funding for ESF by $36.7 million in order to fully fund the Administration's request. The Senate Appropriations Committee report to the bill would have provided $15 million in ESF for Cuba democracy programs. However, during September 6, 2007, floor consideration, the Senate approved S.Amdt. 2694 (Martinez) by voice vote that increased funding for Cuba democracy programs by $30.7 million to fully fund the Administration's request.

For FY2009, the Administration requested $20 million in ESF to continue to implement the program recommendations of the Commission for Assistance to a Free Cuba. The money would assist human rights activists, independent journalists, Afro-Cubans, and women, youth, and student activists. The report to the Senate Appropriations Committee version of the FY2009 State Department, Foreign Operations, and Related Agencies Appropriations Act, S, 3288 (S.Rept. 110-425), recommended fully funding the Administration's request for Cuba, but also called for the

[99] See USAID's Cuba program website: http://www.usaid.gov/locations/latin_america_caribbean/country/cuba/.

State Department and USAID to conduct regular evaluations to ensure the cost effectiveness of the programs. No final action on the appropriations measure was taken in the 110th Congress, but overall foreign operations funding was continued under a short-term continuing resolution (P.L. 110-329) until March 6, 2009.

Until FY2008, NED's democratization assistance for Cuba had been funded largely through the annual Commerce, Justice, and State (CJS) appropriations measure, but is now funded through the State Department, Foreign Operations and Related Agencies appropriations measure. NED funding for Cuba has steadily increased over the past several years: $765,000 in FY2001; $841,000 in FY2002; $1.14 million in FY2003; and $1.15 million in FY2004. For FY2005, NED funded 17 Cuba projects with $2.4 million. For FY2006, NED funded 13 projects with almost $1.5 million, including $0.4 million from State Department ESF. For FY2007, NED funded 12 projects with almost $1.5 million, which included almost $1.4 million funded by the State Department.

Oversight of U.S. Democracy Assistance to Cuba

In November 2006, the Government Accountability Office (GAO) issued a report examining U.S. democracy assistance for Cuba from 1996-2005, and concluded that the U.S. program had significant problems and needed better management and oversight. According to GAO, internal controls, for both the awarding of Cuba program grants and oversight of grantees, "do not provide adequate assurance that the funds are being used properly and that grantees are in compliance with applicable law and regulations."[100] Investigative news reports on the program maintained that high shipping costs and lax oversight have diminished its effectiveness.[101] Representative William Delahunt, Chairman of the House Foreign Affairs Committee's Subcommittee on International Organizations, Human Rights, and Oversight, had requested the GAO study along with Representative Jeff Flake.

In March 2008, a White House aide to President Bush, Felipe Sixto, resigned because of alleged misuse of funds when he worked for the Center for a Free Cuba, which has been a major recipient of U.S. democracy funding.[102] On December 19, 2008, Sixto pled guilty to stealing nearly $600,000, and is expected to be sentenced in March 2009.[103] Another group, Grupo de Apoyo a la Democracia (Group in Support of Democracy), is also under investigation by USAID for misuse of funds. Historically these two groups have been the two largest recipients of U.S. democracy funding for Cuba.[104]

GAO issued a second report examining USAID's Cuba democracy program on November 24, 2008.[105] The report lauded the steps that USAID had taken since 2006 to address problems with

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

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

[102] Alfonso Chardy and Pablo Bachelet, "Cuban Exile Activist Felt 'Betrayal' by Employees," *Miami Herald*, April 24, 2008.

[103] Jesse J. Holland, "Former Bush Aide Pleads Guilty to Stealing from Anti-Castro Cuban Democracy Advocates," *Associated Press Newswires*, December 19, 2008.

[104] Frances Robles, "Hold on Funds for Cuba Democracy Project Lifted," *Miami Herald*, July 23, 2008.

[105] U.S. Government Accountability Office, *Foreign Assistance: Continued Efforts Needed to Strengthen USAID's* (continued...)

its Cuba program and improve oversight of the assistance. These included awarding all grants competitively since 2006, hiring more staff for the program office since January 2008; and contracting for financial services in April 2008 to enhance oversight of grantees. The GAO report also noted that USAID had worked to strengthen program oversight through pre-award and follow-up reviews, improving grantee internal controls and implementation plans, and providing guidance and monitoring about permitted types of assistance and cost sharing.

The GAO report also maintained, however, that USAID had not staffed the Cuba program to the level needed for effective grant oversight. GAO also noted the difficulty of assessing USAID's action to improve its Cuba program because most of its actions to improve the program were only taken recently. Procurement reviews completed in August 2008 by the new financial services contractor identified internal control, financial management, and procurement weaknesses at three grantees. GAO recommended that USAID: 1) ensure that its Cuba program office is staffed at the level that is needed to fully implement planned monitoring activities; and 2) periodically assess the Cuba program's overall efforts to address and reduce grantee risks, especially regarding internal controls, procurement practices, expenditures, and compliance with laws and regulations.

The Cuban American National Foundation (CANF) released a report in May 2008 maintaining that a majority of the assistance for Cuba has been spent in operating expenses by U.S.-based grantees, transition studies, and U.S.-based activities. Among the recommendations in its report, the CANF called for USAID grantees to spend a minimum of 75% of government funds in direct aid to Cuban civil society. It also called for the assistance program to provide direct cash aid to independent civil society groups, dissidents, and families of political prisoners.[106]

Radio and TV Marti

U.S.-government sponsored radio and television broadcasting to Cuba—Radio and TV Martí—began in 1985 and 1990 respectively. As spelled out in the *Broadcasting Board of Governors FY2009 Budget Request*, the objectives of Radio and TV Martí are (1) to support the right of the Cuban people to seek, receive, and impart information and ideas through any media and regardless of frontiers; (2) to be effective in furthering the open communication of information and ideas through use of radio and television broadcasting to Cuba; (3) to serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news; and (4) to provide news, commentary, and other information about events in Cuba and elsewhere to promote the cause of freedom 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 Broadcasting Board of Governors (BBG) became an independent agency that included such entities as the Voice of America (VOA), Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia, and the Office of Cuba Broadcasting (OCB), which manages Radio and TV Marti. OCB is

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

[106] Alfonso Chardy, "Exile Group: Not Enough Money Getting to Cuban Dissidents," *Miami Herald*, May 15, 2008; Cuban American National Foundation, "Findings and Recommendations on the Most Effective Use of USAID-CUBA Funds Authorized by Section 109(a) of the Cuban Liberty and Democratic Solidarity (Helms-Burton) Act of 1996," March 2008.

headquartered in Miami, Florida, and operates under the BBG's International Broadcasting Bureau (IBB). Legislation in the 104th Congress (P.L. 104-134) required the relocation of OCB from Washington D.C. to south Florida. The move began in 1996 and was completed in 1998.

Radio Martí broadcasts on short and medium wave (AM) channels for 24 hours six days per week, and for18 hours one day per week utilizing transmission facilities in Marathon, Florida and Greenville, North Carolina, according to the BBG.

TV Martí broadcasts daily from its facilities in Cudjoe Key Florida, on the Hispasat satellite, and is available on the Internet 24 hours a day. It is also available on 176 cable stations throughout Latin America, according to the BBG. Until July 2005, TV Martí had also been broadcast via blimps from facilities in Cudjoe Key, Florida for four and one-half hours daily, but the aerostats were destroyed by Hurricane Dennis. From mid-2004 until 2006, TV Martí programming was transmitted for several hours once a week via an airborne platform known as Commando Solo operated by the Department of Defense utilizing a C-130 aircraft. In August 2006, OCB began to use a contracted private aircraft to transmit pre-recorded TV Martí broadcasts six days weekly, and by late October 2006 the OCB inaugurated an aircraft-broadcasting platform known as Aero Martí with the capability of transmitting live broadcasts. Aero Martí transmits broadcasts five hours daily from Monday to Saturday during the evening. According to OCB, since mid-FY2007, it has had two contracted private aircraft transmitting the broadcasts.

In December 2006, the OCB contracted with two private U.S. commercial stations to transmit Radio and TV Martí.[107] It provided a six-month contract with Radio Mambí (710 AM) in Florida, at a cost of $182,500, to broadcast one hour of Radio Martí programming five days a week from midnight to 1:00 am. Radio Mambí is a popular station in south Florida, with a 50,000 watt capacity, that is well-known for its strong anti-Castro stance. A second six-month OCB contract with WPMF (Channel 38) in Miami, known as TV Azteca, at a cost of $195,000, provided for two 30-minute TV Martí newscasts at 6 pm and 11:30 pm weekdays, along with one-minute news updates hourly over a 12 hour period weekdays. OCB chose the station because it is offered on DirecTV and because it has only a small audience in Miami. In June 2007, the two contracts were extended for an additional six months with similar terms. The contract with Radio Mambí subsequently expired in early 2008, whereas TV Martí continued to be shown on Channel 38.

Controversies

Both Radio and TV Martí have at times been the focus of controversies, including questions about adherence to broadcast standards. There have been various attempts over the years to cut funding for the programs, especially for TV Martí, which has not had much of an audience because of Cuban jamming efforts. In December 2006, press reports alleged significant problems in the OCB's operations, with claims of cronyism, patronage, and bias in its coverage.[108] In February 2007, the former director of TV Martí programming pled guilty in U.S. federal court to receiving more than $100,000 in kickbacks over a three-year period from a vendor receiving OCB contracts.[109]

[107] Christina Hoag, "Radio, TV Martí To Be Aired Locally," *Miami Herald*, December 19, 2006.

[108] Oscar Corral, "Radio, TV Martí Face Another Government Audit," *Miami Herald*, December 18, 2006, and "Problems Dog Broadcaster," *Miami Herald*, December 19, 2006.

[109] Jay Weaver, "TV Martí Executive Admits Taking Kickbacks," *Miami Herald*, February 14, 2007.

Over the years, there have been various government studies and audits of Radio and TV Martí, including investigations by the U.S. Government Accountability Office, by a 1994 congressionally established Advisory Panel on Radio and TV Martí, and by the State Department's and BBG's Office Inspector General offices in 1999, 2003, and 2007.[110]

In July 2008, GAO issued a report that criticized the IBB's and OCB's practices in awarding the two contracts to Radio Mambí and TV Azteca as lacking discipline required to ensure transparency and accountability. According to GAO, the approach for awarding the Radio Mambi and TV Azteca contracts did not reflect sound business practices.[111]

The most recent State Department/BBG Office of Inspector General (OIG) report, issued in June 2007, maintained that OCB has significantly improved its operations under its current director, Pedro Roig, with an organizational realignment that has streamlined operations and has helped improve the quality of broadcasts. According to the report, "IBB quality reviews show that radio and television broadcasts have markedly improved over the past two years in production quality and content," although the report also called for greater emphasis on internal quality control to ensure that editorial standards are followed. The report lauded the introduction of new technology allowing OCB to broadcast television signals live into Cuba using airborne platforms, and maintained that there are indications that more Cubans are watching TV Martí broadcasts. It recommended that the BBG's International Broadcasting Bureau should review and assess the leases with Radio Mambí and TV Azteca at the end of the lease period to determine whether they provide additional listeners and viewers and are worth the cost, or whether they could be replaced with lease options for other stations. Looking ahead, the report maintained that OCB needs a "long-term strategic plan that anticipates the future needs of the Cuban audience, provides a template on how to compete with commercial broadcasters, and addresses what to do with OCB and its broadcasting facilities if and when uncensored broadcasting is allowed inside a democratic Cuba."[112]

One of the most controversial aspects of the OIG report, and one that has often been at the center of past congressional debate over TV Martí, is the extent to which TV Martí can be viewed in Cuba. The report maintains that there is anecdotal evidence that the Aero Martí airborne transmissions have increased viewership. The report refers to a January 2007 survey of Cuban arrivals—commissioned by Spanish Radio Productions with the cooperation of Miami Dade

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

[111] U.S. Government Accountability Office, "Broadcasting to Cuba, Weaknesses in Contracting Practices Reduced Visibility into Selected Award Decisions," GAO-08-764, July 2008.

[112] The State Department originally issued a two-page summary of the report on its website on June 5, 2007, and pointed out that the full report received only "limited official distribution." On July 31, 2007, the State Department issued the entire 43-page report on its website, with certain sections redacted. That version is available at http://oig.state.gov/lbry/.

College—that found listening rates for Radio and TV Martí within Cuba were significantly higher than previously reported, especially for TV Martí. Although specific survey figures are not cited in the OIG report, OCB officials maintain that the survey shows that 17% of recent Cuban arrivals had watched TV Martí.[113] The OIG report also points to a February 2007 survey by the U.S. Interests Section (USINT) in Havana that reflected increased viewership. According to the BBG, that survey was completed by 500 Cuban visitors to the USINT (where TV Martí can be viewed) in January and February 2007, with 10% of the visitors indicating that they could watch TV Martí via UHF for brief periods.

Other observers contend that TV Martí can hardly be viewed in Cuba because of the government's jamming efforts. John Nichols, a Pennsylvania State University communications professor, visited Cuba in late June 2007 on a fact-finding mission sponsored by the Center for International Policy (a group that opposes current U.S. policy toward Cuba), and concluded "that the signal from the plane is essentially unusable" and that there was "no evidence of significant viewership of TV Martí."[114] In interviews with the *Associated Press*, more than two dozen Cuban immigrants to Florida contended that while Radio Martí can be heard throughout Cuba, TV Martí can rarely be seen.[115] Prior BBG commissioned phone surveys in Cuba from 2003, 2005, and November 2006 estimated past week TV Martí viewership between 0.1% and 0.3% of those surveyed and past month viewership of almost 0.5%. The November 2006 survey, reportedly designed to show the early effects of the Aero Martí transmissions that began in late October, showed no statistically significant change from the 2003 and 2005 surveys. In the same surveys, Radio Martí had listenership of between 1% to 2% in the past week and 4% to 5% in the past month.

Funding

From FY1984 through FY2007, about $564 million has been spent for broadcasting to Cuba. In recent years, funding amounted to $37.5 million in FY2006, $33.9 million in FY2007, and an estimated $33.4 million in FY2008. For FY2009, the Bush Administration requested $34.4 million for broadcasting to Cuba. Until FY2005, the Administration provided funding information for Cuba broadcasting with a breakdown of the amounts spent for Radio versus TV Martí. Since FY2005, however, the Broadcasting Board of Governors has not made such a distinction in its annual budget request.

For FY2009, the Administration requested $34.4 million for broadcasting to Cuba, slightly more than provided by Congress in FY2008. The request amount included funding for the airborne platform that the Office of Cuba Broadcasting uses to broadcast Radio and TV Martí. The report to the Senate Appropriations Committee version of the FY2009 State Department, Foreign Operations, and Related Agencies Appropriations Act, S. 3288 (S.Rept. 110-425), recommended fully funding the Administration's request for Cuba broadcasting. The 110th Congress did not finalize FY2009 appropriations, although it did approve the Consolidated Appropriations Act for FY2009 (P.L. 110-329) that provides funding until March 6, 2009.

[113] Pablo Bachelet, "Martí Extending Its Reach, U.S. Says," *Miami Herald*, June 20, 2007.

[114] Vanessa Bauza, "TV Martí Signal Weak in Cuba, Broadcast Specialist Says," *South Florida Sun-Sentinel*, July 31, 2007.

[115] Laura Wides-Muñoz, "Despite Expenditures, TV Martí Still Tough to See in Cuba," Associated Press, July 30, 2007.

Migration Issues

1994 and 1995 Migration Accords

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 Castro's threat to unleash another Mariel, U.S. officials reiterated U.S. resolve not to allow another exodus. Amid escalating numbers of fleeing Cubans, on August 19, 1994, President Clinton abruptly changed U.S. migration policy, under which Cubans attempting to flee their homeland were allowed into the United States, and announced that the U.S. Coast Guard and Navy would take Cubans rescued at sea to the U.S. naval base at Guantanamo Bay, Cuba. Despite the change in policy, Cubans continued fleeing in large numbers.

As a result, in early September 1994, Cuba and the United States began talks that culminated in a September 9, 1994 bilateral agreement to stem the flow of Cubans fleeing to the United States by boat. In the agreement, the United States and Cuba agreed to facilitate safe, legal, and orderly Cuban migration to the United States, consistent with a 1984 migration agreement. The United States agreed to ensure that total legal Cuban migration to the United States would be a minimum of 20,000 each year, not including immediate relatives of U.S. citizens. In a change of policy, the United States agreed to discontinue the practice of granting parole to all Cuban migrants who reach the United States, while Cuba agreed to take measures to prevent unsafe departures from Cuba.

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. On January 31, 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.

Coast Guard Interdictions

Since the 1995 migration accord, the U.S. Coast Guard has interdicted thousands of Cubans at sea and returned them to their country, while those deemed at risk for persecution have been transferred to Guantanamo and then found asylum in a third country or eventually the United States. Those Cubans who reach shore are allowed to apply for permanent resident status in one year, pursuant to the Cuban Adjustment Act of 1966 (P.L. 89-732). This so-called "wet foot/dry foot" policy has been criticized by some as encouraging Cubans to risk their lives in order to make it to the United States and as encouraging alien smuggling. Others maintain that U.S. policy should welcome those migrants fleeing communist Cuba whether or not they are able to make it to land.

The number of Cubans interdicted at sea by the U.S. Coast Guard has risen in recent years, from 666 in FY2002 to 2,712 in FY2005. In FY2006 and FY2007, Cuban interdictions rose to 2,810 and 2,868, respectively, but interdictions declined to 2,199 in FY2008.[116] In recent years, increasing numbers of Cuban migrants attempting to reach the United States have been intercepted in Mexico. Mexico and Cuba negotiated a migration accord in October 2008 to curb the irregular flow of migrants through Mexico.[117]

U.S. prosecution against migrant smugglers in Florida has increased in recent years with numerous convictions. There have been several violent incidents in which Cuban migrants have brandished weapons or in which Coast Guard officials have used force to prevent Cubans from reaching shore. In late December 2007, a Coast Guard official in Florida called on the local Cuban American community to denounce the smuggling and stop financing the trips that are leading to more deaths at sea.[118] The Cuban government also has taken forceful action against individuals engaging in alien smuggling. Prison sentences of up to three years may be imposed against those engaging in alien smuggling.

In the aftermath of Fidel Castro's July 2006, announcement that he was temporarily ceding political power to his brother, Department of Homeland Security officials announced several measures to discourage Cubans from risking their lives on the open seas. On August 11, 2006, Department of Homeland Security (DHS) Deputy Secretary Michael P. Jackson urged "the Cuban people to stay on the island" and discouraged "anyone from risking their life in the open seas in order to travel to the United States." At the same time, DHS announced additional measures to discourage Cubans from turning to alien smuggling as a way to enter the United States. The measures support family reunification by increasing the numbers of Cuban migrants admitted to the United States each year who have family members in the United States, although the overall number of Cubans admitted to the United States annually will remain at about 21,000. Cubans who attempt to enter the United States illegally will be deemed ineligible to enter under this new family reunification procedure. In another change of policy, Cuban medical personnel currently conscripted by the Cuban government to work in third countries are now allowed to enter the United States; their families in Cuba are also allowed to enter the United States.[119]

Migration Talks

Semi-annual U.S.-Cuban talks alternating between Cuba and the United States had been held regularly on the implementation of the 1994 and 1995 migration accords, but the State Department cancelled the 20th round of talks scheduled for January 2004, and no migration talks have been held since. According to the State Department, Cuba has refused to discuss five issues identified by the United States: (1) Cuba's issuance of exit permits for all qualified migrants; (2) Cuba's cooperation in holding a new registration for an immigrant lottery; (3) the need for a

[116] U.S. Coast Guard, Alien Migrant Interdiction, Coast Guard Office of Law Enforcement, "Total Interdictions, Fiscal Year 1982 to Present," October 15, 2008.

[117] Diego Cevallos, "Migration: More and More Cubans Entering U.S. Through Mexico," *Inter Press Service News Agency*, June 17, 2008.

[118] Laura Morales, "Exiles Urged to Stem Tide of Cubans," *Miami Herald*, December 29, 2007.

[119] Department of Homeland Security, "DHS Announces Additional Measures to Combat Alien Smuggling of Cubans," and "USCIS Will Further Strengthen Measures that Support the Reunification of Families Separated by the Castro Regime," Press Releases, August 11, 2006; Pablo Bachelet, "U.S. Program for Defecting Cuban Doctors a Success," *Miami Herald*, March 12, 2007.

deeper Cuban port used by the U.S. Coast Guard for the repatriation of Cubans interdicted at sea; (4) Cuba's responsibility to permit U.S. diplomats to travel to monitor returned migrants; and (5) Cuba's obligation to accept the return of Cuban nationals determined to be inadmissible to the United States.[120] In response to the cancellation of the talks, Cuban officials maintained that the U.S. decision was irresponsible and that Cuba was prepared to discuss all of the issues raised by the United States.[121]

Guantanamo Naval Base

The 45-square mile U.S. Naval Station at Guantanamo Bay, Cuba, has been a U.S. base since 1903, and under a 1934 treaty that remains in force, the U.S. presence can only be terminated by mutual agreement or by abandonment by the United States. When Fidel Castro assumed power in the 1959 Cuban revolution, the new government gave assurances that it would respect all its treaty commitments, including the 1934 treaty covering the Guantanamo base. Subsequently, however, as U.S.-Cuban relations deteriorated, the Cuban government opposed the presence as illegal.

The mission of the base has changed over time. During the Cold War, the base was viewed as a good location for controlling Caribbean sea lanes, as a deterrent to the Soviet presence in the Caribbean, and as a location for supporting potential military operations in the region. In 1994-1995, the base was used to house thousands of Cubans and Haitians fleeing their homeland, but by 1996 the last of the refugees had departed, with most Cubans paroled into the United States, pursuant to a May 1995 U.S.-Cuban migration accord. Since the 1995 accord, the U.S. Coast Guard has interdicted thousands of Cubans at sea and returned them to Cuba, while a much smaller number, those deemed at risk for persecution, have been taken to Guantanamo and then granted asylum in a third country.

Another mission for the Guantanamo base emerged with the U.S.-led global campaign against terrorism in the aftermath of the September 11, 2001, terrorist attacks in the United States. With the U.S. war in Afghanistan in 2001, the United States decided to send some captured Taliban and Al Qaeda fighters to be imprisoned in Guantanamo. Although the Cuban government has objected to the U.S. presence at Guantanamo, it did not initially oppose the new mission of housing detainees. Then Defense Minister Raúl Castro noted that, in the unlikely event that a prisoner would escape into Cuban territory, Cuba would capture the prisoner and return him to the base.[122] The Cuban government, however, has expressed concerns about the treatment of prisoners at the U.S. base and has said it will keep pressing the international community to investigate the treatment of terrorist suspects.[123] In January 2005, it denounced what it described as "atrocities" committed at the Guantanamo base.[124]

[120] U.S. Department of State. State Department Regular Briefing, Richard Boucher. January 7, 2004.

[121] "Migration Talks Cancelled," *Miami Herald*, January 8, 2004.

[122] "Cuba Would Hand Over Escapees, Raúl Castro Says," *Miami Herald*, January 20, 2002.

[123] For information on terrorist suspects held at Guantanamo, see CRS Report RL31367, *Treatment of "Battlefield Detainees" in the War on Terrorism*, by Jennifer K. Elsea; and CRS Report RS22173, *Detainees at Guantanamo Bay*, by Jennifer K. Elsea.

[124] Ana Radelat, "Cuba Turns Up Rhetoric on Guantanamo as UN Condemns Human Rights Abuses," *CubaNews*, April 2005.

President Obama issued Executive Order 13492 on January 22, 2009 that requires the closure of the Guantanamo detention facility (not the base itself) as soon as practicable, but no later than one year. Some Members of Congress also have called for the closure of the detention facility and have introduced legislation in the 111th Congress: H.R. 374 (Harman) and S. 147 (Feinstein). Other measures have been introduced to prohibit the transfer of the enemy combatants detained at Guantanamo from being transferred to military prisons in Fort Leavenworth, Kansas, H.R. 148 (Jenkins); Charleston, South Carolina, H.R. 565 (Brown, Henry); Naval Consolidated Brig, Miramar, California or Camp Pendleton Base Brig, Camp Pendleton, California (H.R. 633; and Oklahoma (H.R. 701). Another initiative, S. 108 (Vitter) would prohibit the admission of an alien who was detained as an enemy combatant at Guantanamo unless the President determines that such admission is consistent with the national security of the United States. (For additional information, see CRS Report R40139, *Closing the Guantanamo Detention Center: Legal Issues*, by Michael John Garcia et al.)

With regard to the future of the Guantanamo base overall, a provision in the Cuban Liberty and Democratic Solidarity Act of 1996 (P.L. 104-114, Section 210) states that once a democratically elected Cuban government is in place, U.S. policy is to be prepared to enter into negotiations either to return the base to Cuba or to renegotiate the present agreement under mutually agreeable terms.

Legislative Initiatives in the 111th Congress

H.R. 187 (Serrano). Waives certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball. Introduced January 6, 2009; referred to Committees on Foreign Affairs and Judiciary.

H.R. 188 (Serrano). Lifts the trade embargo on Cuba. Introduced January 6, 2009; referred to Committees on Foreign Affairs, Ways and Means, Energy and Commerce, Judiciary, Financial Services, Oversight and Government Reform, and Agriculture.

H.R. 332 (Lee). Provides that no funds made available to the Department of the Treasury may be used to implement, administer, or enforce regulations to require specific licenses for travel-related transactions directly related to educational activities in Cuba.

H.R. 375 (Ros-Lehtinen). Section 209 of the bill sets forth restrictions on nuclear cooperation with countries assisting the nuclear program of Venezuela or Cuba or transferring advanced conventional weapons to Venezuela or Cuba. Introduced January 9, 2009; referred to Committee on Foreign Affairs.

Legislation in the 110th Congress

Approved Measures

P.L. 110-161 (H.R. 2764). FY2008 Consolidated Appropriations Act. H.R. 2764 was originally introduced and reported by the House Committee on Appropriations (H.Rept. 110-197) on June 18, 2007 as the FY2008 State, Foreign Operations, and Related Agencies Appropriations Act. The House passed (241-178) the measure on June 22, 2007. The Senate Appropriations Committee

reported the bill on July 10, 2007 (S.Rept. 110-128), and the Senate passed (81-12) it on September 6, 2007. On December 17, 2007, H.R. 2764 subsequently became the vehicle for the FY2008 Consolidated Appropriations Act, which included 11 FY2008 appropriations measures. President Bush signed the measure into law on December 26, 2007.

As signed into law, Division J of the Consolidated Appropriations Act covers State Department, Foreign Operations, and Related Agencies appropriations. The law has the following Cuba provisions:

- Similar to previous years, Section 607 of Division J prohibits direct funding for Cuba. This provision had been included in both the House and Senate versions of the bill.
- Section 620 of Division J adds Cuba to the list of countries requiring a special notification to the Appropriations Committees for funds obligated or expended under the act. This provision had been included in the Senate version of the bill.
- Section 691(b) of Division J provides that Cubans who supported an anti-Castro guerrilla group in the 1960s known as the Alzados are eligible for U.S. refugee status. The Senate version of the bill had included this provision.
- As set forth in the joint explanatory statement, the measure provides $45.7 million in ESF for Cuba democracy programs as requested by the Administration. Both the House- and Senate-passed versions of H.R. 2764 fully funded the Administration's request for $45.7 million in ESF for Cuba democracy programs. The House committee-reported bill would have provided $9 million in ESF for such programs, but during June 21, 2007, floor consideration, the House approved H.Amdt. 351 (Diaz-Balart) by a vote of 254-170 that increased ESF by $36.7 million in order to fully fund the Administration's request. The Senate Appropriations Committee report to the bill would have provided $15 million in ESF for Cuba democracy programs, but during September 6, 2007, floor consideration, the Senate approved S.Amdt. 2694 (Martinez) by voice vote that increased funding for Cuba democracy programs by $30.7 million to fully fund the Administration's request.
- As set forth in the joint explanatory statement, the measure provides $33.681 million for Radio and TV Marti broadcasting to Cuba, $5.019 million below the Administration's request of $38.7 million and identical to the amount provided for FY2007. Both the House and Senate committee reports to the bill had recommended $33.681 million for Cuba broadcasting. S.Amdt. 2695 (Martinez), which was withdrawn from consideration on September 6, 2007, would have increased funding by $5.019 million to fully fund the Administration's request.
- The measure does not include contrasting provisions related to counternarcotics assistance for Cuba that were included in the House and Senate versions of the bill. Section 673 of the House bill would have specifically prohibited International Narcotics Control and Law Enforcement (INCLE) assistance to the Cuban government. Section 696 of the Senate bill would have provided $1 million in INCLE assistance for preliminary work by the Department of State, or such other entity as the Secretary of State may designate, to establish cooperation with the Cuban government on counternarcotics matters.

The final enacted measure does not include provisions easing Cuba sanctions that had been included in the House and Senate-committee versions of the FY2008 Financial Services and General Government Appropriations Act or the Senate-committee reported version of the FY2008 Agriculture Appropriations bill.

P.L. 110-96 (S. 1612). International Emergency Economic Powers Enhancement Act. Introduced and reported by the Committee on Banking, Housing, and Urban Affairs on June 13, 2007 (S.Rept. 110-82). Senate approved, amended, by unanimous consent on June 26, 2007. House approved by voice vote October 2, 2007. As approved, the bill amends the International Emergency Economic Powers Act (IEEPA) to increase the potential civil penalty imposed on any person who commits an unlawful act under the act to not exceed the greater of $250,000 (from $50,000) or an amount that is twice the amount of the transaction. The bill also increases a criminal penalty to not more than $1 million and/or 20 years imprisonment.

S.Res. 573 (Martinez). Celebrates Cuba Solidarity Day, recognizes the injustices faced by the Cuban people, and stands in solidarity with the Cuban people as they continue to work towards democratic changes in their homeland. Introduced and passed by the Senate on May 21, 2008, by unanimous consent.

Additional Considered Measures with Cuba Provisions

The following measures that received consideration contained various provisions on Cuba that would have eased U.S. sanctions, but none of these provisions made it into final enacted measures. For a complete listing of additional legislative initiatives on Cuba in the 110th Congress, see CRS Report RL33819, *Cuba: Issues for the 110th Congress*.

H.R. 2419 (Peterson). Farm, Nutrition, and Bioenergy Act of 2007. Introduced May 22, 2007; House passed July 27, 2007. Senate passed December 14, 2007. During House floor consideration on July 27, 2007, the House rejected (182-245) H.Amdt. 707 Rangel, that would have clarified the meaning of "payment of cash in advance" for the sale of agricultural commodities to Cuba; authorized direct transfer between U.S. and Cuban financial institutions for a product authorized for sale under the Trade Sanctions Reform and Export Enhancement Act of 2000; and would have authorized the issuance of U.S. visas for Cubans to conduct activities, including phytosanitary inspections, related to the export of U.S. agricultural goods to Cuba.

In the Senate, S.Amdt. 3660 (Baucus), which would have eased restrictions on U.S. agricultural sales to Cuba, was proposed on December 11, 2007, but subsequently withdrawn the same day. Several amendments regarding Cuba were submitted, but never proposed: S.Amdt. 3668 (Baucus), would have eased restrictions on U.S. agricultural exports to Cuba; S.Amdt. 3796 (Nelson, Bill), would have required a certification of certain human rights conditions in Cuba before restrictions on U.S. agricultural exports to Cuba would be eased; S.Amdt. 3792 (Martinez), would have expressed the sense of the Senate regarding the human rights situation in Cuba; and S.Amdt. 3793 (Martinez), would have prevented the easing of restrictions on U.S. agricultural exports to Cuba as long as the country is identified by the Secretary of State as a "state sponsor of terror."

H.R. 2829 (Serrano). FY2008 Financial Services and General Government Appropriations Act. Introduced and reported by House Appropriations Committee (H.Rept. 110-207) June 22, 2007. Reported by Senate Appropriations Committee July 13, 2007 (S.Rept. 110-129). House passed (240-179) June 28, 2007. As approved by the House, Section 903 would have prevented Treasury

Department funds from being used to implement a February 2005 regulation that requires the payment of cash in advance prior to the shipment of U.S. agricultural goods to Cuba. The House adopted the provision during June 28, 2007 floor consideration when it approved H.Amdt. 467 (Moran, Kansas) by voice vote. The Senate Appropriations Committee version had a similar provision in Section 619, as well as another provision in Section 620 that would have allowed for travel to Cuba under a general license for the marketing and sale of agricultural and medical goods. The Cuba provisions of both the House and Senate versions of the bill were not included in the final enacted version of the measure, which was included as Division D of the FY2008 Consolidated Appropriations Act (P.L. 110-161, H.R. 2764).

H.R. 3161 (DeLauro)/ S. 1859 (Kohl). FY2008 Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act. H.R. 3161 introduced and reported by House Appropriations Committee July 24, 2007; House passed August 2, 2007. S. 1859 introduced and reported by Senate Appropriations Committee July 24, 2007 (S.Rept. 110-134). Section 741 of the Senate bill would authorize travel to Cuba under a general license for the marketing and sale of agricultural and medical goods to Cuba. The Cuba provision in the Senate version was not included in the final enacted version of the measure, which was included as Division A of the FY2008 Consolidated Appropriations Act (P.L. 110-161, H.R. 2764).

H.R. 7323 (Serrano). FY2009 Financial Services and General Government Appropriations bill. Introduced and reported by the House Appropriations Committee on December 10, 2008 (H.Rept. 110-920). The committee had approved a draft version of the bill on June 25, 2008. The bill has several provisions that would have eased Cuba sanctions. Section 621 would have prohibited funds in the Act from being used to administer, implement, or enforce new language in the Cuban embargo regulations added on February 25, 2005 (31CFR Part 515.533) that requires that U.S. agricultural exports to Cuba must be paid for before they leave U.S. ports. Section 622 would have allowed for family travel once a year (instead of the current restriction of once every three years). Section 623 would have expanded family travel to visit an aunt, uncle, niece, nephew, or first cousin (instead of the current restriction limiting such travel to visit a spouse, child, grandchild, parent, grandparent, or sibling.) The report to the bill would require the Treasury Department's Office of Foreign Assets Control (OFAC) to provide detailed information on OFAC's Cuba-related licensing and enforcement actions. None of these provisions were included in the Consolidated Appropriations Act for FY2009 (P.L. 110-329) that provided funding until March 6, 2009.

S. 3001(Levin). Duncan Hunter National Defense Authorization Act for FY2009. **S.Amdt. 5581 (Dodd)**, submitted on September 15, 2008, would, for a 180-day period: allow unrestricted family travel; ease restrictions on remittances by removing the limit and allowing any American to send remittances to Cuba; expand the list of allowable items that may be included in gift parcels; and allow for unrestricted U.S. cash sales of food, medicines, and relief supplies to Cuba. The amendment was not considered and therefore not included in the final bill.

S. 3260 (Durbin). Financial Services and General Government Appropriations Act, 2009. Introduced and reported by Senate Appropriations Committee (S.Rept. 110-417) on July 14, 2008. Includes provisions easing restrictions on payment terms for the sale of agricultural goods to Cuba (section 618), travel relating to the commercial sale of agricultural and medical goods (section 619), and family travel (section 620). None of these provisions were included in the Consolidated Appropriations Act for FY2009 (P.L. 110-329) that provided funding until March 6, 2009.

S. 3288 (Leahy). Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009. Introduced and reported by Senate Appropriations Committee (S.Rept. 110-425) July 18, 2008. Includes several Cuba provisions: section 706 continues a prohibition on assistance to Cuba, unless the President determines that it is in the national interest of the United States; section 719 continues the provision from FY2008 that requires that any assistance for Cuba go through the regular notification procedures of the Committees on Appropriations; section 779 provides for $1 million for preliminary work by the Department of State, or other entity designated by the Secretary of State, to establish cooperation with appropriate Cuban agencies on counternarcotics matters, although the money would not be available if the Secretary certifies that Cuba 1) does not have in place procedures to protect against the loss of innocent life in the air and on the ground in connection with the interdiction of illegal drugs; and 2) there is credible evidence of involvement of the government of Cuba in drug trafficking during the preceding 10 years. The Senate Appropriations Committee report to the bill recommended full funding for the Administration's requests of $34.392 million for Cuba broadcasting and $20 million in ESF for Cuba democracy programs, and called for the State Department and USAID to conduct regular evaluations to ensure the cost effectiveness of the programs.

S. 3289 (Kohl). Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2008. Introduced and reported by Senate Appropriations Committee (S.Rept. 110-426) July 21, 2008. Includes a provision (section 737) that would ease restrictions on travel to Cuba for the sale of agricultural and medical goods. This provision was not included in the Consolidated Appropriations Act for FY2009 (P.L. 110-329) that provided funding until March 6, 2009.

For Additional Reading

Active CRS Reports

CRS Report R40139, *Closing the Guantanamo Detention Center: Legal Issues*, by Michael John Garcia et al.

CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*, by Mark P. Sullivan.

CRS Report RS22742, *Cuba's Political Succession: From Fidel to Raul Castro*, by Mark P. Sullivan.

CRS Report RL34523, *Financial Services and General Government (FSGG): FY2009 Appropriations*, by Garrett Hatch.

CRS Report RS22094, *Lawsuits Against State Supporters of Terrorism: An Overview*, by Jennifer K. Elsea.

CRS Report RL31258, *Suits Against Terrorist States by Victims of Terrorism*, by Jennifer K. Elsea.

CRS Report RL32014, *WTO Dispute Settlement: Status of U.S. Compliance in Pending Cases*, by Jeanne J. Grimmett.

Archived CRS Reports

CRS Report RS20450, *The Case of Elian Gonzalez: Legal Basics*, by Larry M. Eig.

CRS Report RL33622, *Cuba's Future Political Scenarios and U.S. Policy Approaches*, by Mark P. Sullivan.

CRS Report RL32251, *Cuba and the State Sponsors of Terrorism List*, by Mark P. Sullivan

CRS Report RL33819, *Cuba: Issues for the 110th Congress*, by Mark P. Sullivan.

CRS Report RL32730, *Cuba: Issues for the 109th Congress*, by Mark P. Sullivan.

CRS Report RL31740, *Cuba: Issues for the 108th Congress*, by Mark P. Sullivan.

CRS Report RL30806, *Cuba: Issues for the 107th Congress*, by Mark P. Sullivan and Maureen Taft-Morales.

CRS Report RL30628, *Cuba: Issues and Legislation In the 106th Congress*, by Mark P. Sullivan and Maureen Taft-Morales.

CRS Report RL30386, *Cuba-U.S. Relations: Chronology of Key Events 1959-1999*, by Mark P. Sullivan.

CRS Report RS20468, *Cuban Migration Policy and Issues*, by Ruth Ellen Wasem.

CRS Report RL33499, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation*, by Remy Jurenas.

CRS Report RS22094, *Lawsuits Against State Supporters of Terrorism: An Overview*, by Jennifer K. Elsea.

CRS Report RL32826, *The Medical Device Approval Process and Related Legislative Issues*, by Erin D. Williams.

CRS Report 94-636, *Radio and Television Broadcasting to Cuba: Background and Issues Through 1994*, by Susan B. Epstein and Mark P. Sullivan.

CRS Report RS21764, *Restricting Trademark Rights of Cubans: WTO Decision and Congressional Response*, by Margaret Mikyung Lee.

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