

# **CUBA-US RELATIONS:**

## **NORMALIZATION AND ITS CHALLENGES**



# **CUBA-US RELATIONS: NORMALIZATION AND ITS CHALLENGES**

— EDITED BY —

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&

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— A JOINT PROJECT OF —

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&

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## **DEDICATION**

This book is dedicated to all those who since the 1960s worked for the normalization of relations between Cuba and the United States. May their efforts serve as a foundation for profound friendship and respect between the two nations.



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## Introduction

This volume is a result of the dialogue between experts on Cuba-U.S. relations initiated by the Centro de Investigaciones de Política Internacional of the Instituto Superior de Relaciones Internacionales (CIPI/ISRI). Aimed at bringing together scholars and policymakers, among others, with expertise on the topic, the annual meetings in Havana have for years stimulated in-depth discussions by participants primarily from Cuba, the United States, and Latin America. The exchanges represent a wide range of perspectives and even of vocabularies. For example, the Cubans use the word blockade when referring to the U.S. embargo of the island and tend to hear “regime change” when U.S. officials refer to “democracy promotion”. In one respect there has been considerable consensus—that U.S. policy toward Cuba since the 1960s was a failed policy as the Obama administration eventually concluded and many experts have argued.

The 2014 annual CIPI/ISRI meeting was in full swing on December 17, 2014 when rumors began to circulate that President Raúl Castro and President Barack Obama were going to make statements at mid-day concerning Cuba-U.S. relations. Tension mounted and at noon there was standing room only in the conference auditorium as the two Presidents announced on TV their commitment to the normalization of relations that had been ruptured in 1961. The room erupted in cheers, sobs, and the singing of the Cuban and U.S. national anthems. The experts were shocked. In panel after panel during the previous two days, they had speculated that there might be some relaxation of tensions, but no one predicted the initiation of a move toward normalization and the resumption of formal diplomatic relations. In the midst of the celebration Wayne Smith, who as a young Foreign Service officer had been tasked with closing the U.S. embassy in Havana in 1961, entered the auditorium and soon chants of “WAYNE—WAYNE” echoed throughout and he was pushed forward and asked to speak. Wayne had been honored the night before for his work to resolve U.S.-Cuban conflicts beginning

when he resigned as the Chief of the US Interest Section in 1982 over differences with the Reagan administration's policies toward Cuba. From that time forward he fought for a reconceptualization of U.S. policy toward Cuba as a scholar-advocate. Wayne simply said that the night before December 17, 2014 he had prayed that normalization would occur before he died and that his prayers had been answered. The moment catalyzed what many conference participants were feeling—a sense that after more than fifty years of hostilities the long road toward normalization could begin.

It is the objective of this book to analyze the first two years of the process toward normalization of Cuba-U.S. relations from December 17, 2014 to January 2017. The majority of the chapters are revised and updated versions of papers presented at the 2015 CIPI/ISRI conference. A few of the chapters were commissioned afterwards to cover such topics as sanctions and claims. This volume does not attempt to modify the opinions or conclusions of the authors. Rather it lets the differences stand in an effort to better comprehend what has kept the two neighboring countries apart for so long and the nature of the challenges facing the process toward normalization. The authors analyze the causes of over fifty years of hostile relations interspersed with fitful negotiations that were marked by lack of trust, misperceptions, and miscues, as well as the challenges the process toward normalization currently faces.

Since D17 (December 17, 2014) a bilateral Cuba-U.S. commission has been established, as well as technical working groups, in order to devise new agreements and stimulate the unravelling of the substantial accumulation of laws, regulations, and directives in both countries that have slowed the process toward normalization. Progress in introducing new regulations and directives has been slow and arduous. While some advances have been made particularly in terms of easing restrictions on travel to Cuba, as well as encouraging commerce and communications, much remains to be done. In addition, major impediments exist—the principal one being the U.S. embargo/blockade of Cuba which requires action by the U.S. Congress to remove. There are also major issues relating to U.S. preferential treatment of Cuban immigrants, continuing U.S. sanctions, as well as legal claims by both parties for expropriated properties and damages. The identification of mutual interests and agreements to cooperate has been apparent in Cuba-U.S. exchanges on security and environmental issues, among others. Both the Cuban and U.S. negotiators have admitted over the last two years that the process is difficult. Among the challenges are developing a common vocabulary regarding issues of sovereignty. Other questions are related to the direction of each country's foreign policy particularly given domestic developments in both countries, for example, the level of

political and ideological polarization in the United States and the actions that President Donald Trump and a Republican Congress might take beginning in January 2017. Add to this the stated intention President Raúl Castro to end his term as head of state in early 2018 and unknowns abound.

This volume begins with chapters that analyze the background and challenges inherent in the new relationship including the legacy of historical distrust between Cuba and the United States examined by William LeoGrande of American University and Soraya Castro Mariño of CIPI/ISRI. They are joined in this exchange by Ernesto Domínguez López, a historian from the University of Havana, who situates Cuba-U.S. relations in the context of U.S. foreign policy from the Cold War to the present. Claudia Marín Suárez, an international relations scholar at CIPI/ISRI, explores the changing position of Cuba within the context of regional arrangements in Latin America and the Caribbean and how it increased the possibilities for improved relations with the U.S. Susan Eckstein from Boston University and Jesús Arboleya from CIPI/ISRI explore the impact of Cuban migration to the U.S., as well as the formation and politicization of the Cuban-American community. Margaret E. Crahan, a historian at Columbia University, focuses on the degree to which scholars, think tanks, and lobbies influenced the change in U.S. policy toward Cuba. In the second section the focus is on issues of sanctions, claims, environmental and security cooperation, migration, and sovereignty. The final section looks forward in terms of the impact of political polarization in the U.S. on the normalization process. Attitudes in Congress toward normalization are also analyzed, as are possible options for Cuban foreign policy. The volume concludes with an incisive exploration of the “spoilers”, both Cuban and U.S., who could impede the normalization process.

William LeoGrande notes that since D17 much had been accomplished including the resumption of full diplomatic relations, the removal of Cuba from the list of state sponsors of terrorism, reduction of sanctions, and the promotion of cooperation on a wide range of issues of mutual interest including migration, security, environmental defense, and trade and commerce. However, he concludes that much remains to be done and loss of momentum could cause the process to stall. The core issue of lifting the embargo/blockade is complicated given that it requires congressional action and while there is some bipartisan support in both houses of Congress the November 8, 2016 elections do not appear to favor such action. Nor do the early days of the Trump administration suggest that the White House is going to take a leadership role in moving the process toward normalization forward. Clearly there are skeptics in both Cuba and the U.S. who do not support the process. Nevertheless, LeoGrande concludes that there are unilateral

actions that Cuba and the United States could undertake that might help stimulate progress. On the part of the U.S. these include eliminating or modifying the programs that have been aimed at regime change such as democracy promotion and Radio and TV Martí. The U.S. might also further modify licensing procedures for sales and investment in Cuba. The Cuban government could facilitate the process toward normalization by easing import and export licenses for non-state sector Cuban businesses, as well as reducing the bureaucratic requirements for U.S. businesses interested in trade and investments with the island. LeoGrande regards the two years since December 17, 2014 as simply the first phase of the process toward normalization with a major challenge being the maintenance of momentum in the face of substantial challenges.

While LeoGrande focuses on the intricacies of the process toward normalization, Soraya Castro takes a more holistic approach. Castro argues that to understand the potential for increased normalization, it is necessary to take into account a number of variables internal to Cuba and the United States, as well as external actors and factors throughout the Western Hemisphere, together with evolving global relations. The author suggests that what is meant by normalization by each of the countries may not be precisely the same. She argues that given the substantial political and economic asymmetries between the two countries and their somewhat different agendas, the normalization that is sought by each country differs in important ways. Castro sees a duality in stated U.S. policies especially the repeated assertions that the U.S. has as a priority “empowering the Cuban people.” The author asks how this can be the case when U.S. economic, commercial, and financial sanctions have been maintained resulting in the impoverishment of many Cubans. Furthermore, Castro argues there is a basic contradiction in the current U.S. policy which combines assertions of benevolence and seduction. Castro argues that the U.S. is intent on changing the Cuban political and economic system through cooptation flowing from the utilization of a “smart power” strategy that offers benefits to Cuba in order to achieve U.S. aims. The author argues that “the doctrine of Smart Power and the combination of the instruments of U.S. national power in the policy toward Cuba are submerged in a...seductive, subtle, and creative narrative. The methods and instruments to induce ‘change in Cuba’ evolve in accordance with the transformations taking place in the Island and have a tendency to move more on the economic and technological axis. As never before, and in an integral and holistic manner, the government of the United States is taking into account Cuba’s evolving internal situation in the shaping of its policies. Furthermore, the U.S. government defines certain Cuban groups and sectors as drivers of change and directs the attention toward those groups, with the goal of impacting

them by capitalizing on the transformations that are taking place in the heterogeneous Cuban society to promote the United States' own interests." Nevertheless, Castro feels there are some benefits to improving Cuba-US relations and worries about a reversal of the process toward normalization. Castro recognizes the efforts on the part of the Obama administration to make U.S. policy toward Cuba difficult to reverse as indicated by the October 14, 2016 Presidential Policy Directive-43 and the U.S. abstention in the October 26, 2016 annual General Assembly vote to lift the U.S. embargo/blockade of Cuba. Nevertheless she concludes that such actions are limited by existing laws and regulations adopted by the U.S. Congress and prior administrations which are outside the purview of presidential prerogatives. Therefore, the Obama administration's efforts to pursue normalization of relations with Cuba were constrained by legal and political realities.

Ernesto Domínguez López, a historian at the University of Havana, concludes that the recent change in U.S. foreign policy towards Cuba is part of an adjustment in its geostrategic plans to maintain its dominance in the Western Hemisphere, as well as globally. A principal objective, he feels, is to achieve consistency in the face of contemporary global change. Domínguez argues that given substantial realignments in international relations, the U.S. has sought to construct new relations with individual countries and regional groups by employing a combination of soft and smart power, as well as hard power if the occasion requires it. Domínguez explores the evolution of U.S. foreign policy since the end of the Cold War including the use of new tactics and strategies that replace coercion (hard power) with cooptation (soft or smart power). The latter involves transformations in the channeling of influence and resources, including capital. Domínguez asserts that the process toward normalization needs to be understood in the context of the U.S. rethinking of its bilateral and multilateral relations in order to create a more stable and sustainable international system that ultimately benefits U.S. interests. He concludes that from the perspective of a great power and in terms of *realpolitik* the objective is clear: the reincorporation of Cuba into a set of subordinated countries inserted into the U.S. sphere of influence. Ultimately, Domínguez suggests that the reconstitution of the inter-American system is part of a larger strategy of guaranteeing and maintaining U.S. dominance globally.

The recent reconfiguration of inter-American relations is the focus of Claudia Marín Suárez' analysis of the role of Latin American and Caribbean integration in the re-establishing of Cuba-U.S. relations. Marín, an international relations scholar at CIPI/ISRI, argues that the upsurge of political and economic integration since the 1990s facilitated the repositioning of Cuba within

Latin America and the Caribbean reducing Cuban isolation within the hemisphere. Indeed, the Latin American and Caribbean nations made it clear in 2009 that the exclusion of Cuba from the inter-American community and specifically from the Summit of the Americas meetings would no longer be accepted. As Latin American and Caribbean integration intensified in the early 2000s, Cuba assumed an increasing role as an equal partner. Indeed, Latin America became Cuba's largest trading partner and several bilateral and multilateral trade agreements were signed. Cuba's strength in biotechnology and pharmaceuticals, as well as tourism, increased economic exchanges. In addition, Marín concludes that the potential of Cuba as a transshipment center appealed to European and Asian countries and increased support for a change in U.S. policy toward Cuba especially in terms of the removal of American sanctions.

Latin American and Caribbean political cooperation facilitated the reintegration of Cuba into the hemispheric community. Although considerable political and ideological diversity exists in the region reflected in the Pacific and Atlantic Axes, Marín argues this has not served as a major impediment to Cuban hemispheric integration. Cuba shares a fair degree of the Latin American and Caribbean positions on a region wide political, socioeconomic, and security agenda. Priority items include reducing poverty and inequality and promoting sustainable development, effective educational and public health systems, food security, and national control of natural resources. Marín also posits that there is regional agreement about the need for changes in the international financial architecture, and the need for cooperation in combating terrorism, human and drug trafficking, and international criminal cartels. She concludes that consensus on the importance of national and regional sovereignty helped solidify Cuba's incorporation into the regional context and increase pressure for a change in U.S. Cuba policy.

Another factor promoting a change in U.S. policy towards Cuba was the role of academics, think tanks, and lobbies. Margaret E. Crahan, a historian from Columbia University, analyzed the role of experts in influencing the formulation of U.S. policy towards Cuba particularly in the run-up to the December 17, 2014 announcements. Interestingly a good number of policymakers tended to attribute more influence in prompting a rethinking of U.S. policy toward Cuba to academics than the latter accorded themselves. Policymakers at the State Department, National Security Council, and the White House reported considerable familiarity with the scholarly literature on U.S.-Cuba relations. Exchanges between government officials and academic and think tank experts were fairly common particularly as the Obama administration entered its second term. Comparable exchanges occurred in Cuba between academics and policymakers. Changes



within the Cuban American community, including among academics, reflected generational changes encouraging more openness toward normalization. Cuban American conservative influence which was at its peak during the Reagan administration (1981-1989) declined substantially in recent years and pro-normalization lobbies emerged. Finally, political will on the part of the Cuban and U.S. leadership tipped the balance towards negotiations and D17 resulted. Hence, the rapprochement was facilitated by academics, think tanks, lobbies, as well as the increasing acceptance on the part of both governments that there was more to be gained from normalization than from hostility.

Cuban Americans did play a role in molding U.S. policy toward Cuba in the 1970s and 1980s as immigration created one of the most influential diaspora communities in the contemporary U.S. Susan Eckstein, a sociologist at Boston University, examined the waves of migrants from Cuba, as well as the development of their special status among all immigrant groups. Given the substantial outflow of Cubans from the island beginning in the 1960s, the U.S. Congress passed the Cuban Adjustment Act in 1966 which together with subsequent policies granted Cubans parole status as soon as they entered the U.S. legally or illegally, as well as the opportunity to apply for resident status after one year. Cubans, as a result, were accorded preferential treatment generally unavailable to other immigrants and, according to the Cuban government, Cubans were thereby encouraged to leave the island. In recent years Eckstein notes that criticism from other immigrant groups and sending countries over Cuban exceptionalism has mounted. U.S. migration policies have been a constant irritant between Cuba and the U.S. which have prompted periodic negotiations. It was one of the major issues discussed as part of the initial phase of the process toward normalization. On January 12, 2017 the Obama administration announced modifications of the preferential treatment of Cuban immigrants that the Cuban government had long sought which they felt encouraged dangerous attempts to reach the U.S., as well as contributed to brain drain.. What the impact of the Trump administration will be on the issue is unclear.

Jesús Arboleya Cervera from CIPI/ISRI analyzes the role of the emergence of the Cuban American community in influencing U.S. policy towards Cuba. He argues that the assumption that U.S. policy toward Cuba is determined in Miami fails to take into account the complexities and evolution of the Cuban American community, as well as its current limitations. Arboleya posits that the influence of a conservative Cuban American lobby, which reached its peak during the Reagan administration, has waned in the face of generational and social changes within the community. Such changes Arboleya argues have

impacted the political structure of the Cuban American community modifying the “balance of forces” within it and making it more amenable to the process of normalization. Arboleya further concludes that improved relations could benefit the U.S. by increasing opportunities for Cuba and Cubans to enrich U.S. culture and its economy. Furthermore he argues that as the process of normalization advances the Cuban American community could contribute more to the economic development of Cuba.

Immigration reform in general has been a major preoccupation in the U.S. in recent years. Robert Bach, who specializes in immigration, homeland security, and emergency management issues, suggests that ending Cuban exceptionalism in migration policies could reinforce stricter immigration policies in general. He notes that some advocacy groups have switched from criticizing the preferential treatment of Cuban immigrants to arguing for the expansion of the policies for Cubans to other groups. Bach raises the question of why the U.S. government initially appeared after D17 reluctant to change migration policies affecting Cubans. He concluded that this was a result of a set of factors including a potentially negative reaction from the Cuban American community. An additional reason he considered was that if the policies relating to Cubans were revised to reflect general immigration policies and the process toward normalization stalled or was reversed, Cuban immigrants would lose their special protections. Bach argues that a migration strategy that takes into account more generalized issues, together with binational ones, could serve the interests of the U.S. and Cuba, as well as other countries and migrants themselves.

Other issues challenging normalization of relations are the U.S. economic sanctions that include not only the embargo/blockade, but also a wide spectrum of regulations relating to commerce, trade, banking, intellectual property, and tourism. Lifting of the sanctions would require changing the Cuban Democracy Act of 1992 which prohibits trade with Cuba via subsidiaries of U.S. corporations abroad; the Cuban Liberty and Democratic Solidarity Act of 1996 which strengthened the embargo; and the Trade Sanctions Reform and Export Enhancement Act of 2000 which prohibited financing for agricultural exports to Cuba and banned tourism. All would require congressional action which has been rejected since D17 in spite of the support of a majority of Americans polled in 2015, including 59% of Republicans (Pew Research Center 2015). LeoGrande details the erosion of the sanctions over time as a result of steady increases in both legal and illegal travel to Cuba from the U.S., the growing flow of remittances, and the licensing of exports to Cuba beginning during George W. Bush’s administration (2001-2009).

Another major challenge to the process of normalization is the issue of U.S. claims for property expropriated by the revolutionary government, as well as damages for individual injuries. The Cuban government for its part has asserted claims for substantial losses resulting from the embargo/blockade and other damages. Alberto R. Coll, a former U.S. government official and now professor of international law at DePaul University, analyzes the ongoing debate over property and damage claims in an effort to establish possible solutions. Coll places his discussion in the broader historical and political context of past successful U.S. claims settlements with other governments such as the Soviet Union, Communist China, and Vietnam. He also analyzes a series of major U.S. Supreme Court opinions which recognize the President's extensive authority and ample discretion to negotiate such foreign claims, often in ways that do not fully compensate U.S. claimholders, for the sake of larger, more significant long-term U.S. foreign policy interests. COLL notes that Cuba has always stated its willingness to compensate U.S. property owners for their losses, while the U.S. also has recognized the island's sovereign right to expropriate in accordance with international legal standards and with compensation. The greatest difficulty lies with the multi-billion dollar claims related to U.S. court judgments obtained under the "terrorist state" exception to the Foreign Sovereign Immunities Act. Barring an unlikely Congressional resolution of this issue, these claims will have to be settled through a bold use of executive authority by the President under his Article II foreign relations powers. Coll is also unconvinced by recommendations to resolve the claims issues through such mechanisms as debt-equity swaps, concessions to foreign investors, or preferred acquisition rights that might create special rules for former U.S. property owners and future investors. Coll objects, in part, because he believes that this would limit Cuba's sovereign right to regulate all foreign investments on equal terms, according to the same legal standards, and with the transparency and impartiality required by the rule of law.

Sovereignty is the focus of the Brookings Institution experts Ashley Miller's and Ted Piccone's analysis of the implications for normalization of the somewhat different concepts of sovereignty that Cuba and the U.S. hold. The Hispanic heritage of Cuba, together with its history, molded the country's concept of sovereignty somewhat differently than that prevalent in the U.S. Participatory democracy rooted in regular elections and political parties, as well as checks and balances between the three branches of government, has served as a basis for the U.S. concept of national sovereignty. In Cuba the Spanish legacy has inclined the country towards a stronger executive branch and weaker system of checks and balances by

the legislative and judicial branches. Miller and Piccone argue that for progress to be achieved toward normalization, both Cuba and the United States have to take into account in their negotiations areas where their respective concepts of sovereignty diverge and where they converge. Negotiations are further complicated by the history of the United States impinging on Cuban sovereignty beginning with the Platt Amendment in 1901 which allowed for unilateral U.S. interference in Cuban affairs up to the current resentment of U.S. promotion of regime change. While the Obama administration has repeatedly denied the latter is their goal, many Cubans tend to disbelieve this and regard the U.S. aim to be the imposition of its political and economic system to the detriment of Cuban sovereignty. Miller and Piccone conclude that progress toward normalization will advance only if there is a dialogue in which both parties respect the other as equal sovereign nations.

Essential for progress toward normalization is a sense of momentum and of real possibilities for progress. Both before and after D17, positive developments occurred in the areas of security and environmental cooperation. Geoff Thale of the Washington Office on Latin America has closely followed security cooperation between the U.S. and Cuba especially with respect to border controls, interdicting drug and human trafficking, maritime and aerial security, as well as environmental threats and responses to natural and non-natural disasters. Both countries have mutual interests in dealing cooperatively in terms of transnational criminal cartels and financial crimes such as money laundering and cybercrime. Bilateral discussions since D17 have included issues relating to extraditions, sharing information about criminals and criminal cartels which require an expansion of rapid communication facilities, as well as increased familiarity with each other's judicial and legal systems. Thale cites the level of cooperation achieved even before 2014 by the two countries' coast guards as an example of working relations that benefit both countries. He concludes that cooperation regarding security concerns is an example of real progress in creating working relations that could inform other areas.

Cooperation in terms of environmental protection is another realm in which progress has been achieved. Bárbara Garea Moreda and Ramón Pichs-Madruga, two of Cuba's leading scientists, agree that much remains to be done given that climate change is a critical concern for the peoples of both countries and especially for developing countries. They argue that if substantial progress is not achieved in the coming years there will be cascading crises in terms of food and water security with major impacts on public health, migration, as well as conflicts over land and other resources. Cuba has been active in a number of global, regional, and subregional organizations that have provided the country with expertise and experience

in constructing cooperative responses, especially for developing countries that are islands in the light of their special problems. The authors regard the initiation of a dialogue on these issues between Cuba and the United States as an opportunity to augment cooperation through coordinated actions to develop regional capacities to respond to environmental challenges, especially climate change.

Julia Sagebien of Dalhousie University and Eric Leenson of SOL Economics pursue some of the same environmental issues as Garea and Pich-Madruga with an emphasis on responses to climate change in the context of sustainable development. Sagebien and Leenson argue that the literature on regional development strategies emphasizes the importance of economic policies and programs that focus on job creation rooted in local resources. They also argue that the adoption of frugal or “jugaad” strategies is effective. By this they mean use of innovative or creative approaches to complex problems by maximizing existing resources and employing work arounds. Furthermore, Sagebien and Leenson recommend following a social enterprise ethos in business in order to stimulate development without ignoring social well-being and environmental protection. The authors argue that the process toward normalization has increased the possibilities for international cooperation on the part of Cuba and the U.S. through such entities as the United National Development Program, the European Union, international financial institutions, and countries such as Canada, in developing innovations that could promote such goals as low-carbon global economies, as well as other means to mitigate the effects of climate change.

The final section of the book deals with how the process toward normalization can move forward in the face of domestic political, economic, and social challenges in both countries. Carlos Cíaño Zanetti an international relations expert at CIPI/ISRI analyzes political and ideological polarization in the U.S., particularly with respect to the Congress since action by the latter is required to resolve some of the major issues related to normalization. Using a wide spectrum of public opinion polls, as well as voting records, Cíaño documents the growing level of political and ideological polarization within the U.S. public related to issues such as the direction of the country’s foreign policy, economic growth, inequality, immigration, marriage equality, abortion, and public education. As the November 8, 2016 elections suggested the polarization between attitudes among college educated voters and those with high school diplomas or less has grown in the last two decades. While Cíaño accepts geographic variations as continuing to influence political attitudes and voting patterns, rural-urban political and ideological differences have also increased. The U.S. congress reflects the generalized polarization of the U.S. population

and has intensified it, as did the 2016 national election according to Ciaño. He concludes that given the levels of polarization within a Congress dominated by Republicans with a strong conservative bent the likelihood of the lifting of the U.S. embargo/blockade, as well as other sanctions, is slight.

Former congressman Mike Kopetski, interviewed Members of Congress, their staff, and lobbyists to assess the possibilities for the lifting or reduction of U.S. sanctions on Cuba as part of the process toward normalization. He argues that pressure for further changes in U.S.-Cuba relations from civil society organizations, environmental groups, academia, and Cuban Americans cannot be ignored by the 2017 Congress. Kopetski feels that Members of Congress, irrespective of party, are well aware that polls show that the majority of the American population is supportive of normalization and the elimination of sanctions and restrictions on travel to Cuba by U.S. citizens. His sense is that this, together with the existence of some bipartisan support for improved relations with Cuba, will eventually lead to action in support of improved U.S.-Cuba relations.

The book concludes with two critical questions: to what degree will Cuban foreign policy contribute to the process of normalization and the bettering of relations with the U.S. and who are some of the principal “spoilers” of the process toward normalization. John Coatsworth, an economic historian at Columbia University, tackles the first question by positing that Cuba has a choice between “balancing” or “bandwagoning” foreign policy strategies. The first involves mobilizing domestic and international support to achieve a degree a balance with U.S. power and influence. This, Coatsworth asserts, is the path that Cuba has opted for since 1959. Coatsworth asserts that few countries in the Caribbean region have achieved something of a balance as successfully as Cuba although at considerable cost. Bandwagoning also recognizes the asymmetry in power between the U.S. and the Caribbean and Central American nations which inclines those countries to recognize their limitations and accept U.S. constraints on their domestic and foreign policymaking. The objective is to achieve a measure of respect as sovereign states in exchange for recognizing U.S. dominance and leadership. This strategy Coatsworth admits tends to impose constraints on domestic policymaking which is highly problematic for governments intent on major or radical reforms. The author concludes that with the restoration of U.S.-Cuba relations the latter may move from a strategy of balancing to a strategy of bandwagoning with some recognition of U.S. global and regional interests in exchange for U.S. respect for Cuban sovereignty and autonomy in terms of internal political, economic, and social policies. Coatsworth believes that while the U.S. has stated it is not intent on regime change, that “in its explicit insistence on defining what the goal of Cuba’s ‘transition’ should

be, the United States has, rhetorically at least, left open a return to past policies aimed at disruption and regime change.” As a consequence, Coatsworth concludes that in both the short and longer term it is accommodation of the divergent goals of the two countries that will be a major challenge particularly in the light of the new U.S. administration and projected leadership changes in Cuba in 2018. The author posits that the question for Cuba is what strategies and mechanisms will best assure Cuba’s successful pursuit of its own interests.

“Spoiling the Spoilers” is the challenge Philip Brenner and Colleen Scribner examine in their analysis of what could impede or derail the process toward normalization. Beginning with an examination of factors that have been identified as facilitating normalization, they cite the influence of adjustments in international systems, cultural commonality, political will on the part of strong leaders, regime change, the longevity and severity of hostile relations, catalysts, and economic issues. The authors also identify 23 “spoilers” including a variety of people or groups opposed to the process as being contrary to their interests, as well as policies or programs that increase distrust and undercut the process. The spoilers contribute to the complexity of the process toward normalization which complicates the hammering out of multiple agreements and the stripping away of previous policies and regulations. Furthermore, Brenner and Scribner conclude there are no guarantees that the process toward normalization will not be reversed as has happened in other cases. The changed circumstances resulting from the November 8, 2016 U.S. elections certainly suggest more complexity than during the first two years of the process toward normalization.

This volume has attempted to continue and deepen the dialogue established over the years by the annual CIPI/ISRI conferences evaluating the state of Cuba-U.S. relations in all their complexities and contradictions. The editors did not attempt to modify the opinions or conclusions of any of the authors, but rather let differences stand as a means to better understand the nature of Cuba-U.S. relations from the second half of the twentieth century to the beginning of the twenty-first century. Understanding the historical legacy and the tentative steps toward rapprochement demands a great deal of empathetic understanding by both sides. An essential part of that understanding is to appreciate the sensitivities of the country whose sovereignty was impinged upon for decades. This book indicates that there is not only among the experts, but also among the citizens of both countries, a strong disposition to work toward normalization in spite of painful legacies, differences, and current and future challenges.





# CONTEXT



## CHAPTER 1

# **No Time to Lose: Navigating the Shoals of the New U.S.-Cuba Relationship**

William M. LeoGrande

On December 17, 2014, President Barack Obama and President Raúl Castro shocked the world by announcing in simultaneous television broadcasts that they had reached agreement to begin normalizing relations between the United States and Cuba. With that, they stepped away from half a century of hostility to open what Obama called “a new chapter” in their relationship. This dramatic turn of events came as a surprise because relations had remained essentially frozen for the preceding six years, despite Obama’s declared desire to improve them and Raúl Castro’s repeated offers to engage with Washington diplomatically on the basis of mutual respect.

As the first two years of the new relationship came to a close, much had been accomplished. The United States had removed Cuba from the list of state sponsors of international terrorism; diplomatic relations had been fully restored; the two presidents had met three times face-to-face for substantive discussions; a dozen bilateral agreements had been signed; and teams of diplomats were working through a wide range of bilateral issues. Nevertheless, the legacy of five decades of hostility was not easily erased. By the summer of 2016, many issues remained unresolved and the path forward was marked by uncertainty. Despite the progress made in state-to-state relations, little had been accomplished on the economic and commercial front. The central issue, the U.S. economic embargo, could only be removed by the U.S. Congress, where Obama’s Republican opponents were in no mood to cooperate. Obama’s successor, President-elect Donald Trump, had promised during the campaign to roll back Obama’s opening to Cuba. In Havana, Raúl Castro was scheduled to step down at the end of his second term as president in early 2018, and no one could predict whether his successor would have the political will or authority to press ahead on normalizing relations with Washington.

## **A Half Century of Hostility**

Fidel Castro came to power in January 1959 as the leader of a broad revolutionary movement that overthrew Fulgencio Batista's repressive military dictatorship. A young lawyer steeped in the writings of Cuba's founding father, José Martí, Castro had two goals for the new government: to win Cuba's full independence from the political and economic dominance of the United States and to radically change Cuba's deeply unequal social structure. These goals inevitably brought the revolutionary government into conflict with Washington, and after just six months, President Dwight D. Eisenhower's administration concluded that the continued existence of Castro's government was incompatible with the interests of the United States (LeoGrande and Kornbluh 2015). To survive Washington's ire, Castro turned to the Soviet Union for economic and military assistance making Cuba a focal point in the Cold War.

Fifty-five years of hostility ensued as ten successive U.S. presidents tried every means short of direct U.S. invasion to roll back the revolution, from exile invasion to assassination, covert paramilitary war, subversion, and economic embargo. A few presidents made tentative efforts to normalize relations, without success. After the 1962 Missile Crisis, John F. Kennedy hoped to exploit Castro's anger at the Soviet Union for withdrawing the missiles by offering rapprochement, but Kennedy was assassinated before negotiations could commence. Gerald Ford authorized Secretary of State Henry Kissinger to pursue normalization as part of the larger policy of detente, but talks broke down when Cuba sent troops to Angola to defend it from a South African invasion. Jimmy Carter picked up where Kissinger left off, but the dialogue stalled again over Cuban policies in Africa. Bill Clinton sought to improve relations, but he put a higher priority on winning Cuban American votes in south Florida (LeoGrande and Kornbluh 2015).

The end of the Cold War eliminated Washington's principal rationale for the policy of hostility—Havana's strategic partnership with Moscow. But U.S. policy did not change. Instead, the deep economic crisis in Cuba caused by the loss of Soviet assistance revived dreams among U.S. policymakers that Cuba could be the next domino in the collapse of communism. Two U.S. laws—the Cuban Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity Act of 1996—tightened the economic embargo and wrote it into law, limiting any future president's ability to lift it.

By the new millennium, it was clear that Cuba had survived the economic trauma of the 1990s and that the U.S. policy of "regime change" had little chance of success. Gradually, Washington's effort to isolate Cuba had the perverse effect of isolating the United States in Latin America and beyond. For

twenty-four years consecutively, the United Nations General Assembly voted overwhelming to condemn the U.S. embargo. On October 26, 2016, the U.S. abandoned its opposition to the resolution against the embargo and abstained, signaling its commitment to normalization of relations with Cuba.

President Barack Obama came to office in 2009 well aware that the policy of hostility had failed and was damaging broader U.S. interests, but his tentative steps to change it stalled during his first year. The press of other issues, domestic political calculations, and Cuba's arrest of U.S. Agency for International Development subcontractor Alan Gross for subversion because of his role in Washington's "democracy promotion" program, all combined to bring bilateral progress to a halt. The president did relax aspects of the embargo in order to promote engagement between the U.S. and Cuban people—he lifted all limits of Cuban American family travel and remittances in 2009 and restored people-to-people educational travel in 2011—but there was little improvement in state-to-state relations during the president's first term.

After his re-election in 2012, however, President Obama decided the time was right to fundamentally change U.S. policy from hostility to engagement and coexistence. In Raúl Castro, he found a willing counterpart. In 2011, Castro launched a major restructuring of Cuba's economy to replace the hyper-centralized model of planning inherited from the Soviet Union in the 1970s with a form of market socialism that had proved successful in China and Vietnam. For a small island like Cuba, that meant greater integration with the world economy. The United States was a natural trade partner, provider of foreign direct investment, and source of tourists. Normalizing relations fit naturally into Cuba's new development strategy.

By 2014, the interests of the United States and the interests of Cuba had converged; for both, a normal relationship made more sense than continuing antagonism. It took eighteen months of secret talks for the two governments to agree on a path forward—a premonition of how complicated it would be to unwind more than half a century of hostility. But the journey began with that first step in December.

### **December 17 and the Road Ahead**

On December 17, 2014, the two presidents announced their historic agreement. The United States released three Cuban intelligence agents—the remaining members of the Cuban Five, who in the 1990s infiltrated Miami exile organizations suspected of supporting terrorist attacks on the island, and who were sentenced to long prison terms in 2001. In exchange Cuba released Rolando

Sarraff Trujillo, a CIA asset imprisoned for almost twenty years. Cuba also released Alan Gross and fifty-three political prisoners on humanitarian grounds. Gross, funded by U.S. democracy promotion programs, had been building digital networks in Cuba linked to the Internet by satellite, evading Cuba's state telecommunications company. He was arrested in Cuba in 2009 and sentenced to fifteen years in prison (Schneiderman 2012). Cuba also agreed to engage with the International Committee of the Red Cross and the United Nations on human rights and prison conditions.

President Obama agreed to welcome Cuban participation in the Seventh Summit of the Americas in April 2015 and to review Cuba's designation as a state sponsor of international terrorism. He also exercised his executive authority to ease restrictions on financial transactions, remittances, sales to private businesses, and travel to Cuba. Most importantly, the two presidents agreed to restore full diplomatic relations—a decision symbolic of the new relationship based on mutual respect.

In April, Obama and Castro met face-to-face at the Summit of the Americas in Panama. They reaffirmed their commitment to normalize relations and discussed the issues that would need to be resolved. "This is obviously an historic meeting," Obama acknowledged. "We are now in a position to move on a path to the future. There are still going to be deep and significant differences...But we can disagree with the spirit of respect and civility, and over time it is possible for us to turn the page and develop a new relationship" (White House 2015).

"No one should entertain illusions," Castro cautioned in his brief comment. "Our countries have a long and complicated history, but we are willing to make progress in the way the President has described." In closing, he added, "We are willing to discuss everything, but we need to be patient, very patient" (White House 2015).

On April 8, Secretary of State John Kerry recommended to the president that Cuba be removed from the list of state sponsors of international terrorism—a designation that Cuba had found especially insulting in light of the long history of paramilitary attacks launched from U.S. territory against the island by Cuban exiles who at one time had the support of the U.S. government. The president agreed and Cuba was formally removed from the list on May 29. On July 1, 2015 Obama and Castro announced the agreement to restore full diplomatic relations on July 20, 2015.

In September, Raúl Castro made his first trip to the United States as Cuba's president to attend the United Nations General Assembly. On the sidelines, he and Obama met for half an hour for what the Cubans described as a "respectful and constructive" dialogue (Ministry of Foreign Relations 2015). Obama urged

Castro to undertake reforms that would allow Cubans to take advantage of the regulatory changes Washington had made to the embargo, and Castro reiterated his demand that Washington lift economic sanctions (DeYoung 2015). Yet despite their disagreements, the presidents interacted cordially and emphasized their commitment to continue the process of normalization.

The two governments formed working groups of diplomats to begin dealing with the complex patchwork of issues that Fidel Castro once referred to as “a tangled ball of yarn” (LeoGrande and Kornbluh 2015, 203). To coordinate the normalization process, they established a Bilateral Commission—a steering committee that would meet quarterly to assess progress and set the agenda for a series of more specialized working groups and teams of technical experts tackling specific issues. There were effectively two baskets of issues: those on which the two countries had interests in common, where cooperation could be expanded; and those on which they had interests in conflict that needed to be resolved or mitigated.

After the flag-raising ceremony at the Cuban embassy on July 20, 2015 Foreign Minister Bruno Rodríguez met with Secretary of State Kerry to discuss issues of mutual concern, including migration, human trafficking, law enforcement, counter-narcotics cooperation, maritime safety and Coast Guard cooperation, environmental protection, global health cooperation, the expansion of civil aviation links, and the restoration of postal service (U.S. Department of State 2015a). In fact, through the years of animosity, Cuba and the United States had maintained low-level cooperation on a number of such issues (LeoGrande and Jiménez 2014). The normalization of diplomatic relations opened the door to deepening that cooperation. Soon after the second meeting of the Bilateral Commission on November 17, 2015, the two governments signed cooperative agreements on protecting the maritime environment in the Caribbean and on civil aviation and postal service.

The U.S. Coast Guard and Cuban Border Guards had been working together to stem narcotics trafficking through the Caribbean since 1999, but only on a case-by-case basis. That collaboration could become more systematic through joint planning, joint exercises, and intelligence sharing. Before the Deep Water Horizon oil spill in 2010, the only U.S.-Cuban dialogue on environmental protection was between Cuban scientific institutes and U.S. nongovernmental organizations like the Environmental Defense Fund. But when Cuba began drilling in its deep water commercial zone not far from the Florida coast in 2012, Washington opened a quiet dialogue under the umbrella of the Regional Marine Pollution Emergency Information and Training Center for the Wider Caribbean, a multilateral organization supported by the United Nations. On November 18, 2015, U.S. and Cuban diplomats signed a Memorandum of Understanding (MOU) on scien-

tific cooperation to conserve protected marine areas, and on November 24, they signed a broader framework agreement on environmental protection, calling for exchanges of scientific information and technology, and the development of joint research projects on issues including coastal and marine protection, biodiversity, endangered and threatened species, climate change, disaster risk reduction, and marine pollution (U.S. Department of State 2015b).

Global public health and disaster assistance were other potentially fruitful areas of cooperation. Cuba and the United States worked together to provide medical relief after the January 2010 earthquake in Haiti, and again in West Africa to stem the 2014 Ebola epidemic. In September 2015, U.S. and Cuban medical teams in Haiti met to expand their cooperation (VOA 2015). But Washington's Cuban Medical Professionals Parole Program hindered more systematic collaboration. A vestige of the George W. Bush administration, this program offered Cuban health workers serving abroad on humanitarian missions a fast track to U.S. residency and citizenship if they would defect (Erisman 2012). U.S. officials understood that the program was an obstacle and had it under review. It was eliminated on January 12, 2017.

The interests in conflict between Washington and Havana constituted a more formidable agenda. A working group on claims began meeting to review the \$7 billion that the United States claimed Cuba owed for the property nationalized at the outset of the revolution—\$1.9 billion plus half a century of interest—and Cuba's counterclaims for over \$100 billion in damage done by the embargo and the CIA's secret paramilitary war in the 1960s. The U.S. Foreign Claims Settlement Commission had certified 5,913 claims against Cuba. A relatively small number of 899 corporate claims account for \$1.6 billion worth of the total value, whereas 5,014 individual claims were worth a total of just \$229 million (Feinberg 2015). Cuba recognized in principle the obligation to pay compensation for expropriated foreign property, but did not recognize the property claims of Cuban Americans (which were not included among the certified claims). Nor did Cuba recognize claims for over \$3 billion in private damages that U.S. court judgments had awarded over the years.

A working group on law enforcement served as the umbrella for a wide range of technical discussions on fugitives, counter-terrorism, cybercrime, money laundering, human smuggling and trafficking, and cooperation against transnational crime. On most of these issues, U.S. and Cuban interests converged, but the fugitives issue was politically sensitive on both sides. Some seventy U.S. fugitives resided in Cuba, most of them common criminals. However, some—like Black Liberation Army activist Assata Shakur (aka Joanne



Chesimard), convicted of murdering a New Jersey state trooper in 1973, and William Morales, a Puerto Rican nationalist accused of bombings in New York—were high profile expatriates to whom Cuba had granted political asylum (Griego 2014). The United States harbored a number of Cuban exiles accused of violence, the most notorious being Luis Posada Carriles, accused of blowing up a *Cubana* civilian airliner in 1976 killing all seventy-three people aboard, and orchestrating bombings in Havana tourist hotels in 1997 (Bardach 2003, 188–190, 207–212). The United States refused to extradite Posada Carriles, or any exile accused of politically motivated violence, and Cuba refused to return Shakur or the other political fugitives. Nevertheless, there was some precedent for Cuba repatriating common criminals to the United States, and the United States returning hijackers to Cuba.

A third working group, on human rights—among the most contentious issues—began meeting in April 2015 to discuss the very different perspectives the two governments have on the balance between political liberties and social and economic rights (Whitefield 2015a). Discussion focused on compliance with the international human rights covenants that both governments have signed, but they did not find much common ground.

Some U.S. programs, like the Cuban Medical Professionals Parole Program, were remnants of the old policy of regime change, and blocked the path to normal relations. The Cuban Adjustment Act, TV and Radio Martí, and democracy promotion programs remained unchanged. “The U.S. Government is still implementing programs that are harmful to Cuba’s sovereignty,” Raúl Castro (2015b) said in a statement on the first anniversary of December 17. “In order to normalize relations, it is imperative for the U.S. Government to derogate all these policies that date from the past.”

The breakthrough in U.S.-Cuban relations might have happened sooner had it not been for Washington’s covert democracy promotion programs, which led to the arrest of the contractor Alan Gross in December 2009. The breakthrough in the secret negotiations to normalize relations happened only when Cuba agreed to release Gross as part of a broader prisoner exchange. But the programs that landed Gross in prison continued operating after December 17, and Cuba continued to regard them as subversive and an affront to its sovereignty. Their continuation posed an ever-present risk of confrontation that could disrupt the normalization process. Senior administration officials privately acknowledged that the programs were incompatible with the new direction of U.S.-Cuban relations, and hoped to restructure them to foster social and cultural ties in the arts, culture, science, and civic engagement (Wroughton 2015).

Radio and TV Martí, created during the Ronald Reagan and George H. W. Bush administrations, continued broadcasting to Cuba, even though they had little audience because of the Cuban government's success at jamming them. Cubans, however, had access to external news and information via expanding Internet access; various Florida radio stations audible on the island; pirated satellite television; and "el paquete"—a weekly compilation of articles, books, music, movies, and television shows circulated on flash drives and portable hard disks (Johnson 2015). Based in Miami, the two Martí stations were captives of the exile community's hardliners and no longer reflected Cuban American opinion, let alone U.S. policy. Moreover, they had a track record of trying to undermine attempts by U.S. presidents to improve U.S.-Cuban relations. When Bill Clinton negotiated migration agreements with Cuba and expanded people-to-people educational exchanges in the 1990s, Radio Martí was a persistent critic of even this limited policy of engagement. A 1995 investigation by the U.S. Information Agency (USIA) Inspector General found serious breaches of basic journalist practices, including the denigration of views other than those of hardliners, and repeated misrepresentations of U.S. policy so severe they sparked complaints from several U.S. government agencies and officials (Greenhouse 1995). In September 2015, as U.S. and Cuban diplomats were trying to build trust in order to advance the normalization process, TV Martí announced plans to launch a satirical sitcom that would ridicule Cuban leaders (Londoño 2015).

Then there were issues the United States refused to discuss. The 1966 Cuban Adjustment Act and the administration's "wet foot/dry foot" policy gave any Cuban reaching the United States, legally or illegally, the opportunity to become a permanent resident after one year. Cuba had called for an end to this policy because it created an incentive for human smuggling, but Washington insisted it had no intention of changing either the law or the "wet foot/dry foot" policy under which Cubans intercepted by the U.S. Coast Guard trying to enter the United States by sea ("wet foot") are returned to Cuba, but Cubans who reach U.S. territory ("dry foot") are paroled into the country and after a year, can adjust their status to obtain permanent residency. The reason for the administration's obstinacy was fear; after December 17, 2014, the number of Cubans intercepted by the Coast Guard trying to reach the United States illegally jumped sharply. Worried that the normalization of relations would mean an end to the Adjustment Act, would-be immigrants decided they had better act fast. The Obama administration feared that any effort to change immigration policy could touch off a migration crisis (Alvarez 2015).

By late 2015, however, a slow-motion crisis was already underway. Cubans had found a new land route to the United States whereby everyone was a “dry foot” and no one was denied entry. From September 2014 to September 2015, more than 45,000 Cubans entered the United States from Mexico (Cordoba and Amario 2015), more than ten times the number who annually have managed to elude the U.S. Coast Guard, reach Florida beaches, and claim their “dry foot” status. The new route north was possible because in 2013, the Cuban government abolished the requirement that its citizens obtain government permission to travel abroad. Until December 1, 2014, Cubans could travel to Ecuador without a visa. As a result, would-be migrants flew to Ecuador to begin the long trek north through Colombia, Central America, and Mexico, until they arrived at the Texas border, where they simply declared their nationality and were admitted under the “dry foot” policy. Cubans armed with cell phones charted their own path by relying on advice posted on social media from those who have gone before them, crowdsourcing their own smuggling routes (Associated Press 2015).

This new wave of migration was thrown into sharp focus in November 2014 when Costa Rican authorities broke up a smuggling operation, leaving 1,600 Cubans stranded. When Costa Rica gave them transit visas and tried to send them north, Nicaragua closed the border. As more Cubans arrived daily, the number stuck in Costa Rica rose into the thousands with no end in sight. Still, the United States refused, publicly at least, to consider a change in policy. U.S. diplomats reaffirmed that position at a migration consultation with their Cuban counterparts even as the border confrontation was unfolding (Whitefield 2015b). Yet the status quo, which brought tens of thousands of Cubans to the Texas border annually, seemed unsustainable, especially when Central Americans, including children fleeing gang violence, were being turned away.

Speaking to a conference of the Community of Latin American and Caribbean States (CELAC) shortly after December 17, 2014, Raúl Castro (2015a) declared that fully normal relations with the United States would require the return of the Guantánamo Naval Station. The Obama administration, however, insisted that Guantánamo still had operational value and its return was not open for discussion. Washington recognized Cuban sovereignty over the territory, but insisted on the validity of the 1934 treaty leasing it to the United States in perpetuity. Every year, the U.S. government has sent Cuba a rent check for \$4,085. Since 1959, Cuba has never cashed them; for years, Fidel Castro kept them stuffed in a drawer in his office to show visitors.

To avoid the base falling into Chinese or Russian hands, the United States could offer to abrogate the 1934 treaty in exchange for a basing agreement that

would allow continued U.S. use of the installation for some limited period of time (Parmly 2013). Alternatively, the United States and Cuba could agree to multilateralize and demilitarize the base, turning it into a center for research and operations in support of regional health, environmental protection, and disaster assistance (Raskin and Frens-String 2008).

Finally, and most importantly, U.S. economic sanctions against Cuba remained in place despite Obama's licensing of a limited number of exceptions. Although Obama called for an end to the sanctions, both the embargo as a whole and the specific ban on tourist travel were written into law in 1996 and 2000 respectively, so they could only be lifted by an act of Congress. For Cuba, this was by far the single most important issue since the persistence of sanctions inflicted ongoing damage to the Cuban economy. In October 2015, for the twenty-fourth year in a row, the United Nations General Assembly voted overwhelmingly, 191–2, with no abstentions, for a Cuban resolution demanding that the embargo be lifted. Only Israel voted with the United States. The Obama administration had hoped that Cuba might agree to soften the language of the resolution enough that the U.S. representative could abstain rather than vote no. But despite preliminary conversations, Cuba was unwilling to soften the resolution to Washington's satisfaction. Convinced that international pressure was an important contributing factor to Obama's decision to normalize relations, Havana was unwilling to do anything that might relax that pressure. On October 26, 2016, the United States abstained for the first time rather than opposing the annual UN vote to lift the embargo.

### **Obama in Havana**

In 2013, Tim Rieser, senior assistant to Senator Patrick Leahy (D-VT), began working to convince the White House national security staff that President Obama should change U.S. policy toward Cuba. "I told them, 'I think President Obama should go to Cuba and that our job is to try to help make that possible.' At the time I don't think they took me seriously," Rieser recalled, "but after a while that changed." Rieser played a key role in the secret negotiations that led to the December 17, 2014, announcement that the United States and Cuba would normalize relations (LeoGrande and Kornbluh 2015). On March 21, 2016, the farfetched idea of a presidential visit that Rieser had imagined became reality: President Obama and the First Family landed in Havana.

The president's historic two-day trip to Cuba highlighted the achievements of his policy of engagement and sought to accelerate the pace of normalization during his last ten months in office. It also had a domestic political objective:

to make as much progress as possible in the time Obama had remaining so that the next president, whether Democrat or Republican, would recognize that the opening to Cuba served U.S. interests and should be continued. To that end, the president was trying to create stakeholders—constituencies in U.S. society who had a stake in continuing his policy—so that it would be politically difficult for his successor to reverse it. Commercial relations were central to this strategy. The more contracts that major U.S. corporations signed with Cuba, the more momentum there would be to lift the embargo in 2017 and the harder it would be for opponents of the new relationship to roll it back. It was not a coincidence that a number of senior U.S. corporate executives went to Cuba with Obama, as did Secretary of Commerce Penny Pritzker, who was at the forefront of trying to remove obstacles to economic engagement.

On balance, the visit was a success. Although it produced no major breakthroughs, it underscored the high priority both Obama and President Raúl Castro placed on improving relations, and yielded progress both on issues of mutual interest and on expanding commercial relations. The Treasury and Commerce Departments set the stage the week before the trip with a fourth round of regulatory reforms allowing U.S. residents to travel on self-directed people-to-people educational tours, and ending the prohibition of the use of dollars in international financial transactions involving Cuba (so-called U-turn transactions), thus making travel and commerce far simpler (U.S. Department of the Treasury 2016b). Cuba reciprocated by announcing it would lift the 10% surcharge on converting U.S. dollars to convertible Cuban pesos when banks began to process Cuban dollar-denominated transactions (Whitefield 2016).

During the trip itself, the two governments signed bilateral agreements on maritime safety and agricultural cooperation, and made progress on several others, including cooperation on health care and counter-narcotics. Starwood Hotels & Resorts, General Electric, and Google announced new commercial agreements, and Major League Baseball used the exhibition game between the Cuban National Team and the Tampa Bay Rays as an opportunity to resume talks with Cuba on allowing Cuban players to play in the United States, which the new Treasury regulations allowed (Spencer 2016).

Besides the official meetings, Obama took a walking tour of Old Havana, laid a wreath at the monument to José Martí in the Plaza de la Revolución, presided over an entrepreneurs' summit with U.S. business leaders and Cuban private sector representatives, met with a small group of civil society activists (mostly dissidents), went to the baseball game with Raúl Castro, and (in a stroke of public relations genius) appeared twice on Cuba's most popular sitcom, "Vivir del cuento."

But the high point of the presidential visit was Obama's (2016) speech to the Cuban people, broadcast live from the newly renovated Grand Theater. "I have come here to bury the last remnant of the Cold War in the Americas," he said. "I have come here to extend the hand of friendship to the Cuban people." The United States would no longer try to impose change on Cuba, he promised, but stood ready to support and assist changes undertaken by the Cuban people themselves.

Obama's central theme was how much Cuba and the United States have in common, their differences notwithstanding: "The United States and Cuba are like two brothers who've been estranged for many years, even as we share the same blood." He spoke eloquently of the pain suffered by Cuban Americans forced into exile, but also of how their enduring love of country could help to build a bridge across the Florida Strait. He spoke of how democracy in the United States had made it possible to advance the cause of human rights, even while acknowledging America's continuing imperfections. "It is time, now, for us to leave the past behind," he said in conclusion. "It is time for us to look forward to the future together—a future of hope." While some Cubans found Obama's offer of friendship exhilarating, others viewed it with suspicion.

### **The Shape of Things to Come: A Political Balance Sheet**

In both Washington and Havana, there were political and economic forces at play shaping the future course of the normalization process. The overwhelming support for reconciliation recorded by polls in both countries demonstrated that ordinary people were ready for reconciliation before their governments, and in both countries expectations ran high. A Bendixen and Amanti (2015) poll among Cubans on the island found that 97% of respondents thought reconciliation with the United States was good for Cuba. Most people (64%) believed it would produce changes in their economic system, with which people expressed widespread (79%) dissatisfaction.

In the United States, poll after poll showed that Obama's new Cuba policy was widely popular, even among Republicans. An Associated Press poll in July 2015 found 71% in support of restoring diplomatic relations with Cuba, and 58% in support of Obama's Cuba policy overall. Even a majority of Cuban Americans approved it (Riechmann and Swanson 2015). With such broad support for reconciliation, politicians in both capitals faced pressure from below to keep the normalization process moving forward.

However, government officials were more realistic about the pace of change. In Cuba, the official media tried to dampen the public's exaggerated expectations by reminding people that the embargo (or blockade, as Cubans refer

to it) remained in place (Escobar 2015). No doubt Fidel Castro (2015) spoke for others, as well as himself, when he expressed a degree of skepticism about the December 17 announcements. After six weeks of silence prompting rumors that he was dead, Fidel Castro reacted to the announcement in a letter to his former classmates at the University of Havana. "I do not trust the policy of the United States," he began, but then added, as a general principle, that he supported "any negotiated, peaceful solution to the problems between the United States and peoples...which does not imply force or the use of force." With regard to Cuba's changing relationship with the United States, all he said was, "The President of Cuba has taken pertinent steps in accordance with his prerogatives."

For those in Cuba's leadership who had long regarded the United States as an imperialist adversary, it was difficult to imagine that Obama's policy of coexistence with socialist Cuba was genuine and sincere. The president's trip brought into the open a debate among Cubans over whether the president's policy of engagement truly represented abandonment of the old policy of regime change or was merely a clever ploy to lull Cubans into lowering their guard before the onslaught of soft power imperialism.

The issue was posed publicly by Fidel Castro (2016) himself shortly after Obama's visit. In a front-page article in the Communist Party daily, *Granma*, Fidel advised Obama against attempting to "elaborate theories on Cuban politics" and warned him against "the illusion that the people of this dignified and selfless country will renounce the glory, the rights, or the spiritual wealth" achieved by the revolution for blandishments from the United States. "We don't need the empire to give us anything."

That was followed days later by another front-page column by veteran journalist Dario Machado (2016), who warned against "the danger posed by those who believe that with these lukewarm changes [in U.S. policy], the contradiction between the interests of U.S. imperialism and the Cuban nation has disappeared." On the contrary, Obama was especially dangerous because of his charisma and stage presence, which enabled him "to disguise the strategic objectives of U.S. imperialism toward Cuba, Latin America and the Caribbean." Reminding Cuban youth of past U.S. military aggressions, Machado concluded: "There is no doubt: Obama is the gentle and seductive face of the same danger," aiming "not to cooperate with Cuba, but rather...to contribute to the fragmentation of Cuban society in order to recover U.S. hegemony." Even Foreign Minister Bruno Rodríguez, whose ministry led the negotiations with Washington after December 2014, criticized Obama's trip as "a deep attack on our ideas, our history, our culture and our symbols" designed to sow dissension (Reuters 2016).



There was real ambiguity about the goal of Obama's policy. On the one hand, he declared both on December 17, 2014, and in his speech to the Cuban people in March 2016 that the United States was offering "friendship" and respect for Cuba's self-determination. "What changes come will depend upon the Cuban people," he declared in the Grand Theater. "We will not impose our political or economic system on you." Yet on the other hand, he was equally consistent in declaring that his policy aimed to empower the Cuban people. "I do not expect the changes I am announcing today to bring about a transformation of Cuban society overnight," Obama explained in his December 17, 2014 address. "But I am convinced that through a policy of engagement, we can more effectively stand up for our values and help the Cuban people help themselves as they move into the 21st century." The White House (2016) web site offered an even clearer statement: "Decades of U.S. isolation of Cuba have failed to accomplish our objective of empowering Cubans to build an open and democratic country."

The initial wave of policy changes that followed December 17, 2014, were all aimed at weakening the power and authority of the Cuban government, and were publicly justified as such. The first round of regulatory changes in January 2015 relaxed the embargo for Cuba's private sector, but not for state enterprises, thereby bolstering the emergent private sector to create a social base economically independent of the government. Licensing telecommunications companies to expand Cuba's digital infrastructure was aimed at providing Cubans freer access to information. Loosening travel restrictions for U.S. residents was aimed at expanding the diffusion of ideas.

Announcing the new regulations, Secretary of the Treasury Jack Lew (2015) said that they put in place "a policy that helps promote political and economic freedom for the Cuban people." Moreover, the regulations gave privileged status to activities that supported "recognized human rights organizations" and "independent organizations designed to promote a rapid, peaceful transition to democracy"; and to activities that "promote independent activity intended to strengthen civil society" and "help promote their [the Cuban people's] independence from Cuban authorities." Subsequent regulatory changes, however, opened the door to commerce with Cuban state enterprises, and thus looked less like instruments of subversion and more like attempts to build long-term commercial ties.

U.S. officials themselves were not united around the goal of the new policy. Some saw engagement as a fundamental shift from regime change to coexistence and cooperation, whereas others privately described it as a tactical adjustment still aimed at undermining Cuba's one-party socialist system. Moreover, many elements of the old policy of regime change remained firmly



in place—the democracy promotion programs, Radio and TV Martí, and, of course, the embargo. While Obama called for Congress to lift the embargo, he steadfastly refused to dismantle the other remnants of regime change, thereby fueling Cuban doubts about his sincerity. Just three days after Obama departed Cuba in March 2016, the Department of State published a solicitation for proposals for a \$754,000 democracy promotion program to train Cuban youth “to manage and grow civil society organizations that will actively support democratic principles in Cuba” (Eaton 2016).

In his main report to the Seventh Congress of the Communist Party, Raúl Castro (2016) praised the improved state of U.S.-Cuban relations, noting that the period since December 17, 2014, had produced “concrete results in the dialogue and in cooperation between Cuba and the United States.” Nevertheless, he noted, hostile U.S. policies like the embargo remained in place and the United States had not abandoned its hope of undermining Cuban socialism. “We are not naive, nor are we unaware, of powerful external forces that aspire to, as they say, ‘empower’ non-state actors to generate agents of change in the hope of finishing off the revolution and socialism in Cuba by other means,” he said, adding, “There have been no small number of statements by U.S. officials openly affirming that the goals are the same and only the methods have changed.”

To the extent that Cuba’s leaders suspected that Obama’s policy was a wolf in sheep’s clothing—nothing more than the “empire’s” latest soft power scheme to kill the revolution with kindness—they were more likely to proceed slowly and cautiously, “*con la guardia en alto*.” President Raúl Castro had the authority to push ahead with normalization despite these risks, but he was scheduled to step down at the end of his mandate in February 2018. Unless there had been significant progress on the key issue of the U.S. embargo, Raúl’s successor might not have the authority to overrule skeptics—and might even be one himself. If better relations with the United States fell lower on the list of Cuba’s foreign policy priorities, Havana would be even less willing to respond to Washington in ways that advanced the normalization process. That, in turn, would make it harder for U.S. leaders to sustain the political momentum necessary to eventually lift the embargo, thereby creating a vicious circle that could halt the normalization process in its tracks.

Within the U.S. political elite, Congress stood as a major obstacle to fully normalizing relations. In a presidential election year, Republican congressional leaders were not about to allow any legislation to pass that made Obama’s Cuba policy look like a success. Thus, there was no chance that the 114th Congress would heed Obama’s call to repeal the embargo or lift the ban on tourist travel.

Although the president could still use his executive authority to license additional exceptions to the embargo, as he did in April 2009, January 2011, January 2015, September 2015, January 2016, March 2016, and October 2016, the central issue of U.S. economic sanctions was unlikely to be resolved before he left office.

Nevertheless, there was a growing bipartisan group of legislators in favor of ending the embargo. On December 17, 2015, five House Republicans and five Democrats launched the Cuba Working Group to “advance a new, more pragmatic policy toward Cuba” (Emmer et al. 2015). In private, several dozen Republican members expressed an openness to the idea of lifting the embargo.

Speaker Paul Ryan likely harbored some sympathy for them since he was a member of an earlier Cuba Working Group with a similar mission that lasted from 2002 to 2010. “If we think engagement works well with China, well, it ought to work well with Cuba,” he said in 2002. “The embargo doesn’t work. It is a failed policy” (Gilbert 2012). However, shortly before the 2016 election, he voiced support for the embargo, dimming chances that the Republican controlled Congress would take the lead to repeal it.

The 2016 Republican presidential aspirants were nearly unanimous in their vocal opposition to Obama’s opening toward Cuba, framing it as part of their narrative about Obama’s weakness in foreign policy and his “appeasement” of America’s enemies. By being the most incessant and vitriolic critic of the policy, Senator Marco Rubio (R-FL) managed to position himself among the leading Republican contenders early in the race. Rubio called Obama, “the single worst negotiator we have had in the White House in my lifetime,” arguing that the president gave the Cuban government “everything it asked for” and got nothing in return. “I am committed to unravel as many of these changes as possible,” he added (Parker and Martin 2014).

Senator Ted Cruz (R-TX), burnishing his own Cuban American credentials (his father went into exile during the Batista dictatorship), said of the new policy, “Fidel and Raúl Castro have just received both international legitimacy and a badly-needed economic lifeline from President Obama” (Bolton and Burns 2014). Governor Jeb Bush (2014) called it a “misstep” that “undermines America’s credibility and undermines the quest for a free and democratic Cuba.” Only Rand Paul (2014) fully endorsed the president’s initiative, though Donald Trump initially approved of it in principle. “The concept of opening with Cuba is fine,” he said, “but we should have made a better deal” (Diamond 2015). By election day November 8, 2016 Trump had repeatedly stated that he could have gotten a better deal, and threatened to reverse Obama’s opening to the island unless Cuba made political concessions.

As president, Trump could reverse everything Obama did to improve relations with Cuba because all Obama's actions relied on executive authority. That possibility was one reason for the reluctance of U.S. companies to do business with Cuba; why risk time and expense entering the Cuban market when a hostile White House could pull the rug out from under you? Once in office, however, a Trump administration could find that *realpolitik* demanded a more nuanced approach, given the broad domestic and international support for Obama's policy of engagement. In an effort to avoid any roll-back under a new administration, on October 14, 2016 President Obama issued Presidential Policy Directive 43 aimed at nailing down the steps toward normalization already taken. What impact it might have on the Trump administration is unclear.

The diplomatic cost of breaking diplomatic relations without cause would be enormous in Latin America and beyond. Obama's opening to Cuba was undertaken in part because of the deterioration in U.S. relations with Latin America caused by the old policy, and his December 17, 2014, announcement received universal and enthusiastic endorsement throughout the hemisphere. If Trump tried to roll back Obama's policy, he would face the same dilemma that Obama faced before December 17. The Eighth Summit of the Americas is scheduled for 2018, and, as in 2015, Cuba will surely be invited by the host nation, Peru, backed by all of Latin America—regardless of U.S. opposition. Would the Trump administration demand that Cuba be excluded or threaten to boycott the event, at the risk of demolishing the summit process and gravely damaging the entire inter-American system? Rather than trying to undo all that Obama has done, the new Republican president might simply halt the normalization process in its tracks, leaving relations to languish in a twilight zone between hostility and normality.

### **The Shape of Things to Come: An Economic Balance Sheet**

The surge of excitement among U.S. businesses about getting into Cuba was palpable after December 17, 2014. In sectors from agriculture to hospitality to information technology, corporations foresaw an opportunity to enter a largely unexploited market after half a century of exclusion. Cuba, for its part, was much in need of what U.S. businesses could offer, both in trade and investment. Cuban agricultural productivity remained low due to a scarcity of equipment, credit, and key inputs like fertilizer. Infrastructure, from roads to the energy grid and digital connectivity, were either badly deteriorated or sorely lagging behind neighboring countries in Latin America.

The year following December 17, 2014 saw a rush of trade delegations heading to Havana. In April 2015, Democratic Governor Andrew Cuomo took a group of twenty New York business leaders to Cuba, and returned with agreements on pharmaceuticals and information technology (Craig 2015). In September, Republican Governor Asa Hutchinson of Arkansas led an agricultural trade mission hoping to expand food sales to Cuba (Trotta 2015). In November, Texas Governor Greg Abbott followed suit (Jean 2015). Virginia Governor Terry McAuliffe headed to Havana in January 2016, hoping to expand on Virginia's existing agricultural trade (AP 2016). Legislators and local officials led other trade delegations from Alabama, California, Kentucky, Illinois, Indiana, Louisiana, Missouri, New Mexico, North Carolina, Ohio, Texas, Washington, DC, and Tampa, Florida.

In March 2015, the U.S. Agriculture Coalition for Cuba—a broad-based lobbying group formed after December 17, 2014, to promote agricultural trade and end the embargo—took ninety-five people to Cuba, including two former secretaries of agriculture (Frank and Trotta 2015). The U.S. Chamber of Commerce, on record opposing the embargo since the late 1990s, stepped up its efforts to promote U.S. economic ties with Cuba by launching the U.S.-Cuba Business Council, which held its first meeting in Cuba, timed to coincide with Havana's International Trade Fair. "This council will work tirelessly to ensure that both countries can take advantage of the new avenues for trade, investment and economic cooperation in the bilateral relationship," said Tom Donohue, U.S. Chamber president and CEO (U.S. Chamber of Commerce 2015).

In May 2015, a new advocacy group, Engage Cuba, launched an effort to bring together businesses and nongovernmental organizations in a broad bipartisan coalition to lobby Congress to repeal the embargo. It quickly brought on board industry organizations from the travel and trade sector, including the National Foreign Trade Council, the American Society of Travel Agents, United States Tour Operators Association, along with the National Association of Manufacturers, the Consumer Electronics Association, and a variety of individual corporations from the agricultural and consumer sectors (Tau 2015).

In October 2015, Secretary of Commerce Penny Pritzker traveled to Cuba to meet with senior officials about ways to expand commerce in the areas that President Obama licensed after December 17. The Pritzker trip had value as a confidence-building measure even though it did not produce any specific agreement. She was, after all, only the second cabinet member to visit Cuba since 1959 and the first Commerce Secretary to visit since 1950. Pritzker encouraged Cuban leaders to take advantage of the economic opportunities available, limited though they might be (Hirschfeld Davis 2015).

Secretary of Agriculture Tom Vilsack made the trek to Cuba in November 2015 to promote U.S. agricultural sales. With Cuba importing more the \$2 billion worth of food annually, the Cuban market was an attractive one for U.S. exporters. U.S. agricultural sales to Cuba reached a peak of \$710 million in 2008, but declined to just \$171 million in 2015, although they picked up in early 2016 (U.S.-Cuba Trade and Economic Council 2016). The decline was due in part to foreign competitors granting trade credits to Cuba, which U.S. exporters could not match. The 2000 Trade Sanctions Reform and Export Enhancement Act which legalized agricultural sales also prohibited granting Cuba financing for those sales. Another obstacle was the continuing embargo on Cuban exports to the United States, leading Vilsack to publicly call for “two-way” trade in which Cuba could export to the United States as well as importing U.S. products (Weissenstein 2015).

Yet despite the initial surge of interest among U.S. businesses, a variety of factors dampened enthusiasm for commerce with Cuba in the short and medium term. First and foremost, the U.S. embargo limited commerce with Cuban state enterprises to agricultural goods, pharmaceuticals, telecommunications, environmental protection and renewable energy, and certain sectors that would “benefit the Cuban people,” such as artistic endeavors, education, food processing, public health and sanitation, and residential construction (U.S. Department of the Treasury 2016a). U.S. firms could also trade with Cuban private businesses, but most of them were small, service oriented, and labor intensive operations that had neither the need nor ability to engage in foreign trade beyond importing a few supplies through hand-carried luggage or freight. Moreover, for those few private firms interested in the U.S. market, the Cuban government did not yet provide an effective mechanism for them to obtain import and export licenses.

As firms from other countries had learned, Cuba was not an easy place to do business. Despite improvements in the 2014 Foreign Direct Investment (FDI) law, major projects still required approval at the ministerial level or above, which led to lengthy delays. Investors still had to hire workers through the state’s labor exchange rather than hiring them directly, limiting firms’ control over the skills and incentives of their labor force (Feinberg 2012).

Cuba’s poor infrastructure offered an investment opportunity for a few foreign firms, but an impediment to operations for most (Armstrong 2015). Firms seeking to sell products to Cuba discovered that the market was small and poor. Imports in 2014 were just \$13 billion, \$6 billion of which was oil (mostly from Venezuela) and \$2 billion food (ONE 2014, 18–19). The Cuban government op-

erated with tenuously low foreign reserves, and periodically had to cut back on imports and delay payments to suppliers (Frank 2015). Ordinary Cubans were starved for basic consumer staples and still had an affinity for U.S. brands, but until national income rose significantly, effective demand remained limited.

Despite these problems, a major issue making U.S. companies reluctant to enter Cuba was uncertainty on the U.S. side. Although the Obama administration wanted U.S. businesses to engage with Cuba to demonstrate the benefits of the president's new policy, the regulatory changes made after December 17 left too many obstacles in the way. If companies were not absolutely certain that their business plan would be legal, they were unwilling to take the risk. Financial regulations were a particular problem. Finance is the life blood of commerce; if funds could not be easily transferred between Cuba and the United States, business would remain negligible. Although U.S. regulations allowed for funds transfers involving licensed activities, companies and banks were terrified of inadvertently violating the rules and being hit with enormous fines. For example, it took months for the State Department to find a bank willing to handle accounts for Cuba's diplomatic mission in Washington because the costs of regulatory compliance far outweighed the profit. Stonegate Bank in Florida finally agreed to do it because, as CEO David Seleski put it, he regarded it as a "moral obligation" to help reestablish diplomatic relations (Lakshmanan 2015). In December 2015, the Treasury Department had to reassure U.S. banks that they could process funds transfers to Cuba involving authorized travel without themselves having to certify that the travel was legal (Whitefield 2015c).

These sorts of obstacles could discourage all but the most intrepid U.S. businesses willing to endure the hardships of the present in the expectation of reaping future profits. And if the enthusiasm that welled up after December 17, 2014, dissipated, so, too, could the political pressure the business community was willing to put on Congress to lift the embargo. It had happened before. Lobbying by agricultural interests played a key role in the passage of the Trade Sanctions Reform and Export Enhancement Act of 2000 legalizing the sale of agricultural goods to Cuba. But when Cuban leaders initially refused to buy anything from the United States because Cuba was still not allowed to export, the business lobby in Washington lost interest in pressing for wider trade.

For Cuba, normal economic ties with the United States offered obvious advantages. The restructuring of the Cuban economy begun in 2011 and referred to as "updating" the Cuban model was intended to shift from Soviet-style central planning to a more decentralized market socialism. A key element of

that restructuring was to reintegrate Cuba more fully into global markets, diversifying trade and attracting foreign direct investment. Although this could be accomplished without the normalization of U.S.-Cuban relations, removing U.S. economic sanctions would give Cuba much greater opportunities. The two countries are natural trade partners; Cuba's shipping costs to and from the United States would be significantly lower than trade with alternative partners, especially for bulk commodities like sugar, wheat, or rice.

Since the 1990s, tourism has become one the central pillars of the Cuban economy, attracting three and a half million visitors in 2015 and accounting for some 10.5% of Gross Domestic Product (World Travel & Tourism Council 2015, 1). The United States is the principal country of origin for tourists bound for the Caribbean, and the International Monetary Fund estimates that if the U.S. ban on tourism were lifted, as many as three million new visitors might travel to Cuba annually from the United States alone (Romeu 2008). In the year after December 17, 2014, even with the ban on tourism still in place, the number of non-Cuban American U.S. visitors to Cuba jumped 77% to some 161,000 (Hamre 2016).

In 2014, Havana updated its law governing foreign investments to make the island more attractive to international business. The new law offered significantly better terms than its 1995 predecessor, with the aim of boosting investment in Cuba's chronically capital-poor economy. It cut the tax on profits in half, from 30% to 15% for most industries, and eliminated the old 25% tax on labor costs. Investors in joint ventures got an eight-year exemption from all taxes on profits (LeoGrande 2014). In short, the new law represented an acknowledgment that foreign investment was essential to economic growth. Minister for Foreign Trade and Investment Rodrigo Malmierca declared that Cuba hopes to attract between \$2 billion and \$2.5 billion in foreign direct investment annually (Trotta 2014). As of 2016, Cuba was attracting only a small fraction of that. The United States is an obvious potential source of capital since most foreign investment in the Caribbean originates in the United States.

The new port at Mariel, designed and built by the Brazilian engineering firm Odebrecht, was Cuba's largest capital investment project in decades. The modern facility can accommodate the large container ships that began transiting the Panama Canal in 2016 when its "Panamax" expansion was completed. Mariel aspired to become a key trans-shipment point for the transfer of containers to smaller ships destined for ports unable to accommodate the larger ones. In addition, Cuba hoped that the modern facilities at Mariel would help attract investors to the surrounding Special Development Zone, where the terms for foreign investors were even more attractive than outside it. Investors were allowed 100%



foreign ownership, duty-free import and exports, the tax on profits is just 12%, and investors got a 10-year tax exemption (LeoGrande 2014).

The U.S. embargo prohibited ships docking in Cuba from entering U.S. ports for 180 days, thus barring Mariel traffic from the principal transshipment destinations along the U.S. east coast, though this restriction was relaxed for some cargo in October 2016. The vision of Mariel as a principal trans-shipment point for container traffic and a center for foreign investment seemed impossibly ambitious so long as U.S. investors were barred from Cuba and the U.S. market remained closed to Mariel shippers and manufacturers.

For all these reasons, Cuba had a strong economic interest in normalizing relations with the United States, regardless of who succeeded Raúl Castro and the other historical leaders of the revolution. Yet Cuba's leaders could choose to move ahead gradually to prevent their economy from being pulled back into the orbit of the United States by market forces, as it was in the first half of the twentieth century. Before 1959, some 69% of Cuban trade was with the United States (LeoGrande 1979, 12–17). That level of dependency entailed tremendous risk; Cubans learned the hard lesson of how disruptive it could be when the U.S. embargo cut off trade in 1961, and again when the collapse of the Soviet Union in 1991 cut off most trade with Russia and the former Soviet states.

### **Bilateral Relations in an International Context**

International opinion was universally favorable to the new U.S.-Cuba relationship, especially in Latin America, which hailed Cuba's participation in the Seventh Summit of the Americas in April 2015, and celebrated Obama for finally making good on his 2009 pledge at the Fifth Summit to undertake a “new beginning” with Cuba. In fact, it was Latin America's frustration with the old U.S. policy of hostility, expressed most forcefully at the Sixth Summit in Cartagena, Colombia, in 2012, that contributed to Obama's decision to embark on the new policy.

The diplomatic good will Washington gained in the hemisphere was a compelling reason to keep the new policy on track. Yet some U.S. analysts still believed that Latin America's ire over the old policy of hostility was just for show—a cynical genuflection to domestic opinion that Latin leaders did not really mean. No Latin American government, this argument goes, would sacrifice its bilateral interests with the United States over U.S. policy toward Cuba. Historically, this was true, but Latin America in the early twenty-first century was much less dependent on the United States and was governed by more progressive governments than previously. Moreover, the contemporary agenda for the United States in the hemisphere was dominated by transnational



issues like narcotics trafficking, organized crime, environmental degradation, and immigration—issues that required not just Latin American acquiescence but its active cooperation. As a number of U.S. officials from the president on down remarked, that cooperation was stymied by Latin America's rejection of Washington's old Cuba policy.

Nevertheless, the international environment also posed risks to the new relationship between Havana and Washington. Cuba's friends abroad still tended to be Washington's adversaries, from Venezuela to Iran, Syria, Russia, and China. An international crisis could put Cuba and the United States on opposite sides of an issue suddenly catapulted into the headlines—for example, a political crisis in Venezuela. In 1975, the bilateral talks about normalizing relations initiated by Henry Kissinger were derailed by Cuba's military support for Angola to repel an invasion by South Africa. Then, Cuba was unwilling to sacrifice the rest of its foreign policy in exchange for better relations with Washington, and that principle likely still holds (Gleijeses 2003).

Even relatively insignificant issues can be blown out of proportion when there is a high degree of distrust, and when some people are eager to seize on any excuse to reverse the progress made thus far. In 1978 and 1979, Republicans jumped on the Soviet Union's shipment of modern MiG-23 fighters to Cuba and the "discovery" of Soviet troops on the island (troops who have actually been there since the 1962 Missile Crisis) to denounce President Jimmy Carter's attempts to improve relations (LeoGrande and Kornbluh 2015, 196–211). More recently, the discovery in 2013 of Cuban military equipment clandestinely en route to North Korea produced conservative calls in the U.S. to intensify sanctions against Cuba (Kriel and Adams 2013). An anonymous report in 2015 of Cuban troops fighting in Syria, though discredited, was widely circulated by opponents of Obama's normalization policy (Boyer 2015).

### **Normalizing Relations with Communist Adversaries**

Cuba is not the first communist adversary with whom the United States has reconciled. The precedents of Vietnam and China offer some insights into what the road ahead may look like, including what issues loom as stumbling blocks and what factors can propel the process forward. In the aftermath of the Indo-China war, Vietnam and the United States harbored deep distrust of one another, which was only gradually overcome through a protracted series of step-by-step agreements (Brown 2010). Skeptics in both governments resisted normalization. In Washington, the POW/MIA movement and its Congressional allies insisted on full disclosure and cooperation from Vietnam as a condition

for normal relations. In Hanoi, conservatives worried that the United States would exploit closer relations to undermine communist political control—a goal that President Bill Clinton openly espoused, just as he did regarding Cuba. Because they were geographically dispersed, Vietnamese Americans were never the political force that Cuban Americans became in the 1980s and 1990s. But like their Cuban counterparts, the older generation of Vietnamese exiles were vigorous opponents of normalization, whereas their children sought to reconnect with their mother country through travel and remittances.

The most powerful forces favoring normalization with Vietnam were economic actors. In 1986, facing a deteriorating economic situation, Vietnamese leaders embarked on the Doi Moi program of economic reform giving freer rein to market forces, expanding foreign trade, and seeking to attract foreign direct investment. In this context, normal relations with the United States offered potential economic gains. As economic opportunities in Vietnam opened up, the U.S. business community emerged as a major force lobbying Congress in support of normalization. Nevertheless, the U.S. economic embargo was not lifted until 1994 and diplomatic relations were restored in 1995 (Pham 2006). Common interests also played an important role, foremost among them balancing the growing power of China. But throughout the normalization process and beyond, the United States and Vietnam have continued to disagree on issues of democracy and human rights (Brown 2010).

For two decades after Mao Zedong's communists had won the Chinese civil war in 1949, the United States maintained the pretense that the Nationalists on Taiwan represented the "real China." This paralysis of policy was enforced by the feared "China Lobby," a cabal of right wing Republicans and Chinese expatriates who threatened to smear anyone favoring rapprochement as soft on communism. With memories of McCarthyism and the "who lost China?" debate still fresh, few officials in government dared challenge the status quo.

With the Sino-Soviet split in the mid-1960s, Washington and Beijing came to recognize a common strategic interest in containing the Soviet Union (Goh 2005). That finally led to a reassessment of U.S. policy and President Richard Nixon's historic opening to China in 1971–1972. Nixon's policy was widely applauded abroad, where U.S. allies had long since come to recognize China's growing international stature, and even at home, where the China Lobby proved to be a paper tiger.

Nevertheless, it took nearly a decade of negotiations before full diplomatic relations were restored and outstanding claims settled in 1979, clearing the way for increased trade and investment. In 1972, bilateral trade stood at just \$4.7 bil-

lion (Wang 2013). However, Deng Xiaoping's economic reforms launched in 1976 soon opened the door to foreign trade and investment. By 2001, when China was finally granted permanent most favored nation (MFN) status (now known as permanent normal trade relations), trade had grown to \$121.5 billion (U.S. Census Bureau 2016). In the congressional debate over MFN, opponents cited China's brutal suppression of human rights, especially the 1989 Tiananmen Square massacre, as reason to deny China favored treatment. As in the case of Vietnam, the U.S. business community proved to be a powerful force in support of fully normal commercial relations, and MFN was approved (Behr 1994).

The parallels between Cuba's unfolding relationship with the United States and the normalization of U.S. relations with Vietnam and China are striking. In all three cases, the opening began with the realization that the old policy of hostility no longer served the interests of either country. With Vietnam and China, strategic issues were the main motivation, more so than with Cuba. But the changing international context did affect Washington's calculus; U.S. hostility toward Cuba was damaging relations with Latin America and the rest of the world. It was, as National Security advisor Ben Rhodes (2016) said, "an albatross" dragging down U.S. leadership.

For years, vocal domestic political lobbies in the United States blocked rapprochement with all three countries. But with the passage of time and demographic change, new generations more interested in engagement than isolation diluted the political power of the naysayers. The Cuban American lobby was reminiscent of the China Lobby in the 1950s (LeoGrande 2013) and wielded far more political clout than Vietnamese Americans, but the MIA/POW movement made up the difference. Over time, the political views of Vietnamese Americans and Cuban Americans mellowed as the younger generations supplanted the original exiles. The process of economic reform undertaken in China (1976), Vietnam (1986), and Cuba (2011) offered U.S. businesses attractive opportunities in trade and investment, turning them into a powerful new lobby for normalization.

In all three cases, officials confronted a complex mix of issues and had to overcome decades of distrust. With Vietnam and China, U.S. policy changed gradually and incrementally, both to build trust and allay domestic opposition. Obama's approach to Cuba began that way with small steps in 2009 and 2011 to expand linkages between the two peoples. The dramatic announcement of December 2014 was not followed by a grand bargain, but by a series of limited agreements on issues of mutual interest and a gradual relaxation of commercial regulations.

Finally, in all three cases, the issue of human rights has remained ever-present on the bilateral agenda, a persistent point of disagreement and irritation, as

the United States continues to press the case for political reform. Nevertheless, leaders have been able to prevent disagreements over human rights from derailing other aspects of bilateral relations that serve their common interest.

### **No Time to Lose**

In 1977, when President Carter directed his new administration to begin negotiations to normalize relations with Cuba, Robert Pastor, the National Security Council director for Latin America, wrote a memo to National Security Advisor Zbigniew Brzezinski raising a red flag of caution. Senior officials were focused on the question of “how to get the process moving,” Pastor noted. But, Pastor warned, “That is the easy question. The more difficult and important one...is not how to start the process, but rather how to manage it and keep it from getting stuck” (Pastor 1977).

Pastor’s warning was no less true in 2015. Obama’s attempt to normalize relations was at risk of stalling unless it produced tangible results sooner rather than later. Both governments needed to demonstrate to skeptics in their own ranks that the new policy paid dividends, and that the cost of reversing it would be high, both domestically and internationally. In the absence of forward progress, the people pushing for normal relations—within the political leadership of both countries, in civil society, and in the international community—could lose heart and falter. Opponents of normalization would redouble their efforts to derail the process.

Keeping normalization on track would be no easy task, since the core issue of U.S. economic sanctions against Cuba was, for all intents and purposes, off the table until 2017 at the earliest. For Cuban leaders, this inability to resolve the most important issue on Havana’s agenda reduced their sense of urgency to move ahead on other issues. Too often in the past, Havana had reached agreement with Washington on tertiary issues like migration in the vain hope that this would lead to the removal of economic sanctions. It would not be surprising if Cuban leaders remained wary about resolving a multiplicity of other issues, thereby reducing Washington’s incentive to lift the embargo. Yet reaching agreements on issues of mutual interest was one of the few things the two governments could do to sustain the momentum of normalization in the months before the 2016 U.S. elections.

There were, however, unilateral actions that each side could take to implement some of the changes already announced. On the U.S. side, the administration could dismantle or restructure programs that were remnants of the old policy of regime change—the democracy promotion programs and Radio and TV Martí—bringing them into line with the new policy of coexistence and engagement. The president could also issue a new package of licensing

changes allowing U.S. businesses to invest in Cuba for the benefit of the Cuban people (the same criteria used to license trade), and allowing Cuban exports to enter the United States.

On the Cuban side, the government could take advantage of the changes already made in the embargo by facilitating import and export licenses for private Cuban businesses wanting to trade with the United States. It could also accelerate government contracts with U.S. businesses in the sectors exempt from the embargo. Such actions would reinforce the commitment of the U.S. business community to lobby for repeal of the embargo in its entirety.

December 17, 2014, marked an historic change in relations between Cuba and the United States, but it was only the first step. The reestablishment of diplomatic relations six months later marked the successful conclusion of “the first stage” of the dialogue between the United States and Cuba, observed Foreign Minister Bruno Rodríguez (2015), but a “complex and certainly long process” of negotiations lay ahead before the two countries would have truly normal relations. “The challenge is huge,” he added, “because there have never been normal relations between the United States of America and Cuba.” At a time when the people of Cuba and the United States were eager to move beyond the animosities of the past and establish a fully normal relationship, the two governments had good reason to move quickly to do the same. To be sure, fast action entailed some political risk for leaders in both capitals—but the greater risk was moving too slowly and squandering the opportunity that Barack Obama and Raúl Castro created on December 17, 2014.

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## CHAPTER 2

# **The New Era of Cuba-U.S. Relations: Breaking Down Axioms and Establishing Lasting Legacies?**

Soraya M. Castro Mariño

The announcements by President Raúl Castro and President Barack Obama on December 17, 2014, of the decision to initiate a new era in the relations between Cuba and the United States were of historic and political importance. They constituted the most significant change in United States policy toward Cuba since 1959. After twenty months of secret conversations in which the Vatican, particularly His Holiness Pope Francis, and the Canadian government served as facilitators, both governments initiated a process toward normalization.<sup>1</sup>

The existing asymmetries and the strategic objectives of Cuba and the United States are not particularly in tune in the medium term. However, Thucydides' realist axiom that "the strong do what they can and the weak suffer what they must" (Tucídides 2008) may actually prove erroneous if the process toward normalization leads to a different kind of relationship between the two countries.

The nature and structure of the Cuba–United States relationship is deeply rooted in the dichotomy of sovereignty vs. domination. The historical character of the relationship was fixed in the late nineteenth century with the intervention of the United States in the Cuban war of independence from Spain. The Cuban nation, born as a republic under U.S. military occupation and political terms, retains in its soul a sense of frustration, humiliation, and distrust. This sense was reinforced by the 1901 Cuban Constitution, which contained a sword of Damocles, the Platt Amendment. This amendment to the Cuban constitution gave the United States the unconditional right to intervene in Cuba's internal affairs and arrogated to the United States government the right to define Cuba's future and its form of government (Schoultz 2009, 22–33). Clearly, 1959 brought about a rupture in the complicated and contradictory ties of dependence and subordination of the Island to the Colossus of the North, which the historian Louis Pérez,

Jr. characterized as having a “singular intimacy” (Perez 1990, 149-169).

Until December 2014 the policy of perpetual antagonism of the United States toward Cuba, as described by Henry Kissinger, was designed to isolate and reverse the splitting off of the Island from the orbit of U.S. domination in Latin America and the Caribbean (Kissinger 1999, 777).<sup>2</sup>

Over more than five decades, nearly all of the instruments of U.S. national power have been used in an attempt to overthrow the Cuban Revolution, from the Bay of Pigs invasion (1961) to the imposition of the most comprehensive set of U.S. unilateral economic, commercial, and financial punitive sanctions against any country in the world. This U.S. embargo, known among Cubans as the blockade, was designed with the purpose of bringing about hunger and desperation as a means of regime change in Cuba. It was also intended as a form of collective punishment and impoverishment of the Cuban people. In general, this policy of hostility benefitted from a broad bipartisan consensus in the U.S. political system. Only occasionally was there resort to negotiations with the intention of achieving small adjustments and corrections in the evolution of both societies or transformations in the relative positions of each country in the international context.

The public acceptance by Barack Obama in December 2014 that hostility had not achieved the expected results, but rather ended up isolating the United States, is paramount to understanding why there was a need to “change” the means or instruments of U.S. foreign policy toward Cuba. This need for change, however, has not resulted in a modification of the United States’ strategic end, that is, to change the Cuban socioeconomic and political system (White House 2014).

This caveat, nevertheless, doesn’t eclipse the fact that Barack Obama overcame the symbolic cost of negotiating with the Cuban government and its historic leadership. His 2016 visit to Havana, the first undertaken by a President of the United States since 1928, formalized a new vision that broke with the traditional policy of hostility in favor of another that opposed the Cuban government by means of the “empowering” of the “people” and the identifying of specific Cuban groups and social strata as drivers of future transformations inside Cuba. Instead of betting on a sudden and chaotic modification encouraged from outside, the metamorphosis is to be stimulated from within, capitalizing on the substantial modifications that are occurring in the Island, as much in the socioeconomic as in the political realm.

This vision permeated the Presidential Policy Directive #43 unveiled on October 14, 2016, which marked Barack Obama’s breakthrough moment to-

wards a policy of full normalization. The Directive articulated an intention to develop a comprehensive and thoroughgoing government approach that would promote engagement with the Cuban government and people, and make the process irreversible as part of President Obama's legacy.

This unclassified directive superseded and replaced George W. Bush's administration's (2001-09) Cuba policy, as well as prior classified documents laying out U.S. policy. The objective was to negotiate respectfully instead of with animosity, even though challenges remain and very real differences persist. Obama's policy was more akin to seduction in order to influence more effectively the Cuban reality in the process of transformation. Although this executive measure was a major step, a key roadblock between the countries still remains in place: the blockade.

Undoubtedly, the long and complex process toward normalization that was initiated on December 17, 2014, constitutes a turning point in the conflictual relations between the two countries. In his last two State of the Union Addresses, in his speech to the UN General Assembly in 2015, and in his visit to Havana, President Obama urged Congress to end the embargo, reflecting a policy priority (Obama 2015a, 2015b, 2016a, 2016c). It is notable that on October 26, 2016 the Obama administration abstained from voting for the first time ever during the 25th consecutive consideration by the United Nations General Assembly of a Resolution condemning the Cuban embargo.

This chapter proposes to explain the development of the process toward normalization by using a multidimensional analytical framework that demonstrates how four geopolitical contexts converge: the United States of America, the Republic of Cuba, Latin America and the Caribbean, and the international context.

### **The Inflection Points toward the Normalization of Relations: From December 17, 2014 to November 17, 2016**

The asymmetry and the disparity of the capabilities of the U.S. as a world power that flaunts its political-diplomatic/cultural-informational/military supremacy as a nation-state on the global level and the Republic of Cuba, profoundly affect the nature of their past and future relationship. However, in the long and complex road toward normalization, there is an apparent inclination toward coordination by both governments that is based on mutual interests and on an evaluation of calculated risks. This has led to a sense that through trust and confidence-building measures there can be an acceptance of future synergies (Castro Ruz 2014a). The best example of this understanding being the reestablishment of diplomatic relations and the opening of embassies on July 20, 2015, barely seven months after the joint presidential announcements.

Many analysts have attempted to compare what occurred in Cuba with the establishment of diplomatic relations by the United States with the People's Republic of China and with Vietnam. The major difference between the Cuban and Asian cases resides in the fact that the restoration of diplomatic relations and the opening of the respective Cuban and U.S. embassies preceded substantive negotiations to resolve a variety of issues, whereas negotiations with China and Vietnam occurred years before the establishment of formal ties.

The development of the negotiating agenda between Cuba and the United States has been shaped by the creative and pragmatic manner in which specific actions have been taken such as the removal of Cuba in May 2015 from the list of state sponsors of terrorism (Kerry 2015). While these policy changes were being implemented, official conversations were also taking place which led to the signing of Memorandums of Understanding, as well as arrangements, joint declarations, and technical proceedings in different areas of common interest. This process has allowed for the construction of a basis for communication and understanding and to the establishment of an atmosphere of respect where negotiations deliver tangible results. In this context, a synergy is generated which permits the articulation and definition of new needs, stimulating the expansion of the framework of cooperation into multiple areas of common interests, not only at the highest level of decision making, but also among implementers and practitioners of policy.

The constructive way in which both governments have pursued their own national interests has transcended the dysfunctional "quid pro quo" approach which previously presented so many obstacles. Even though the existing signed non-binding bilateral instruments do not have the same legal status as treaties, they have had a positive spillover effect into the regional and the international arenas, all of which fortifies the hypothesis that the two countries are living in a qualitatively different context. Unfortunately, this era of impressive advances might prove to be a short-lived and an ephemeral historic moment in light of the outcome of the 2016 U.S. presidential and congressional elections.

Despite the historic conflict, the asymmetries, the lack of mutual trust, and the characteristics that dominated the relations between the two nations for fifty-five years, the likelihood now is of respectful dialogue, negotiations, and cooperation on the basis of equality. At the same time, peculiarities in the relationship influence the complicated transition underway, in which everything—or almost everything—has to be constructed from the beginning (Brenner 2006, 280–295).

### *Dialogues at multiple levels*

The complex and long process of multiple dialogues can be seen as occurring on different levels, akin to a freeway intersection with roads crossing at different levels and on which the traffic advances at different speeds. As a result of these many levels, occasionally the interpretation of signs can seem discordant and dissonant.

The most elevated highway can be visualized as the one providing for very high level encounters such as the historic visit of President Obama in March 2016 to Havana, preceded by the constructive and respectful encounters of the two presidents during the Summit of the Americas in Panama in April 2015 and during the UN General Assembly in September of 2015 (Obama and Castro 2015; White House 2015a; Cuban Ministry of Foreign Relations 2015).

These meetings corroborate the political will of both parties to advance the process toward normalization, which is reaffirmed by high level visits by members of the Obama's cabinet to Cuba, including Secretary of State John Kerry (August 2015), the Secretary of Commerce Penny Pritzker (October 2015 and March 2016), the Deputy Secretary of Homeland Security Alejandro Mayorkas (October 2015 and May 2016), the Secretary of Agriculture Thomas Vilsack (November 2015 and March 2016), the Secretary of Transportation Anthony Foxx (February 2016), the Administrator of the Small Business Administration María Contreras-Sweet (March and June 2016) and the Secretary of Health and Human Services Sylvia Burwell (October 2016).

Reciprocally, the Cuban Minister of Foreign Relations Bruno Rodríguez Parilla (2015 and 2016), the Minister of Foreign Trade and Foreign Investment Rodrigo Malmierca (February 2016), the Minister of Public Health Roberto Morales (June 2015 and June 2016), the First Vice Minister of Public Health José Ángel Portal Miranda (March–April 2016), and the Minister of Agriculture Gustavo Rodríguez Rollero (June 2016) have engaged in working visits to the United States with the objective of defining points of convergence and divergence in an effort to advance the agenda of the dialogue through tangible steps.

On another level on the multilevel highways, senior level political-diplomatic negotiations have taken place. While at first focused on the reestablishment of diplomatic relations and the opening of embassies, these negotiations also achieved a greater level of systematization with the creation of a Bilateral Commission that focused on defining the topics of the negotiating agenda in the short-term (U.S. Department of State 2015a). The principal function of this Commission was to establish the vision, structure, and calendar of meetings and the signing of arrangements, non-binding agreements, and Memorandums of Understanding until January 2017. Its purpose was to

expand the areas of cooperation and dialogue about bilateral and multilateral issues, discuss matters about which there are different conceptions, and seek negotiated solutions to very complex questions. At the same time, representing lower level highways, there are the official talks that recognize previously signed agreements, the implementation of which require systematic encounters such as the rounds of meetings on migration, as well as the conversations between the military commands of both countries in the perimeter of the Guantánamo Naval Base. The agenda and roadmap that was proposed by Cuba and by the United States by the Bilateral Commission is structured around three basic components:

***Component 1: Matters about which there is agreement between the two parties to collaborate:***

The first component of the Bilateral Commission agenda relates to matters about which there is consensus between the two parties about the possibility of concretizing new arrangements for collaboration in the short and medium term. This includes broad issues related to the environment, climate change, the protection of biodiversity and shared ecosystems, the response to natural disasters, the fight against pandemics, infectious diseases, and other threats to world health, cultural, scientific, and academic exchanges, telecommunications, agriculture, meteorology, seismology, civil aviation, intellectual property, protection of trademarks and patents, application and fulfillment of laws, money laundering, drug trafficking, human trafficking and smuggling, and other crimes of a transnational nature. In this respect, tangible results and substantial advances have been valuable. The trilateral cooperative project with respect to health care for Haiti is notable and was recognized in the General Assembly of the United Nations on September 29, 2015.

The capacity to capitalize on experiences that previously produced positive results even when they were undertaken in an impromptu manner, as was the case with the combination of efforts by both countries after the earthquake in Haiti and in the fight against the Ebola epidemic in Africa, permitted cooperation in favor of the common good. On June 11, 2016 a Memorandum of Understanding on public health was signed that establishes coordination across a broad spectrum of public health issues, including global health security, communicable and non-communicable diseases, research and development, and information technology. This cooperation goes beyond positive bilateral effects to a constructive spillover to other nations. Further, it facilitates the generation of more systematic action in favor of equity in human health, both in combating



infectious diseases, such as the Zika virus, dengue, chikungunya, and in the prevention and treatment of chronic non-contagious diseases such as cancer.

In the areas of environmental protection and the fight against climate change substantial beneficial improvements have already been achieved, although it is imperative to continue deepening collaboration in this area given the 2015 signing by both governments of the Accord on Climate Change in Paris (United Nations 2015). The signing of a Memorandum of Understanding between the Ministry of Science, Technology and Environment of Cuba (*Ministerio de Ciencia, Tecnología y Medio Ambiente de Cuba*, CITMA), the National Oceanic and Atmospheric Administration (NOAA), and the National Park Service of the United States in November 2015, facilitates joint efforts concerning science, stewardship, and management related to Marine Protected Areas (MPAs) (NOAA 2015). The arrangement calls specifically for scientists from the Florida Keys and the Texas Flower Garden Banks' national sanctuaries to work together with researchers from Cuba's Guanahacabibes National Park and the Banco de San Antonio.

In addition a Joint Declaration with the Department of State about environmental cooperation favors the reinforcement of capacities and the joining of forces of the two nations. It includes maritime, coastal, and biodiversity protection, including endangered species, climate change, the reduction of waste water, and marine contamination (U.S. Department of State 2015b). At the same time, in December 2015 an agreement was reached that allows for the reestablishment of direct mail service. On February 16, 2016, a Memorandum of Understanding was signed to establish commercial air service between the two countries, which started in August 2016 (U.S. Department of State 2016a).

Many agricultural cooperation advances have also been made. In March 2016, the Ministry of Agriculture of Cuba and the Agricultural Department of the United States signed a Memorandum of Understanding to stimulate advances in commercial agriculture, agricultural productivity, food security, sustainable management of natural resources, as well as to facilitate cooperation in matters related to the exchange of information about mechanisms and strategies to confront climatic changes, which would help agricultural producers address new challenges.

As part of this first component of the Bilateral Commission, technical-professional exchanges are also advancing with respect to the national interests of both countries that have the potential to become collaborative instruments in the near future. For example, talks related to fraud identification, human smuggling, cybercrime, counterterrorism, and the first legal cooperation technical exchange are taking place.

The best example of this broader Law Enforcement Dialogue is the signing in July 22, 2016 of the Memorandum of Understanding on cooperation and information sharing between Cuba and the United States in their common effort against illegal narcotics trafficking (U.S. Department of State 2016b, 2016c). The long-term cooperation and exchanges between the U.S. Coast Guard and the Cuban Frontier Guards have been fortified for years since President Bill Clinton's administration (1993-2001). At that time, Cuba and the United States signed an arrangement to cooperate on interdicting narcotics trafficking. As part of that agreement, the U.S. Coast Guard stationed a liaison officer at the U.S. Interests Section in Havana, who soon became a vital channel of communication not only on drug issues, but also on U.S.-Cuba migration and broader matters. The respect and professional relations established by working together revealed the need to work on new measures and arrangements on drug trafficking interdiction and created the conditions for the new Memorandum of Understanding to cooperate against illegal narcotics trafficking.

Another example of how technical professional conversations can stimulate the signing of arrangements is the Memorandum of Understanding on hydrography and nautical charting to improve the security of maritime navigation. It was signed by the National Oceanic and Atmospheric Administration and the National Office of Hydrographic and Geodesy of Cuba on March 22, 2016 (NOAA 2016). The MOU defines specific actions to improve coordination in making nautical charts, monitoring and forecasting tides and currents, as well as modernizing geodesic networks and spatial frameworks. In addition, it allows for the exchange of information, experiences, and good practices, joint research, and the development of mechanisms, methodologies, and technologies, all of which could be taken into consideration in a possible MOU on cooperation about protected lands.

On July 27, 2016, the U.S. Department of State released the 2015 Trafficking in Persons Report and Cuba, which had ranked in tier three for over ten years, was moved to the tier two Watch List. According to the State Department, that designation means that the country does not comply with the U.S. Trafficking Victims Protection Act's minimum standards to fight this crime, but is "making significant efforts" to reach compliance (U.S. Department of State 2015f). **In spite of how questionable the unilateral drawing up of such lists is, it is highly likely that in the field of human smuggling both governments might cooperate in order to anticipate and confront this type of transnational crime.**

In this respect, it is notable that both governments are signatories of the UN Convention against Transnational Organized Crime and its Complemen-

tary Instrument against the Illicit Traffic of Migrants by Land, Sea or Air and the Protocol to Prevent, Repress, and Sanction Human Trafficking, especially of women and children (United Nations Office on Drugs and Crime 2004). The United States and Cuba have each agreed to invite the UN's Special Rapporteur on Trafficking in Persons to conduct an official visit to their respective countries, which is an extremely positive decision because this can open the way for effective collaboration between the two countries with a view toward preventing and combating these scourges (White House 2015b). As a consequence, it would be possible to firm up appropriate bilateral instruments that would allow for the use of special techniques of investigation, undertake joint inquiries, exchange information about the mechanisms and methods used to conceal the activities of organized crime, such as the routes and the means of transportation and the use of false identities and altered or false documents. Cooperation would include the exchange of personnel and experts including the designation of officials as liaisons, in accordance with a projected arrangement or possibly a bilateral agreement scheduled to be signed in early 2017.

The Multi-Lateral Technical Operating Procedure (MTOP) to institute safety protocols in the event of cross-border spills and the Operational Procedure for Aeronautical and Maritime Search and Rescue have contributed to mutual confidence building. Both procedures have the potential to be upgraded to Memorandums of Understanding or Arrangements and to expand the collaboration in other areas in a much more systematic way (U.S. Department of State 2015c).

As part of this new era, for the first time, in January 2016 a Cuban delegation attended the annual Caribbean Regional Security Conference (CANSEC) in Jamaica that was co-sponsored by the U.S. Southern Command and addressed common challenges and possible collaborative efforts to combat drug trafficking as well as human smuggling. It is a sign of how the repairing of relations is opening up greater possibilities for cooperation on issues of regional security.

This first component of the Bilateral Commission constitutes a point of strategic inflection. It takes into account the transformations in the domestic contexts of both countries and the dilemmas of national, bilateral, regional, and international security from a holistic perspective. This approach permits establishing horizontal, vertical, and transversal collaborative networks for each multidimensional challenge and constant communication aimed at the reduction of risks and vulnerabilities. On both sides, there is now a clear understanding that the complexity of these topics transcends the ontology of the bilateral Cuba–United States relationship. In this logic both sides should take into consideration that the security dilemmas in the economic, social, and environmen-

tal sectors constitute elements of the first order and are as significant as matters directly concerning military threats. This rationale and the tangible advances in confronting these challenges can help to shape a new paradigm or model of a cooperative and successful relationship between Cuba and the U.S., in which, recognizing the existing differences, the emphasis falls on cooperation in terms of national interests (Buzan 2008, 292–294).

In the dynamic of interactions after December 2014, a new aspect is developing the interlocution and interaction between policymakers of different departments and agencies in Cuba and the United States. This interaction has the added value of bringing together practitioners and specialists for the purposes of establishing a dialogue and generating a mutual learning curve that can lead to the implementation of bilateral instruments. In that spirit, the regulatory dialogues designed to elucidate and embody the new U.S. domestic administrative regulations related to Cuba are very positive. They provide an opportunity for both sides to clarify the norms, avoid misunderstandings, sharpen the articulation, and enable the implementation of actual policies (U.S. Department of the Treasury 2016b).

*Component 2: Opening new spaces for dialogue on issues where diverse conceptions persist*

The second component of the Bilateral Commission is aimed at “opening new spaces for dialogue” on issues where “diverse conceptions” persist such as on the topics of human rights and monetary claims and counterclaims (U.S. Department of State 2015d, 2015e). Meetings on both topics were held in March 2015 and October 2016 and in December 2015 and July 2016. The gatherings represented the first steps in the exchange of information and in the presentation of initial arguments capable of establishing the basis of the discussion and the views on practices and on the processes for going forward. What is notable is that no topic was excluded in the establishment of the long and complicated process aimed at normalization, even when it was mutually recognized that in some matters there could be concrete and significant advances, while on others the negotiations would be more arduous and the pace slower.

The third component of the talks involves a number of thornier issues directly impacting the core of Cuba’s foreign policy. These include, the total elimination of the blockade, compensation for the people of Cuba for the blockade’s human and economic costs, the return of the Cuban territory occupied by the Guantánamo Naval Base, the cessation of the U.S. government’s radio and television transmissions (Radio and TV Martí), and the cancellation of the so-called

“democracy promotion” programs, which are based on the logic of regime change derived from the 1996 Helms-Burton law (USAID 2016).

Likewise, in this transitional phase of the process, the U.S. government maintains migratory norms that are contrary to a process aimed at normalization. Some progress was made when on January 12, 2017 the Obama administration announced the end of the “wet foot, dry foot,” policy and the special program granting visas to Cuban medical personnel who work in third countries, known as the Cuban Medical Professional Parole Program (Krikorian 2016). These policies were perceived by the Cuban government as a continuation of the hostility and philosophy of “regime change”. As such they constituted serious impediments to normalization in that they did not reflect the spirit of the new era. (Castro Ruz 2015).

Another issue of concern was the Obama administration’s doctrine of “Smart Power” and the combination of the instruments of U.S. national power used in the antagonistic policy toward Cuba that are submerged in a more seductive, subtle, and creative narrative (Nye Jr. 2011). For example, the methods and instruments to induce “change in Cuba” evolve in accordance with the transformations taking place in the Island and have a tendency to move more on the economic-technological-cultural axis. As never before, and in an integral and holistic manner, the government of the United States is taking into account Cuba’s evolving internal situation in the shaping of its policies. The U.S. government defines certain Cuban groups and sectors as drivers of change and directs its attention toward those groups, with the goal of impacting them by capitalizing on the transformations that are taking place in the heterogeneous Cuban society to promote the United States’ own interests.

The application of Smart Power is complemented by the functional interaction of technology and informatics, by means of a communications strategy that relies on the channeling of funds not only to groups opposed to the Cuban government, but also to other social forces that are considered to be drivers of internal change on the Island. Almost no sector is excluded, but there is strong interest in youths, women, blacks, and mestizos, the entrepreneurial *cuentapropistas*, *cooperativistas*, and owners of micro, medium, and small enterprises (Obama 2016a, 2016b). It is a U.S. bet on gradual change in the Cuban system, promoted by Cuban actors from within and without the Island. But the domestic Cuban drivers are the determinants in the equation encouraged and supported by politically motivated actions that the government of the United States carries out. Different perceptions and visions about Cuba’s future coexist and the U.S. government’s forecast is that sooner rather than later there will be political changes in Cuba.

According to Antonio Gramsci, hegemony is the capacity to produce and obtain a consensus for a universe of values, beliefs, moral norms, and rules of conduct in the political, intellectual, and moral management of society (Gramsci 2001, 91). Seen from the point of view of the Gramscian theory of hegemony, Obama offers a battle for position. The U.S. Democratic administration's vision was based on the long term. It aspired to the evolution of a political and socioeconomic system in Cuba that might respond ultimately to U.S. national interests. As President Barack Obama has said "Change won't come overnight to Cuba, but I'm confident that openness, not coercion, will support the reforms and better the life the Cuban people deserve" (Obama 2015a).

The biggest challenge is that the essence of the U.S. economic, commercial, and financial embargo/blockade is maintained, in accordance with the tangle of laws that sustain it, including the Trading with the Enemy Act of 1917, the Foreign Assistance Act of 1961, the Torricelli Law of 1992, the Helms-Burton Law of 1996, and the Trade Sanctions Reform and Export Enhancement Act of 2000. In spite of repeated requests to Congress by President Obama to eliminate the blockade, Congress has resisted (Obama 2015a, 2015b, 2016a, 2016c). But the maintenance of the blockade as an instrument of coercion is detrimental to the United States' own policies and interests, since it limits action, as well as creates uncertainties about the possibility of expanding U.S. influence in Cuba and on its expected political changes. Benevolence and seduction don't look as appealing when hostility and punishment are involved.

The most relevant of the modifications adopted since the reestablishment of diplomatic relations and the opening of embassies is the expansion of the spaces for negotiation and opportunities for cooperation in matters of mutual interest. In only twenty months, a lot was achieved in the political and diplomatic areas, twelve arrangements, memorandum of understanding and non-binding agreements having been signed by the two governments, but very little has been advanced in the commercial and economic arena.

Under Obama, the U.S. was acting at a social level in a proactive fashion under the rubric of "empowering the people" in a kind of "detente" with the socialist government of Cuba. But the maintenance of the unilateral economic, commercial, and financial sanctions against Cuba made the narrative futile insofar as the aim of the blockade remains "impoverishing the people." The use of third-party sanctions against other countries whose cooperation is needed is a great obstacle not only for political reasons but also in practical terms, and is damaging for both countries.

The contradictions of this duality, between benevolence and seduction on the one hand and the maintenance of the policies of coercion and hostility

on the other, characterize the environment in which the transitional process toward normalization is developing. Nevertheless, it is important to understand that in the new era, the strategic interests of Cuba and the United States are being discussed in a dialogue of equals and about “the most diverse topics in a reciprocal way”, permitting the discussion and resolution of discrepancies and controversies by means of negotiations, all while both governments learn “to live with their differences” (Castro Ruz 2014b).

### **Is the Normalization Process Reversible?**

In spite of the political will demonstrated by both governments in the months since the presidential announcements in December 2014, the essential question remains whether this process toward normalization is reversible or irreversible. This section will analyze the key elements of the sustainability of the process in both countries and will highlight key international dynamics that impact the normalization process. This section emphasizes the dynamics at play in the United States in light of the results of the 2016 presidential and congressional elections.

#### ***Cuba***

In terms of Cuba, the key dynamics revolve around the changing of the historic political leadership of the country and the retirement of President Raúl Castro Ruz in 2018 as President of the Council of State; the consequences of the transformations resulting from the updating the Cuban socio-economic model; the planned constitutional reform; and the political decisions taken as a result of the VII Congress of the Communist Party of Cuba (Partido Comunista de Cuba 2016).

The success of the ongoing Cuban economic updating requires an injection of technology. The Law of Foreign Investment of 2014, the provision of legal resources, and the concretization of the portfolio of opportunities ought to stimulate foreign capital investment. The new era in the relations between Cuba and the United States, the growth of Cuba’s GDP in 2016, and the restructuring of its foreign debt reduces the threshold of risk, making the Cuban market more attractive, and, in consequence, stimulates foreign capital investment.

Before the outcome of the 2016 U.S. election, there was an expectation that a new administration would eventually partially lift the blockade via the approval of new U.S. laws, especially in the area of commercial agriculture. This expectation gave way to the stimulation of new business initiatives by entrepreneurs from other countries, as well as by international *credit institutions*. It is notable that Moody’s Investors in February 2015 rated Cuban sovereign notes as Caa2, very much within the category of a speculative, but stable outlook. By December



2015 Cuba remained in this category and this was regarded as positive given the expectation of favorable macroeconomic trends in the face of the possible unification of Cuba's dual currency (Global Credit Research 2015).

Cuba is, however, facing additional challenges. The principal obstacles on the domestic front are the "psychological barrier" formed by inertia, immobility, hypocrisy, double standards, indifference, and insensitivity (Castro Ruz 2011). Corruption, the lack of respect for institutionality, the persistent inefficiencies in the productive sector, and bureaucratization, make it difficult to achieve Cuba's principal domestic strategic objective: sustainable economic development as well as a sustainable and improved standard of living for the population, that incorporates the projected monetary unification and the diversification of foreign trade (Castro Ruz 2012a, 2012b; Partido Comunista Cuba 2016).

### *Latin America, the Caribbean and the International Context*

Key variables for the Island are also the events and modifications that are taking place in global international relations, above all in Latin America and the Caribbean. Cuba has achieved a relevant role as an actor in political developments on a global, continental, and Caribbean scale. In Latin America and the Caribbean, a zone of peace, Cuba participates in cooperative efforts such as CELAC and the Association of Caribbean States (AEC), the integrationist activities of ALBA-TCP and, those aimed at cooperation South-South, such as CARICOM, as well as the strengthening of Cuba's relationships with MERCOSUR and UNASUR (Castro Ruz 2015). Along these lines, Cuba's valuable diplomatic support of the Colombian peace talks demonstrates the effectiveness of Cuban foreign policy as a guarantor of the process, along with Norway (Norman 2016).

Another of the strategies aimed at bringing the Cuban economy up to date was the decision to normalize the service on payments of Cuba's foreign debt and to increase the inflow of foreign money to the Island, especially foreign direct investment. Meanwhile, the Russian government's decision to cancel 90% of Cuba's debt (\$31,700 million dollars), as well as Cuba's renegotiation with the Paris Club of creditors, and the partial or total pardon of the debt owed by Cuba to Japan, Mexico, Uruguay, China, Spain, and the Netherlands, all contribute to the strengthening of Cuba's external economic sectors.

The Mariel Special Development Zone is another key factor for Cuba's economic development. All of this should reinforce and, consequently, support Cuba's productivity together with its whole economic system, even though the Island's gross domestic product (GDP) in 2016 may be below the mark reached in 2015.



The above variables intersect with transformational political factors that encourage a strengthening of Cuba's relations with the European Union as was demonstrated by the signing of the Accord for Political Dialogue and Cooperation in March 2016 in the presence of the EU's High Representative Federica Mogherini which was preceded by visits by the European heads of state François Hollande, Matteo Renzi, and Heinz Fischer. This encouraged the cooperation of European institutions with the Island. Once the document is submitted to the respective internal processes of each country and ratified, the resulting logic ought to erase the negative Common Position, pushed by the then-president of Spain, José María Aznar, in 1996. The environment strengthens the demonstration effect which favors an increase in commercial and investment relations, as much by the European bloc as by its member countries in Cuba. The effect is made more potent through commitments reached at the Summit between the European Union and Latin American and Caribbean States Community (CELAC) in 2015.

The visit of Pope Francis to Cuba, on his way to Washington in September 2015, had special significance as much from the political point of view as the symbolic, taking into account the role of the Vatican in the secret diplomacy between Cuba and the United States. It is evidence of Vatican support for the process toward normalization, whose effects are many and positive. A transcendental occasion was the subsequent encounter in Havana of His Holiness Francis and the Patriarch of the Russian Orthodox Church, Kiril, in February 2016, which situated Cuban diplomacy at the center of a global political event. The meeting had a political and strategic dimension and was the first between the Patriarch of Moscow and a Roman Pontiff since the schism between the Eastern and Western churches in 1054.

In his visit to Cuba Pope Francis, the third Catholic Pontiff to visit the Caribbean Island in the last seventeen years stated: "Geographically, Cuba is an archipelago, facing all directions, with an extraordinary value as a 'key' between north and south, east and west. Its natural vocation is to be a point of encounter for all peoples to join in friendship, as José Martí dreamed, 'regardless of the languages of isthmuses and the barriers of oceans' " (Santo Padre Francisco 2015). The international, regional, and domestic environment affecting Cuba and the United States is favorable to the process toward normalization, which, according to Pope Francis "is a sign of the victory of the culture of encounter and of dialogue" (Santo Padre Francisco 2015).

### *The United States*

In the United States, traditionally, some actors and factors favor reversal while others, on the contrary, favor continuation of the process toward normalization.

Below is a survey of the positions of these actors and factors supporting the process toward normalization up to November 2016.

*The Preamble: The 2016 U.S. elections*

During the primaries and caucuses, the then pre-candidates for the Republican nomination, with the exception of Rand Paul, considered the actions of President Obama in moving towards normalization with Cuba to be negative and erratic. The Cuban-American Republican Senators Ted Cruz and Marco Rubio supported an aggressive agenda towards Cuba and sought the backing of neo-conservatives, even when these positions could have potentially damaged their political capital among independent voters and even Republicans (Garcia 2015). Nevertheless, in contrast to other presidential electoral years the Cuba issue did not become a central polemical factor for the Republicans either in the primaries or in the general election.

From early on in the campaign process, Donald J. Trump asserted that ‘a better deal’ with Cuba could be had. When asked by *The Daily Caller* in September 2015 about the opening with Cuba, he said, “I think it’s fine. But we should have made a better deal. The concept of opening with Cuba is fine. I think we should have made a stronger deal.” (The Daily Caller 2015). A year later in September 2016, he reversed his position and said in Miami that if he were elected, he would repeal all of the “concessions” President Barack Obama made in his efforts to normalize relations, unless Havana met certain demands (Diamond 2016). Trump might have been seeking to drum up support among Cuban-Americans, particularly in Miami-Dade County, where local Republican leaders had largely withheld their support for him, citing his rhetoric on immigration and the fact that he had lost that County to Senator Rubio in the primaries.

At the same time, and taking into consideration that the Cuba issue is not a personal priority for Donald Trump as President, he might also want to cut a deal with some congressional Republicans, like Cruz, Rubio, Ros-Lehtinen, Díaz Balart and Curbelo among others, who actively oppose the process. That pro-embargo trend was well reflected in the 2016 Republican platform that proposed to uphold current U.S. law, including the acts that are the cornerstone of the economic, commercial, and financial unilateral punitive sanctions against Cuba, to keep the transmission of Radio and TV Martí, to strengthen Cuba’s pro-democracy movement by the promotion of expanded internet access and circumvention technology, to restore the Commission for Assistance to a Free Cuba, and to affirm the principles of the Cuban Adjustment Act of 1966 recognizing the rights of Cubans fleeing Communism (Republican Party 2016).

Former Secretary of State Hillary Clinton stated during her campaign, as well as in her book *Hard Choices* that she embraced the doctrine of Smart Power with specific adjustments (Clinton 2014, x, 24, 265). She repeatedly expressed her support for Obama's steps towards normalization and a commitment to continue the process even in the face of political, ideological, and legislative obstacles. She also viewed the objective of the Obama policy to be to promote political and economic change in Cuba in order to promote U.S. interests.

### *The White House, the Congress and States*

Among the variables that could allow for a reversal of the process toward normalization is the fact that the non-binding bilateral agreements, the joint declarations, MOUs, and the administrative regulatory modifications in U.S. policy have been realized by means of executive orders. Thus, after January 20, 2017, President Donald J. Trump could cancel, modify, or make ineffective every executive action or order issued by President Obama.

The fragility of the security relations between the two countries is undeniable and it is not unthinkable that provocations and subjective threats could potentially have an extraordinarily negative impact. In this respect, the President of the Council of State and of Ministers of Cuba, Raúl Castro Ruz, has warned that "both governments ought to adopt mutual means to anticipate and avoid actions that can affect negatively the progress in the bilateral relations, based on respect for the laws and constitutional order of both parties" (Castro Ruz 2014a).

The consolidation of the process by means of approval of bills by Congress that might change the equation and lift the embargo is not likely. It is also unlikely that a substantial modification of the complex of laws that regulate the punitive economic, commercial, and financial sanctions against Cuba might happen under a Republican administration. Even though a bipartisan coalition of Democrats and Republicans in the Congress are pushing to change some laws that limit the sale of agricultural products and equipment to Cuba, the probability that modifications in the existing laws against Cuba would be approved is very limited. In addition, this is linked with the continued flow of official funds for "***programs to promote democracy and strengthen civil society in Cuba,***" as part of the philosophy of regime change as it is defined by the Helms-Burton Act (USAID 2016).

In Congress, the opponents of the process toward normalization of relations with Cuba have the capacity to impact and maneuver in order to reverse the process or to use the Cuban issue as a bargaining chip for other issues. In fact, the Cuban-American Senators and Representatives and their conservative allies of

the extreme right can obstruct the appropriation of funds for the operation of the U.S. embassy in Cuba or introduce amendments or bills that aim to annul the executive measures or substantially reduce their reach, or incorporate conditions on the appropriation bills for different departments and agencies that would hinder progress toward normalization, up to and including strengthening the blockade.

In the Senate, the confirmation of a nomination for a U.S. ambassador to Cuba has already been obstructed and the Obama administration concluded its mandate without ambassadorial level representation in Cuba. The confirmation of former Deputy Assistant Secretary of State Roberta Jacobson as Ambassador to Mexico, an active participant in the 2014-15 negotiations with Cuba, was postponed almost a year in the face of the intransigence of Cuban-American senators, who, at the time, were Republican presidential pre-candidates with a platform of opposition to the rapprochement with Cuba. Finally, in April 2016 the Senate confirmed the Jacobson nomination after negotiations with Marco Rubio and Ted Cruz. Cruz extracted a three-year extension of a law that imposed sanctions on Venezuelan officials and the chair of the Senate Foreign Affairs Committee, Bob Corker, succeeded in gaining approval of the appropriations bill for the State Department including funds for the operation of the U.S. embassy in Havana (Kim 2016).

Despite this opposition from specific sectors, the process of normalization has received bipartisan support in Congress, in state legislatures, as well as among Democratic and Republican governors, along with diverse social and business sectors, entrepreneurs, progressive groups, the media, religious associations, political personalities, artists, celebrities, scientists, think tanks, and universities and academia. For their part, legislators from both parties have introduced multiple bills for the total or partial repeal of the blockade, for the abolition of all the restrictions on travel to Cuba, and for lifting barriers to agricultural trade.

The export to Cuba of agricultural equipment and products is permitted in accordance with the Trade Sanctions Reform and Export Enhancement Act of 2000. But it stipulates that the payment for agricultural equipment and products ought to be “cash in advance” or financed by third-country banks, and it forbids offering credit, which increases substantially the costs of such trade. In December 2015, an effort by several members of Congress to join forces resulted in the creation of the Cuban Working Group. This bipartisan coalition of members of the House of Representatives advanced the agenda of normalization through incremental steps in the legislature, recognizing that a vote to completely eliminate the punitive commercial, economic, and financial measures could not be expected in 2016 (Bennett 2016).

At the state and municipal level there is also considerable support for normalization. The visits to Cuba by governors, senators, and state representatives, mayors, commissions, local business leaders, research centers, think tanks, and universities confirm the formation of a U.S. national consensus that supports a new era in Cuba-U.S. relations. In October 2015 governors from nine states (Alabama, Idaho, Montana, California, Minnesota, Pennsylvania, Vermont, Virginia, and Washington) sent a letter to U.S. congressional leaders requesting the lifting of the embargo (Sourceror 2016). The visits of the Democratic governors Andrew Cuomo of New York and Terry McAuliffe of Virginia and the Republicans Asa Hutchinson of Arkansas and Greg Abbott of Texas revealed the bipartisan aspect of the desire to fortify cooperation and increase commerce between both countries in all areas (DeMillo 2015; Abdi 2016).

### *Cuban-Americans and U.S. public opinion*

Although in the first year after the joint presidential announcements of December 17, 2014, the Cuban-American extreme right lost the initiative to counteract the process toward normalization, by the beginning of the 2016 electoral year, it began to act in a more energetic fashion by means of its organizations and connections with political structures at the federal, state, and local levels, especially in Florida. Nevertheless, the overwhelming defeat of Marco Rubio in the Republican primaries, including in his home state of Florida, pummeled the conservative sector that had supported him after the departure of Jeb Bush from the primary scene. However, this faction, regardless of how small it is, is well positioned and characterized by a high level of political activism in decision making circles with strong financial backing, and consequently impacts the rhetoric, as well as the actual politics, of the process toward normalization in a negative manner.

In South Florida polls conducted in 2015 reflected contradictory tendencies among Cuban Americans with respect to the process initiated on December 17, 2014. A survey in February 2015 by the firm Bendixen and Amandi International found that only 44% of those respondents of Cuban origin agreed with President Obama's normalizing relations with Cuba, while 48% disagreed. However, 64% of Cuban Americans born in the U.S. supported normalization (Siegel 2015).

By March 2015, that same firm did a new survey of a small sample of 400 Cuban Americans or persons of Cuban origin on a national level that showed that 51% supported the process toward normalization (Bendixen 2015). In this respect, it was revealing that as the process toward normalization developed, support for the policy grew. This also reflected demographic changes and dif-

fering age groups in the Cuban community in the U.S. and in South Florida. Of note were the positions of Cuban immigrants who arrived beginning in the 1980s and second and third generation Cuban Americans who were generally more favorable toward normalization; 60% of respondents under fifty years old favored Obama's policy (Bendixen 2015). Nevertheless, the survey also noted a singular contradiction: the majority of those surveyed favored the maintenance of the economic, commercial, and financial blockade.

In 2016 WLRN, Bendixen and Amandi, the *Miami Herald*, *El Nuevo Herald* and Univisión-23 undertook another poll of 600 voters from Miami Dade County. A third defined themselves as Cuban Americans or of Cuban origin (Padgett 2016). The survey showed that two-thirds of all respondents favored the reestablishment of diplomatic relations and the visit of Obama to Cuba, but the Cuban Americans and those of Cuban origin were divided 50–50 (Padgett 2016). National public opinion polls in the United States indicate a trend toward supporting the irreversibility of the process toward normalization with Cuba. In surveys carried out from December 17, 2014 to October 20, 2015, three of four U.S. citizens supported the normalization of relations, as well as the lifting of the “commercial embargo” (Lugo 2015; Benenson Strategy Group 2015; Pew Research Center 2015; Bolger 2015).

Analyzing results by political party membership, a 2015 PEW survey indicates that 83% of Democrats and 75% of Independents approved the renewal of diplomatic relations and the repeal of the punitive economic, commercial, and financial measures (Pew Research Center 2015). Even more significantly, taking into account the electoral college equation in the states of Ohio, Iowa, Indiana, and Tennessee according to a survey undertaken in October 2015 by Public Opinion Strategies for the Atlantic Council, 60% felt that the opening would benefit farmers, 67% favored suspending all restrictions on travel to Cuba, 69% favored the reestablishment of diplomatic relations, and 58% believed that the end of the embargo would be advantageous (Bolger 2015). Prior to the visit of Barack Obama to Havana in March 2016 a poll of 1,022 adults by the *New York Times*/CBS News between March 11 and 15, 2016, indicated that 6 of 10 of those surveyed favored the reestablishment of relations and the ending of the embargo (Sussman 2016).

To go back to the policy of “perpetual antagonism” toward Cuba is a priority only for a very specific faction and a shrinking element in the Cuban-American extreme right in the state of Florida. National public opinion, diverse organizations, interest groups, and economic sectors support the process of normalization.

### *The Business and Entrepreneurial Sectors*

The formidable progress achieved in the political-diplomatic and cultural realms has tilted the balance in favor of the irreversibility of the process toward normalization. Nevertheless, with respect to economic, commercial, and financial issues significant modifications have not been taking place. This is unfortunate given that the business and entrepreneurial sectors interested in the potential of the Cuban market constitute transformative agents in favor of rescinding the punitive sanctions against Cuba. In April of 2016 a report by the U.S. International Trade Commission was issued entitled “Overview of Cuban Imports of Goods and Services and Effects of U.S. Restrictions.” According to this document, and as a result of a quantitative analysis of specific segments of the Cuban economy, it concluded that if the restrictions on exports of U.S. products to Cuba were eliminated, exports would increase between approximately \$1.4 and \$1.8 billion in the medium term, that is, an increase of 347% over the average reached in 2010–2013. In these circumstances, the total exports of agricultural products like wheat, rice, corn, seed oil, beans, soy, beef, pork, and poultry would increase to \$1.2 billion (U.S. International Trade Commission 2016, 20-21, 148, and 434).

The process toward normalization is also supported by the U.S. Chamber of Commerce and by its state chapters, by business organizations, and by transnational corporations. The most active industry groups include: agro-industry (which established the U.S. Agriculture Coalition for Cuba -USACC), telecommunications, travel (tourism, cruises, ferries, airlines, private flights, etc.), environmental, renewable energy, construction and building materials, harbors, entertainment, art, sports, and pharmaceuticals. The core of the coordination of forces to strengthen relations with the Island was constituted by the action of bipartisan groups such as the Trimpa Group, Akin Gump, the U.S. Cuba Business Council, the Cuba Consortium (organized by the Howard Baker Forum), Engage Cuba, its state affiliates (Ohio, Tennessee, Louisiana, Minnesota, Georgia, Arkansas, Texas, and Nevada), and the New Cuba PAC (Crabtree 2016).

### *Other Actors*

Several powerful political and economic groups from diverse sectors of U.S. society, including moderate Cuban-Americans, consider that the actions of President Obama toward normalization favored their own heterogeneous interests. Thus, an “establishment consensus” is being constituted. This permits support and lobbying to strengthen Obama’s policy and also to raise the costs for groups or politicians whose agendas encourage a return to a failed Cuba policy (White House 2014). An example of the building of support, among Cuban-Americans who historically



opposed any rapprochement between Cuba and the United States, is the pro-normalization position of Carlos Gutierrez, the former Secretary of Commerce under President George W. Bush and co-chair of the Albright Stonebridge Group (Schwartz 2015). In February 2016, Gutierrez was elected the first chair of the U.S.-Cuba Business Council (USCBC), an affiliate of the U.S. Chamber of Commerce, whose mission is to build a stronger and more strategic commercial relationship between Cuba and the United States (Schwartz 2015).

Nongovernmental exchanges, family, interpersonal, professional, cultural, artistic, academic, and scientific contacts, among others, are growing, benefiting the relations between the two countries as people who share not only geographic space, but also history and culture. In 2015, in addition to family visits, 161,000 U.S. citizens visited Cuba, which represents a 76.6% increase with respect to the previous year (Hammer 2016). Even though there are common historical roots, the ramifications of this re-encounter of different political cultures are diverse. Havana has become almost an obligatory destination for the world of spectacle and entertainment, as much artistic as athletic, as well as for collectors of contemporary art. This has provoked a dizzying increase in the art market and a vigorous race to establish audiovisual programs from the United States in Cuba (Gamerman and Crow 2016).

### *The regulatory frameworks*

These encounters must recognize cultural differences and respect for diversity. For a professional activity to smooth the road towards an understanding by means of an artistic production based on talent, it is imperative to avoid the imposition of rules based on the economic power that the art industry and the entertainment world in the United States enjoys. Collaboration in the world of the arts and the humanities is called upon to serve as a bridge and paradigm for the new understanding between the two countries. Since the trip of the Presidential Committee for the Arts and the Humanities to Cuba in April 2016, many visits to the Island by U.S. artists have been organized while Cuban artists have been welcomed in the U.S. The signing of a joint declaration between the President's Committee on the Arts and the Humanities and the Cuban Council for National Heritage allows for the construction of new mechanisms for exchanges and cooperation in science, arts, and the humanities in an interdisciplinary and transversal fashion (PCAH 2016).

In addition, using administrative provisions incorporated into the Code of Federal Regulations, in January and September 2015, as well as in January, March and October 2016, President Obama made the implementation of the



blockade more flexible using his constitutional prerogatives (Federal Register 2015a, 2015b; U.S. Department of Treasury 2016a, 2016c). But Obama's actions did not change, nor could they, the letter or spirit of the tangle of laws upon which the blockade is founded.

The current policy of economic, commercial, and financial sanctions impedes the normal insertion of the Island into international commerce and finance, and also limits the attraction for foreign direct investment. Significant restrictions on imports from the United States to Cuba continue to exist, and the export of Cuban products to the U.S. is very limited. In addition, banking relations between the countries are practically non-existent, to the extent that Cuban financial institutions cannot have correspondent accounts in U.S. banks. The executive measures, under the Treasury Department's general license, make it possible to use the U.S. dollar (USD) in international transactions between Cuba and third-countries, that is, where the transfer originates and terminates outside of the U.S. and neither the originating party of the transfer or the beneficiary of the transfer are persons subject to the jurisdiction of the U.S. (U-Turn). All payments to persons in the U.S. must still be made through third-country banks (U.S. Department of Treasury 2016c).

The lack of true correspondent banking relations, that is, Cuban banks having correspondent accounts in U.S. banks, not simply U.S. banks having correspondent accounts in Cuban banks, complicates commercial relations and increases their costs. Additionally, the U.S. Department of Treasury is still imposing due diligence requirements on banks. It limits the activities of international and U.S. banking and financial institutions for fear of committing errors or violating rules and, as a result, being penalized by fines. As a consequence, activity is virtually non-existent; in spite of the fact that now it is legally possible for U.S. banks to process monetary instruments in dollars, including cash and travelers' checks, presented indirectly by Cuban financial institutions (U.S. Department of Treasury 2016a, 2016c).

Administrative regulations issued by the Obama Administration now also authorize persons subject to U.S. jurisdiction to accept, process, and give value for USD monetary instruments when they are presented for payment and processing by a third-country banking institution. However, this is not the case when a Cuban bank has received the instruments from a Cuban correspondent bank. The Cuban bank's correspondent account at the third-country bank can be U.S. dollar denominated. The subsidiaries of U.S. banking institutions in third countries are authorized to handle transactions in dollars, for which the originator or beneficiary can be a person subjected or not to the jurisdiction of

the United States (U.S. Department of Treasury 2016a, 2016c). But the precedent and practice of prosecuting and the imposition of penalties sends out negative signals to the banking and financial sectors, creating a high level of uncertainty and sense of risk (LeoGrande 2015).

As a consequence of new administrative regulations, it is now possible to make transactions related to travel, professional media or artistic productions, or information or informational materials for exportation, importation, or transmission. Media and artistic transactions including the filming or production of media programs (such as movies and television programs), production of music recordings, and the creation of artworks in Cuba by persons who are regularly employed in or have demonstrated professional experience in a field relevant to such professional media or artistic productions. A general license was expanded to authorize transactions relating to the creation, dissemination, or enhancement of informational materials, including employment of Cuban nationals and the remittance of royalties or other payments (Federal Register 2015a, 31 CFR § 515.545(b) (1); Federal Register 2015b). Along the same lines, U.S. nationals can travel to Cuba to organize certain events in Cuba such as professional conferences and meetings, amateur and semi-professional athletic and other competitions, and exhibitions. Similarly, the regulations make explicit that U.S. nationals can travel to Cuba to organize public performances, clinics, and workshops (U.S. Department of Treasury 2016a, especially 31 CFR § 515.545(b) (2), 2016c).

With respect to commerce, the Bureau of Industry and Security (BIS) was permitted to consider on a “case-by-case” basis, and not subject to a general policy of denial, applications for the export or re-export of items “to meet the needs of the Cuban people” including, exports and re-exports “to state enterprises and other state institutions that primarily provide goods and services to the Cuban people” (U.S. Department of Treasury 2016a). Nevertheless, the policy doesn’t allow those exports and re-exports to provide income to the Cuban state, such as enterprises in the tourism and mining sectors (U.S. Department of Treasury 2016a).

Beginning in March 2016, specific categories of U.S. nationals were authorized to form joint ventures, enter into franchise agreements, and establish Cuban subsidiaries under Cuban law and other business arrangements with Cuban state enterprises. The U.S. companies that can enter into these arrangements are: exporters of goods authorized for export or re-export to Cuba; entities providing receipt and transmission of mail and parcels; companies providing cargo transportation services for authorized trade; providers of travel services for authorized travel, except for lodging services; providers of carrier services for

authorized travelers or cargo; and importers of Cuban-originated software into the United States (U.S. Department of Treasury 2016c). These U.S. companies joined previously authorized companies in the telecommunications field and internet-based service providers, which can lease physical premises, engage in marketing, employ Cuban nationals, and open bank accounts in Cuba (U.S. Department of Treasury 2016c).

In addition, U.S. exporters and depository institutions can provide credit and financing for exports and re-exports, with the exception of exports or re-exports of agricultural commodities and agricultural products that are within the scope of the Trade Sanctions Reform and Export Enhancement Act of 2000 (U.S. Department of the Treasury 2016a). This prohibits the executive branch from authorizing credits or financing for agricultural commodities and agricultural products and requires that payment terms be either cash in advance or financing by third country banks (U.S. Department of Treasury 2016a).

With respect to remittances and trips, the new regulations eliminate the limits on remittances by relatives and other residents of the United States. Now a general license authorizes “subject to conditions, travel-related transactions and other transactions that are intended to provide support for the Cuban people, which include activities of recognized human rights organizations; independent organizations designed to promote a rapid, peaceful transition to democracy; and individuals and non-governmental organizations that promote independent activity intended to strengthen civil society in Cuba” (Federal Register 2015b, 31 CFR § 515.574).

In spite of the fact that restrictions on travel continue and that only people who are authorized under twelve categories are permitted to visit Cuba, since March 2016 under general licenses individual people-to-people educational visits have been allowed, so now it is possible to engage in certain educational exchanges in Cuba either individually or under the auspices of an organization that is subject to U.S. jurisdiction and sponsors such exchanges to promote people-to-people contact (U.S. Department of the Treasury 2016c).

In the case of the telecommunications sector, providers are allowed to establish the necessary mechanisms, including infrastructure, in Cuba to provide commercial telecommunications and internet services. In line with the Torricelli Act of 1992 the regulations approved by the Obama administration authorize a very broad range of transactions in order to establish mechanisms to provide commercial telecommunications services in Cuba or linking third countries and Cuba. Now under a general license persons subject to U.S. jurisdiction can enter into licensing agreements related to, and to market, authorized telecommunications services, provide

loans or other financing, enter into joint ventures, make other investments, and provide engineering services for the development of domestic Cuban infrastructure, and so on (Federal Register 2015a, 31 CFR § 515.542; Federal Register 2015b, 31 CFR § 515.578; U.S. Department of Treasury 2016a).

Passenger and cargo air service and shipping companies have particularly benefited from the measures approved in January and March 2016 (U.S. Department of Treasury 2016a, 2016c). Now code-sharing, seat-blocking, and leasing for Cuba-U.S. routes are authorized, and it is possible for U.S. personnel to travel to Cuba to facilitate temporary sojourns by U.S. vessels and aircraft in Cuba, including for normal operations and service on board a vessel or aircraft, as well as U.S. personnel who are required to provide services to a vessel in port or aircraft on the ground. Additionally, the regulations provide that applications for exports or re-exports of aircraft or vessels on temporary sojourns to Cuba either to deliver humanitarian goods or services, or consistent with the foreign policy interests of the United States, may be authorized on a case-by-case basis. This was an important step as it fortifies the Memorandum of Understanding on civil aviation signed by both governments in February 2016 to establish regular commercial air service, which began in August 2016 (U.S. Department of Treasury 2016a, 2016c).

On October 17, 2016, the Treasury Department and the Commerce Department announced new steps that entered into force (Federal Register 2016 31 CFR § 515.547, 31 CFR § 515.533, 31 CFR § 515.550, 31 CFR § 515.534, 31 CFR § 515.572, 31 CFR § 515.560, 31 CFR § 515.585, 31 CFR § 515.565, 31 CFR § 515.575 and 31 CFR § 515.591). The measures weren't as significant as earlier moves taken by Obama administration officials but not enough, the changes were intended to expand opportunities for scientific collaboration by authorizing certain transactions related to Cuban-origin pharmaceuticals and joint medical research that will allow Cuban pharmaceuticals to pass through the Federal Drug Administration's approval process. A previous regulation that stated that foreign vessels couldn't load or unload cargo in a U.S. port for 180 days after calling at a Cuban port has been changed, but is subject to some conditions by OFAC. Agreements also facilitate safe travel between the United States and Cuba by authorizing civil aviation safety-related services and removed the previous limits on bringing Cuban cigars and Cuban rum into the United States (Federal Register 2016 31 CFR § 515.547, 31 CFR § 515.533, 31 CFR § 515.550, 31 CFR § 515.534, 31 CFR § 515.572, 31 CFR § 515.560, 31 CFR § 515.585, 31 CFR § 515.565, 31 CFR § 515.575 and 31 CFR § 515.591). it is still illegal for Americans to engage in most commercial transactions with

Cuba unless licensed by the U.S. Department of the Treasury and there is no provision allowing financial institutions operated by the Cuban government to have correspondent accounts in U.S.-based financial institutions, which means payments for permissible U.S. exports still must be transferred through banks in third countries and is very costly for both sides.

In spite of the changes in the regulations the tendency so far is towards inaction. There continues to exist an apprehension on the part of international and U.S. credit institutions that they will be sanctioned for legitimate actions as occurred previously for some European banks such as Commerzbank, BNP Paribas, ING Bank, HSBC Holdings, Barclays Bank, Royal Bank of Scotland, Credit Suisse AG, CGG Services S.A., or U.S. entities such as Pay Pal, JP Morgan Chase Bank, WATG and Halliburton Energy Services, Inc., to mention only some. Therefore, it is necessary that the U.S. act in order to offer guarantees to the financial sector that they will not be subject to sanctions or to regulations different than for other countries. This would, in practice, open possibilities and expand the range of operations for commercial and financial transactions between the United States and Cuba.

The interpretation, implementation, and scope of the executive measures, given the vagueness and ambiguity of the formulation of the Code of Federal Regulations, appears to favor, in a limited fashion, certain U.S. business sectors, from which are excluded the agro-industrial, while substantial options are available in telecommunications. The executive measures have resulted in positive but insufficient steps to strengthen commerce in accordance with the demands of economic sectors that lobby for an increase in relations with Cuba and whose activities have the capacity to fortify the normalization if there are incentives and benefits that justify the expenditure of political capital. The regulations also constitute essential indicators to evaluate the significance of the challenges, but also the opportunities that are presented to Cuba, involved in the realization of the modernization of the Cuban economic model and the decentralization from Cuban ministries to the Cuban enterprise system.

## **Conclusion**

The Obama administration evaluated the evolution of the Cuban domestic context in order to develop a U.S. strategy with a vision that transcends Obama's presidential term. Meanwhile, Cuba confronts its internal challenges and is called upon to implement its strategic plan in the face of this new era in order to preserve its dignity, independence, and sovereignty.

The reestablishment of diplomatic relations and the opening of embassies, as well as the conclusion of arrangements, Memorandums of Understanding, and joint declarations in an effort to advance the mutual interests of both governments indicate a fortifying of the tendency toward the irreversibility of the new era of relations between Cuba and the United States.

Nevertheless, one ought not to underestimate or feign ignorance of variables such as the political calculus of the new U.S. President Donald Trump and the volatility that unlikely but high-impact events can provoke, as well as uncertainty regarding the actions of various actors and factors described previously. In a dialectic manner, these variables can certainly provoke a certain regression. However, they should not be able to fundamentally affect the tendency towards advances made since December 17, 2014. Despite many challenges in the past, the present and the future, the long and complex process of normalization of relations between Cuba and the United States has now the potential and the capacity to challenge Thucydides' ancient axiom that the powerful do what they want and weak what they can.

#### NOTES

<sup>1</sup> In this chapter the term “normalize” refers to a Weberian ideal, inasmuch as it is practically impossible to foresee all future interactions and their results, including the best of the scenarios, to reach normal in the medium term (Weber 1994).

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## CHAPTER 3

# **Factors Determining Dialogue: Cuba in the U.S. Strategic Plan for the 21st Century**

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December 17th, 2014, will probably be recorded as one of the most significant moments in Cuba's history: the simultaneous announcement by Presidents Raúl Castro and Barack Obama of the initiation of a process aimed at restoring formal diplomatic relations and, in the long term, the gradual normalization of the relations between the two countries. This announcement followed a year and a half of secret negotiations, hinting at the complexity of the numerous issues raised, as well as the work undertaken by a broad spectrum of specialists. The intention of this chapter is to explore many of these issues, including those internal to each country, as well as those bilateral and global in scope.

There is little doubt of the importance and extent of the relationship between Cuba and the United States. The bilateral link has played a significant role in the evolution of both countries, so it is relatively easy to find commonalities between the two cultures and identify developments born or enhanced by their interactions. Cuba and the United States have played a large role in each other's political, demographic, and economic processes. Since the 1959 Cuban Revolution, historical processes and relations have developed considerably. The consequences of the Cuban Revolution, particularly the reactions of the United States and the rest of the world, set up a long-lasting conflict between Cuba and the United States, with greater or lesser intensity at various times, extending into the first decade of the 21st century.

The onset of a dialogue between the two governments was influenced by a number of deeply interrelated processes. The first set of processes fall within a spectrum of internal and bilateral phenomena, which require a systemic perspective in order to develop an in-depth understanding. However, and this is a central thesis of this analysis, the internal and the bilateral processes do not exhaust every interpretation of the relationship. The formation and evolution of relations between Cuba and the United States go beyond the internal bilateral

arenas to the global. Cuba-U.S. interactions, with all the variations in strength and nature of specific components, have always formed part of the diverse macroprocesses that have shaped the evolution of the modern world system. This chapter will address how the relationship between Havana and Washington is inserted into the geostrategic projection of the United States as a global power and, therefore, into the design of U.S. foreign policy. While not limited to the perspective of international relations theory or applied research, it is clear that the global framework is not just the context, but an integral part of the history of the relationship between the two countries.

### **The Adjustment of U.S. Foreign Policy**

A major change in U.S. foreign policy followed the September 11, 2001, attack on the Twin Towers in New York, launching the war on terrorism that concentrated attention on the vast Eurasian region. The United States' 2001 reaction reminded one of the evolution of the realpolitik approach of Zbigniew Brzezinski (1998), President Jimmy Carter's National Security Advisor, and the criteria of such influential former U.S. officials as Paul Wolfowitz and Richard Perle. The war on terrorism sidestepped the formal legalization of Washington's actions by the UN Security Council and unilateralism became an everyday phenomenon in the international arena.

The United States' unilateral action prioritized instruments of hard power, that is, the use (or threat of use) of military force and economic pressures. The term hard power was first used to describe traditional forms of the exercise of power in the international system, as distinguished from newer alternative forms for the exercise of power that were designated as soft power (Nye 2003, 2004, 2008; Wilson 2008). Hard power also included wider use of coercive means, with open-ended actions in different contexts, as priority instruments of U.S. foreign policy. Probably the most controversial aspect of this approach was the incorporation of the principle of preventive action, that is, the idea of attacking potential enemies before they constituted an immediate threat (Bacevich 2002). The core of this foreign policy strategy, known as the Bush Doctrine (after George Walker Bush, president from 2001 to 2009), was reflected in national security positions published during the two terms of that Republican president (President of the United States 2002, 2006).

Essentially, soft power is the ability to achieve goals by attraction and persuasion, and is associated with the traditional concept of co-optation. Soft power is not just the antonym of the use of military force, but a completely different method from the use of traditional coercive instruments (Mundow 2011).

The concept of soft power was developed as part of the critique of the foreign policy of George W. Bush's administration (Nye 2003; 2004; Nossel 2004). Soft power can be understood within Susan Strange's framework of power relations in the world economy. Strange identified four primary power structures as security, production, finance, and knowledge, and four secondary power structures as transportation (sea and air), commerce, energy, and welfare (Strange 1988). These eight structures are all interdependent and essentially inseparable, but identifying them explicitly allows for a better understanding of the types of power structures. Each structure is amenable to the use of hard or soft power, and is thus useful in identifying the scope of the resources available to the great powers, especially to the United States. The Bush Doctrine clearly accorded priority to the first of the four primary structures, namely security.

Meanwhile fundamental changes in the international system quickly raised doubts about the capacity of the United States to sustain hard power policies in the long term. The idea of the indisputable superiority of the U.S. military was challenged by two major developments. On the one hand, the priority of sustained economic growth encountered the finite nature of available resources, made clear by stagnation in several contexts, as suggested by the theorist Paul Kennedy's thesis of imperial oversizing (Kennedy 1987, 514–515).

Even more important as a challenge to the U.S. was the emergence or reemergence of a number of international actors with the capacity to be global players which were building influence through different means. China, Russia, and India, each with different relations with the United States, engaged in projects of great importance, such as the creation of the Shanghai Cooperation Organization or SCO (Gorodetsky 2003, 142–150) and the BRIC group (Cámara 2010). In particular, the increased activation of Russian foreign policy and the demonstrated expansion of its military capacities radically changed the international landscape, complemented by China's parallel increase in strength and influence. In addition to these major powers, regional powers of lesser influence should also be included as actors changing the international hierarchical order. Many of them, such as Iran and Vietnam, have the ability to influence specific areas and processes of the international system, some of them of great strategic value. A more complete vision of the shifting international power balance includes non-state actors with capacity to influence, from corporations to NGOs to transnational social actors.

In some circles many people were trying to find alternatives to the global strategy deployed by the United States since the beginning of the twenty-first century. Various works appeared that explored the possibilities of multilater-

alism, taking into account the different dimensions of international relations. Such studies began to rethink international relations and foreign policy, trying to find ways to assimilate changes in the global scene, without falling into a widespread crisis of unpredictable consequences. Many of these studies and proposals were generated in countries other than the United States (Sampson and Woolcock 2003; Slaughter 2004; Newman, Ramesh and Tirman 2006; Alexandroff 2008). All clearly reflected the impact of a multidimensional reality that already was very difficult to deny. Moreover, proposals from within the United States, elaborated by authors from diverse backgrounds and ideological and political positions, came from a school of thought that recognized the limitations of the hegemonic project associated with the Bush Doctrine (Kissinger 2002; Nau 2002; Nye 2002; 2004 Nossel; Brzezinski, 2007).

Among the main contributors, Henry Kissinger continued to use his characteristically realistic approach to interpret the contemporary world, including the most important clusters of contradictory situations in Eastern and Central Asia or the Middle East (Kissinger 2014). According to Kissinger's approach, Washington would have to recognize its own limitations and manage allies and rivals in a search for stable equilibria. Zbigniew Brzezinski postulated that a process of disintegration of the international system was occurring, although there were possibilities for reconstruction through the revitalization of an expanded West (Brzezinski, 2012). The latter would require a reconfiguration of alliances with reliable partners, including some partners from outside the traditional areas of transatlantic alliances.

One of the most important lines of thought emerging in the period was associated with the political scientist Joseph Nye (2004, 2008, 2011). Nye called for the application of a so-called "smart power" strategy that included, first, a re-evaluation of soft power. Smart power entails the combination of fundamentals and instruments of hard power with those of soft power according to the needs of the concrete circumstances, according to Nye's succinct definition (Mundow 2011). Smart power was regarded originally as a means to restore United States leadership of the international system, which by 2007 was perceived as weak (Armitage and Nye 2007).

The administration headed by Barack Obama began its tenure at the peak of a global economic crisis which began in 2007. In addition, two extended conflicts in Iraq and Afghanistan were absorbing a good portion of U.S. resources. The administration also inherited a series of commitments generated by a national security strategy with narrow options regarding the type of means that could be considered, as well as a diminished capacity for international agreement (Renshon



2010). One of the first priorities of the new administration was to review the strategic design of its foreign policy. This resulted in a process of adjustment that is at the base of the national security strategies adopted during the first few years of the Obama Administration (President of the United States 2010, 2015).

The most obvious aspect of Obama's foreign policy is the gradual incorporation of soft power, including one of the primary power structures identified in the matrix proposed by Strange: the structure of knowledge (Strange 1988, 119). The knowledge structure of soft power entails the control of the processes of significance for the formation of patterns of consumption (material and nonmaterial), including the construction of reference systems, modes of behavior, and general world views, in accordance with a model which can be managed from the center of the dominant power. In other words, this type of soft power incorporates the use of mechanisms for cooptation reflected in the extension of the legitimacy of the power structure and the consequent construction of hegemony. In order to achieve this the following are vital: control over the media, the entertainment industries, the educational systems, and the evaluation of all of these realms as well as others that are molders of opinion. This perspective derived from Strange's model of soft power is clearly compatible with the definition of soft power proposed by the political scientist Joseph Nye (Nye 2003, 2004; Mundow 2011).

Because of these elements, probably a more inclusive and accurate name would be a "structure" or "system of thought." The Cuban scholar Carlos Alzugaray proposes to call it "culture" (Alzugaray Treto 2008, 361) or "socio-cultural structure" (Alzugaray Treto 2008, 371–372). Nevertheless, if we consider a broad definition of culture, as encompassing all human production, we would lose specificity. Moreover, it is important to note that the patterns of a thought system extend through all structures, as they determine the theoretical models, the norms of functioning, human interactions of all kinds, and all forms of symbolic exchange that determine the formation and operation of systems of relations. For this reason, the structural matrix of soft power proposed by Strange provides a useful basis for this analysis.

It is easy to understand the importance accorded to soft power because it implies the possibility of reorganizing the international system, or at least major parts of it, without necessarily resorting to coercion, which means lower costs. From this perspective, we must consider the use of multilateralism, the promotion of substantial alliances with heterogeneous memberships, the intensive use of media, and the laying out of priorities as a means of developing a foreign policy. This strategy leads to a more direct involvement of a greater number of allies in

a variety of actions—in some cases, without the involvement of U.S. forces. This is important because the trend set by the Bush Doctrine promoted the transformation of allies into subordinates. The new formulation that incorporates soft power is aimed at building leadership that is not perceived as an imposition of power.

However, one cannot lose sight that this is a model of smart power, not just soft power; that is, it also includes improvement of the means of hard power and the use of hard power as needed in a rapidly changing world, where potential threats to U.S. interests and territory are recognized. Improvement of hard power requires a modernization plan for the means of combat and command structures and the strategic planning of the armed forces (The Independent Working Group on Missile Defense and the Space Relationship 2012). One example of this development is the emphasis on the use of drones and other high-tech means, coupled with a reduction in traditional military personnel.

It is from this point of view that one should understand the management by the United States of recent crises such as those in Egypt, Libya, and the Ukraine, or the very complex situation in the Persian Gulf and the Levant. It does not mean that violent means have not been used, but rather that the use of other types of force and the reduction of direct participation by U.S. regular troops, together with the development of ad hoc coalitions have been tried, all with the goal of a kind of multilateralism led by Washington, with the addition of consensus building through intensive use of mechanisms of soft power.

One of the most important U.S. meta-projects is undoubtedly the reorganization of economic relations of all kinds with key partners and regions of the world. This includes the system of agreements under negotiation known as the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP) (Herrmann 2014; Francois et al. 2013; Rahman and Ara 2015). These projects follow the common logic of connecting the Pacific Basin and the European Union with the United States through a series of agreements that have distinctly U.S. core criteria associated with a wider Anglo-Saxon tradition, such as freedom of trade and investment. In fact, such agreements propose a profound reconfiguration of economic relations on a global scale, although with variations arising from differences between parties, given that the European Union is not the same as China and the Philippines (Hamilton 2014). In focusing on recent global trade agreements, we must also consider NAFTA, which has for more than twenty years effectively and directly incorporated Canada and Mexico with the United States into a huge economic partnership.

Such grand economic projects can generate contradictions between the laws and models of individual countries and the agreements signed.

Examples of areas of debate are those that are, in many cases, related to either state monopolies or sectors strongly regulated by governments, something very common, for example, in Western Europe. These arenas include the telecommunications market, education system, health services, and issues concerning intellectual property and research and development programs. For the United States, international economic agreements are not only a matter of strengthening strategic alliances, but also of the creation of frameworks for the protection and promotion of fundamental U.S. interests, including reinforcing direct links between the U.S. and other countries, fostering interdependence, and even updating U.S. mechanisms of control over essential economic arenas. Multilateral and bilateral trade agreements involve the three largest global markets combined and these accords place the United States as the central axis.

The complex redesign of the international economic order has an immediate impact on the relationship between the United States and emerging actors. In addition to a reorganization of chains of production, investment, and commercial and financial circuits, it reinforces the ties with China and other countries and regions of strategic interest. On the other hand, the reordering of the international economic system, in part through multilateral and bilateral accords, integrates the major markets of vital importance for the emerging powers, such as East Asia and Central and Western Europe, which could eventually be transformed into realms of political consensus. This could limit the potential of the SCO and BRICS, if the top leaders of those groups do not open up a compensation mechanism. Obviously, the redesign of the foreign policy of the United States undertaken by the Obama Administration was oriented toward maintaining a dominant position in a world system. But the world is in the midst of a process of multipolarization, using a variety of means applied according to needs of multiple state actors that does not posit a priori any single ideological construct. Thus, the United States' foreign policy conflicts directly with the interests of other actors who want a more balanced relationship and possibly, their own opportunities for leadership, at least in parts of the international system.

### **The Return to Latin America and the Change in Politics toward Cuba**

In the scenario described above a clear relaunch of U.S. policy toward Latin America was aimed at securing control of the region through the use of various mechanisms of smart power. However, in a multipolar system, any country wishing to maintain a place among the centers of global power, especially if it aspires to be the strongest of them, needs to provide a series of guarantees: access to strategic resources, markets of capital goods and services, political

support in international forums, and security in its immediate milieu. The traditional idea of spheres of influence is incomplete, and should be augmented by the role played by non-state actors, associated or integrated with governmental mechanisms. More broadly, smart power assumes the construction of an updated power structure articulated around a central core, using a wide variety of traditional and nontraditional mechanisms. Despite the declared strategies or public discussions in the U.S. government, Latin America must be considered a geostrategic priority for Washington. The security of the Latin American region is vital for the United States, not only in the usual sense of security against state aggressors, but also in terms of nontraditional threats from non-state actors, including the potential for instability and conflict that can cross national borders. In addition to security issues, the Latin American region holds strategic resources (oil, minerals, labor force), as well as some of the major reserves of key resources for the future, such as biodiversity and water. Another important consideration for the United States is that, in general, the costs of maintaining a dominant position in the Latin American region have historically been lower than those associated with East Asia or the Middle East.

Beginning in the late 20th century, political changes of great importance began in Latin America. The rise of Hugo Chavez as President of Venezuela in 1998 led to the end of the Fourth Republic. The goal of Venezuela under Chavez was the integration of Latin America and the rupture of dependence on the United States. This goal spread to other countries in the following years, especially Bolivia, Ecuador, and Nicaragua, and converged with other less radical—but not less significant—projects in Brazil, Argentina, Uruguay, and El Salvador. In fact, we can find movements for change with leftist tendencies in most Latin American countries and even among non-state actors. These movements reflected complex structural and multilevel contradictions both within countries and in interstate relations, including relations with the United States.

Recent political transformations generated a broad process of subregional and regional integration and created forums for discussion and political agreement which revitalized hemispheric relations at a level not seen since the wars of independence. Thus, organizations like ALBA, UNASUR, and CELAC emerged, each with its individual characteristics, ramifications, and levels of realization, and each more or less inclusive and more or less radical. Together the changes in Latin America and the emergence of new organizations demonstrated a clear tendency toward finding channels for development and political cooperation with their own goals and resources, without U.S. participation. Cuba joined this new dynamic from the beginning, contributing its own

experiences and capabilities, in addition to its symbolic value (Prieto Rozos 2014, 490–589; Ayerbe 2012, 217–287).

The development of these processes can be explained in part by the relatively low level of attention paid by U.S. foreign policy makers during the Bush administration. More precisely, greater Latin American cooperation and autonomy may be associated with the delay in the adjustment of the foreign policy instruments used by the United States and, probably, the absence of a suitable strategic design for the changing Latin American context. This does not mean an absolute absence of U.S. policies towards the region. For example, since the late 1990s the Plan Colombia was officially concerned with the fight against drug trafficking and the strengthening of the Colombian state (Veillette 2005). However, when the implementation of Plan Colombia is examined in detail, it becomes apparent that it strengthened the military and various U.S. agencies in a country of great strategic value to the United States, a country which was the scene of the region's conflict of the longest duration. The result was to strengthen the Colombian government that has remained very close to Washington; not for nothing is Plan Colombia considered by Washington to be the most successful example of cooperation with a Latin American government (Garamone 2014). However, it is clear that this kind of project was insufficient to maintain full control of Latin America. The concentration of U.S. attention on the vast Eurasian regions decreased the United States' capacity to respond to changes in Latin America. Thus U.S. policy was perceived to tend toward the retention of previous practices, such as the implementation of free trade agreements and limited use of coercive methods and compulsion.

Within these frameworks, U.S. policy toward Cuba had continuity, with a strengthening of economic and political pressures. The highest point was the creation of the so-called Commission for Assistance to a Free Cuba (CAFC) in October 2003, chaired by Secretary of State Colin Powell. It would later be co-directed by Condoleezza Rice and Carlos Gutierrez, then Secretary of State and Secretary of Commerce, respectively. In May 2004, CAFC presented a report to President Bush in which the basis of a plan for Cuba's transition was established, a transition that was to be conducted from the United States, as well as the mechanisms that would accomplish it. The report left undefined a number of important points and even opened the door for a potential military intervention (Powell 2004). This was part of a process of tightening sanctions and various coercive measures against Cuba. In 2006, a second report (Rice and Gutierrez 2006) was published which tried to answer some domestic and international criticism (Smith 2006), but kept the core of the previous report.

The truth is that while the Bush administration policy promoted difficulties, it did not trigger the breakdown of the Cuban government, which was obviously the objective of the plan. Moreover, in the first decade of the 21st century the process of the reintegration of Cuba into the Latin American community on an equal footing with its neighbors was consolidated. This impeded any immediate possibility of international isolation. What's more, Cuba came to occupy a position of importance with a significant share of leadership in intergovernmental relations of the region, boosted by the political processes mentioned above. Finally, the continued exclusion of Havana from inter-American mechanisms and the Summits of the Americas became a point of friction between a number of Latin American governments and Washington. This development was also an indication of the limitations of the Bush Doctrine and more broadly of the unipolar model. Given the overall design of the foreign policy strategy of the Obama Administration, its policy toward Latin America evolved toward the adaptation of instruments utilized in specific situations, focusing on reversing the processes of change mentioned earlier, and using available resources. The Obama Administration strategy included the maintenance of a direct military presence in Latin America, through plans and structures that had been previously created and consolidated, such as the Plan Colombia and the presence of the Fourth Fleet of the U.S. Navy that had been reestablished on July 1, 2008, at the end of Bush's term.

The Fourth Fleet's missions focused on the Caribbean Sea and the Atlantic and Pacific oceans bordering Central and South America. The fleet was subordinated operationally to the Southern Command, based in Miami, which was responsible for protecting U.S. interests and coordinating the operations of the U.S. military in the area. The decision to reestablish the Fourth Fleet was very interesting: The Fourth Fleet was established in 1943 during World War II and had been deactivated in 1950 in the context of the creation of the Inter-American system. Interestingly, not even in the most critical moments of the Cold War with the Soviet Union was the Fourth Fleet restored, despite incidents such as the naval blockade of Cuba in 1962 during the Cuban Missile Crisis (also known as the Caribbean Crisis and the October Crisis). However, in the later stage of the application of the Bush Doctrine, shortly before the initiation of the adjustment in foreign policy, the revival of the Fourth Fleet was deemed necessary. This indicates an implicit recognition of the importance of the region, as well as of the changes it had experienced, and the willingness of the Bush administration to strengthen and consolidate the instruments of hard power (Dufour 2008).

Significantly, the Obama Administration maintained the Fourth Fleet, together with a network of military bases established in key Latin American

locations. In addition, the official mission of the Southern Command fit the promotion of collective mechanisms under U.S. supervision in order to guarantee regional security in the way it is understood in Washington, that is, for the promotion of U.S. interests through the use of more flexible instruments of power and collective participation. It is evident that the United States has a military apparatus in the region which is appropriate for the context and available for operations of various types when deemed necessary. Within the foreign policy of the Obama Administration, such instruments must be integrated with other means of a different character. This includes, for example, the relationship with important sectors of Latin American societies, allies, or those close to U.S. interests. These mechanisms include programs implemented by agencies and NGOs with well-funded budgets and aimed at promoting democracy, leadership training, and the like. This results in the cooptation of individuals and groups able to act in their national contexts on behalf of U.S. interests. The new strategies also complement some mechanisms established over more than a century, such as middle school and university education for new generations of Latin American elites, the articulation of regional economies with the United States, and the expanded reproduction of patterns of consumption following the U.S. pattern, which became predominant among middle and lower classes. It is easy to observe these phenomena in different Latin American societies. The spread of new communication technologies and media operations reinforce this type of economic and cultural development, which can result in the creation of hegemony.

Given the strategic approach of the U.S. administrations a series of specific actions are understandable. For example, the United States accepted almost immediately actions that destroyed two of the links in the processes of political change in the region: the military coup that ousted President Manuel Zelaya in Honduras in 2009 and the impeachment and removal of President Fernando Lugo in Paraguay in 2012. Also U.S. sanctions against Venezuela helped pave the way for the comprehensive defeat of the ruling Patriotic Pole in the legislative elections in December 2015. This does not mean that U.S. policy toward Venezuela was the cause of the defeat of the Chavez movement. It is inevitable, however, to consider that it was a contributing factor and in no way negligible. That outcome clearly favored Washington's interests given the role played by Caracas in regional integration projects with support by other governments and movements critical of the United States.

A new factor in the region was the formation of the Pacific Alliance in 2011, with the participation of Mexico, Colombia, Peru, and Chile as full members,



all of which have direct links to the United States and a large number of other international actors. These countries also have some of the most important economies in the region and their association represents the creation of a forum that counterbalances other projects of regional integration that are more oriented toward the United States (The Economist 2013). The Pacific Alliance has several essential projects in line with the U.S. vision of regional and transregional partnerships, and the participation of Washington and its major allies as observers is clear evidence of consistency with Washington's strategic plan, including support for the TPP, the TTIP and the North American Free Trade Agreement (NAFTA). The integration of a group of countries that have remained outside of the political changes in the region, some of which are allies and close associates of the United States, serves as an impediment for regional projects that have agendas contrary to the United States.

In short, the combination of different instruments of power in accordance with the specifics of each situation allowed the Obama Administration to reinforce the fundamentals of hemispheric dominance by the United States. The formation of the Pacific Alliance, the overthrow of some governments, the electoral defeat of the pro-Chavistas in Venezuela, and the growing difficulties experienced by other political groups and leaders, can be considered successes for U.S. strategy, or at least favorable circumstances for it. The change in the relationship with Cuba announced by President Obama on December 17, 2014, must be discussed within the global framework described above. The survival of any government in open conflict with Washington, within conditions of multipolarity and increased competition on a global scale, opens the possibility of a country establishing a strategic alliance with a rival of the United States that could be inserted into a sensitive area for U.S. power in the region. Throughout the Cold War and even the previous five centuries the Cuban archipelago has belonged to the modern world system. The relations of Havana with major players such as Russia and China could be interpreted as alternative potential strategic partnerships.

The possibility of Cuba's developing partnerships with other major world powers was strengthened by the active participation of Cuba in regional integration and cooperation projects. These regional projects were aimed at the construction of a space without U.S. participation within the frameworks of the political changes in various Latin American countries. Though the possibility of creating a sustainable system over time with antiestablishment implications for Washington is somewhat remote, the recent regional changes raise the possibility of Havana serving as an intermediary between various governments and powers outside the subcontinent in competition with the United States.



Finally, the chances for intergovernmental dialogue between the United States and several Latin American countries with critical postures toward the United States are limited by the frictions around the exclusion of Cuba from the Inter-American system and the Summits of the Americas, along with the U.S. sanctions and open hostility against the Cuban government. This implies a restriction on the capacity of the United States' political influence over a region.

From this complex and nuanced perspective of the region we can evaluate U.S. strategy towards Cuba. First, it is clear that the U.S. policy advocating regime change in Cuba, with its use of coercive measures (strong power) implemented for more than half a century, has failed. This failure has even become a source of support for the legitimacy of Cuba's political and social model. In addition, the implementation of a number of variants of regime change in other national contexts, with varying degrees of involvement of U.S. forces and resources, has produced controversial, incomplete, and even counterproductive results in the medium to long term. These failures are at the center of the difficulties faced by the Obama Administration. Therefore, the direction of the change in U.S. policy toward Cuba is indicated by the U.S. interest in constructing a system of direct influence over the island, which would allow the United States to achieve several objectives simultaneously: to reduce Cuban influence on political and social movements in the region, facilitating the reorganization of the power structure controlled by Washington; to limit, and if possible, definitively exclude, any strategic partnership of Cuba with global competitors of the United States; and to remove obstacles to U.S. relations with several Latin American governments generated by the conflict of Washington with Havana. All of this is part of the process of reconstructing the pillars of U.S. power in a highly complex international system with strong tendencies toward multipolarity.

Change in the Cuban political system, the restoration of a peripheral capitalism in the country, and Cuba's reinsertion in a subordinate position in the hierarchical pyramid of regional power are expected outcomes of the U.S. strategic plan. These results would mean full achievement of the U.S. goal of eliminating dissent within its area of influence, with impact at the domestic, regional, and global levels. All this can be understood as the United States' expression of its resolve to continue the promotion of democracy, human rights, and empowerment of the Cuban people via the strengthening of private enterprise (Obama 2014).

The December 2014 move toward normalization is the means to accomplish this change. Coercive instruments structured via diverse sanctions and the capacity for military action are still available, but are no longer part of the first line of action. And the meaning is clear: isolation as the traditional co-

ercise policy for regime change has not worked. The continuation of enforcing isolation entails risks. In keeping with the new strategic policies Obama's discourse was aimed at the realization of certain objectives that would open greater opportunities for the exercise of soft power. For example, increased levels of travel, trade, and the flow of information to and from Cuba can be understood from the viewpoint of enhancing the United States' capacity to introduce U.S. models in Cuban society, something facilitated by long term and deep ties between the two cultures. Part of this same effort at influence is the U.S. interest in introducing new technologies to Cuba, particularly in the area of information and communications. The United States has also a declared intention of injecting resources into the Cuban private sector, complemented by offers of training. In addition, the United States is interested in opening space for U.S. companies, which have been excluded until now from the small Cuban market (Obama 2014). These intentions were confirmed by the measures announced on D17 on the official White House website (The White House 2014) that were also included in later presidential orders. The December 2014 change has begun with a clear emphasis on strengthening the private sector of the Cuban economy as opposed to strengthening the Cuban government sector.

From this analysis, it is easy to identify four immediate goals of the newly opened bilateral relationship. First, the United States favors sectors with potential to be the social basis for projects designed to change the Cuban political system. Second, the process toward normalization introduces or strengthens mechanisms of direct influence by the United States that depend on the cooptation of Cuban public opinion. Third, it favors U.S. business sectors interested in having a presence in Cuba, which could also create conditions for the reconstitution of economic dependence within the framework of the metaprojects of free trade and regional and transregional integration led from Washington. Fourth, it aims to gain influence over the Cuban government, and more broadly, through the political processes of Cuba, in order to lead the nation on the path of reintegration into the hemispheric system. Achieving these goals would help the United States solve, or at least reduce, several of the problems identified in the process of U.S. reorganization of regional and global power structures.

The process toward normalization is generated by the adjustment of the U.S. foreign policy and the reorganization of the international system, and is also a generator of trends in reshaping relationships and partnerships. At the time of this writing it is difficult to determine the nature and extent of these ramifications and reflection is necessarily speculative. Based on recent reports it is possible to offer some ideas that can suggest an overview of emerging reality.<sup>1</sup> One interesting case

is that of the European Union. It is noteworthy that some months before the announcement of December 17, 2014, the European bloc had made public its intention to improve relations with Cuba. That led to a series of negotiations in which aspects of cooperation with Havana were discussed and, more significantly, the possibility of eliminating the European Common Position was raised. The European Common Position is an agreement with a declared intent of changing the Cuban political regime, a goal absolutely in keeping with the U.S. policy at that time.

In the years preceding D17, several EU countries approached Cuba on a bilateral basis, exploring the reestablishment of some suspended agreements and discussion of other aspects of bilateral partnerships. The implementation of the Bush Doctrine generated increasing levels of dissatisfaction among the United States' European allies. The Europeans no longer had the legitimizing factor of the Communist threat of the Cold War, and the Western European states had their own interests in Cuba. Many of them are influential partners with Cuba, in sectors of varying magnitude, including not a few small and medium enterprises (SMEs). A number of European companies have investments in Cuba, especially in the hotel sector and tour operators, of which the Spanish chain Meliá is probably the clearest example. The participation of SMEs and of tourism flows from some EU countries to Cuba provided a level of social impact by countries with different traditions and interests.

With the Obama presidency, both U.S. policies and the Europeans' perception of them evolved towards a greater understanding and consensus, with a relative equilibrium between the parties and multilateral views. This is not a simple matter of the EU's subordination to U.S. interests, but rather a high level of convergence in the context of the repositioning of the various powers in the international arena. A review of the Cuban press during 2015 indicates a plethora of articles announcing visits to Cuba of European leaders—including Federica Mogherini, the High Representative for Foreign Affairs and Security Policy of the European Union, and French President François Hollande—as well as entrepreneurs from various fields and of various nationalities. In addition, agreements were announced not only on diverse political issues, but also many concerning areas of investment and trade. European elites were quick to participate in the rearrangement of relations with Cuba as part of a redefinition of political links. The European countries also anticipate a favorable position prior to the eventual entry of substantial U.S. capital competing for Cuban economic opportunities with possible regional impact.

These overtures to Cuba were not limited to the European Community. In the same period, visits were made by figures of political and economic

influence from non-EU Europe, Africa, Japan, China, and Russia, among others. The spectrum of interests of all these international actors turned Cuba into a center of media attention. Among the many international actors are those interested in: participating in a Cuban market that is likely to be dynamic in the medium term; the pursuit of stronger economic links in the region once restrictions introduced by the United States are removed; the potential exploitation of Cuba's strategic location on the hemispheric trade routes; the desire to maintain relations with a partner with geostrategic value for global competition; interest in being included in U.S. policy in the region; and a desire to be active in the readjustment of the international system and in its regional expressions.

In Latin America, the potential effects of the change in the U.S. relationship with Cuba are multidimensional. There was an immediate shift in the rhetoric of many governments and regional figures, which eliminated one of the risk factors for the Summit of the Americas that took place in Panama in April 2015. The Obama administration shifts did not solve all the problems in the U.S.-Cuba relationship, but it introduced changes in the panorama that before December 17 was deemed very complicated. Besides, and this is perhaps one of the most important aspects for Washington, the reorientation that many foresaw raised doubts about the performance of Cuba in the short and medium term in the light of the negotiations with the United States, and more importantly, the economic ties that might be formed, if they were to become a priority for Havana.

One way to understand the step towards normalization with Cuba taken by the U.S. government is to see it as part of the implementation of differentiated policies that can help create or deepen differences among Latin American countries. Recall, for example, that parallel to the early stages of bilateral negotiations with Venezuela, the United States approved several sanctions against various figures from Venezuela's Chavismo movement. This is consistent with the implementation of a coherent strategic version of smart power. It is striking that in late 2015 several countries of Latin America that had leftist governments that were openly opposed to U.S. hegemony, such as Argentina, Venezuela, and Brazil, suffered tough losses or experienced serious internal conflicts with major implications for their continuity. Overall, the picture that began to take shape in the second half of 2015 reflected successes, or at least positive developments, for Washington's interests.

In this context, U.S. negotiations with Cuba can be seen as an important part of the U.S. policy aimed at the reorganization of the U.S. sphere of influence in Latin America. For the United States, coopting (at least in the medium term) Cuban public opinion would avoid normalization on the basis of equality

between Cuba and the United States. This uneven relationship would make it more difficult for Cuba to form strategic alliances with the United States' global competitors. Thus, the Cuba-U.S. process toward normalization might be a means for the United States to reconstruct the U.S. power structure in the Latin American region, simplify the distribution of power among Latin American countries, and limit the influence of extra-hemispheric poles of power.

### **Some Final Thoughts**

It is clear that the relationship between Cuba and the United States can only be fully understood within the framework of the dynamic of the international system, beginning with the relative positions that Cuba and the United States occupy within it. From that perspective, the development of the process of normalization will depend largely not only on transformations on the global scale, but also on its assimilation and interpretation by U.S. elites and the evolution of Latin American governments and political processes. The return to unipolarity is probably impossible and the international system will probably maintain its current tendency toward a new equilibrium that is more complex, and possibly more unstable.

Thus, changes since December 2014 need to be understood not only as a recognition by Washington of the failure of a specific policy, but also as the expression of Havana's interest in eliminating major obstacles for Cuba's development. The changing relationship between Cuba and the United States must be placed within a process of a global pursuit of the reorganization of the international system. The sources of power of the dominant nations and the agreements among them must be revised, and along with them, the role of the Third World countries, systems of alliances, processes of international integration, government policies, and mechanisms for the exercise of power in the international arena must change. In short, the beginning of the normalization of relations between Cuba and the United States was a part of a transition to an emerging multipolar world. More broadly, that process of multipolarity can be interpreted as part of a systemic structural crisis, where phenomena such as the 2008 economic crisis and political crises are manifestations, inserted within much broader and complex processes geared towards the formation of a new historical context (Dominguez Lopez 2010).

The change in the relationship with Cuba is part of an adjustment in the strategic plan of U.S. foreign policy, which seeks more consistent management in accordance with the reality of contemporary global change. It is part of the reconstruction of the system of U.S. power within the Western Hemisphere

utilizing individualized combinations of hard and soft instruments. Additional generators of significant reconfigurations of relations with multiple hemispheric and extra-hemispheric international actors include transformations in the channels for the circulation of influence and resources, including capital.

Thus, the idea of normalization between Cuba and the United States, or more accurately, the definition of normal bilateral relations, can only be construed and understood by considering this multiplicity of factors. I do not deny that individual figures and sectors from the United States involved in the process have a sincere desire to improve the relationship with benefits for both parties, nor that the promotion of democracy and human rights as part of Washington's discourse is a response to the genuine will of diverse persons and groups. But from the logic of a great power and in terms of *realpolitik*, the tendency is clear: the current normalization process is the quest for the reincorporation of Cuba into the system of subordinated countries, using more efficient and updated means, while creating the conditions for a better insertion into the sphere of U.S. influence in the hemisphere. The reconfiguration of intra-regional relations and the reorganization of links with extra-hemispheric actors are simultaneously results of the process and evolving causes for the adjustment's design and implementation.

## NOTES

<sup>1</sup> The information in this paragraph and those following comes, in part, from a number of journalistic sources too extensive to quote. Essentially they include Cuban media such as the national newspaper Granma, the television networks Cuba Vision and Cuba Vision International, and the digital media Cuba Debate and Cuba Now, as well as several international media sources such as Telesur, The Guardian, El Pais, El Mundo, BBC, and others.

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## CHAPTER 4

# **Latin American and Caribbean Regional Integration in the Context of Re-Establishing U.S.-Cuba Diplomatic Relations**

Claudia Marín Suárez

One of the most important reasons that determined President Barack Obama's decision to revisit U.S. policy toward Cuba in December 2014 appears to have been the need to relaunch relations with Latin America and the Caribbean—a promise made by President Obama at the 5th Summit of the Americas held in Trinidad and Tobago in 2009. U.S.–Latin American relations had shown signs of deterioration, especially at the multilateral level. This decline was clear at the 6th Summit of the Americas in Cartagena de Indias in Colombia in 2012, where a number of countries argued for the need to incorporate Cuba as a condition for their attending the 2016 Summit in Panama.

At the same time, changes in Latin America and the Caribbean during the first decade of the 21st century isolated the United States from the regional political debate. These changes were brought about by the emergence of various progressive governments and the creation of groups that promoted integration, cooperation, and acting in concert. These developments led to a balance of forces that provided a relative counterweight to the United States in the region. Within this context, an unprecedented rapprochement occurred between Cuba and the countries of the region that was evident in several areas. From an economic point of view the trade in goods and services between Cuba and the Latin American economies increased until the region was the prime geographic area for Cuban foreign trade. From the political point of view the Latin American and the Caribbean countries were unanimous in their support for the most important Cuban foreign policy positions in multilateral organizations, including those in which their backing meant diverging from U.S. positions.

Finally, as a result of political agreement with some regional actors and the legitimatization of the Cuban political project, Cuba involved itself directly

for the first time in regional integration mechanisms such as the Bolivarian Alliance for the Peoples of Our America (ALBA) in 2004 and the Community of Latin American and Caribbean States (CELAC) in 2011. This came as a result, in part, of Latin America's increasing acceptance of diverse political views and ideologies, which enabled new cooperation by regional forces.

This chapter's goal is to portray regional integration in Latin America and the Caribbean as a factor in the context of the reestablishment of diplomatic relations between Cuba and the United States, as well as the ongoing process of normalizing relations. This chapter also focuses on the revitalization of relations between Cuba and the Latin American and Caribbean region and, finally, offers some reflections on the impact that the reestablishment of relations with the U.S. can have on Cuba's relationship with regional associations.

### **General Context for the Reestablishment of Diplomatic Relations: The Relative Loss of U.S. Influence in Latin America and the Caribbean**

The context for the decision of the presidents of Cuba and the United States to reestablish diplomatic relations and to initiate a normalization process in December 2014 was affected by a series of factors that reflect a relative loss of U.S. influence in the Latin American and Caribbean region. Latin America was apparently not initially a major priority in President Obama's agenda, which focused on economic and financial crises at the domestic and international levels, while at the same time U.S. foreign policy was reoriented and redesigned towards Asia-Pacific security.<sup>1</sup> U.S. foreign policy has also had to confront the challenges emanating not only from the complicated conflicts in the Middle East, but also from the complex situation in Europe with the increased aggressiveness of Russian foreign policy and the growing Chinese influence in the Asia-Pacific region.

This does not mean that, in practice, Latin America and the Caribbean are not U.S. foreign policy and security priorities since the U.S. maintains a variety of strategic interests across the region. In fact, singling out specific objectives by countries and subregions has been a distinctive trait of the U.S.–Latin America relationship in recent years. In addition, the U.S. has had to share influence with other regional actors, particularly as new administrations arose in several countries. This coincided with the growing presence of other emerging powers and extra-regional actors as part of the reordering of power at a global level that still continues today, especially with increased Chinese influence in Latin America.

China increased its participation notably as a commercial and financial partner of the majority of countries in the region, displacing even the United States

as the main trading partner of some countries. By 2008 China had become the principal export destination for countries such as Chile and Brazil (CEPAL 2010). While China is the nontraditional external actor with the greatest strength in Latin America and the Caribbean, it has not been the only one. Other BRICS countries such as Russia, India, and South Africa have also increased their relations with the region in both the security and economic realms. Other countries such as Iran and South Korea have also drawn closer to the region in recent years.

At the same time, the region saw the rise of center-left progressive governments during the first decade of the 21st century, including those of Hugo Chavez in Venezuela, Evo Morales in Bolivia, Rafael Correa in Ecuador, Nestor Kirchner and Cristina Fernandez in Argentina, and Luiz Ignacio Lula da Silva and Dilma Rousseff in Brazil. These changes led to a regional coalescence of forces that favored increased autonomy from the United States. This contrasted with the preceding period of U.S.–Latin American relations, when consensus regarding liberalization, financial deregulation, and open economies prevailed. The recent involvement of new economic actors and political changes within the Latin American and Caribbean region contributed to options for intra-regional integration and cooperation that led to a redefinition of relations with the United States (Maira 2015, 9).

This international scenario outweighed domestic considerations in every country and was also reflected in regional integration arenas. One of the greatest expressions of this shift in power was the rejection of the U.S. proposed Free Trade Area of the Americas (FTAA) at the Mar del Plata Summit of the Americas (2005), although the U.S. signed bilateral free trade agreements (FTAs) with individual countries such as Colombia, Panama, and Costa Rica. After the rejection of the FTAA, the U.S. capacity to propose policies on a regional level was reduced significantly. At the same time, other regional associations without U.S. and Canadian participation appeared, such as ALBA, the Union of South American Nations (UNASUR), and CELAC. The exclusion of these two countries was a regional expression of sovereign will on the part of progressive governments in a context that did not favor those closest to the United States. The countries that favor the U.S. did not find opportunities for opposition to the advance of the new regional entities and to their positions with respect to regional cooperation (Reguerio 2014, 150).

These new initiatives, without calling for replacing the Organization of American States (OAS), assumed some of its traditional functions, especially with respect to cooperation and political dialogue. More countries adopted common positions on several topics important to regional security and stability.

These positions distanced the region from U.S. foreign policy interests. The United States' priorities focused on inter-American political mechanisms, especially the OAS, which suffered a notable decline in its regional role.

The decreased role of the OAS as a hemispheric arena of regional cooperation representing U.S. objectives was reflected in the 2005 election of OAS Secretary General José Miguel Insulza of Chile, who was not backed by the United States. That same year, the FTAA was also rejected. In subsequent years, the positions of Latin American governments in the OAS General Assembly isolated the United States on many votes. The high point was the 2009 decision at the OAS General Assembly in San Pedro Sula, Honduras, to revoke the 1962 resolution that expelled the Cuban government from the OAS and the institutions of the Inter-American System.

At the same time, the rise of institutions for regional political coordination without a U.S. or Canadian presence, especially UNASUR and CELAC, constituted, in practice, a questioning of the role of the OAS. The new entities assumed some of the OAS' traditional roles and took positions on topics related to political stability and regional sovereignty that differed from the United States. However, the United States has not been passive. It is intent on relaunching the OAS as the backbone of the Inter-American System through a reform process under the aegis of the new Secretary General Luis Almagro of Uruguay.

If the early 2000s witnessed a certain decline in the capacity of the United States to dominate Latin America and the Caribbean, this decline has been only relative to its previous strength. Strong economic, as well as security, defense, institutional, and other ties, survive and maintain the external dependency of the economies of the region on the United States. Moreover, American and transnational capital based in the United States continues to have important strategic interests in the region, linked to natural, human, geo-economic, and geopolitical interests. The Latin American and Caribbean region continues to be considered by the United States as its traditional arena of influence.

In fact, despite the failure of the FTAA at Mar del Plata, the signing of bilateral free trade agreements between the United States and countries such as Peru, Colombia, Chile, and Panama, in addition to the North American Free Trade Accord (NAFTA), and the Free Trade Treaty of Central America and the Dominican Republic (CAFTA-DR), indicate an intense process of economic negotiations that established the juridical bases of free trade between the United States and some countries in the region. This advanced the initial goals of the FTAA with this group of countries through several bilateral agreements.

The degree of U.S. influence is not equal across all of Latin America and the Caribbean, reflecting differences in every subregion. Through the intensity of its relations, the United States has maintained greater influence over Mexico, Central America, and the Caribbean, while it is not as influential in South America—especially in the Atlantic countries—where Brazil and Venezuela have emerged as regional leaders. Most of the Pacific coast countries, with the exception of Ecuador, are aligned with the United States.

In this same context, relations between Latin America and the Caribbean and Cuba were deepened in all areas. In recent years, Cuba has been involved more than ever with the region, receiving the unanimous support of Latin American and Caribbean countries in the fight to lift the U.S. economic, commercial, and financial blockade of Cuba, including support from those governments traditionally closer to the United States. This struggle has not only occurred within the United Nations, but also within regional associations with a diversity of positions such as CELAC (2011, 2013, 2014a, 2015, and 2016).

Latin American and Caribbean positions in favor of Cuban reintegration into the hemispheric arena were essential in achieving Cuba's participation in the 2015 Summit of the Americas in Panama, and as a source of pressure for a change in U.S. policy toward Cuba. Two critical inflection points in the Latin American commitment to integrate Cuba and affect U.S.-Cuba relations were, first, the decision taken by the OAS General Assembly in 2009 that abolished the 1962 resolution expelling Cuba from the OAS, and second, the positions adopted by several governments threatening to not attend the 2015 Summit if Cuba was not present. Rapprochement between Cuba and the United States, broadly speaking, has been crucial to the relaunching of the United States relations with Latin America and the Caribbean, although this has not resulted in the United States abandoning pressure on progressive governments that are less aligned with U.S. positions.

## **Two Features of Prospective Regional Integration of Latin America and the Caribbean**

The complicated outlook for regional integration in Latin America and the Caribbean has been recently characterized by two important traits: the coexistence of multiple associations of different orientations and the increasing polarization surrounding two axes that represent different visions of international insertion. The axes operate as geopolitical articulators, which do not exclude the possibility of complementary dynamics between the axes. These dynamics have been recently influenced by the participation of countries in the region in the nego-

tiation of mega-agreements of interregional and global character such as the Trans-Pacific Partnership (TPP) and the Trade in Services Agreement (TISA).

### *The Heterogeneity of Associations of a Different Nature*

Economic-commercial programs habitually referred to as traditional are those integration plans, free trade agreements, and associations whose focus is on political agreement and cooperation to operate simultaneously in the region. The so-called traditional integration agreements arose in the heat of the Import Substitution Industrialization (ISI) strategy of the 1960s. They have a subregional scope, covering the Caribbean (CARICOM), the Andean region (Andean Community), Central America (Central American Common Market), and the Southern Cone (MERCOSUR). Geographical proximity has played a central role in the dynamics of this traditional type of agreement. These programs are also distinguished by their primary focus on economic and commercial integration, although this is not to suggest that their agendas have been limited to such matters. In some cases, they have incorporated social, economic, and security issues, among others. For example, MERCOSUR includes a focus on asymmetries within the creation of the Structural Convergence Fund (FOCEM), while in CARICOM the discussion of security issues has occupied a primary role.

The areas in which these agreements have been involved are preferential zones for trade in manufactured goods as a result of the removal of barriers to intra-regional commerce. This highlights the potential contribution of integration as an alternative to the current specialization patterns of the Latin American economies. However, trade levels within these arrangements continue to be low in comparison to similar blocs in the rest of the world because of, among other reasons, the asymmetries and the lack of complementarity among the economies of the region.

Some of these regional arrangements have shown signs of stagnation, most evidently in the Andean Community because of the level of fragmentation among its members and the almost nonexistent advances of its commercial agenda, but all of these groups have had poor results with respect to their initial objectives. In no instance has the original goal of deepening the integration process been achieved. The most that has been achieved is the creation of preferential trade zones. According to the UN Economic Commission for Latin America (CEPAL), in 2015 there was a reduction in intraregional trade of 21% among the Latin American and Caribbean countries. This reduction was reinforced by declines within each regional group, with the exception of the Central American Common Market (CEPAL 2000, 52; 2015). The total intra- and extra-regional commerce



contraction for Latin America and the Caribbean in 2015 parallels the internal dynamic of regional and subregional commerce (CEPAL 2015).

At the same time, an important number of countries in the region have signed FTAs of various types with the United States and the European Union. This mechanism of establishing external relations, without ignoring other means, is an important part of the basis for relations between signatory countries and the rest of the world. This is because the FTAs provide juridical, political, and economic constraints on external relations that are derived from the deepening of foreign dependency; and because the FTAs reaffirm the primary export orientation of their economies. This type of agreement is not uniquely restricted to any two foreign powers, but rather multiple instruments of this type operate with other countries.<sup>2</sup>

In this same category of programs with free trade objectives is the Pacific Alliance, a recent economic-commercial agreement with clear FTA identity and regional scope. It is composed of Chile, Colombia, Mexico, and Peru—all countries with Pacific coasts, with FTAs with the United States, and (with the exception of Colombia) all signatories of the TPP. A number of regional and global observer countries are also included in the Pacific Alliance. Its agenda is more comprehensive than that of traditional FTAs both because of the depths of its commitments and because of the inclusion of issues not contained in other agreements (Regueiro 2014, 164–166).<sup>3</sup>

The Pacific Alliance, which seeks greater insertion of its members in the Asia-Pacific region, has a strong ideological component, based on agreement with a development and international insertion model with an external free trade orientation. Based on the logic of free trade, member states prioritize relations with extra-regional countries and insertion in the global markets' dynamic through links with transnational capital.

Finally, new integration blocs with a focus on political agreement and cooperation are found within the substantial heterogeneity of proposed regional associations. This group includes ALBA, UNASUR, and CELAC. Their mechanisms are distinguished by a regional scope and an agenda that incorporates a greater variety of issues such as infrastructure investment, energy integration, the fight against poverty, and financial and monetary relations, to cite a few. The result is the incorporation of new issues that were absent from previous traditional agreements. The broaching of these issues was stimulated by large scale projects such as the Initiative for the Integration of South American Regional Infrastructure (IIRSA) and the Bank of the South under the auspices of UNASUR, or the design of the Grand National Companies and Petrocaribe under the

aegis of ALBA. In general, these new mechanisms have constituted an exercise in regional autonomy that supports greater regional sovereignty and prioritizes regional dynamics, to the degree that the heterogeneity of national interests allows. Beyond the categories of the proposals of regional associations, countries may participate simultaneously in various programs with diverse orientations which, in some cases, reflect contradictions.

*Polarization as a Result of Different Associative Proposals with Respect to International Insertion*

The second important feature of regional integration is the polarization of two axes that represent diverging forms of insertion into the international arena. While in some cases perspectives differ, in others they show capacities for mutual accommodation. The Atlantic Axis fundamentally articulates the positions of MERCOSUR and the South American countries in ALBA. The Pacific Axis, which includes member states of the Pacific Alliance (the recent election of Mauricio Macri as President of Argentina will presumably incline Argentina closer to the Pacific Alliance) defends positions aligned with the U.S. and tends to compete with the Atlantic Axis for regional influence. The weight and dynamism of each axis depends on the correlation of economic and political forces in the region, something that could result in countries changing from one axis to the other. The current tendency appears to lean towards a greater dynamism on the part of the Pacific Axis as a result of a change in the government of Argentina and less influence by the Atlantic Axis due to the political and economic crisis in Brazil, which could lead to positions closer to free trade with implications that could revise the nature of MERCOSUR.

The existing regional leaders in Latin America generally act in favor of the perspective of one or the other axis. Brazil and, to a lesser extent, Venezuela had played a central role as leaders of the Atlantic Axis while the Pacific Axis appears to operate under a leadership scheme where Chile, Colombia, and Mexico seek to recover regional influence. In this sense, the analyst Lourdes Regueiro posits the important role of the secondary powers in Latin America where, in addition to Brazil, Mexico and Colombia stand out. Colombia seeks to contain Brazilian leadership, while Mexico seeks to restart its regional leadership with influence in Central American and the Caribbean. Mexico also defends Pan-American projects, presenting itself as a North-South logistical and commercial platform, not necessarily from its geographic position, but rather from its privileged position vis-à-vis the United States.<sup>4</sup>

The confrontation between the two axes is a result of the dispute over geopolitical influence in the region. While MERCOSUR is the arena where

Brazil exercised its economic regional leadership, its political leadership has been projected through UNASUR. This is because UNASUR represents the most important South American political association and because the absence of Mexico gives Brazil greater influence over the rest of the countries in order to achieve a consensus that responds to Brazil's foreign policy interests.

The Atlantic Axis led by Brazil and, to a lesser extent, Venezuela until recently, has hierarchized intra-regional relations in terms of privileged international insertion. All this has been done without suggesting that there are no tendencies that pursue articulation with global markets and insertion in global value chains. In fact, some authors identify the need for Brazilian capital for an exit toward the Pacific as the fundamental interest that pushes the creation of infrastructure projects under the IIRSA initiative. In addition, the economic and political sectors in MERCOSUR have shown renewed interest in advancing a commercial agreement with the European Union as part of a greater external opening strategy.

The Pacific Axis is clearly identified as a free trade and external opening model that surpasses purely commercial limits and centers attention on issues such as investment and intellectual property. Among its objectives it explicitly aims to become a platform for political articulation, economic, and commercial integration, and global projection, with special emphasis on the Asia-Pacific region (Alianza Del Pacifico 2012). According to Lourdes Regueiro, this indicates the deliberate intention of the Pacific Axis to convert itself into a political interlocutor with an FTA identity confronting other regional groups, with the potential to fracture the consensus on some issues, in a context marked by the emergence of regional proposals for political agreement (Regueiro 2014, 160). Moreover, some elements indicate complementarity in the dynamics between the Pacific and Atlantic axes beyond the participation of countries such as Ecuador, Uruguay, and Paraguay in the Pacific Alliance as observer members. In this context, it is important to note the declared intention of the Chilean government of Michelle Bachelet to become a bridge between the Pacific Alliance and MERCOSUR in an attempt to soften the political rhetoric of her predecessor as President Sebastian Piñera.

In 2012 MERCOSUR adopted Decision No. 64 to request, as a bloc, observer status with the Pacific Alliance as a first step in the formalization of a relation between the two groups (MERCOSUR 2012). The countries of the Pacific Alliance, with the exception of Mexico, are already associate members of MERCOSUR. In November 2014, a ministerial level meeting for the exchange of information between the two blocs formally recognized the mutual interest in advancing a biregional relationship (Secretaría de Relaciones Exteriores 2014). In the first half of 2015, the Common Market Group of MERCOSUR

discussed and sent to the Pacific Alliance an Action Plan to deepen their commercial commitments within the framework of economic agreements signed between MERCOSUR and the South American members of the Pacific Alliance (BID-INTAL 2015, 116–118).

It is not clear how the relationship between the Pacific Alliance and Mexico will be developed given that Mexico has signed three economic cooperation agreements with Argentina, Brazil, and Uruguay. These three bilateral relations show significant differences in terms of content and scope (BID-INTAL 2015, 118). The idea of moving towards convergence in economic integration schemes had already gained traction in South America, for example, between the Andean Community, of which Colombia and Peru are members, and MERCOSUR (see Adriaizén 2014 for details). This process towards convergence occurred within the context of UNASUR following the norms established by MERCOSUR.

The polarization separating the Pacific and Atlantic axes is reflected not only in the regional arena but also within subregional and even national groups. At the same time as the regional scenario becomes more complex, the polarization reflects a permanent competition for regional influence between sectors and economic and political actors from each axis. This competition is reflected in the debates that take place within the integration agreements, such as the tension between interests that debate MERCOSUR's continuity versus its re-definition toward a more liberal framework.

### **Relations between Cuba and Latin American and Caribbean Nations**

There is no doubt that there has been a notable increase in the ties between Cuba and Latin America and the Caribbean since the latter part of the twentieth century. The deepening of relations has been marked both by changes in the regional context that have made Cuban positions and interests closer to some countries in the region, and by changes in politics and internal dynamics. The strengthened relations are reflected in many areas, including political and diplomatic relations, commercial trade of goods and services, the dynamic of foreign investment, and Cuban participation in regional groups such as ALBA and CELAC, as well as the growing closeness to other integration mechanisms such as CARICOM and MERCOSUR.

The Cuban economy suffered a profound external shock with the fall of the socialist camp, which had been Cuba's principal arena for international insertion, leading to the drastic contraction of Cuba's GDP and foreign trade in the early 1990s. From that moment on, the Cuban economy had to readjust its

external relations both geographically and sectorally. The maintenance of the economic blockade imposed by the United States has had a sustained negative impact, especially given the loss of Cuba's main trading partners.

Since the 1990s Cuba's main exportable items are rum, tobacco, and nickel, and services such as tourism. The production and export of sugar, which had historically been the principal Cuban export, was drastically reduced in comparison to earlier periods. Beginning in 2004, recognizing Cuba's competitive advantage resulting from highly qualified human capital, the export of health and education services became the primary Cuban exports to Venezuela and, later, to other ALBA member states. The import of goods (especially hydrocarbons) from Venezuela facilitated by ALBA occupied a privileged position in the Cuban import matrix (Oficina Nacional de Estadísticas e Información de Cuba 2015). This largely explains the increase in importance in the last few years of commercial trade between Cuba and Latin America and the Caribbean. Between 2000 and 2014, the commercial trade of goods between Cuba and Latin America increased in value 4.5 times, displacing Europe as Cuba's main trading partner. Changes in the value of total trade, that is, all goods and services imported to Cuba plus all goods and services exported from Cuba have varied considerably across trading partners from 2001 through 2014 (see Table 1).

Despite the volume of trade with Venezuela and ALBA member states, this was not the only source of Cuba's increased foreign trade with Latin America. Cuban commercial relations with other countries in the region have also expanded, placing countries such as Brazil, Argentina, Mexico, Colombia, and Panama among Cuba's twenty-five main trading partners. The commercial relationship with these countries, as Table 2 shows, has expanded in recent years. After Venezuela (which accounted for 35.4% of Cuba's commercial trade of goods), Brazil is Cuba's next most prominent Latin American trading partner. In 2011 Brazil became the principal source of food for the Cuban market and the second destination for Cuban biotechnological and pharmaceutical products, items that have played a leading export role in Cuba and which show the yet to be exploited potential of greater value-added products for regional commercial relations (Regueiro 2012).

The export of Cuban services to Latin America (although there are no official figures) has been fundamentally stimulated by the relationship with Venezuela, ALBA member states and by an agreement with Brazil that involves the participation of more than 11,000 Cuban medical personnel in the Brazilian program *Mais Médicos* (OPS/OMS 2015). Medical services constitute the main Cuban export item, although other services such as tourism, education, and sports are also important.

**Table 1. Trade between Cuba and Selected Latin American Countries, 2004 and 2013**

	Trade in 2004 (thousands of pesos)	Trade in 2013 (thousands of pesos)	Percentage of Cuban Trade, 2013	Variation 2013/2014 (Number of Times)
Venezuela	1,509,776	7,067,299	35.4	4.68
Brazil	223,318	694,820	3.5	3.11
Mexico	266,213	529,880	2.7	1.99
Argentina	117,808	387,107	1.9	3.28
Panama	25,102	220,801	1.1	8.79
Colombia	61,845	81,448	0.4	1.32

Source: Data from the Oficina Nacional de Estadísticas e Información de Cuba (2015).

With respect to investments, the participation of two Latin American countries (Brazil and Mexico) in projects in Cuba stands out. Both countries have supported the modernization of the Cuban economic model and they have involved themselves in ventures linked to this process. Without a doubt, the countries in the region, especially Brazil and Mexico, have made positive evaluations of Cuban potential, betting on the possible elimination of the economic blockade imposed by the United States. This calculation is based on the reestablishment of diplomatic relations between Cuba and the United States. Historically, Latin American and Caribbean governments have supported Cuban demands to eliminate the unilateral U.S. sanctions levied against Cuba, including at the United Nations. Support has been expressed in votes against the embargo, including annual votes beginning in 1992 in support of the resolution entitled the “Necessity of Ending the Economic, Commercial and Financial Embargo Imposed by the United States of America against Cuba”, as well as declarations by regional bodies. On October 26, 2016, the resolution was not even opposed by the U.S. which abstained.

In the case of Mexico, according to the analyst Francisco Gonzalez, the intensification of bilateral relations with Cuba is based on three fundamental pillars: creation of a Cuban business environment offering more certainty and reciprocal benefits; the opening of a ProMexico (the foreign trade and Mexican investment promotion agency associated with the Mexican Ministry of Foreign

Affairs) office in Cuba, which would offer consulting and orientation services to Mexican business people interested in operating in Cuba and to Cubans who wish to invest in Mexico; and the promotion of Mexican businesses and investments, especially considering the opportunities offered by the Special Economic Development Zone of Mariel (Gonzalez 2015).

This increase in economic relations responds to the identification of common interests in the insertion strategies of both countries. Mexico seeks to reposition its leadership role in Central America and the Caribbean, while Cuba is looking to attract foreign direct investment to stimulate its economy as part of the directives contained in the “Economic and Social Policy Guidelines for the Party and the Revolution” approved by the 6th Congress of the Cuban Communist Party (Partido Comunista de Cuba 2011). Meetings between high level officials of Cuba and Mexico have also contributed to stimulating bilateral economic relations.

As part of the process, two Mexican companies, Richmeat from the food industry and Devox Caribe, which produces paint, settled in the Special Economic Development Zone of Mariel. Another nine Mexican companies submitted projects to be evaluated by Cuban authorities and fifteen additional Mexican investment projects were under consideration as a result of ProMexico’s mission in Cuba (Gonzalez 2015). This indicates the interest of the Mexican business community in deepening its ties with Cuba and its domestic market. In the last two years, various business delegations have visited Cuba, composed of representatives from sectors such as tourism, packaging, chemical products, fertilizers, and food and beverages, among others. Mexican interest is also reflected in the increase of lines of credit offered by Mexican banking institutions such as the Mexican Development Bank (BANCOMEXT) (Zona Especial de Desarrollo del Mariel 2014; Gonzalez 2015).

The Special Economic Development Zone of Mariel, which is linked to the expansion of the Mariel Port and the construction of a container terminal, is central to updating the Cuban economic model and strategy for attracting foreign investment. In addition to the expanded capacities offered by the remodeled, deeper Mariel Port, an industrial development zone is underway. This will be accomplished using additional incentives for foreign capital focused on prioritized sectors established by the Law of Foreign Investment of Cuba (Law No. 118/2014). The Ministry of Foreign Trade and Foreign Investment of Cuba has elaborated a portfolio of opportunities that lists projects the country is interested in promoting for foreign investment (Ministerio del Comercio Exterior y la Inversion Extranjera 2015).



**Table 2. International Agreements Signed between Cuba and Latin American and Caribbean Countries or Blocs Deposited with the Association of Latin American Integration (ALADI)**

<b>Country or Regional Bloc</b>	<b>Type of Agreement</b>	<b>Comments</b>
Guatemala	Commercial Agreement No. 36	Goals: facilitate, expand, diversify, and promote commercial flows. Boost the integration process through the provision of preferential tariffs and the elimination of non-tariff restrictions.
CARICOM	Commercial Agreement No. 40	Goals: Strengthen economic and commercial relations. Signed in 2000, in operation since 2001.
El Salvador	Commercial Agreement No. 43	Goals: Expand and diversify commercial flows through granting of preferential tariffs, the elimination of non-tariff obstacles, the easing of customs, stimulating investment development and pushing for bilateral trade of value-added merchandise, guaranteeing environmental safety and the use of clean energy. Signed in 2011, no information available about entry into force.
Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, Venezuela	Agricultural Agreement No. 2	Intra-regional commerce of seeds. Signed in 1991, in force in Cuba since 1994.
Venezuela	Economic Complementation Agreement No. 40	Goals: facilitate, expand, diversify, and promote trade and related operations. Signed in 1999, in force since 2001.
Chile	Economic Complementation Agreement No. 42	Goals: facilitate, expand, diversify, and promote trade of goods. Signed in 1999, in force since 2008.
Ecuador	Economic Complementation Agreement No. 46	Goal: strengthen reciprocal commercial trade through granting preferential tariffs and non-tariff preferences. Signed in 2000, implemented in Cuba in 2000, and in Ecuador in 2001.

Source: Data from ALADI (2015)



**Table 2. Continued**

<b>Country or Regional Bloc</b>	<b>Type of Agreement</b>	<b>Comments</b>
Bolivia	Economic Complementation Agreement No. 47	Goal: strengthen reciprocal commercial trade through granting preferential tariffs and non-tariff preferences. Signed in 2000, implemented in Cuba in 2000, and in Bolivia in 2001.
Colombia	Economic Complementation Agreement No. 49	Goal: strengthen reciprocal commercial trade through granting preferential tariffs and non-tariff preferences. Signed in 2000, in force since 2001.
Peru	Economic Complementation Agreement No. 50	Goals: facilitate, expand, diversify, and promote trade and related activities. Signed in 2000, in force since 2001.
Mexico	Economic Complementation Agreement No. 51	Goals: promote, diversify commercial trade through the reduction or elimination of taxes and other restrictions on the import of products. Signed in 2000, in force since 2001.
MERCOSUR	Economic Complementation Agreement No. 62	Goal: Boost commercial trade through the reduction or elimination of taxes and other restrictions on the importation of negotiated products. Signed in 2006, in force since: <ul style="list-style-type: none"> <li>• Argentina: 2007</li> <li>• Brazil: 2007</li> <li>• Paraguay: 2009</li> <li>• Uruguay: 2008</li> </ul>
Bolivia, Venezuela, Nicaragua	Economic Complementation Agreement No. 70	Framework agreement for the implementation of the Economic Space of the Bolivarian Alliance for the People of our Americas-People's Trade Agreement (ECOALBLA-TCP). Signed in July 2013, in force: <ul style="list-style-type: none"> <li>Nicaragua and Venezuela: 2014</li> <li>Cuba: 2014</li> <li>Bolivia: 2015</li> </ul>

Source: Data from ALADI (2015)

**Table 2. Continued**

<b>Country or Regional Bloc</b>	<b>Type of Agreement</b>	<b>Comments</b>
Panama	Economic Complementation Agreement No. 71	Contains preferential tariffs and dispositions on origin, safeguards, commercial defense, sanitary and phytosanitary regulations, commercial cooperation, and resolution of conflicts. Also includes programmatic commitments in investments and trade in services. Signed in 2009, in force since 2009.
Bolivia	Market Opening Agreement No. 1	Incorporation of negotiated products by Cuba in virtue of its alignment with the 1980 Treaty of Montevideo. Signed in 1999, in force in Cuba since 1999.
Ecuador	Market Opening Agreement No. 2	Incorporation of negotiated products by Cuba in virtue of its alignment to the 1980 Treaty of Montevideo. Signed in 1999, in force in Cuba since 1999.
Paraguay	Market Opening Agreement No. 3	Incorporation of negotiated products by Cuba in virtue of its alignment to the 1980 Treaty of Montevideo. Signed in 1999, in force in Cuba since 1999.
Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Panama, Paraguay, Peru, Uruguay, Venezuela	Agreement on Technical Obstacles to Trade No. 8	Framework agreement on overcoming technical trade obstacles. Signed in 1997 by a group of countries. Cuba joined later, ratifying it in 2001.
Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Panama, Paraguay, Peru, Uruguay, Venezuela	Preferential Tariff Agreement No. 4	Establishes the Regional Preference Tariff with a basic rate at 5%. Signed in 1984, in force since 1984.

Source: Data from ALADI (2015)

In terms of the private sector, the relationship between Cuba and Brazil has intensified in recent years. Among the large-scale Cuban-Brazilian projects is the participation of the company Odebrecht Ingeniería & Construcción Internacional–America Latina in the modernization and expansion of the Port of Mariel. The company was also involved in the construction of the container terminal that involved the investment of \$957 million, of which \$682 million was a line of credit from the Brazilian National Bank of Economic and Social Development (BNDES 2016). Odebrecht has also participated in the renovation and expansion of the Jose Martí International Airport in Havana. Other projects include a partnership between Odebrecht and the Grupo AZCUBA of the 5 de Septiembre sugar complex in Cienfuegos and the participation of 11,429 Cuban medical personnel in the Brazilian government's Mais Médicos program as part of an agreement signed in partnership with the Pan American Health Organization (Odebrecht 2016; OPS/OMS 2015). As in the Mexican case, the Brazilian export promotion agency opened offices in Cuba and has developed an important role not only in generating exports, but also in attracting Brazilian investment in Cuba. In both cases, the process of updating the Cuban economic model has been crucial in promoting interest in Cuban national economic sectors.

On the other hand, Cuba has since 1999 signed various agreements with Latin American and Caribbean countries that provide a legal basis on which to expand regional exchanges. Table 3 shows the main commercial agreements between Cuba and Latin American and Caribbean countries and groups. Among the agreements that stand out, in addition to bilateral agreements, are those signed with the two subregional blocs of strategic importance for Cuba: CARICOM and MERCOSUR. Note that the majority of these agreements were signed starting in 1999, responding to a Cuban-designed strategy that finds common ground with countries in the region.

As indicated in Table 2, Cuban participation in the region has been led not only by bilateral relations with other countries, but also by its membership in regional associations such as ALBA and CELAC, in which Cuba has played a very active role. Moreover, Cuba has increased its relations with other groups such as CARICOM with which it signed a Commercial Agreement in 2001. Cuba has also established the Cuba-CARICOM Summit, beginning in 2002 and held every three years, that serves to reinforce the importance Caribbean countries have in Cuban foreign policy.

Moreover, in 2006 Cuba and MERCOSUR member states signed an Agreement of Economic Complementation (ACE No. 62), which includes the liberalization of tariffs on a number of reciprocally traded products. This agree-

ment is currently being revised with the objective of expanding it as part of an initiative of the regional bloc. The document “Parameters to Guide Negotiations for the Expansion of ACE No. 62” was drafted under the pro tempore presidency of Brazil in 2015 and includes a proposal for negotiating guidelines that can lead to the expansion of the initial agreement. This proposal covers the whole spectrum of tariffs, the use of the ALADI nomenclature (NALADISA), the exchange of the list of offers and requests, the treatment of sensitive products, rules of origin, and the possibility of advancing towards digital certificates of origin (BID-INTAL 2015, 120).

In 2010, MERCOSUR also approved the establishment of a mechanism for political dialogue and cooperation with Cuba that stemmed from the signing of a 2010 memorandum (MERCOSUR 2010). The mechanism deals with issues such as the strengthening of multilateralism (especially in the UN), maintaining international peace and security, eliminating poverty and hunger, promoting family agriculture, strengthening of the role of women, and increasing cooperation in the areas of education, science and technology, health, and sports (Regueiro 2012).

Cuba played a very active role in the conception of CELAC, the first regional entity that brought together all the Latin American and Caribbean states, excluding Canada and the United States. CELAC currently has an important role in Cuban foreign policy because the organization is a strategic demonstration of regional unity and a recognition of the legitimacy of the Cuban socio-political system. Equally relevant are the ongoing CELAC declarations against the unilateral economic blockade imposed by the United States on Cuba. At each CELAC Summit, press releases and special declarations have been issued, solidifying unanimous regional support for Cuba in its struggle to end the embargo (CELAC 2011, 2013, 2014a, 2015, and 2016).

Broad political and ideological diversity constitutes an added element to the complexity of achieving a regional consensus. Nevertheless, CELAC member states have adopted, within its institutional framework, shared positions on topics related to the political, socioeconomic, and regional security agenda, including cooperation on reducing poverty and inequality, development, education, health, food security, the impact of the financial crisis, regional sovereignty over natural resources, international financial architecture, terrorism, and trafficking in drugs, humans, and arms. Cuba assumed the pro tempore presidency of CELAC in 2013. That year CELAC achieved important diplomatic results, including declarations on shared positions in the region, in part as a result of Cuban leadership. The most significant of these was the Proclamation of Latin America and the Caribbean as a Zone of Peace at the 2nd CELAC Summit celebrated in Havana in

January 2014 (CELAC 2014b). This proclamation reaffirms regional sovereignty at a time when the global context is characterized by military interventions with shadowy goals such as regime change and the appropriation of natural resources by Western powers led by the United States.

## Final Comments

The establishment of relations between Cuba and the United States and the implications of the normalization process, including the possible elimination of the economic, commercial, and financial blockade imposed by the United States, the elimination of U.S. extraterritoriality, and the updating of the Cuban economic model have had profound results. Latin American, as well as other countries, have increased their interest in establishing or expanding economic relations with Cuba. The Cuban economic model was reaffirmed by the 6th Communist Party Congress of Cuba and detailed in the “Lineamientos de la política económica y social del Partido y la Revolución” and its further reaffirmation at the 7th Communist Party Congress in 2016.

This new context opens up regional economic challenges, as well as possibilities, and reveals niches for Cuba in different economic sectors, of which biotechnology and the production of pharmaceuticals and tourism stand out. Other relevant sectors can be identified, such as industrial goods to develop supply chains on the regional level into which Cuba can be inserted. A prolonged period of low prices for food and raw materials, especially hydrocarbons, products that most Latin American countries specialize in, could be a stimulus to Cuban production of industrial goods, linked traditionally to preferential treatment established by the regional frameworks of integration.

In this respect, the Economic Complementation Agreement signed between Cuba and the MERCOSUR states could become a good starting point to advance the institutionalization of Cuba’s relations with regional integration mechanisms that stimulate multilateral economic relations with the region beyond the bilateral agreements that already exist. The interest of Latin Americans in investing capital in and trading with Cuba could bring Cuba closer to the Latin American associations.

The new relationship between Cuba and the United States could also bring about more equality in terms of both benefits and challenges. The challenges are associated with the importance of the U.S. markets as a provider of substantial goods, services, and investments. Even under the U.S. economic blockade of Cuba, the United States, a major source of agricultural products, has considerable weight in Cuban foreign trade. The unavoidable asymmetry in terms of market

size, access to financing, technological and infrastructural levels, and competitiveness, among other things, can limit the economic links between Cuba and the United States. In this sense, Cuban relations with Latin America and the Caribbean, sustained through excellent government-to-government relations, could help Cuba face these challenges through greater geographic and sectoral diversification of the Cuban government's strategy of international insertion.

## NOTES

<sup>1</sup> The globalization process, the enormity of the U.S. economy and the U.S. capacity to influence international decisions and dynamics, as well as the multiplicity of actors and transnational processes that operate in the U.S. arena make the limits between what is domestic and international diffuse. This is especially true when you analyze the international economic crisis. In this respect, it is interesting to note the argument made by Soraya Castro about the “intermestic” as an analytical criterion (Castro 2015).

<sup>2</sup> While economic, commercial, and financial relations with other external actors implies different levels of conditionality (differentiated from those of the U.S. and the EU), the evaluation of their impact on regional integration forms an important part of the debate concerning the insertion of Latin American and Caribbean economies into the global economy.

<sup>3</sup> The Pacific Alliance's agenda includes issues such as market access, rules for sourcing, trade facilitation, technical obstacles to trade, sanitary and biological measures, services and investments, public purchases, movement of persons, financial integration, foreign exchange markets, joint diplomatic sites, and professional formation, among other things.

<sup>4</sup> The soft balancing strategy projected by Colombia consists of a strengthening of alliances between equals in order to change the regional equilibrium of forces over the long-term in the face of the regional power (Brazil) by creating juxtaposed spheres of influence in order to force a redefinition of its interests (Regueiro 2015).

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## CHAPTER 5

# **U.S. Cuban Immigration Policy and Its Unintended Consequences**

Susan Eckstein

After fifty years of hostility the Cuban and U.S heads of state, Raúl Castro and Barack Obama, announced on December 17, 2014, plans to normalize relations. During the years of tension the United States tried to manipulate Cuban immigration to its own advantage and to the Cuban government's disadvantage. This chapter addresses U.S. Cuba-immigration policy from the U.S. vantage point, but in the context of dynamics on the Cuban as well as U.S. side of the Florida Straits. It addresses how, why, and with what effect the United States offered Cubans an accumulation of immigration privileges over the years. Although President Obama announced that U.S. immigration policy would remain unchanged as bilateral bridge-building began, this chapter demonstrates that past privileging has set in motion immigration dynamics over which Washington has little control. Changes in Cuba at the state and societal levels, changes among the Cuban population in the United States, and changes transcending U.S.-Cuba borders, plus U.S. and Cuban non-immigration policies, have fueled a surge in unauthorized immigration. At the same time the policy-privileging has not resulted in more Cubans than others, such as Dominicans, immigrating. The Dominican example, in particular, sheds light on likely Cuban immigration dynamics as Washington decides, in the name of fairness, to end Cuban privileges and subject Cubans to the same immigration regulations as all other foreign-born.

### **Unique U.S. Immigration Privileges for Cubans**

Congress, the Constitution indicates, oversees immigration. Through legislation it regulates admission and any federal resettlement assistance. Presidents can exercise certain discretionary authority to admit foreigners, but only on a temporary basis. Both Congress and presidents, independently, have granted Cubans a range of special privileges since Fidel Castro assumed power in 1959.

Most U.S. presidents, with their attorneys general, have used their discretionary power to parole Cubans into the United States, that is, to grant them temporary entry rights, on a scale offered no other foreign-born. In exercising their parole authority presidents bypassed Congressional control over immigration. Presidents John F. Kennedy and Lyndon Johnson even proactively airlifted Cubans, who they then paroled into the United States. The Johnson program, which began in 1965 and lasted until 1973, brought some 261,000 Cubans to the United States on so-called Freedom Flights (Scanlan and Loescher 1983, 118). While considering the Cubans refugees, Presidents Kennedy and Johnson recognized that many of the Cubans came for economic reasons, especially as businesses in Cuba were expropriated with the radicalization of the Revolution, or that they came to reunite with family who previously emigrated. The Cuban parolees were not subject to the preference system and country quotas specified in immigration legislation.

Cubans, in turn, are the only foreign-born who have been able to enter the United States without immigration authorization and routinely attain legal permanent residence (LPR) rights after their arrival. The Cuban Adjustment Act (CAA), passed in 1966, entitles Cubans to such status adjustment. Congress initially intended the law to enable Cubans whose immigration status in 1966 was in limbo to apply for legal permanent residence without incurring the inconvenience and costs of leaving the country to attain immigration visas at a U.S. consulate abroad, as all other aspiring immigrants must. Once the law was enacted, however, it immediately was interpreted as applicable to new, incoming Cubans, to enable them to qualify for LPR status after one year in the United States on parole (initially after two years), provided they met official immigration admissibility criteria, such as having committed no felony.<sup>1</sup> Accordingly, as (re)interpreted, the law allows Cubans to enter the United States illegally and easily become legal permanent residents with associated rights. No other foreign-born have this right. Until 1995 Cubans could even be picked up at sea and transported to the United States, then paroled into the country, and after a year become legal permanent residents (Wasem 2009, 3–4). Since the signing of a U.S.-Cuba bilateral agreement in 1995 the United States repatriates all Cubans the U.S. Coast Guard (USCG) intercepts in the Florida Straits (Wasem 2009, 4). Only if the interdicted Cubans demonstrate they would suffer persecution if returned to the island are they admitted to the United States.

The United States signed two other unique bilateral immigration agreements with Cuba in 1984 and 1994. The first agreement, signed by President Reagan in 1984, committed the United States to admit up to 20,000 Cubans yearly (and committed Cuba to accept the repatriation of Cuban entrants the United States deemed ineligible for admission). The second agreement, signed

by President Bill Clinton in 1994, commits the United States to admit a minimum of 20,000 Cuban LPRs annually, an agreement that remains in effect. The United States guarantees no other country at least 20,000 legal permanent resident entrants yearly. The 1994 and follow-up 1995 agreements combined have been dubbed the “wet foot, dry foot” policy: the “wet foot” component refers to the Cubans who the USCG intercepts in the Florida Straits and returns to Cuba; the “dry foot” component to the Cubans who, if they manage to get to the United States without immigration authorization, continue to qualify for CAA status adjustment rights. On January 12, 2017 the Obama administration announced that henceforth any Cubans who arrived in the U.S. without visas would not be granted parole status except for humanitarian reasons.

In 1980 the Carter Administration even created a special immigration category for Cubans, as well as for Haitians, who were attempting to enter the U.S. without authorization at the time: “Cuban-Haitian Entrants” (Wasem 2009, 5). His administration thereby entitled some 125,000 Cubans who illegally came ashore that year from the Cuban port of Mariel to temporary entry and work rights and exemption from possible deportation. No other foreign-born qualified for this or a comparable immigration entitlement (except Haitians whose entry rights were piggybacked on Mariel Cubans). President Carter invented the new category because the Mariels did not qualify, in his view, for admission as refugees, according to the criteria specified in the Refugee Act of 1980 that he signed into law just a few weeks before the first Mariel Cubans arrived.

Four years later President Reagan interpreted the 1966 CAA to entitle the Cuban, but not the Haitian, Entrants to LPR rights. Ruling the Mariels not refugees, President Carter had considered them ineligible for CAA status adjustment rights. As reflected in the original name of the legislation, the Cuban Refugee Adjustment Act, Cubans were to be designated refugees to qualify for the entitlements of the law. In granting the Mariels CAA rights, President Reagan presumed them to be refugees, no evidence required. On the basis of this presumption, his Administration piled new privileges on to old.

Then in 2006 President George W. Bush introduced a new unique basis for paroling Cubans into the United States that applied to Cubans on official overseas medical missions. Although the 1980 refugee act restricted presidential discretionary parole power, President Bush initiated the Cuban Medical Professional Parole Program to subvert the Cuban government’s ability to use international missions to generate hard currency it desperately needed. Cuba at the time had some 50,000 health care workers abroad who generated around \$8 billion, 40% of the country’s export earnings (Frank 2014a). These parolees,

after a year in the United States, could also use the CAA to become legal permanent residents. As of 2011, the program allegedly had spurred the defection of an average of one medical person a day (Fox News 2011).

In addition, the United States offered Cubans the most generous set of refugee benefits in U.S. history. President Kennedy implemented a Cuban refugee program that offered Cubans job training and placement assistance, health care, courses in English, low interest education loans, and housing subsidies—better benefits than offered native-born Americans on welfare. Although Congress ended the refugee program in 1973, seven years later Congress passed legislation to entitle the 1980 Cuban-Haitian Entrants to full federally funded refugee benefits, as if they were refugees, despite recognizing that they were not.

U.S. authorities extended a number of these entitlements to Cubans when they entered America en masse without authorization. Against the backdrop of some 5,000 illegal entrants in 1965, 125,000 in 1980, and 33,000 in 1994, all by sea, the United States initiated, respectively, the Johnson Administration Freedom Flights, the Carter Administration Entrant program, and the Clinton Administration bilateral accord that guarantees at least 20,000 Cubans legal entry yearly.<sup>2</sup> The presidential initiatives were intended to help reestablish safe, orderly immigration. Notably, they opted for reform involving new privileging over repression and repatriation.

U.S. presidents initially opted for reform and, in general, for privileging Cuban immigrants, to address geopolitical concerns. In the throes of the Cold war, presidents Eisenhower through Johnson very deliberately orchestrated Cuban immigration to affirm the superiority of capitalist democracy over Communism. But successive administrations increasingly extended entitlements to Cubans to address domestic political considerations, already during the Cold War but especially since. Cubans benefited from mainly settling in Florida as it became the largest “swing state,” and leveraging their vote, as well as political contributions, in support of politicians who supported the Cuba policies they favored. The CAA entitled Cuban immigrants to citizenship and therefore voting rights after five years of legal permanent residence, and the generous refugee benefits they received helped them get economically established, and thus able to support campaigns of candidates who advanced policies they wanted. Presidents Carter, Reagan, and Clinton, in particular, introduced Cuban immigration entitlements with their eyes on the Florida electoral prize, and President George W. Bush implemented his unique parole program for Cuban medical personnel when he was indebted to influential anti-Castro

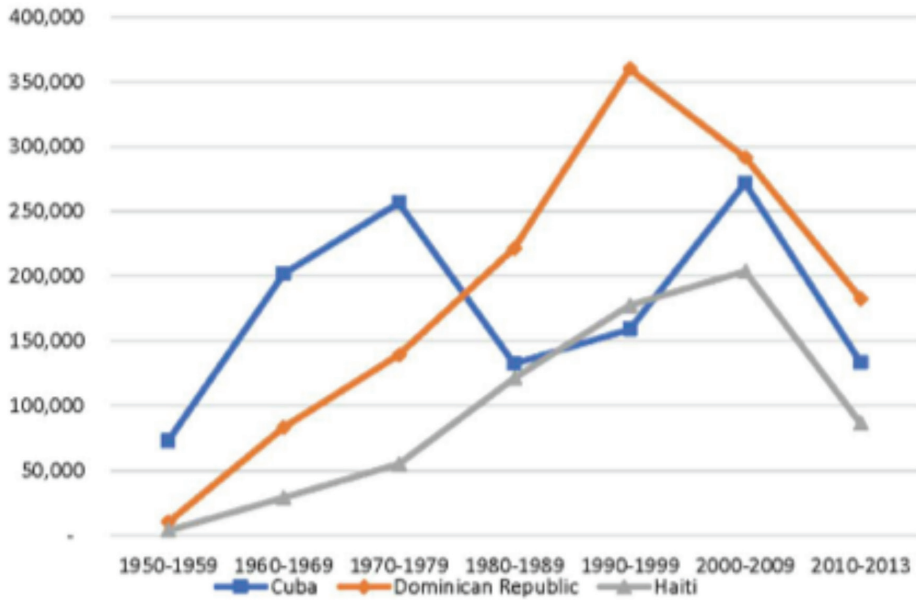
Cuban Americans who helped him get elected both in 2000 and 2004. President Obama implemented no new Cuban immigration policies until late in his administration. However, other policies he introduced cultivated Cuban American voters, which restrained him from retracting Cubans' unique entitlements.

### **Contemporary Immigration Trends: Exceptionalism in Practice?**

Policies are one matter, policy implementation is another. To help tease out the impact U.S. policy has had on recent Cuban immigration, I compare Cuban with Dominican and Haitian immigration trends. The United States has, on occasion, granted Haitians special immigration rights, such as under President Carter, when piggybacked on rights for Cubans (through the 1980 Cuban-Haitian Entrant program), and in 1998 with the Haitian Refugee Immigration Fairness Act (HRIFA) that entitled Haitian nationals in the United States without authorization or with only temporary rights to file for legal permanent residence during a two-year period. At other times, though, the USCG intercepted Haitians at sea and forced their return to Haiti, and deported many of those who reached the United States without authorization. The United States has admitted most Haitians as economic immigrants, even in years when they fled violence and repression. In contrast, Washington has treated Dominicans in a less discriminatory but, formally, unexceptional manner. The United States has admitted most Dominicans over the years also as economic migrants, in accordance with general, not country-specific, immigration regulations.

Figure 1 compares the number of persons from Cuba, the Dominican Republic, and Haiti that the United States officially admitted as legal permanent residents (LPR) since the Cuban Revolution of 1959. The figure reveals that during all decades the United States granted more LPR rights to Cubans than Haitians, unsurprising given the array of special prerogatives offered Cubans. More surprising, in only two decades were more Cubans than Dominicans granted LPR rights, despite Dominicans receiving no special entitlements. Cuban exceptionalism was most marked before 1980, as Cubans took advantage of Eisenhower, Kennedy, and Johnson administration opportunities to enter the United States with temporary immigration rights and adjust their status after President Lyndon B. Johnson penned the Cuban Adjustment Act in 1966. In the 1960s, the peak decade of Cuban privileging over other immigrants, the United States granted LPR rights to about 2.5 times as many Cubans as Dominicans and about seven times as many Cubans as Haitians.

Cuban favoritism, however, waned in the 1980s and 1990s. In both decades, the United States granted more Dominicans than Cubans LPR rights

**Figure 1. Persons Obtaining LPR Status by Country of Last Residence**

Source: U.S. Department of Homeland Security (USDHS) [2013 Yearbook of Immigration](#)

and in the 1990s more Haitians than Cubans were given LPR rights. Thus, beginning in the 1980s the United States privileged Cubans more in principle than practice. The Reagan, George H. W. Bush, and early Clinton administrations very sparingly granted Cubans LPR immigration visas, years during which the Cuban government restricted emigration opportunities. In total, they issued about half the number of immigration visas the 1984 bilateral migration agreement formally permitted in one year.<sup>3</sup> Evading the spirit, though not the letter, of the law, presidents Reagan and Bush I in particular refrained from granting visas to advance their interest in fomenting regime change in Cuba. They presumed that disgruntled Cubans would press for change at home and, after the fall of the Berlin Wall, follow the example of their former East European comrades and take to the streets to usher in a democratic transition.

The one unique immigration entitlement Cubans could count on during the Reagan through Clinton years was the right to attain legal permanent residence if they entered the United States without authorization. Indeed, most Cuban LPRs in the 1980s were unauthorized. Mariel entrants were permitted to adjust their sta-



tus on the basis of the 1966 CAA. In contrast, unauthorized entrants from the Dominican Republic were granted LPR rights only in 1986, with passage of the Immigration Reform and Control Act (IRCA) that year. Haitians qualified for status adjustment rights under IRCA as well, but also under HRIFA in the late 1990s.

Cuban LPR admits picked up after President Clinton signed the 1994 bilateral migration accord. Complying with the agreement, in almost all years since then, the United States has granted at least 20,000 Cubans LPR rights. Since 2000 it has granted significantly more, to the point of admitting more Cuban LPRs during the first decade of this century than in any previous decade: a total of 327,000 (Adams and Brown 2013). Between 2000 and 2009, an average of 27,000 Cubans attained LPR rights annually, and between 2010 and 2013 the numbers were between 31,000 to 36,000 LPRs annually. Preliminary estimates for 2014 and 2015 were even higher: 40,000 to 49,000 (Trotta 2015).

Legal permanent residence authorizations surged because the United States failed to control the granting of Cuban immigration visas. The Clinton Administration bilateral agreements neither stopped unauthorized immigration nor enabled U.S. authorities to control which Cubans came. Although never publicly acknowledged, from Washington's vantage point, the migration accords do not work. More Cubans enter the United States illegally than enter legally with immigration visas. The U.S. Havana consulate office screens only a fraction of the Cubans awarded LPR admission, even though they must, in principle, screen all of them. As a consequence, few Cubans attain legal permanent residence in accordance with the Congressionally-mandated immigration preference system that officially regulates admissions worldwide. In 2000, for example, only 19% of the Cubans granted LPR rights were admitted on the basis of family ties, the United States' main criterion for global admissions. "Refugee and asylee adjustments" accounted for 69% of the Cubans granted LPR rights (Table 2; INS 2002, 47). Thirteen years later "refugees and asylee adjustments" accounted for an even greater percentage of Cuban LPR admits, reaching 82% (Table 2). The "refugee and asylee adjustments" involve Cubans who entered the United States without immigration visas and afterwards took advantage of the CAA to attain LPR rights. As a result, U.S. control over Cuban immigration begins, in the main, only after Cubans arrive, with immigration authorities having greater influence over which Cubans to exclude than over which Cubans they prioritize for entry.

The Cubans granted LPR rights as "refugees and asylees" were admitted separately from those granted entry as refugees in accordance with the

Refugee Act. In 2000 and 2013 the United States admitted 3,184 and 4,205 Cubans, respectively, as bona fide refugees (Department of Homeland Security 2014, 40; INS 2002, 82): screened abroad and shown to have a credible fear of persecution were they to remain in their home country. In contrast, the 14,362 and 26,407 “refugee and asylee adjustment” LPR admits in 2000 and 2013 presented no evidence of having fled actual or likely persecution. They were not required to present such evidence to qualify for LPR status adjustment under the CAA. Immigration officials, in essence, treat most Cuban entrants as if they are refugees, in the absence of evidence that they actually are. Accordingly, unauthorized immigration has become the main basis for Cuban legal immigration, legal immigration linked to CAA status adjustment. And because of the CAA, almost no Cuban resides in the United States for more than a year without attaining legal permanent residence. At the same time, an estimated 11 million non-Cuban immigrants reside in the United States without legal residence and associated legal rights, and without any guarantee of attaining them.

Despite the surge in Cuban immigration and LPR attainment, the contrast with the Dominican experience is striking. In most years since the turn of the century, the United States granted more Dominicans than Cubans LPR rights, and in a manner; it better controlled (Figure1). Nearly all Dominicans are admitted in conformity with U.S. immigration regulations. Ninety-eight percent of Dominicans admitted in 2000 and 99% of those admitted in 2013 were relatives of Dominicans already in the U.S. (Table 2). The United States prioritizes family admissions, with the Dominicans screened for immigration visas in their home country.

### **Why the Surge in Unauthorized Cuban Immigration?**

From Washington’s vantage point, an “imperfect storm” fueled the surge in illegal-turned-legal Cuban immigration. New U.S. and Cuban government policies since the turn of the century contributed indirectly to the rise, though unintentionally on Washington’s part. Yet informal dynamics among ordinary Cubans that have come to span the Florida Straits in the post-Soviet era have been of greater consequence. Even the new U.S and Cuban government policies are responses to informal dynamics post-Soviet era immigrants set in motion. State and societal forces fueling the step-up in unauthorized immigration are analytically more than empirically distinguishable.

**Table 2. Immigrants Admitted by Class of Admission, Country of Birth**

	<b>Immediate family &amp; family sponsored preference</b>	<b>Refugee &amp; asylee adjustments</b>	<b>Other</b>
<b>Cuba</b>			
<b>2000</b>	18.9%	68.9%	12.1%
N=20,831			
<b>2013</b>	17.4%	82.0%	0.7%
N=32,219			
<b>Dominican Republic</b>			
<b>2000</b>	98.1%	0.1%	1.8%
N=17,536			
<b>2013</b>	98.6%	0.2%	1.2%
N=41,311			
<b>Haiti</b>			
<b>2000</b>	95.4%	1.4%	3.1%
N=22,364			
<b>2013</b>	88.7%	9.8%	1.5%
N=20,351			

Source: USDHSm 2013 Yearbook of Immigration (Washington, D.C. = Office of Immigration Statistics, DHS, August 2014, p. 28; U.S. Department of Justice, 2000 Statistical Yearbook of the Immigration and Naturalization Service (INS) (Washington, D.C. = INS, September 2002, pp. 26, 47).

### *The New Post-Soviet Era Cuban Immigrants and Their Engagement with Their Homeland*

As Cuba plunged into deep recession when Soviet aid and trade ended in the early 1990s, Cubans' faith in the Revolution shattered. Cubans' attitudes toward immigration and immigrants, as well as the values and concerns of Cubans who emigrated, changed. Relations between Cubans on the island and in the diaspora also changed. The post-Soviet era émigrés, that is the New Cubans, left to improve not merely their own material living conditions but also those of their relatives' who remained on the island, with whom they experienced the crisis

that changed their outlooks on life. New Cubans are committed to visiting island relatives and helping them financially, at the same time that Cubans on the island remain committed to them. In contrast, Soviet era émigrés, most of whom refer to themselves as exiles and are referred to by others as such, had very different experiences. Their views toward their homeland were shaped by their lives before the Revolution. Hostile to the Revolution, they broke with family who stayed, and regime loyalists broke ties with them.

New Cubans' cross-border bonding and the stories they tell of their improved material life in the U.S. stir Cubans' interest in following their example and emigrating. The earnings émigrés generously share with island relatives help make immigration possible, especially as the costs of reaching the United States have skyrocketed. A culture of immigration and, notably, a culture of unauthorized immigration, have taken hold embedded in transnational ties between Cubans on the island and their family who emigrated in the post-Soviet era.

Visits by Cuban Americans soared from an estimated 5,000–7,000 in 1990 to over 470,000 in 2014, and remittances rose during the same years from an estimated \$50 million to \$2 billion (Eckstein 2009, 133, 178; Piven 2014; Lobosco 2015). The New Cubans are both the main visitors and the main remittance senders (Eckstein 2009, 133). While remittance recipients use diaspora funds mainly to meet their daily needs, they also rely on family abroad to finance their, if they opt to, departure. In contrast, most exiles, with their different lived experiences and different resulting views toward Cuba, oppose cross-border people-to-people ties. They support, in their words, a personal embargo along with a state level embargo of Cuba.

### *New U.S. and Cuban Government Policies*

Policies implemented by both the U.S. and Cuban governments have strengthened the transnational social and economic ties among Cubans spanning the Florida Straits that fuel immigration—paradoxically, mainly unauthorized immigration. Initiatives of each government spurred initiatives of the other, already before the December 17, 2014, announcements of normalization of relations, as well as since.

On the U.S. side, in 2009, President Obama lifted restrictions on Cuban American visits and the sending of remittances to Cuba, which President George W. Bush had tightened in 2003. The Bush Administration granted Cuban Americans the right to visit only close kin and visit only once every three years, and to send no more than \$1,200 in remittances annually, and those only to close kin. While visits and remittance-sending increased even with President Bush's

draconian restrictions in place, with the ongoing arrival of at least 20,000 New Cubans annually (in accordance with the 1994 bilateral migration agreements), visits and remittances soared after President Obama lifted the so-called personal embargo (Lobosco 2014).

In addition, in July 2013 the Obama Administration relaxed bureaucratic hurdles for island Cubans to visit the United States. It made nonmigrant visas valid for multiple entries over five years. Until then the United States granted only six-month single-entry visas. The new policy made Cuban visits to the United States both easier and cheaper, and thus more likely.

The Cuban government, for its part, had already relaxed Cuban American visit and remittance restrictions in the 1990s when the Cuban economy plunged into deep recession. Desperate for hard currency as the country was pressed to reintegrate into the capitalist world economy following the Soviet Union's demise, the Cuban government initiated measures to lure diaspora dollars (Eckstein 2009, 214–216). It legalized possession of dollars, expanded goods obtainable with dollars (and with a new local currency pegged to the dollar), and facilitated remittance-sending. The Cuban government also became more welcoming of Cuban émigrés who, when visiting island family, infuse hard currency into the economy. Formerly portraying Cubans who left as “traitors” and “worms,” it reimagined them as the “Cuban community abroad,” in essence as long-distance nationalists.

Then, after Raúl Castro became head of state in 2008 the Cuban government eased Cubans' ability to travel abroad. In early 2013 it eliminated exit visa requirements and extended to two years (from less than a year) the time Cubans could stay abroad without losing their Cuban residency rights. Cuban officials even permitted island residents to retain their Cuban residency status if they obtained U.S. residency under terms of the Cuban Adjustment Act (after one year in the United States on parole). The number of nonmigrant U.S. visas issued to Cubans during the first half of 2013, immediately following the change in Cuban travel policy (but before implementation of the 2013 Obama Administration multiple entry visa policy) rose 79% over the same period the previous year (CDA 2013a). And within the first year after the Cuban government lifted Cuban travel restrictions, including after the 2013 Obama policy went into effect, Cubans took 225,000 trips abroad (CDA 2013b). There is every reason to believe that travel from Cuba to the United States will continue at this level, if not increase, as formal U.S.-Cuba relations deepen. However, whether Cubans settle for visits or use visits as a new springboard for unauthorized immigration remains to be seen. Alternatively, the new U.S. and Cuban travel policies may,

together, spur “circular migration” for the first time, that is, movement back and forth between the two countries. Until 2013 the Cuban government had made return migration difficult.

Meanwhile, the joint U.S.-Cuba government announcements on December 17, 2014, of plans to normalize relations, have had the unintended effect of further fueling unauthorized immigration. The Obama Administration immediately announced that its immigration policy would not change. However, Cubans have been taking advantage of the current laws in increased numbers while they still can, worried that in the new bilateral context the United States might sunset the CAA and thereby end their privileged unauthorized path to legal immigration. After mid-December 2014, unauthorized Cuban immigration increased. Yet the uptick builds on the bedrock of mounting unauthorized Cuban immigration that preceded the December announcements. In essence, normalization of U.S.-Cuba relations induced new Cuban immigration, but it is not the main force behind the surge. The January 12, 2017 elimination of the “wet foot, dry foot” policy has diminished Cuban immigration.

The Cuban and U.S. governments differ in their public stance on the CAA. While the Obama Administration refused to open discussion of the law, Cuban officials contend that the CAA encouraged illegal departures, obstructed orderly migration between the two countries, and fueled a brain drain. Yet current Cuban discourse differs from the past. For decades Cuban officials portrayed the CAA as “murderous,” for inducing Cubans to risk their lives crossing the shark-infested Florida Straits—and indeed, since 1959 thousands of Cubans have died trying to cross the Florida Straits in flimsy boats and homemade rafts (Frank 2014b)—aware that if they managed to reach the United States they could attain legal immigration rights. As more Cubans came to the United States by land and air rather than by sea, as detailed below, the bases of official Cuban criticism shifted. More significant, the Cuban government even structured its new travel policy around the CAA to allow for dual citizenship. The travel regulations that went into effect in 2013 enable Cubans to take advantage of the CAA while retaining rights on the island.

The United States and Cuba also differ in their officially expressed views about the Cuban Medical Professional Parole Program. Cuban authorities, with reason, saw the program as deliberately draining their country of human capital. Their complaints notwithstanding, the U.S. State Department initially said that the controversial medical parole program is not on the negotiating table (Wyss 2015). However, on January 12, 2017, the Obama Administration announced the termination of the George W. Bush Administration program as part

of bilateral negotiations. The program was difficult to justify, because it was unequivocally hostile in its intent.

Should the United States sunset the CAA, which requires congressional and not merely presidential approval, Cubans will become more dependent on official immigration regulations the U.S. consulate in Havana implements. If faced with obstacles, they may continue to immigrate without authorization, in which case they would join the ranks of the millions of unauthorized immigrants in the United States who lack legal permanent residence, work, and citizenship rights. Given the Dominican experience, there is no reason to believe that Cuban immigration will contract should the United States repeal the CAA. Cubans have reasons beyond the CAA for wanting to move to America. The more Cubans with family in the United States, the more likely Cubans will migrate, illegally if not legally.

### **Immigration Surge Despite Repatriation of Cubans Found at Sea**

Cubans have creatively turned to new unauthorized ways to make their way to the United States since the 1994–1995 bilateral migration accords went into effect. Against the backdrop of stepped-up USCG policing of the Florida Straits and U.S.-Cuba collaboration in the repatriation of Cubans found at sea attempting to make their way to the United States, Cubans increasingly come by land and air, rather than by sea. They thus escape the USCG watch.

In numbers that are unknown but widely believed to be much diminished, Cubans continue illicitly to enter the United States by sea, the most direct route. There is no publicly available data on successful boat entries, but the number of Cubans intercepted by the USCG dramatically declined from 32,000 before the “wet foot, dry foot” policy went into effect. Between 1995 and 2001 an average of 1,600 Cubans were interdicted yearly in the Florida Straits, and between 2002 and 2014 interdictions ranged from 666 to 2,868 yearly (Sullivan 2014, 53; Sullivan 2015, 47; Brown 2002, 277). As of 2014 the number began to rise, although not to 1994 levels. In 2014 the USCG intercepted 3,722 Cubans, nearly double the number in the preceding year. Some Cubans try five to ten times before successfully making it to the United States (Bardach 2015).

Most Cubans came to rely on human smugglers to take them to the U.S. Some smugglers transport Cubans across the Florida Straits in high-speed, hard-to-detect low-lying “cigarette boats.” Cubans refer to “Route 80,” a reference to smugglers’ boat speed, of up to 80 knots an hour, on a path drug traffickers followed in the 1960s (Pereyra 2015). The Cubans need the professional



smugglers with the expertise to navigate both the Cuban and Florida coasts and with an ability to outmaneuver law enforcement agents.

While a costly option for Cubans who used to leave by raft, the turn to smugglers reflects Cubans' continued determination to immigrate since stepped-up USCG patrolling has made successful escapes by sea difficult. Policing of the Florida Straits has had the unintended effect of stimulating Cuban demand for smugglers, rather than reining in unauthorized immigration. In response to increased policing, an underground network of Miami-based Cuban smugglers has emerged who collect payment from Cubans in the United States who finance relatives' escapes (Brown 2002, 279). U.S. government efforts to crack down on the smuggling have not been effective. The U.S. Border Patrol lacks sufficient funds; Florida juries, when cases are tried, tend to be sympathetic to smugglers who bring friends and family of local Cuban Americans to the United States; and smuggled persons, once ashore, are more interested in establishing their legal rights to stay in the United States and possibly bringing family still in Cuba to the United States than in testifying against their smugglers (Brown 2002, 288).

Smugglers reportedly charged Cubans \$8,000 per person in 1999, and an average of \$10,000–15,000 in 2015, about five times more than Central Americans were charged (Brown 2002, 278; Pereyra 2015; Bardach 2015). Earning the equivalent of \$20–30 a month at state jobs, Cubans depend on the generous help of family in the diaspora to pay smugglers. In setting their fees smugglers take into account the amount relatives in the United States are able and willing to pay. Since Cubans can count on legal permanent residence within a year after arrival they typically attain better paying jobs than unauthorized immigrants from other countries. They accordingly can afford to pay smugglers more. Nonetheless, Cubans face risks in relying on smugglers. One report estimated that one out of every twenty Cubans smuggled to the United States died in an attempt (Bardach 2015). In addition, Cubans faced risks of kidnappings for ransom by Mexican gangs. In turn, the dependence on costly smuggling reinforced the race-based bias of Cuban immigration since the early days of the Revolution. The diaspora that finances the immigration is exceptionally “white.” Afro-Cubans accordingly are left at the sidelines of the surge of new unauthorized Cuban migration, just as they were of U.S. authorized immigration under the Kennedy and Johnson administrations.

To avoid the USCG policing, Cubans in growing numbers have been turning to human smugglers to take them to the United States by land, across the U.S.-Mexican border. Up until January 12, 2017 Cubans presented their Cuban identification at the border-crossing after which they were paroled into the Unit-



ed States and granted CAA-based LPR rights a year later, provided they have no criminal record (Aguilar 2015). These Cubans make their way to the United States in a manner the U.S. and Cuban governments never imagined when negotiating the 1995 migration agreement that addressed repatriation of Cubans intercepted at sea. In the fiscal year that ended in September 2014, before U.S.-Cuba normalization of relations process officially began, more than 22,500 Cubans had entered the United States by land without immigration visas (Robles 2014). Then, between October 2014 -two months before the December 17 announcement- and June 2015, about 18,520 Cubans entered the United States at just one—the main—land crossing, at Laredo, Texas. A total of 24,700 Cubans were projected to enter via Laredo before the end of the fiscal year: over 60% more than in the preceding year, nearly twice as many as in 2013, more than twice as many as in 2012, and quadruple the number in 2004 (Aguilar 2015; Sullivan 2013, 7; Knaub 2010; Morel, Sibaja, and Becerra 2015). By the end of the fiscal year that ended September 30, 2015, the number of Cubans who arrived at several checkpoints along the Mexican border had soared to 45,000, more than double the number of legal permanent residents the United States had agreed to admit in the 1994 bilateral agreement (Wyss and Whitefield 2015). And while the Cubans entering at the Mexican border are screened for admission, this occurs only after their arrival, not in accordance with the U.S. immigration preference system.

In 2014 Cubans entered the United States at the Laredo crossing without fanfare while immigration authorities blocked the much publicized entry of an equal number of unaccompanied minors from Central American countries. The Cuban–Central American comparison highlights how privileged Cubans are. Although the Central Americans were more qualified for refugee or asylee admission in that they fled violence in their homeland, they were turned away, while the Cubans were let in without proof of having fled persecution.

When smugglers first took Cubans by land to the United States they went directly to Mexico. Cubans would, for example, meet a human smuggler off the coast of Cuba to take them to Cancún, from where they would fly first to Mexico City and then to the northern Mexican city of Matamoros. From there they would be transported to the U.S. border, cross, and be paroled into the United States, while U.S. immigration officials turned not only Central American minors, but also other foreigners away (Knaub 2010). Unfortunately for aspiring Cuban immigrants, in 2008 the Mexican government made the direct route to Mexico more difficult. It began to intercept Cubans and deport them back to the island, at the urging of the Cuban and U.S. governments. Mexico also began to require entry visas, difficult for Cubans to attain since they were suspected of

using Mexico as a transit stop to the United States (Adams 2012). Some Cubans continue to pursue the direct route through Mexico, reputedly paying Mexican immigration officers thousands of dollars in bribes (Knaub 2010).

As the direct route to Mexico became more difficult, determined Cubans turned to yet more circuitous routes to reach the United States that reportedly often took two to four weeks in transit, also with the help of human smugglers (Rivas 2015). Cubans went to countries that required no visa, from where they made their way to the U.S.-Mexican border. They turned especially to Ecuador as a way station; the South American country dropped its entrance visa requirement for Cubans the same year Mexico initiated its requirement. The number of Cubans leaving Cuba for the United States via Ecuador rose dramatically under the circumstances, from 4,700 in 2007 to as many as 27,000 four years later (Adams 2012). In 2016 Ecuador began requiring Cubans to obtain visas before entering the country, thereby reducing the attraction of Ecuador as a transit point. Other Cubans go to Haiti, from where they make their way by land to the neighboring Dominican Republic. There they connect with smugglers who take them by boat to Puerto Rico or Florida.

By 2015, ten Latin American countries experienced increases in the number of Cubans smuggled en route to the United States. The countries included Venezuela, Colombia, Panama, Costa Rica, Nicaragua, Honduras, and El Salvador, as well as Haiti, the Dominican Republic, and Mexico (Melendez 2015). The smuggling through Central America reached a crisis in November 2015 when the Nicaraguan government blocked the entry of some 1,000–2,000 Cubans at the Costa Rican border—with tear gas and rubber bullets. Cubans protested by refusing to let traffic pass through the key border crossing. The blockage caused a diplomatic row between the two neighboring countries.

Thus, as the United States, and countries such as Mexico, imposed new immigration barriers, Cubans turned to new ways to circumvent the barriers, and in so doing on occasion incited tensions among countries involved in the smuggling routes. The smuggled entrants further illustrate how Washington lost control over Cuban immigration despite the migration accords the U.S. and Cuban governments negotiated.

Still, other Cubans, when able, immigrate legally to third countries, such as Spain. Spain entitles Spanish descendants to citizenship rights. As of 2012 the Spanish government issued over 60,000 passports to Spanish descendants in Cuba (Adams 2012). Those Cubans who want to settle in the United States, fly from Spain as tourists to America. The United States requires no visa for European Union visitors. The Cubans travel to the United States on their Spanish

passports and, after arrival, take out their Cuban passport and request, first, to be paroled into the country, and, a year later, request CAA LPR rights.

### **Emergent Cuban American Political Opposition to Cuban Immigration Exceptionalism**

Cuban Americans influenced Washington's Cuba policy, including Cuban immigration policy, as they became a major electoral force in Florida, elected Cuban Americans to public office at the local and national levels, organized as an interest and lobbying group, and formed a political action committee (PAC) that channeled campaign contributions to non-Cuban, as well as Cuban American, politicians who promoted policies they wanted. In the post-Soviet era, however, the Cuban American politicians found themselves faced with a contradiction they unwittingly helped bring about: in defending ongoing Cuban entitlement to unique immigration privileges they faced the arrival of Cubans who defied precepts on which they had built their political careers and who challenged their electoral base. Under the circumstances, influential Cuban Americans threatened to press for restricting if not repealing the CAA, the most exceptional of Cubans' entitlements.

Jorge Mas Canosa, who emigrated in 1960, established himself as the most influential Cuban American from the Reagan era until his death in 1997, both within the Cuban American community and within the halls of Congress and the White House, under Democratic as well as Republican leadership. Although he never held electoral office, through the Cuban American National Foundation (CANF) he influenced U.S. Cuba policy under presidents Reagan, George H. W. Bush, and Clinton.

Beginning in 1989 Cuban Americans were elected to Congress, mainly in South Florida and, secondarily in New Jersey which became home to the second largest Cuban enclave. In Congress the Cuban Americans established themselves as gatekeepers of U.S. Cuba policy. Although few in number (no more than eight at any point in time), they came to hold key Congressional positions through which they influenced U.S. Cuba policy. Most came from exile families that emigrated soon after the Revolution, were vehemently anti-Castro, and had the backing of wealthy Cuban Americans of their same exile cohort.<sup>4</sup>

Indicative of Cuban American's mounting political clout, senators Marco Rubio and Robert Menéndez, a South Florida Republican and a New Jersey Democrat, respectively, served as part of the so-called Gang of Eight that drafted an immigration bill in 2013.<sup>5</sup> While supporting a path to legal residence for undocumented immigrants neither of them used the opportunity to address any

revision of Cuban entitlements. South Florida Republican Mario Díaz-Balart, who served on the House of Representatives immigration reform committee, also was silent on the matter. In not speaking out they tacitly supported the status quo, that is, continuation of Cubans' exceptional rights.

While silent on the committees about Cuban immigration policy, they, along with the other Cuban American Republican legislators, lashed out against the CAA in Florida beginning in 2009, after President Obama lifted Cuban American travel and remittance-sending restrictions. Díaz-Balart complained that a significant number of Cuban Americans abused the CAA, which was intended for refugees fleeing the Castro regime. In a TV interview in Florida he went so far as to compare Cuban Americans who traveled to see their relatives in Cuba with unscrupulous businessmen who dealt with German Nazis (*Miami Herald* 2009). He argued that by visiting Cuba they invalidated their refugee status. Subsequently he noted that he did not favor repealing the CAA, but clamping down on its abuse. He argued that it should be applied only to Cubans who had suffered political persecution on the island, even though the CAA never specified that only persecuted Cubans and refugees qualified for immigration status adjustment rights (*Miami Herald* 2009). In 2012 fellow Miami Republican Congressman David Rivera went further. He proposed legislation to modify the CAA: to revoke the residency status of any Cuban national who returned to Cuba after receiving political asylum and residency under the CAA (*Miami Herald* 2012). The session of Congress ended without approval of the proposed legislation, and Rivera lost his reelection bid later in 2012, possibly because Cuban Americans in his district resented his effort to tamper with the CAA, but also because of his involvement in an alleged scandal. The third South Florida Republican Congressperson, Ileana Ros-Lehtinen, similarly echoed the call of the other Republican. However, she never introduced enabling legislation (Leary 2013).

In Florida, though not in Washington, Rubio, who had been elected to the Senate in 2010, joined the Cuban American Republican chorus. He criticized Cuban immigrants who traveled to Cuba. At a 2013 meeting of the U.S.-Cuba Democracy PAC, the main Cuban American PAC, Rubio argued that President Obama's removal of restrictions on Cuban American travel to the island was inconsistent with the Cuban Adjustment Act and undermined its justification. He argued that "it gets very difficult to justify someone's status as an exile and refugee when a year and a half after they get here, they are flying back to that country over and over again" (Fox News Latino 2013). Rubio added that he was "not sure we're going to be able to avoid, as part of any comprehensive ap-

proach to immigration, a conversation about the Cuban Adjustment Act,” even though the same year he was silent on the subject when he was on the Senate immigration reform committee (Fox News Latino 2013). Moreover, his public criticism of the CAA notwithstanding, two years later he had yet to propose, much less, oversee any policy reform. He did not translate his words into action. As of December 2015, the South Florida Republican members of Congress also had initiated no legislation to repeal or revamp the Cuban Adjustment Act.

The South Florida Republicans, Senator Rubio above all, envisioned their political futures differently in Florida and on the national stage. In Washington Rubio presented himself as a carrier of the Hispanic, not specifically Cuban, torch. His attacks on the CAA in Miami targeted Cuban Americans, mainly New Cubans, to scare them into believing that the 1966 legislation would be repealed if they continued to defy the embargo’s restrictions on travel to Cuba. In visiting Cuba, New Cubans by definition demonstrated that they were not refugees fearful of persecution.

In their cross-border engagement New Cubans defied the moral precepts on which the Cuban American politicians had built their careers. The New Cubans also began to challenge the Republican Party’s South Florida hold over Cuban Americans, in presidential as well as congressional elections. Amid the presence of ever more New Cubans, South Florida elected its first Cuban American Democrat to Congress in 2012: Joe García, in the district where Rivera had served. García, who both campaigned in favor of lifting the travel restrictions the South Florida Cuban American Republicans supported, and was silent on the matter of the CAA, appealed to New Cubans whom the CAA entitled to citizenship and voting rights after five years as legal permanent residents. The New Cubans also helped Obama win Florida, in 2008 and again in 2012, with a record number of Cuban American votes. In 2012 President Obama won nearly half the Cuban American Florida vote; in contrast, in 2000 Republican George W. Bush won over 80% of the Cuban American Florida vote. García did not establish a sufficiently strong hold in his district to withstand a super-PAC well-funded Republican campaign for his seat in 2014. He lost his seat, after one term, amid accusations that his political team was involved in vote tampering.

President Obama might have seized the moment of mounting criticism of the CAA by the Cuban American legislators to urge Congress to repeal the law that so unjustifiably privileges Cubans over all other foreign-born people. However, by then Democrats had come to have their own vested interests in maintaining the CAA intact. The increasingly Democratic-leaning Cuban American population supported the CAA. A Florida International University Miami poll

found that 86% of all Cuban Americans in Miami, including 92% of post-1995 arrivals, the most Democratic-leaning Cuban Americans, in 2014 supported the CAA (Cuban Research Institute 2014). A slightly smaller percentage also favored continuation of the “wet foot, dry foot” policy: 63% of all Cuban Americans surveyed, and 66% of post-1995 arrivals. By then the domestic political base for Cuban immigration privileging had not only become entrenched but also bipartisan (Cuban Research Institute 2014).

In essence, the stakes have become too high for both Republicans and Democrats in the electorally important state of Florida to sunset the CAA. Under the circumstances, Cubans’ unique entitlements might most easily be put to rest if buried in a comprehensive immigration reform bill where it receives little public attention. Such immigration reform is needed to legalize the millions of unauthorized immigrants in the United States.

## Conclusion

The Cuban government and ordinary Cubans, together with their families in the United States, have influenced U.S. Cuba immigration policy informally, extra-legally, and transnationally since 1959. Accordingly, U.S. officials have implemented Cuban immigration policies not always under conditions of their choosing. Especially against the backdrop of immigration crises, the United States granted Cubans unique entry privileges to resolve the crises.

The Cuban experience, in turn, points to a “path-dependence” of privileging. Initial immigration entitlements made subsequent entitlements more likely. Presidents, at times in coordination with Congress, piled new privileges onto old and maintained privileges after the conditions that induced them ended. Entitlements generated vested interests in their continuation. In the process, domestic political considerations replaced foreign policy as the basis of Cuban privileging. Paradoxically, though, the privileging has resulted in most Cubans gaining legal permanent rights in ways that circumvent the U.S. preference system that in principle governs immigration to the United States. Unauthorized immigration has become the main basis by which Cubans establish legal immigration rights in the United States.

Cuban privileging had become so entrenched that after the United States and Cuba announced plans to normalize relations on December 17, 2016 President Obama initially resisted putting immigration reform on the negotiating table. Politics stood in the way of principle, but so too did the fear of unleashing a new Cuban mass exodus at the hint of any modification of policy. At the ceremony marking the reopening of the U.S. Embassy in Havana in 2015 Secretary of State

John Kerry reiterated the President's stance of no plans to alter the CAA or the "wet foot, dry foot" policy (Whitefield 2015). However, on January 12, 2017 the Obama administration announced the end of the "wet foot, dry foot" policy, as well as the special treatment of Cuban medical personnel. Nevertheless, the CAA continues to provide Cubans with unique immigration privileges.

## NOTES

<sup>1</sup> The U.S. enacted similar laws for immigrants from other countries, such as the Hungarian Refugee Act, the Indo-Chinese Parole Adjustment Act, and the Nicaraguan Adjustment/Central American Relief Act. However, only the Cuban Adjustment Act included no specified end date.

<sup>2</sup> In 1994 President Clinton had the 33,000 Cuban boat people diverted to the U.S. naval base in Guantánamo before they reached U.S. land. He later agreed to admit them to into the United States.

<sup>3</sup> Under President Reagan, Cuba suspended the bilateral migration agreements for about 18 months in retaliation for the United States broadcasting Radio Martí, with its anti-Castro messaging, to Cuba.

<sup>4</sup> Senators Marco Rubio and Bob Menéndez were the two exceptions. Their parents emigrated before the Revolution. However, Rubio considered the exile experience so politically important to his constituents that he claimed his parents moved to America after the Revolution: until opponents disclosed his deceit during his first Senatorial campaign.

<sup>5</sup> Menéndez began his political career as mayor of Union City, New Jersey, home to the second largest Cuban enclave in the United States.

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## CHAPTER 6

# **The Impact of the Cuban American Community on U.S. Policy Toward Cuba**

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As a result of the efforts of the so-called Cuban American lobby the opinion has been long held that U.S. policy toward Cuba is decided in Miami. This impression contravenes the logic of the actual circumstances. Indeed, it obscures factors that have made the role of the Cuban American community complex, as well as engendered its current limitations, especially in view of the changes in U.S. policy towards Cuba introduced by President Barack Obama.

### **The Formation of the Cuban American National Minority**

According to the 2010 U.S. census, two million people of Cuban origin live in the United States. This represents 3.7% of the Hispanic population in the country (Pew Research Center 2015). Of the U.S. Cuban population, 57% are immigrants and, given their sociocultural characteristics, they reflect two qualitatively different stages of emigration: the “historic exiles” who arrived before 1979, coming from sectors impacted by the 1959 Revolution and who constituted the social bases for the most conservative elements of the community; and those who arrived after 1980, especially after the 1994 U.S.-Cuban immigration agreements, and who are considered “new émigrés” whose social and political tendencies differ from the first group (Pew Research Center 2015). While the numeric weight of the historic exile community has decreased to less than 50% of the immigrants and to 20% of the total Cuban American population, the new émigrés now surpass 52% of the total number of immigrants and constitute the most dynamic demographic component of the community (Eckstein 2009, Table 1.3; Pew Research Center 2015).

Cuban immigrants and their descendants are usually referred to as “Cuban Americans” regardless of their legal status or place of birth. The Cuban American category reflects the integration process of Cuban immigrants into U.S. society until they are converted into Americans of Cuban origin. The result is

that Cuban immigrants and their descendants constitute an integral part of U.S. society and basically act in line with the characteristics of that status. Nevertheless, it is the Cuban cultural matrix that continues to characterize the Cuban Americans within U.S. society. Through culture, Cuban Americans remain inevitably connected with Cuban society.

Cuban Americans are distinct from other Latin Americans in the United States. The main social indicators, such as per capita annual income, number of homeowners, or poverty index, place Cuban Americans in an intermediate category below the U.S. national average, but above the rest of Latin American communities in the U.S. The average educational level of the Cuban American contributes to this inasmuch as 25% has attained some higher education. In contrast, only 14% of Hispanics have reached that educational level (Pew Research Center 2015). If we add that around 90% of Cuban Americans consider themselves whites, we can comprehend the reason why they are considered closer to the North American white middle class than any other Latino group. This is yet another element that influences Cuban Americans' political attitudes.

### **The Miami Cuban American Enclave**

The integration process of immigrants into North American society is generally associated with the formation of "ethnic or national enclaves" that facilitate their insertion into national life. In the case of Cuban Americans, 68% live in the state of Florida. This makes them the Latin American group with the highest geographic concentration in the U.S. (Pew Research Center 2015). This level of concentration is even more striking if we take into account that 54% live in Miami-Dade County, where the so-called "Cuban American enclave" is located. Miami's demographic composition, along with the growing presence of other Latino groups in the area, makes Miami the third largest city in the United States in terms of the number of immigrants after Los Angeles and New York. It is the only large North American city inhabited by a majority of individuals of Latin American origin. Miami's economic base depends fundamentally on an external market: on tourism and on commercial and financial services with Latin America. Market studies conducted by experts at the Universidad Complutense de Madrid attribute Miami's recent economic boom to its geographic location and its cultural characteristics, in particular its bilingualism, which offers unique advantages for business development between the United States and Latin America (Plaza 2008, 13–14).

Not even Cuba escapes Miami's Latin American commerce. Charter flight companies and travel agencies focusing on Cuba constitute a network of estab-

lishments that have survived all stages of the conflict between Cuba and the United States. Cuban demand supports a multitude of shops and pharmacies and diverse businesses handle the transfer of goods and money to the island. The “maleteros”—people who transport goods and money to and from Cuba—include hundreds of individuals, and the commerce has led to the creation of an informal market with cultural characteristics peculiar to the social landscape of both countries. In 2016 regularly scheduled flights by U.S. airlines began with potentially serious consequences for the charter flights companies who have dominated air transport to Cuba.

As a result of the above mentioned comparative advantages, Miami has become the center of commercial operations between the U.S. and Latin America. Miami has also become a site for the diffusion of culture and U.S. ideology in the subcontinent. Miami, as an important international financial emporium specializing in the Latin American market also influences that city’s role in political relations with the region and on Cuban American attitudes. Because of this, it is common for Miami to be referred to as “the capital of the Latin American right.”

Cuban Americans have provided a good part of the human capital that has allowed Miami to develop and they are the most prepared to take advantage of it. However, analysis of the economically-active population pyramid of the Cuban American enclave in Miami shows that major entrepreneurs barely constitute 1% of the total, although they generate 85% of the profits, which indicates a high level of concentration of capital. Meanwhile, what could be considered as the “middle class,” such as small business owners, senior administrators, and professionals, who are relatively well remunerated, constitute 38% of economically active Cuban Americans. Below them are the 60% comprised of salaried workers, of which 40% have the worst paid jobs (Martin and Middleley 2009).

### **The Cuban American Lobby**

The class structure of Cuban Americans that results from the processes of social integration of immigrants into U.S. society goes hand-in-hand with the emergence of organizations, groups, and individuals that assume political control of these communities and appear as their representatives in relation with the rest of society. The so-called “Cuban American lobby,” identified by its extreme right political positions and ideologies, is also the fruit of this integration process. The Cuban American lobby has transformed the place of Cuban immigrants within U.S. politics from mere instruments of the policy against the Cuban Revolution, Cuban Americans have become an organic part of that policy. The evolution of the Cuban American lobby was determined by two fundamental variables: first, the capacity

to be operational in official policymaking in diverse moments, which supported an active national presence in the design and application of U.S. policy toward Cuba; and second, the capacity to mobilize the Cuban American vote, provide resources to local and national political campaigns, as well as to attain a high level of control of political and administrative structures in the Cuban American enclave in Miami.

The Cuban American lobby did not arise spontaneously. It had its organic origins in 1981 when, as the result of an initiative by the Reagan administration, the Cuban American National Foundation (CANF) was created. Integrated into the neoconservative trend that was preponderant at the time, its primary objective was to reverse the advances made by President Carter's policy toward Cuba and create a Republican base in South Florida. The link with the Republican administration resulted in the rapid ascent of the Cuban American lobby in local structures of power and its role as a protagonist in policy toward Cuba. The death of CANF's principal leader, Jorge Mas Canosa in 1997, as well as the victory of George W. Bush in the 2000 elections—who was in direct conflict with the Mas clan because of the support CANF provided Bill Clinton—decreased CANF's influence in Cuban American political life. However, this did not imply loss of political control over the Cuban American enclave by the extreme right or the decrease of activity by the Cuban American lobby at the national level. With the support of the Bush administration, some of its leaders changed and the Cuban American lobby evolved until it was converted into a more or less informal political machine that returned to its identification with the Republican Party as a result of the political polarization existing in the United States.

### **The Weight of Cuban Americans in South Florida Political Structures**

As a result of Cuban Americans' specific influence and the capacity of the Cuban American political machines to take advantage of their local influence, it is calculated that Cuban Americans control a third of all elected positions in Miami-Dade County, as well as in the administration of the municipalities where Cuban Americans are concentrated (Eckstein 2009, 94). Of the thirteen Latin members of Florida's state legislature, eleven are Cuban Americans, and ten of those are Republicans from Miami. They also hold leadership positions in areas where they do not have a majority, which indicates their integration with other powerful groups in the region.

The importance of the Cuban American vote has been quite exaggerated, since it represents just 5% of the electorate in Florida. Not even in the counties where the immense majority of Cuban American voters are concentrated, such as Miami, Broward, and Monroe, has their vote been decisive in presidential

elections, where Democratic candidates have always won despite the preferences of Cuban American voters (Sánchez Parodi 2012, 9). Nevertheless, the Cuban American vote can be decisive in local elections, when voter turnout by the rest of the population is low or voter cleavages have greater weight. To this can be added that the state of Florida has been important in deciding presidential elections. This was evident in the 2000 elections, when the Cuban American vote was decisive in establishing the contested winning margins. For this reason, the Cuban American voting bloc has received special attention from national candidates, both Republicans and Democrats.

The local Cuban American political machinery can be described as a quite compact political force, in which conflicts between politicians, often scandalous, do not alter in its essence its dependence on or functionality for the dominant groups in the enclave. Cuban American politicians have not always been scrupulous about imposing their interests, so the Cuban American political environment is regarded as one of the most corrupt and intolerant in the country.

While Anglos are the owners of great wealth in Florida, as well as the chief executives of big companies, the Cuban American elite has been able to gain space in this structure of power and wealth, and thereby access a good portion of the government contracts available to the region. These are not minor spoils: between 1970 and 2000, the Miami public sector increased its size 27% and spent 25 billion dollars annually. As a matter of fact, the fundamental source of employment of the so-called “historical exile” is not businesses in the Cuban American enclave, as is often thought, but rather many are employed in this public sector (Eckstein 2009, 102).

### **National Representation**

As a result of Cuban American control of local structures in Miami, the effect of Cuban Americans on national politics has been seen through the repeated election of at least three members of Congress in the last two decades. With one exception who lasted just one term, all those elected have been Republicans. This result is consistent with the formation of congressional districts with a high concentration of Cuban American voters, something that is not unusual in U.S. politics with respect to the electoral organization of other minorities. However, thanks to its links with other influential sectors in the United States, Cuban Americans have succeeded in enhancing their political potential, becoming proportionally the best represented Latino group in the country.

In addition to the Miami members of Congress, another Cuban American, Bob Menéndez, a Democrat, represents the state of New Jersey, and his party

affiliation has not altered his alliance with Republican Cuban American members of Congress in everything related to U.S. policy toward Cuba. Although New Jersey had, at some point, the second largest concentration of Cuban immigrants in the U.S., which facilitated the rise of Cubans in local politics, it has been years since they constituted a numerically important population. As a result, we cannot use the argument of a strong Cuban American electoral bloc as the sole explanation of the election of Cuban American senators.

Not even Senator Marco Rubio's election in Florida is explained by the importance of the Cuban American electorate, much less Ted Cruz's victory in Texas and Bob Menéndez' election in New Jersey. Rubio and Cruz, both aligned with the Tea Party, aspired to the Republican presidential nomination in 2016.

Republican Cuban American politicians have served in state-level positions in Florida and are integrated into the political structures of both parties at the state and national levels. Cuban Americans have filled important national positions, including cabinet posts, as well as acting as presidential advisors on the National Security Council, and as U.S. ambassadors to various countries. In addition, the Cuban American presence has increased within the U.S. governmental bureaucracy, which allows them to permanently influence the design and implementation of policies, regardless of which political party is in power.

Cuban Americans are also involved with a number of political action committees (PACs), tasked with contributing selectively to the campaigns of politicians with the goal of influencing them or working against politicians who do not share their views. In this capacity, Cuban American PACs have contributed funds to both Republicans and Democrats, although in the past few years there has been a decrease of political contributions and a bigger gap in favor of Republican candidates. In addition, the Cuban American extreme right has a presence in a number of think tanks, especially those with a conservative tendency; in supposed human rights organizations that receive U.S. government funding to implement official policy against the Cuban government via nongovernmental means; and in important law firms and private lobbying firms, often staffed by Cuban Americans who have served in government.

### **The Evolution of Variables that Have Determined the Influence of the Cuban American Lobby in U.S. Policy toward Cuba**

Among the intrinsic weaknesses of the Cuban American lobby is that it only constitutes a political force with real political bases at the local level in Miami. The lobby's electoral base has limited influence beyond its geographic area, which is threatened by the increasing presence of other Latino groups in Miami.



In addition, it does not have any organic links with basic sectors of the U.S. economy, not even in the state of Florida.

From the perspective of U.S. politicians, from 1980 until Obama's victory in 2008, the issue of a change in U.S. policy towards Cuba was a risk without tangible benefits. This allowed the Cuban American lobby to function without important counterweights with respect to U.S. policy toward Cuba within the U.S. national context. This reality has changed substantially in recent years. In the 2008 elections it was clearly evident that for the Democrats a change in the policy towards Cuba could be beneficial in attracting growing sectors of the Cuban American electorate. Even more importantly, diverse sectors of U.S. society, including important economic groups, began to pressure for such changes. Before and after the December 17, 2014, announcement by President Obama of a policy change, a number of important bipartisan groups lobbying for a new policy toward Cuba emerged. In addition, politicians from parties, entrepreneurs, the press, and representatives from the academic world also supported a new policy towards Cuba.

Given these conditions, although the Cuban American lobby continued as the principal opponent of Barack Obama's Cuba policy and it has succeeded in impeding Congress from pursuing initiatives that favor that policy, it has not succeeded in finding sufficient consensus to significantly alter or to stop the process. What is important in this context is that the variables determining the influence of the Cuban American lobby have changed. For the first time, it clashes with official U.S. government policy and it is not useful to the interests that dominate U.S. politics. In addition, a number of substantial counterweights contrary to the Cuban American lobby's positions have appeared, especially among the U.S. economic sectors that are most influential in terms of the policy positions of both parties on the issue of U.S.-Cuba relations.

Another aspect affecting the activism of the Cuban American lobby is that a hostile U.S. policy toward Cuba has become unsustainable internationally, especially in Latin America. As President Obama recognized, such a policy isolated the United States from the hemisphere, endangering the bases of Pan-Americanism. This has also been a source of discord with U.S. allies internationally, which has been evident in UN votes (Obama 2013). While Latin America experiences cyclical setbacks in progressive processes which benefit the Cuban American extreme right given its integration into similar forces in the continent, it is difficult to contemplate the possibility that this could translate into renewed isolation of Cuba and the complete reversal of the integrationist processes observed in the region. Moreover, there have been transformations in the Cuban American com-

munity—the social base of the Cuban American lobby. All these factors indicate a growing tendency toward improvement of relations with Cuba.

### **Social Transformations in the Cuban American Community**

The Cuban American community today is highly segmented by class, with profound cultural differences among the diverse immigrant groups and with their descendants.

The new *émigrés* constitute a qualitatively distinct social element from the rest of the Cuban immigrants. In the first place, they are not the product of the class conflicts of the Cuban Revolution with the most privileged sectors of pre-revolutionary society, as occurred among the first immigrants, but the result of contradictions within the Cuban socialist system. Cuba produces human capital that the national labor market is not capable of fully absorbing, particularly since the economic crisis of the 1990s precipitated by the dismantling of the socialist camp and the disappearance of the Soviet Union. Cuban immigration after 1990 has been an outlet from the Cuban structural contradiction, facilitated by the migratory policies of the United States with respect to Cuba. These individuals, irrespective of their dissatisfactions in Cuba, do not emigrate as a result of class conflicts with the Revolution. In reality, they maintain strong filial, emotional, and existential bonds with their country of origin. They are also perceived differently by Cuban society and, as a matter of fact, participate in diverse ways in Cuban national life.

The 2013 Cuban immigration reform reflects this reality and reflects very different strategic assumptions by the Cuban government than those that dominated in the early years. This does not imply a complete resolution of the tensions generated by this phenomenon which has consequences in terms of Cuba's demographic balance and its productive potential. New emigrants also insert new contradictions into the core of the Cuban American community, especially with respect to relations with Cuba. All this has impacted the political dynamic of the Cuban American population, transforming many of their traditional patterns.

Thanks to the human capital that new immigrants provide and the exceptional advantages that the U.S. migration policies offer, the new immigrants have been able to insert themselves into the U.S. labor market with relative ease. Their situation is very different from that of the first immigrants and their descendants.

The political impact of Cuban Americans varies by time of immigration. Fifty-nine percent of the Cuban American community has U.S. citizenship (Pew Research Center 2015). Of these, 90% of Cuban Americans that arrived before 1980 are citizens, while only 18% of those who arrived after 1990 are citizens

(Cuba Transition Project 2011). This explains the disproportionate weight of the historical exiles in U.S. electoral politics in relation to their actual, relatively small, demographic size, and also explains why new immigrants still have little impact in electoral processes. However, this is a tendency that, as a result of demographic factors will inevitably change.

The most important factor for the changing role of Cuban Americans today is the U.S.-born descendants of Cuban immigrants. They constitute more than 40% of the Cuban American population, have the best economic indicators within the Cuban American labor market, and all those that reach voting age can vote because they are U.S. citizens. While their relationship with Cuba is quite diffuse, diverse indicators and polls show them clearly distancing themselves from the traditional conservative positions of the historical exile community and supporting improving relations between the United States and Cuba (Pew Research Center 2016). This changing trend is confirmed by the evolution of the Cuban American vote in recent presidential elections. While Bush obtained 75% and 78% of that vote in 2000 and 2004, respectively, McCain barely obtained 64% in 2008. Preference for the Democratic candidate Barack Obama increased from 38% in 2008 to approximately 50% in 2012, according to various polls (Cuba Transition Project 2011).

Two somewhat related factors stand out as possible causes for the change in electoral behavior of Cuban Americans: first, the fear of many that U.S. policy toward Cuba would return to its most hostile, and second, the new generation's ideological rejection of the extreme conservatism of the Republicans. These two factors could account for the difference between the historical exile community and the majority of the rest of Cuban American society.

Since 1991, the Cuban Research Institute (CRI) at Florida International University has been conducting polls regarding the political tendencies of the Cuban American community. These polls reflect a sustained trend toward an increase in indicators that distance the majority of Cuban Americans from the agenda of the historical exile, especially with respect to U.S. policy toward Cuba (CRI 2011).

While no organized movement equals the influence of the extreme right, sectors have emerged among the elite of the Cuban American bourgeoisie that previously supported the agenda of those forces and now propose a revision of the assumptions of this policy. These groups, known as "moderates," include important Cuban American businesspeople who have integrated into diverse U.S. groups that support a change in Cuba policy. Their visibility in this debate has been considerable. These groups are joined by liberals and leftists who have historically supported dialogue with Cuba. These groups involve

themselves more every day in local politics in the hope that the arrival of new Cuban immigrants changes the existing correlation of forces within the Cuban American community. Moderate, liberal, and leftist groups have been increasingly involving themselves in local Florida politics, with the expectation that the arrival of new immigrants will support a change from the more conservative influence of the historical exiles.

Whatever their differences with the Cuban political system, the uniqueness of these groups of Cuban Americans lies in that their intentions are not to “reclaim” what was lost in Cuba, the aspiration that has conditioned the ideology and the political priorities of the “historical exiles.” The maintenance of belligerence towards Cuba requires the promotion of isolation and in this is sustained the discourse of the extreme right. Relations with Cuba have been converted into a demarcation point on the Cuban American political spectrum.

The aspiration most central to the historical exile generation has been to reclaim what they had lost in Cuba, and this aspiration has shaped their ideology and political priorities. The discourse of these extreme right views requires the maintenance of belligerence toward Cuba and promotion of isolation of Cuba by the United States. In contrast, the more recent immigrants and other groups of Cuban Americans have diverse attitudes toward the Cuban political system, but do not share with the historical exiles the aspiration to reclaim what was lost in Cuba. The divergence of views within the Cuban American community has opened the prospect of support for a U.S.-Cuban relationship, at least by some Cuban Americans.

The desire of some Cuban Americans to have a relationship with Cuba is expressed in many ways. Among them are an interest in keeping up-to-date about what is occurring in Cuba and enjoying its culture; constant communication with relatives and friends; travel to Cuba; and sending remittances. Another connection is the possibility of investing in Cuba, which has already begun in an informal fashion through the small businesses that have developed in Cuba as a result of the updating of the economic model fostered by the Cuban government.

Remittances are an important aspect of Cuban Americans’ links to Cuba, and participation is closely tied to time of emigration. No public sources have determined exactly the amount of remittances sent by Cuban Americans to Cuba, but most analysts agree on an amount close to 2 billion dollars a year. These remittances constitute one of the principal net revenue sources for Cuba. With respect to the composition of the senders, studies undertaken in 2007 show that while 75% of those who emigrated after 1985 sent remittances to Cuba, only 31% of those who arrived before 1964 sent remittances. The proportion of Cuban Americans who send remittances increases in relation to the exit date from Cuba:

from 45% of those who emigrated between 1965 and 1975 to 51% of those who emigrated after 1984. It is striking that 47% of those born in the United States also sent money to Cuba (Eckstein 2009, 178 and Table 6.2).

### **Effects of the Transformed Cuban American Community on U.S.-Cuba Relations**

The historically extreme right agenda of the Cuban American lobby is contradicted more every day by emerging groups in the Cuban American community that have greater interests in ties with Cuba. This will inevitably have consequences for the Cuban American lobby's capacity to convene and control the rest of the Cuban American community. The lessened impact of the political agenda of the Cuban American lobby, originating with the historical exile generation, is beginning to seem inevitable. The exhaustion and decline in numerical predominance of its natural political base, coupled with the social transformations occurring in the Cuban American community that support diverse views, suggest a decline in the influence of the traditional Cuban American lobby on U.S. policy towards Cuba.

Such developments suggest an irreversible process given that it is determined by the structural incapacity of the United States to reproduce the political function of the Cuban immigration in determining U.S. policy against Cuba owing to factors outside their control. Although this will not translate into widespread support for the Cuban socialist system, the most important conclusion of this analysis is that there are objective conditions for the social transformations of the Cuban American community to reverberate in favor of establishing improved U.S. relations with Cuba. This will have inevitable consequences in the political structure of the enclave, as well as in the balance of forces that today represents the Cuban American population in the U.S. political system. The balance of forces within a more diverse Cuban American community will also enhance the capacity of Cuba's policy to influence the process of reestablishing relations with the United States, which will have substantial repercussions for U.S. policy toward Cuba. Better relations with Cuba could even benefit the United States domestically, contributing to its culture and economy. Seen from this perspective, the existence of a substantial and powerful Cuban American community is not necessarily bad for Cuba. On the contrary, the Cuban American community could become a factor contributing to the development of Cuba and to the improvement of Cuban relations with the United States.

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## CHAPTER 7

# **Academics and Think Tanks: Have They Influenced Normalization of U.S. Relations With Cuba?**

Margaret E. Crahan

Any evaluation of the role of “outsiders” in the formulation of U.S. foreign policy generates debate. In the case of U.S. policy toward Cuba such evaluations are freighted with the legacy of over fifty years of political tensions and conflict, as well as repeated instances of failed negotiations. That makes the evaluation of the influence of U.S. academics and think tanks on the 2013–2014 decision to move toward normalization of relations with Cuba a challenge in terms of weighing the determining factors. Furthermore, the literature on academic and think tank influence on U.S. foreign policy is inclined towards viewing it as limited. Indeed, the recently published study *Scholars, Policymakers, & International Affairs: Finding Common Cause* concluded that:

Many policymakers think of scholars as absorbed in abstract and self-referential debates and are primarily interested in crafting theories (and impressing other scholars) rather than in illuminating, much less recommending solutions to the pressing issues that policymakers must address. Many scholars, in turn, disdain the simplifications and lack of analytical rigor they often attribute to policymakers, whom they typically perceive as interested in processes and outcomes but not in understanding causality. Both analysts and practitioners have commented that this gap has widened as scholars become more devoted to formal modeling and quantitative techniques, while policymakers have ever less time to make decisions with limited information in a rapidly changing world. (Lowenthal and Bertucci, 2014, 1).

Obviously, if this statement is true, the degree and utility of academic and think tank input into policy decisions is limited. Other factors include the

level of access to and credibility of sources of information about particular issues on the part of government officials. If the information is not readily accessible (including in its mode of expression) and/or is biased, it can undercut the effectiveness of policies aimed at resolving differences between countries. Furthermore, can realizable strategic policies be developed and implemented with academic and think tank input, given that government decisions tend to be made under time pressures and often one decision at a time in a reactive mode? In addition, lobbies, domestic politics, and political will can override expert opinion both from within and without government.

This chapter will focus on the following questions:

1. Can the gap between academic analysis and policy formulation be bridged and if so how?
2. What has been the degree of academic and think tank influence on the formulation of U.S. foreign policy toward Cuba?
3. What has been the impact of lobbies, domestic politics, and political will on the formulation of U.S. Cuban policy?
4. Was there any difference in the degree of influence on U.S. policymakers during the pre- and post-December 17, 2014 periods?

## **The Gap**

A good number of analysts have concluded that the gap between policymakers and academics is greater in the United States than in Latin America, citing the frequency with which academics assume both elected and appointed posts in countries such as Brazil, Chile, Colombia, Mexico, and Costa Rica, among others. Quite frankly, academics in the United States are not regarded with the same esteem as in Latin America, nor do they have the same credibility. An example is the divide on climate change between the scientific community in the United States and a good number of Members of Congress. Among executive branch officials there is a sense that academics are somewhat ill-adapted to the rapidity with which decisions have to be made and the volume of detail that inundates most government offices.

According to the Lowenthal and Bertucci study the most important prerequisite for effective academic input into policy decisions is the sharing of “a common framework of understanding and joint purpose” (Lowenthal and Bertucci 2014, 233). However, such a common framework can vary over time and is difficult to establish given real differences in the academic and policy making cultures. In addition, building a common understanding of issues can be influenced by crises; for example, the 1962 U.S.-Cuban Missile Crisis, as well as

9/11. At such times the level of nuancing in policy making tends to diminish. In recent years, however, it appears that academic analysis has had more impact particularly in the Department of State. In a pre-D17 interview<sup>1</sup> with a member of the U.S. Department of State's Office of Cuban Affairs, it was apparent that he and his colleagues were familiar with a broad spectrum of the academic literature and think tank studies. At the same time, he admitted that he, as well as most of his colleagues, had virtually no background on Cuba at the time of their appointments to the Office of Cuban Affairs and that they had to immerse themselves rapidly in the State Department's literature and official documents, as well as the academic sources. He stated that he also had to determine which sources were ideologically skewed rather than data based. In short, he had to get up to speed on who was who among academics and think tank personnel, as well as which experts were the most credible. This was compounded by the fact that while in the process of learning, recommendations had to be made. He felt, however, that there was more receptivity to academic analysis in U.S. policy formulation toward Cuba in recent years than previously. In part as a result of expert input, he said that the State Department had prepared recommendations in early 2013 for the White House on U.S. Cuba policy that appear to have had some impact on the decision to normalize relations (Interview 141411). These recommendations, together with National Security Council and White House discussions, appear to have contributed to White House decisions to engage in negotiations with Cuba in 2013–2014 in an effort to move toward normalization of relations with Cuba.

A senior State Department official who was a political appointee interviewed in late 2015, almost a year after the December 17, 2014, announcements by Presidents Castro and Obama, felt that academic influence mostly helped to confirm and give validity to opinions already arrived at concerning relations with Cuba. During the course of the negotiations the official felt that U.S. representatives were not proactively looking for academic input, although some advice was sought on technical issues. In general the official felt that past experience with policy making weighed more in influencing support of normalization of relations, and that it was the right thing to do in terms of U.S. interests. That younger generations of policy makers were involved was also regarded as a factor that favored a rethinking of the policy. Some think tanks and NGOs were cited as having influence including Brookings, Council on Foreign Relations, Council of the Americas, and the Washington Office on Latin America, as well as public opinion surveys such as those by Florida International University and the Atlantic Council. Finally the official characterized academic and think tank influence as medium to low, with think tanks having more weight (Interview 510311).

A senior Foreign Service Officer (FSO) who participated in the negotiations with Cuba both before and after D17 spoke at length about the influence of academic and think tank experts in developing a new U.S. policy toward Cuba over time. Reference was made in particular to studies such as William M. LeoGrande's and Peter Kornbluh's *Back Channel to Cuba: The Hidden History of Negotiations between Washington and Havana* that analyzed attempts to reach accords by the U.S. and Cuba beginning in the early 1960s (LeoGrande and Kornbluh, 2014). The official had an in-depth knowledge of the academic literature and scholarly debates. Ultimately, the diplomat felt that the most important factor in the change in U.S. policy toward Cuba was the political will of President Obama, pressure by U.S. allies, and domestic commercial interests, as well as the fact that State Department professionals had long regarded U.S.-Cuba policy as failed and costly particularly in terms of the country's international reputation (Interview 516821).

One think tank official stated that in 2013–2014 Brookings, Council of the Americas, the Cuba Study Group, the CATO Institute, Trimp Group, and others had worked closely “to compare notes and identify windows of opportunity for policy impact.” He concluded that “some think tanks and academics in DC had regular programs of work and lines of communication with USG policymakers and analysts that helped influence decision making and created a ‘safe’ environment for White House action” (Interview 51612).

Overall, however, U.S. policy makers tend to feel that given that officials need to explain issues broadly to various publics both within and without the government, they can only use analyses and data from academia and think tanks that can be communicated clearly and succinctly, which is often a challenge for academics. A good number of scholars tend to feel that there is a tendency for the complexities of their analyses to be lost in the process of generating recommendations and therefore producing, at times, inadequate policies. Even academics holding public office can suffer from this constraint. The challenge of incorporating complexities was clearly demonstrated in the failure of academic input to have substantial impact on the decision to invade Iraq in 2003. Many academic experts on Iraq warned of the potential of such a move to generate ongoing internal Iraqi and regional conflict. In the Cuban case, academic critiques of the Helms-Burton draft legislation in the mid-1990s had little impact. The resulting Liberty and Democratic Solidarity Act which strengthened and expanded the U.S. embargo of Cuba was passed by Congress in 1996 and signed by President Bill Clinton, in part as a result of the atmosphere created by the Cuban government's shooting down two Brothers to the Rescue planes which allegedly had trespassed on Cuban air space. In spite of

the fact that some executive branch officials today have reservations about such legislation, the policy they implement, not surprisingly, often responds more to such legislative mandates than to their own considered opinions.

According to recent studies, in order for the gap between academics and policy makers to be reduced there needs to be a shared common language and expertise, as well as common normative concerns. In addition, communication needs to be systematic and structured on an ongoing basis (Lowenthal 2013, 9). Such prerequisites require major commitments on both sides. That makes the level of expertise, political and intellectual orientation, personal objectives, and commitment to the diplomatic resolution of conflicts on both sides critical, as well as legislative mandates.

### **Who Are the Academic Actors?**

The selection by policy makers of which academic experts to read, consult, and trust is clearly not an exact science and prejudices exist on both sides. As previously noted there is a tendency among career policy makers to regard academics as, among other things, somewhat impervious to the realities of policy formulation and the pressures generated by day to day demands. Academics, for their part, feel that policy makers tend to disregard data based analysis, and that they sometimes opt for counterfactual conclusions based, not surprisingly, on politics. When an issue is as heavily freighted as Cuba, long-term ideological and political debates can contribute to the distance between policy makers and academic experts. This distance can make working together difficult and may even result in ad hominem attacks by individuals on one side or the other.

The choice of which experts to consult also at times depends on visibility and not on depth of knowledge. There is the further issue of convenience in the pressure cooker atmosphere of Washington, which frequently makes choosing the most accessible expert the easiest option. Hence, academics and think tank experts within the Beltway tend to be consulted more frequently than experts in Iowa or Georgia. It is understandable that in the pressured realms of policy making, officials often don't have the time, energy, or inclination to reach out beyond the usual suspects. While there are some first-rate Cuba experts in the Washington area, one senior State Department official commented that the lack of an easily available critical mass of experts on Cuba reduces their capacity to influence policy makers, particularly at the senior levels. In short, no influential academic Cuba lobby consistently has Washington's ears. As a consequence, he felt that this reduced the likelihood of a dense, rich interchange that could bridge the gap between academics and policy makers on Cuba (Interview 410101).

Some policy makers regard expanding the influence of scholars in public policy formulation as not always “desirable or effective” (Bertucci 2014, 243). Academics, it was felt, could lose their critical distance the closer they came to power. Some felt that those academics who enter government and thus have less opportunity to do research and analysis might recommend faulty policies (Bertucci 2014, 243). Nevertheless, a good number of analysts felt that increased academic input into policy making could improve the conceptualization of issues and fortify arguments for evidence based recommendations. Mitchell Seligson, the founder of the Latin American Popular Opinion Polls, has championed the use of evidence based work in evaluating U.S. policies. He is convinced that without hard data scholars and other experts have no way of persuading either policy makers or the public (Seligson 2013, 155–169). The creation within the State Department of the Office of Opinion Research to analyze and evaluate the increasing number of U.S. and foreign surveys in terms of their application to policy making is regarded as a substantial advance in data based policy making. Dialogue between academics and government officials who specialize in quantitative studies has progressed considerably. However, the limited number of empirical studies available relating to the formulation of U.S. Cuba policy, as well as its impact, is notable. For example, data driven studies of the impact of the embargo in promoting U.S. interests are virtually nonexistent and hence the debate concerning the embargo’s effects appears to be based more on opinion than on facts.

This raises the issue of the influence of academics on public discourse on U.S. policy toward Cuba. A recent study of U.S. policy toward Cuba concluded that the high point of outside influence with respect to Cuba policy was during the Reagan administration when the Cuban American National Foundation (CANF) and its allies were in ascendancy and a number of Cuban American officials had access to the White House (Pérez 2014, 132–159). A senior Obama administration official reported that direct contact by conservative Cuban Americans with the White House concerning Cuba currently was limited and by mid-2015 technocrats were playing an increased role. He added that this was true to a degree for all of Latin America, that is, neither Latin America nor Cuba were sufficient priorities to result in frequent White House consultations. Furthermore, he felt that think tanks rather than academics probably had more influence overall (Interview 410101).

The formulation of U.S. policy toward Cuba obviously exists within a public context in which the molding of public opinion and its influence on policy and elections is relevant. In the United States the definition of Cuba in the public mind



appears more influenced by the media than by academia. However, the media is susceptible to some academic input. The Institute for Cuban and Cuban American Studies (ICCAS) at the University of Miami has been somewhat effective in molding public opinion particularly in Florida through its use of commercial TV and radio. A review of appearances by ICCAS academics in October and November 2014 just prior to D17 revealed a major emphasis on commercial radio and TV. Of thirty-one media appearances by ICCAS academics in October 2014, seventeen were on commercial TV and ten on commercial radio. In November 2014, of twenty-seven appearances ten were on commercial TV and eight on commercial radio (ICCAS October and November 2014). Since surveys in the United States suggest that many individuals get their “news” and political analysis from the media this emphasis is not surprising.

The appearance of multiple editorials in the *New York Times* in 2014 in favor of changes in U.S. policy toward Cuba caused a considerable stir and once again demonstrated the influence of the media. Speculation was generated about what prompted the NYT to devote such extensive attention to Cuba. Reports that the editor, Arthur Ochs Sulzberger, Jr., visited Cuba in early 2014 were adduced by some as an explanation. Others felt that increasingly NYT journalists had become aware of the growing academic literature critiquing U.S. policy toward Cuba. Attention focused on the *Times* writer Ernesto Londoño. The NYT provides access to what its reporters are reading, which precipitated a run on what Londoño was perusing. A conference (October 16–18, 2014) at the Columbia University Journalism School’s Dart Center on covering Cuba reflected the increased U.S. media interest which has only intensified since D17. The mix of Cuban, Cuban American, and U.S. participants revealed substantial differences of opinion on U.S. policy toward Cuba, although there was considerable consensus in favor of change on the part of the academics present. Dissidents from Cuba were not as inclined towards change, reflecting the distance between them and most U.S. academics and think tanks.

The molding of the public discourse in the United States on Cuba from the 1960s to the present has been influenced to a considerable degree by Cuban American academics and politicians. With the passage of time Cuban American academics have become more diverse in their viewpoints with respect to Cuba just as the Cuban American community has in general. Indeed, Cuban American academics have played an important role in diminishing the vision of Cuba as a threat to U.S. national security.

What of the influence of academics and think tanks on Members of the U.S. Congress? A review of the *Congressional Record* for citations by Members

of Congress of both critics of the Cuban government and supporters of resumption of relations with Cuba revealed virtually none (Brenner and D'Agostino, 2015). In short, academics were almost never used to legitimate the positions of Members of Congress. Nevertheless, academics and think tank personnel have testified before Congress about Cuba, although without apparent major impact.

The most ambitious academic effort to influence U.S.-Cuba relations was the Taller Académico Cuba-Estados Unidos (TACE) under the aegis of the Buenos Aires based Coordinadora Regional de Investigaciones Económicas y Sociales (CRIES) which brought together Cuban and U.S. scholars, as well as former diplomats and other experts, to generate recommendations concerning issues dividing the two countries. The participants met ten times over the course of five years to explore ways to diminish the divide between the two countries. Ultimately TACE, led by Dr. Milagros Martínez of the University of Havana and Dr. Philip Brenner of American University, presented its recommendations to officials of the Cuban and U.S. governments in 2013. The TACE approach emphasized “academic diplomacy” and aimed at achieving consensus among the Cuban and U.S. experts. Dr. Martínez concluded that “In the history of the conflict between Cuba and the United States there have been collaborative spaces that, despite not being highly publicized, have been sustained and are growing” (Grabendorff 2013, 2). A major challenge TACE faced was the lack of knowledge on the part of some participants of the historical roots of some of the issues, as well as the lack of comprehension of the policy making processes of each government. The goal of confidence building and arriving at a consensus also presented challenges for the participants. There was, however, eventual agreement on a consensus document that may not have fully satisfied everyone, but clearly was the product of exchanges based on the participants’ expertise. The Cuban participants felt that receptivity to the TACE recommendations was greater on the Cuban side than on the U.S. side. They cited the fact that some TACE recommendations were incorporated into “Cuban policy proposals like the speech of the Foreign Minister at the UN in October 2012” (Grabendorff 2013, 3). Senior U.S. Department of State officials met with TACE participants in May 2013 and requested follow-up memos particularly on promoting academic exchanges. One member of the Office of Cuban Affairs at the Department of State reported that the TACE report was read and reviewed “line by line” (Interview 414111). However, it is difficult to measure the specific impact of the TACE effort, in part because of the multitude of other factors that contributed to greater flexibility in U.S. Cuba policy over the past two years, including political changes within the Cuban American community.

## Lobbies, Domestic Politics, and Political Will

A recent study of the influence of several diasporic lobbies on U.S. foreign policy concluded that there was considerable variation in terms of influence over policies and legislation (DeWind and Segura, 2014). Analysts of case studies of Jewish, Palestinian, Irish, Ethiopian, Haitian, Iraqi, and Cuban lobbies concluded that evidence of substantial influence required convergence in terms of the lobbies' goals and those of U.S. administrations. Where divergence is relatively high, the influence of diasporic lobbies is likely to be less. However, some lobbies have demonstrated a capacity to negotiate higher levels of convergence. The authors concluded that the nature of the U.S. political system provided opportunities for lobbies given such factors as "private financing of political campaigns from primaries to general elections, the weak structure of the party system, [and] the way congressional committees allow public access to their proceedings" (Smith 2014, 256). As a result well-organized diaspora communities can influence policy through political contributions, publications, access to the media, and direct and indirect lobbying.

In the Cuban case, Lisandro Pérez concluded that Cuban American influence since 1959 has passed through multiple phases, reflecting the overall political and ideological orientation of the U.S. administration in power, as well as internal changes within the Cuban American community—including generational changes, which have increasingly been reflected in voting patterns. These studies suggest several factors have influenced the effectiveness of Cuban diasporic lobbies over time:

1. The nature of the leadership: if composed by elites, including moneyed elites, their access to senior government officials is increased. Such access was especially apparent during the Reagan administration. Increased political diversification within the Cuban diaspora in recent years has reduced the influence of traditional elites and their academic allies. Cuban American academics who are more liberal have increased their influence.
2. Agreement, that is, convergence, on the goals of U.S. policy towards Cuba between the anti-Castro lobbies and the U.S. government has declined over time, with growing support for resolution of the issues that divided Cuba and the U.S. and declining U.S. support for regime change.
3. The degree of convergence between hard-line Cuban American lobbies and the majority of Members of Congress is limited. What is perhaps more important is the bargaining among Cuban American Members of Congress and their colleagues over support for their respective legislative agendas. In short, those Members of Congress relatively uninterested in Cuba sometimes trade votes with the Cuban American Members on non-Cuban issues.

Pérez concluded that the Cuban diasporic lobbying model that had influence in the 1980s was no longer as effective, largely due to changing electoral patterns within the Cuban American community, especially in Florida (Pérez 2014, 154–155). This provided opportunities for a change as witnessed by D17. Nevertheless, anti-Cuban Members of Congress, albeit a minority, have demonstrated influence among their conservative colleagues particularly during electoral years. In addition, liberal elements of the Cuban American community have not yet demonstrated as much targeted influence as their predecessors, such as CANF, although that is changing. Furthermore, the Cuban American Members of the House and Senate with more seniority and hence committee positions of influence can still block legislation facilitating normalization.

Can political will in the executive branch outweigh Congressional impediments? The appointment of Senator John Kerry as Secretary of State in 2013 was initially regarded as positive for diminishing U.S.-Cuba tensions, but as Obama's second term proceeded there was a sense that Cuba was not a priority and that there would not be substantial changes in U.S. policy. There was some speculation that the Secretary of State was using Senator Patrick Leahy and his aide Tim Rieser to explore possibilities with the Cuban government. As a Senator, Kerry and his staff had maintained contact with Cuba experts. As Secretary of State, Kerry had less contact. However, the initiation of secret negotiations in 2013 suggests that the coalescing of input from a broad spectrum of sources including, but not limited to, academics and think tanks, did provide some stimulus for a major change in U.S. policy. Ultimately it appears that the change in U.S. Cuba policy was determined to a considerable degree by the White House and that the State Department under Kerry played a strongly supportive role. This makes the issue of the political will of President Obama and the calculations of his chief advisors critical. In short, Obama's frustration with Congressional resistance to his initiatives increasingly expressed in his second term apparently contributed to his decision to "go it alone" in both domestic and foreign policy. As John Harwood argued in the *New York Times* on December 8, 2014, Obama appeared increasingly committed to an "alternative model for 21st century presidential success" (Harwood 2014). Reportedly the president and his advisers were inclined to pay less attention to his approval ratings and abandon attempts to promote bipartisanship. Harwood concluded that the White House was prioritizing defending the economic stimulus package and the Affordable Care Act, lessening involvement in Iraq and Afghanistan, reducing carbon emissions, and immigration reform, in spite of the lack of Congressional support (Harwood 2014).

However, according to George C. Edwards III, a presidential analyst at Texas A&M quoted by Harwood, the data suggest that the “going it alone” strategy has not resulted in major successes for other presidents. Furthermore, Edwards asserts, “Unilateral White House action, even if it furthers a president’s goals, cannot provide as durable a basis for national policy as laws enacted with at least some support from both Republicans and Democrats” (Harwood 2014).

Given the level of Congressional partisanship that currently exists, exacerbated by the 2015–2016 presidential campaign, “going it alone” has stimulated strong critiques of Obama and his policies including toward Cuba. Nevertheless, as the lawyer and Cuba expert Robert Muse has argued, the most logical and expeditious strategy for the Obama administration to take with respect to Cuba was executive action to eliminate the major barriers to resumption of relations with Cuba, given the more than fifty years of failed U.S. policy toward Cuba. Muse also argued that President Obama should take further steps under his executive authority to facilitate normalization (Muse 2014). Throughout 2015–2016 President Obama did use executive orders to further normalization of relations with Cuba. It is unclear whether President Trump will reverse them.

Since D17, what influence have academics and think tanks had on U.S. policy towards Cuba? By and large, both have been highly supportive of normalization and a plethora of articles applauding the decision have appeared in major media outlets and in social media (e.g., Huffington Post). However, some Democratic leaders have been preoccupied that unilateral presidential action on this and other issues would exacerbate existing divisions in the U.S., political and otherwise, in the run-up to the 2016 elections. A December 3–7, 2014, survey by the Pew Research Center found that 81% of Americans believed that the U.S. was more politically divided than previously. Only 17% felt that the divisions would decline over the next five years and only 18% expected Congressional Republicans to cooperate with Obama (Pew 2014). In mid-2016, according to Pew, Democrat and Republican majorities expressed highly negative views of the other party and the presidential candidates. Among those who regularly voted 70% of Democrats and 62% of Republicans expressed fear of the other party (Pew 2016, 1). Such polarization has carried over into the 2017 Congress making pursuing changes in U.S. policy toward Cuba more difficult.

## Conclusions

A gap does exist between the *modus operandi* of academics and policy makers, thereby limiting the capacity of academics to influence policy makers, including with respect to Cuba, which is further hampered by divisions within the academic and advocacy communities on what U.S. policy toward Cuba should be. Think tanks, especially those based in Washington DC or on the East Coast, appear to have had influence on U.S. officials, including at State, the White House, and the NSC primarily before D17 and perhaps to a lesser extent since December 17, 2014.

Is the gap between policy makers and academics bridgeable? Some experts believe it is if individual scholars, universities, funders, think tanks, international policy institutions and publications, as well as government agencies, all make efforts to increase exchanges featuring data based analysis. New technologies and greater attention to data based evaluations of U.S. policies have improved some aspects of U.S. foreign policy, but the lack of substantial hard data evaluating U.S. policy toward Cuba was and is a limitation. Inertia and bureaucratic resistance to change also contributed to the previous stasis in U.S.-Cuba policy. Since D17 the process of reviewing laws and regulations to facilitate normalization has proceeded slowly both in Cuba and the United States. The capacity of academics and think tanks to help facilitate this process is limited given the technical complexities.

Change in U.S. Cuba policy required determined political will at the top where academics and think tanks have limited access. The State Department, where academics and think tanks appear to have had some influence, helped lay the basis for justifying the move towards normalization, but the change required a major commitment by the White House within the context of changing attitudes among the general public and special interest groups, including the Cuban American community. The influence of Cuban American lobbies reached its height during the Reagan administration, as did the influence of Cuban American political appointees in favor of a hard line towards Cuba. Today the influence of the Cuban American community is less, although Cuban American Members of Congress and 2016 presidential primary candidates still attracted a fair amount of media attention. It should be noted that polls did not suggest that the Obama Administration's new Cuba policy was a major factor in voting in the 2016 elections.

The political payoff and political costs were important elements in White House calculations of any change in Cuba policy, even when the policy was deemed correct by senior officials. What did help was that academics,

think tanks, and surveys could back up the recommendations of various entities within the executive branch, as well as the positions of some Members of Congress. Some made greater use of survey data and empirical evaluations of U.S. foreign policy in order to pressure for change in U.S. policy towards Cuba. Combined with pressure from U.S. and foreign interest groups this helped justify the change in policy. The TACE project revealed how difficult it was to find common ground even among academics and translate the conclusions into U.S. and Cuban government policies. In addition, academics felt that they had less input into U.S. policy making towards Cuba than policy makers believed they did. In short, academic input into U.S. policy toward Cuba over the past twenty years does appear to have helped create a basis to justify change in U.S. policy and was used, particularly by the State Department and some at the National Security Council, as well as the White House, to argue for a change. Academic and think tank influence, however, appears to have been greater before D17 than after.

Let us conclude with a quote from President Franklin Delano Roosevelt about policy making that is relevant to U.S.-Cuba relations past and present: “The country demands bold, persistent experimentation. It is common sense to take a method and try it: If it fails, admit it frankly and try another. But above all, try something” (quoted in Krugman 2015).

## NOTES

<sup>1</sup> This chapter is partially based on interviews with U.S. and Cuban government officials, scholars, think tank members, and other experts. Sources were promised anonymity to encourage frankness.

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# ISSUES



## CHAPTER 8

# Chipping Away at the Embargo: President Obama and the U.S. Economic Sanctions Against Cuba

William M. LeoGrande

When Barack Obama entered the White House in 2009, Cuba was the target of the most comprehensive program of economic sanctions the United States had imposed on any country in world. The sanctions were the not the result of actions by any one president, but a complex patchwork of prohibitions imposed over the years by successive U.S. administrations, beginning with President Dwight D. Eisenhower (1953–1961).

### Background of the Sanctions

It did not take long for the Eisenhower administration to decide that Fidel Castro's revolutionary government was anathema to U.S. interests and to begin plotting its demise. By the summer of 1959, just six months after the fall of Fulgencio Batista, Washington started working to undermine the new Cuban government. At first, however, the efforts were clandestine, for fear that open hostility would damage U.S. relations with Latin America. Economic sanctions, therefore, had to be foregone ("Memorandum of a Conference" 1960, 861–863). By mid-1960, however, bilateral relations had deteriorated to the point of open antagonism.

The first economic sanctions were imposed on July 6, 1960, when, in response to Cuba's nationalization of U.S. and British oil refineries for refusing to refine crude oil from the Soviet Union, President Eisenhower (1960) halted the import of Cuban sugar. Sugar production was the heart of Cuba's economy and 61% of its sugar was sold to the United States (LeoGrande 1979, 14). Fidel Castro responded by nationalizing most U.S. property on the island, warning that if the United States intended to wage economic war against the revolution, he would nationalize everything the *yanquis* owned, "right down to the nails in their shoes" (Phillips 1960). Eisenhower fired back by imposing a ban on

all U.S. exports to Cuba other than food and medicine, and Castro retaliated by nationalizing the remaining U.S. property (Kenworthy 1960; “Text of U.S. Announcement” 1960; “Castro Takes Over” 1960).

On February 3, 1962, acting under the authority of the Foreign Assistance Act of 1961, President John F. Kennedy banned all trade with Cuba. The following year, under the authority of the Trading with the Enemy Act of 1917 and a 1950 national emergency declared by President Harry Truman at the outset of the Korean War, Kennedy imposed a comprehensive embargo on all transactions with Cuba except as explicitly licensed by the president (LeoGrande 2014). Kennedy’s action established the foundation of the embargo that remained in place for the next half century.

President Lyndon B. Johnson attempted to multilateralize the embargo by enlisting Latin America and Western Europe to cut off economic ties with Cuba (Morley 1987, 178–239). In 1964, at U.S. instigation, the Organization of American States (OAS) imposed mandatory sanctions against Cuba, calling on all member states to sever economic and diplomatic relations. Only Mexico refused to comply. Europeans were more reluctant partners, but most did curtail trade and investment at U.S. insistence.

However, by the mid-1970s, Latin American countries had begun to openly defy the sanctions program by restoring ties with Havana. In Washington, voices in the U.S. Congress were also calling for an end to the embargo. As part of Secretary of State Henry Kissinger’s effort to engage Cuba in negotiations to normalize relations, President Gerald Ford lifted the embargo on trade with Cuba by subsidiaries of U.S. corporations operating abroad (who were facing mounting legal pressure from their host governments). In 1975, the United States acceded to Latin American demands and voted in favor of lifting the 1964 OAS sanctions (LeoGrande and Kornbluh 2014, 136–143).

Kissinger abandoned efforts to normalize relations when Havana sent combat troops to Angola in 1975 to repel an invasion by South Africa (Glejeses 2003, 305–327), but President Jimmy Carter picked up where Kissinger left off. As prelude to Carter’s dialogue with Cuba, he lifted the embargo on travel entirely and licensed Cuban Americans to send limited remittances to family on the island. However, Carter left the rest of the embargo—including the ban on sales of food and medicine—in place as a bargaining chip in negotiations with Havana, which never came to fruition (LeoGrande and Kornbluh 2014, 159–168).

To punish Cuba for its support of revolutionary movements in Central America, President Ronald Reagan tightened the embargo once again, reimposing the ban on travel, stepping up enforcement, and adding Cuba to the

Department of State's list of state sponsors of international terrorism (U.S. Department of State 1983, 15). Countries on the list were subject to a variety of economic sanctions, although most were already in place against Cuba as a result of the embargo. Reagan also sought to extend the embargo's extraterritorial reach by banning the importation of products containing Cuban nickel. U.S. allies complied, but the Soviet Union, which bought nearly half of Cuba's nickel production, refused, so in 1983, Washington banned the import of nickel products from the Soviet Union (Lachica 1983).

In 1992, with the Cuban economy reeling from the loss of Soviet economic assistance, Congress passed the Cuban Democracy Act (CDA), supported by presidential candidate Bill Clinton. Its aim, according to sponsor Robert Torricelli (D-NJ), was to tighten the embargo sufficiently to collapse the Cuban government. The CDA reimposed the ban on trade with Cuba by third country subsidiaries of U.S. corporations, which amounted to \$718 million in 1991—89% of which was food and medicine (America Association on World Health 1997, 122). It prohibited vessels entering Cuban ports from entering U.S. ports for 180 days, thereby raising Cuba's shipping costs at a time when it was compelled to reorient its international trade relations after the fall of European Communism.

The CDA also sought to restore the embargo's extraterritorial reach by instructing the president to urge other countries to halt all aid to Cuba or risk losing their aid from the United States—a provision aimed specifically at Russia. The CDA's sanctions were to remain in force until the president certified that Cuba had become a democracy by holding free and fair multiparty elections, and by establishing a free market economy. The law did, however, legalize private humanitarian assistance to the island and the sale of medicine (although the requirement of end-user certification were so onerous for sellers that medical sales were negligible).

In 1996, after Cuba shot down two small aircraft piloted by the exile group Brothers to the Rescue killing four pilots, Congress passed the Cuban Liberty and Democratic Solidarity Act, also known as Helms-Burton, for its sponsors, Senator Jesse Helms (R-NC) and Representative Dan Burton (R-IN). The law called on the president to seek a mandatory international embargo from the UN Security Council, to urge foreign governments to end their assistance to Cuba, and to oppose Cuba's entry into international financial institutions. It authorized U.S. nationals, including Cuban Americans, to sue foreign companies for "trafficking" in their confiscated property on the island—an effort to deter foreign investors. (This provision, subject to a periodic presidential waiver, has never gone into effect.) The law directed the Attorney General to deny entry to the United States for anyone "trafficking in confiscated property," including officers

of foreign companies with investments in Cuba and their immediate family. The most consequential effect of this legislation was to write into law the program of economic sanctions in effect on March 1, 1996, thereby stripping the president of his executive power to lift the embargo at his discretion. However, the law also codified the president's power to license exceptions to the embargo, virtually without limit (Probst 2011, 8–13).

During President Clinton's second term, he sought to expand social connections between Cuba and the United States by relaxing travel restrictions for humanitarian, cultural, and educational travel, expanding air service, and allowing anyone, not just family members, to send remittances. Among these initiatives was the creation of the "people-to-people" travel category for educational visits that did not involve credit from an academic institution. This quickly became the main vehicle for non-Cuban American travel to the island, which reached some 50,000 people annually by the end of the Clinton administration (Sullivan 2003, 5).

In 2000, a coalition of Democrats and farm state Republicans passed the Trade Sanctions Reform and Export Enhancement Act, which lifted the embargo on the sale of agricultural commodities to Cuba. To mollify congressional hard-liners who opposed agricultural sales, the law prohibited the extension of trade credits to Cuba to finance them and banned tourism to the island, which it defined as any travel outside the scope of the twelve categories of legal travel then authorized by the Cuban Asset Control Regulations (the regulations detailing what transactions with Cuba are allowed). Cuba began buying food from the United States in 2001, and sales reached a peak of \$710 million in 2008 before gradually falling to \$171 million in 2015 because U.S. exporters could not offer financing (U.S.-Cuba Trade and Economic Council 2016, 4).

President George W. Bush came to office in 2001 determined to reward the staunch support he received from Cuban American conservatives in Florida by further tightening the embargo and rolling back the limited openings initiated by President Clinton. In March 2003, Bush abolished people-to-people educational travel and severely restricted other academic exchanges, eliminating most of them. In 2004, he cut Cuban American travel from one trip annually to only one trip every three years, with no exceptions for family emergencies. The new regulations also restricted remittances and gift packages. The cumulative effect of the new regulations was to cut travel to Cuba by U.S. residents in half, reduce humanitarian assistance from some \$10 million annually to \$4 million, and shrink remittances from \$1.25 billion to about \$1 billion annually (Arrington 2005; Marx 2005; Acosta 2006).



### **Obama's First Term: Restoring Societal Ties**

As a candidate for the U.S. Senate, Barack Obama opposed economic sanctions. "I think it's time for us to end the embargo in Cuba," he said in 2004. "It's time for us to acknowledge that that particular policy has failed." As a presidential candidate, however, he took a tougher line, telling the Cuban American National Foundation in May 2008, "I will maintain the embargo. It provides us with the leverage to present the regime with a clear choice: if you take significant steps toward democracy, beginning with the freeing of all political prisoners, we will take steps to begin normalizing relations." Yet Obama was consistent in his argument that the old policy of hostility was a failure and needed to be replaced with a willingness to engage Cuba diplomatically (Speigel 2009).

A key feature of President Obama's first term was the relaxation of sanctions limiting family, cultural, and educational ties to Cuba. During the campaign, Obama appealed to moderate Cuban Americans by promising to end restrictions on Cuban American family travel and remittances. On April 13, 2009, he made good on his promise, lifting all limits on family travel and remittances. At the same time, he licensed U.S. telecommunications companies to contract with the Cuban government to provide telecommunications services within Cuba, as a way of expanding the public's access to information—although the licensing requirements remained so onerous that no U.S. companies took advantage of the opportunity (White House 2009).

But the administration still proceeded cautiously. The White House failed to support the attempt by congressional Democrats to repeal the ban on tourist travel in 2010, which led to the measure's defeat. Instead, after the midterm elections that November, the president approved a much narrower package of regulatory changes on travel. In January 2011, the White House announced the restoration of the people-to-people category of educational travel that President Bush had abolished, granted general licenses for religious and academic travel, and loosened restrictions on academic exchanges. It also restored the license for non-family remittances, which President Clinton had begun but President Bush had prohibited (White House 2011).

As a result of these changes, travel and the flow of remittances rose dramatically. Remittances were up from about \$1.5 billion in 2008 to \$2.5 billion in 2012. In addition, "gift packages" (the goods Cuban Americans carried with them on trips to the island)—which had been restricted to food, medicine, and some consumer staples during the Bush administration—soared to over \$2 billion during Obama's first term when he lifted the restrictions on what could be included. Remittances and gift packages, which previously had been too limited to do

more than supplement consumption, now provided the seed capital and critical inputs to Cuba's growing sector of small private businesses (Lovitt 2015).

Moreover, the expanding linkages between Cubans on the island and those in the diaspora accelerated the political shift in south Florida toward support for greater engagement. Obama won 35% of the Cuban American vote in 2008 (matching Clinton's high water mark in 1996) and 48% in 2012. By 2014, Florida International University's periodic poll of Cuban Americans in south Florida found that 52% favored lifting the embargo (Grenier and Gladwin 2014, 9). By ending restrictions on Cuban American travel and remittances in 2009, President Obama laid the political foundation for what would come next.

### **Obama's Second Term: Licensing the Embargo to Death**

When President Obama announced on December 17, 2014, his agreement with President Raúl Castro to normalize U.S.-Cuba relations, he unveiled a number of steps to begin dismantling U.S. sanctions. He instructed Secretary of State John Kerry to review Cuba's inclusion on the department's list of state sponsors of international terrorism and he announced a new package of regulatory changes licensing exceptions to the embargo. Acknowledging that the embargo was "codified in legislation," he said he looked forward to engaging Congress "in an honest and serious debate about lifting the embargo" (Obama 2014). In the meantime, however, he began taking advantage of his executive authority to poke ever-larger holes in it.

In January 2015, the Department of the Treasury and Department of Commerce published new regulations that authorized general licenses for all twelve categories of legal travel, meaning that no longer would anyone have to seek Treasury's permission (a specific license) to travel. Travelers were free to make their own determination as to whether their travel plans were consistent with one of the twelve legal categories. General licenses were also authorized for travel providers, opening the way for a rapid expansion of travel opportunities, and telecommunications companies were given a general license to provide services on the island. U.S. businesses were allowed to export goods and services to Cuba's private sector and import a limited list of goods and services produced by that private sector. Limits on humanitarian remittances were abolished and limits on other non-family remittances were increased and later abolished in the September 2015 package of regulatory reforms (U.S. Department of the Treasury 2015a).

This first round of regulatory changes, drafted as early as 2013, was hampered by the fact that the drafters had virtually no understanding of the relevant Cuban regulations. For example, the provisions for trade with Cuba's pri-

vate sector had limited effect because Cuban private businesses had no direct mechanism to import or export goods without going through state sector trade agencies, which the U.S. regulations did not allow. As these limitations became clear, Commerce Secretary Penny Pritzker went to Cuba in October 2015 for regulatory talks aimed at facilitating trade, followed in November by Secretary of Agriculture Tom Vilsack. In February 2016, Cuban Minister of Foreign Trade and Investment Rodrigo Malmierca paid a return visit to Washington for a second round of regulatory talks, and a third round was scheduled for later in the year. As the U.S. team came to better understand the workings of Cuban ministries and agencies involved in foreign trade and investment, subsequent packages of regulatory changes opened trade opportunities that were more feasible.

After December 17, 2014, the next step in the normalization process was to restore full diplomatic relations, which had been ruptured in January 1961. Havana insisted that full relations were difficult to imagine if Cuba remained on the list of state sponsors of international terrorism. As directed by the president, the Department of State undertook a review of Cuba's status and on April 8, 2015, Secretary Kerry reported to the president that Cuba met the statutory conditions for being removed from the list. Obama concurred and Cuba's listing was rescinded on May 29, 2015 (Rathke 2015).

Removal from the list meant that Cuba was no longer subject to sanctions as a state sponsor of terrorism. However, most of those sanctions were narrower than the economic embargo written into law by the Cuban Liberty and Democratic Solidarity Act (Helms-Burton) of 1996, so Cuba received little economic benefit from being removed from the list (Propst 2015, 5). The one sanction against state sponsors of terrorism not included under the broader embargo was the right of U.S. individuals to pursue private claims in federal courts and attach Cuban assets for monetary damages caused by acts of terrorism. While it was on the terrorism list, Cuba had no recourse to sovereign immunity from such claims and several dozen cases were filed against it (including one by the relatives of a U.S. pilot shot down and killed during the Bay of Pigs invasion and another by a Cuban American woman who suffered emotional distress when her husband turned out to be a Cuban spy). Since Cuba refused to respond to these suits, the claimants won default judgments that collectively amounted to over \$750 million, adding yet another layer of complexity to the claims issue (Anderson 2007).

In September 2015, the Obama administration announced a second package of regulatory reforms to encourage U.S. business ties with Cuba. Its central provision allowed U.S. businesses, educational institutions, and humanitarian organizations to establish a "business presence" on the island, including offices,

retail outlets, and warehouses (U.S. Department of the Treasury 2015b). One of the first businesses to take full advantage of the new provisions was an Alabama company, Cleber LLC, was granted a U.S. license to build a factory in the Mariel Special Development Zone to manufacture small affordable tractors for sale to Cuba's private farmers (Trotta 2016).

As President Obama entered his final year in office, he was determined to make his policy of engagement "irreversible." To do that, he sought to promote U.S. business engagement with Cuba and raise the profile of the issue by announcing plans to visit the island in March. In January, a new package of regulatory changes authorized U.S. businesses to make sales to Cuban state enterprises so long as the trade would "meet the needs of the Cuban people"—a criterion left purposefully vague that could be interpreted as allowing the sale of almost any consumer goods (U.S. Department of the Treasury 2016a). The Treasury Department also removed the prohibition on offering trade credits to Cuba (except to finance export of agricultural commodities, which remained explicitly prohibited by the Trade Sanctions Reform and Export Enhancement Act). The January changes were a tacit recognition that in order to build commercial ties with Cuba, U.S. companies would have to be allowed to do business with Cuba's state-owned enterprises.

On the eve of the president's historic visit to Cuba, the administration announced a fourth package of regulatory changes that lifted the prohibition on the use of dollars in international transactions involving Cuba—a prohibition that had applied even to transactions between Cuba and non-U.S. firms because they had to clear payments through U.S. banks, so-called U-turn transactions (U.S. Department of the Treasury 2016b). The prohibition had posed such a serious obstacle to Cuban trade that the government had imposed a 10% tax on converting dollars to convertible pesos in order to discourage payments and remittances in dollars. After the administration announced that the prohibition on U-turn transactions would be lifted, the Cuban Foreign Ministry promised to lift the 10% tax (Whitefield 2016).

The March regulatory package also relaxed restrictions on people-to-people travel, allowing individuals to design their own educational programs rather than requiring that they travel on packaged tour groups accompanied by a travel provider. Even with the package tour requirement in place, travel to Cuba by non-Cuban American U.S. visitors jumped 77% in 2015, reaching 161,000 visitors (Hamre 2016). Eliminating the package tour requirement was certain to spur another big jump in travel in 2016. Purely tourist travel, however, remained prohibited by law. Of special note to sports fans, the package of regulatory reforms also licensed U.S. businesses to employ Cuban nationals, includ-

ing athletes. While the Tampa Bay Rays took on the Cuban National Team in an exhibition game during Obama's visit, Major League Baseball (MLB) officials and their Cuban counterparts were trying to reach an agreement allowing Cuban players to sign with MLB teams (Strauss 2016).

President Obama brought with him to Cuba a delegation of CEOs of U.S. businesses and Secretary of Commerce Penny Pritzker in order to promote commercial relations. Several announcements of new commercial deals were made coinciding with the trip. By May 2016, about one and a half dozen U.S. firms had concluded commercial agreements with Cuba, but most were relatively small. The tsunami of U.S. commerce that many observers predicted (and some Cubans feared) had yet to materialize. Cuba's difficult business environment and uncertainty about U.S. policy after the 2016 presidential election made firms reluctant to take full advantage of the commercial opportunities Obama's policies opened up. In an effort to nail down the easing of the sanctions prior to Obama's departure from office on October 14, 2016 the White House issued a Presidential Policy Directive which reviewed and tasked various executive branch agencies with responsibilities for carrying it out (White House 2016).

Despite the many holes in the embargo that President Obama punched with his licensing authority, the basic framework of sanctions remained in place. Two elements in particular were especially painful for Cuba: state enterprises could not export to the U.S. market, making trade essentially one-way; and most U.S. firms outside the telecommunications sector could not invest in Cuba or partner in joint ventures with Cuban state enterprises. For the full potential of U.S.-Cuba trade to be realized, Cuba needed to increase its export earnings in order to increase imports from the United States, and Cuba needed access to foreign direct investment to spur economic growth. As Raúl Castro reminded listeners at every opportunity, President Obama's regulatory changes were "positive but not sufficient," and the embargo remained "the most serious obstacle to our economic development and the welfare of the Cuban people" (Castro 2016).

## **Ending Sanctions**

Ending economic sanctions against Cuba required changing a number of laws, but the three main statutes at the heart of the embargo were: the Cuban Democracy Act of 1992, which prohibited trade with Cuba by subsidiaries of U.S. corporations abroad; the Cuban Liberty and Democratic Solidarity Act (Helms-Burton) of 1996, which codified the embargo into law; and the Trade Sanctions Reform and Export Enhancement Act of 2000, which prohibited financing for agricultural exports to Cuba and banned tourism.

After December 17, 2014, President Obama repeatedly called on Congress to lift the embargo, describing it as a Cold War policy that no longer made sense. Congress, led by Republicans and in the midst of a presidential election campaign, was in no mood to listen. Legislation to lift the embargo introduced in 2015 went nowhere. Only in the Senate were sanctions opponents able to prevail in the Appropriations Committee by attaching an amendment to end the ban on tourism to the financial services bill. In the House of Representatives, however, sanctions supporters led by Mario Díaz-Balart (R-FL), prevailed, attaching amendments tightening sanctions to several appropriations bills. In the end, all the Cuba-related amendments were dropped when the unfinished appropriations bills were bundled together in the Consolidated Appropriations Act, 2016 (Sullivan 2016, 63–64).

Congress was likely to be a battleground over Cuba sanctions in 2017. Having gained two seats in the Senate, Democrats and a handful of Republican allies constituted a majority in favor of lifting the ban on tourism and agricultural sales credits. In the House, the road to easing sanctions was steeper, but not impossible. Farm state and pro-business Republicans could see the potential benefits of trade with Cuba. Together with Democrats, they probably commanded a majority for repealing the ban on agricultural financing. The unknown factor, however, was what position the new Trump administration would take.

Public opinion—even among Republicans—supported ending sanctions. A Pew Research Center poll in July 2015 found that 59% of Republicans overall favored ending the embargo and 55% of self-described conservative Republicans favored ending it (Pew Research Center 2015). A bipartisan Cuba Working Group in the House of Representatives with equal numbers of Democrats and Republicans opposed to the embargo, was working to expand its ranks in preparation for the legislative battles to come (Zengerle 2016).

The issue of property claims stood as a significant obstacle to assembling a legislative majority to lift the embargo. In the early years of the revolution, Cuba expropriated some \$1.9 billion worth of U.S. property. The initial sanctions applied by Eisenhower came in response to Cuba's nationalization of the U.S. oil companies and over the years, as successive U.S. president's considered normalizing relations, lifting the embargo was always seen as the preeminent bargaining chip to win Cuban concessions on the issue of outstanding U.S. claims which, with accumulated interest, stood at \$8 billion in 2016 (Feinberg 2015, 28–29). The Cuban Liberty and Democratic Solidarity Act (Helms-Burton) formally linked the two issues by making the settlement of U.S. claims a condition for lifting the embargo. Moreover, it also required

Cuba to settle claims by naturalized Cuban Americans who were not U.S. citizens when their property was seized.

The Cuban government recognized the legitimacy of U.S. claims (though perhaps not their magnitude), but it refused to recognize the claims of Cuban Americans or the private claims for damages. Moreover, Cuba had counterclaims of over \$100 billion against the United States for the embargo and for damages caused by the CIA's paramilitary attacks. In December 2015, the two governments established a working group on claims to begin negotiating through this thicket of issues. As of mid-2016, the working group had met just once, during which each side presented its case (Miroff 2015). A second meeting was held on July 28, 2016 with some progress reportedly made. Although the distance between the positions of the two governments was wide, there were precedents for resolving claims between former adversaries and a variety of mechanisms besides immediate cash payment for satisfying them (Feinberg 2015, 25–34). The most important ingredient was the political will to get it done.

In place for half a century, U.S. economic sanctions blocked trade and travel between Cuba and the United States, constricting the Cuban economy, contributing to the division of Cuban families, and abridging the right of U.S. residents to travel to Cuba to see the Revolution for themselves. Never successful at bending Havana to Washington's will, over the years the embargo has gradually eroded as successive U.S. presidents saw reasons to license exceptions. Even before Barack Obama agreed to normalize relations with Cuba, half a million visitors were traveling to Cuba from the United States annually, Cuban Americans were sending some \$3 billion in remittances to family on the island, and U.S. agricultural producers were selling Cuba hundreds of millions of dollars' worth of food. Moreover, no one else in the world supported the embargo. For twenty-four years in succession, the United Nations General Assembly voted overwhelmingly in support of a resolution demanding its removal.

Barack Obama finally acknowledged what most people already recognized: the policy of coercive sanctions had failed and no longer served U.S. interests, if it ever had. With the shift in U.S. policy from hostility to engagement and coexistence, sanctions became an anachronistic obstacle to progress, and the president began to dismantle them using his licensing authority—gradually at first, and more aggressively in the months after December 2014. As the new policy gained support from the public at large, Cuban Americans, and the business community, the eventual removal of the last remnants of the sanctions regime began to take on an air of inevitability until the November 8, 2016 election of Donald Trump as President, who promised to demand greater conces-



sions from Cuba in exchange for normalization. The road to normal relations was still long, with many twists and turns and it remained to be seen whether both governments were still willing to make the journey.

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## CHAPTER 9

# **U.S.-Cuba Property Claims: The Way Forward**

Alberto R. Coll

This chapter presents a five-part argument. First, the normalization of U.S.-Cuba relations eventually will require a full and complete settlement of all property and damage claims between the two countries. Such settlement will not include the separate, and much more intractable, issue of property claims by Cuban-Americans and Cuban nationals against the Cuban government. Second, no progress will be made in U.S.-Cuba claims negotiations unless the United States does something which the Washington establishment has never done before, which is to give due consideration to Cuba's substantial counter-claims for economic, material, and human damages caused by the embargo and numerous acts of violence carried out from U.S. soil against Cuba since 1959. Third, valuable lessons relevant to the future settlement of U.S.-Cuba claims can be learned from the manner in which the United States settled its property claims with the Soviet Union (1933), the People's Republic of China (1979), and Vietnam (1995). Two of these successful settlements involved lump settlements that were far below the sums claimed by the United States, and all three settlements required the ample exercise of executive authority by the President to negotiate and implement them. Fourth, there is a substantial body of constitutional and federal law that recognizes the President's wide latitude, under the Article II powers to conduct foreign relations, to negotiate executive agreements with foreign states to settle outstanding property claims. A careful analysis of such landmark decisions as *United States v. Pink*, *United States v. Belmont*, *United States v. Curtiss-Wright*, *Dames & Moore v. Regan*, and *American Insurance Association v. Garamendi* reveals the significant extent of presidential authority and its potential relevance to efforts by a future U.S. president to settle U.S.-Cuba property and damage claims. Fifth, one of the most difficult problems in U.S.-Cuba claims negotiations will remain the

outstanding judgments against Cuba by U.S. courts under the terrorism-related §1605A exception to the 1976 Foreign Sovereign Immunities Act carved out by Congress in 1996. However both governments eventually settle this thorny issue, and assuming Congress is unwilling to aid the settlement process through its own legislation, it will require extensive executive authority by the president in line with the previously discussed judicial precedents.

### **U.S. Property Claims against Cuba**

U.S. property claims against Cuba date back to various acts of nationalization by the Cuban government in the Revolution's early years, principally between 1959 and 1961, directed against companies and individuals who were U.S. nationals at the time of the takings. Under congressional legislation passed in 1964, claimants had the opportunity to register their claims with the United States Foreign Claims Settlement Commission (FCSC), a process which was largely closed by 1972. The total sum of Cuba-related claims certified by the FCSC amounts to \$1.9 billion. Over 80% of the claims are held by fifty large U.S. corporations, including such well-known ones as Exxon Mobil, Procter & Gamble, IBM, Coca-Cola, and AT&T. In many cases, the claims are held by companies that succeeded or acquired the entities whose assets were initially nationalized by the Cuban government. Although there is no international consensus on this point, the FCSC as well as various U.S.-oriented international law experts have suggested that the claims should be subject additionally to 6% annual interest, bringing the total claims to \$8 billion, a figure which is often mentioned in discussions on the U.S. side.

There are several serious problems with the reliability of these monetary figures as accurate guides to compensation. First, the FCSC's certifications are all based on its own estimates of the value of the property or financial interest taken. These estimates, in turn, are based on documentation and putative evidence presented to the Commission by the aggrieved owners, as well as by the Commission's own approximations. In many cases, especially those regarding the value of particular businesses, the Commission's estimate of the property's value was based on the supposed ongoing market value of the business, without taking into account how that value already had been affected, and would be affected in the future, by the extensive economic, social, and political changes occurring in Cuba. Take, for instance, the value of a foreign-owned hotel, much of the profits for which came from gambling and various forms of gaming-related activities. The new Cuban government had made those activities illegal, and thus, even if the hotel never had been nationalized or expropriated, its true market value as an ongoing business would have been sharply lower in 1961

or 1962 than it had been in 1958 had the owners attempted to sell it in the open market. In drawing up its estimates of the value of various claims, the Commission did not take into account the substantial discount in the value of various businesses as a consequence of the socialist revolution which Cuba's economy and society had been undergoing. Had the Cuban government left the U.S. properties untouched, their market value still would have been considerably reduced. Under the rules of international law or even under domestic U.S. law, a government is not legally responsible for the loss of value in business activities caused by changes in that country's laws or regulatory framework. A contemporary case in point is the collapse from 2012 to 2016 in the value of coal mines and power plants triggered by the Obama administration's extensive regulatory measures against the coal industry. Similarly, the Cuban government would not have been legally responsible for the loss of market value in various business activities negatively affected by its new regulatory policies. Yet the Commission sidestepped this key issue in its claim certification process, essentially certifying the value of various assets and businesses as if they were still operating under the economic and social system prevailing in 1958.

In no instance was there a Commission hearing at which the Cuban government was invited or allowed to present contradicting evidence regarding a claim's true value. The one-sided nature of the Commission's procedures violates the most basic standards of private and public international law, simple equity, and good sense. In future negotiations, the Cuban government, if it chose to do so, could request, as a matter of basic fairness and procedural integrity, the opportunity to challenge in detail the certified value of each of the major claims by offering contradicting evidence and expert testimony. The results of this process might yield final estimates of the claims' total value at significant variance with the current figures.

Over the past fifty-five years, the Cuban government has indicated repeatedly its willingness to discuss and negotiate the U.S. claims with a final view to providing a degree of compensation. Cuba has reached claims settlement agreements with Spain, France, the United Kingdom, Canada, and Switzerland involving the nationalization of properties held by their nationals. The United States explicitly has excluded from the FCSC-certified claims any claims against the Cuban government by persons who were Cuban nationals at the time their property was nationalized or taken by the Cuban government. For its part, the Cuban government always has insisted that this latter issue is under Cuba's exclusive domestic jurisdiction and sovereignty, and that it will never agree to discuss, much less negotiate, with any foreign government on the matter.

## **Cuba's Claims against the United States for Material, Economic, and Human Damages**

In 2000, Cuba officially presented a set of formal demands to the United States for material, economic, and human damages over the course of several decades totaling \$302 billion.<sup>1</sup> These demands revolve around a large number of U.S. acts and policies carried out against Cuba since 1959, many of them in open violation of international law. First, there was a series of military attacks carried out against Cuba by CIA agents and Cuban exile forces, with extensive logistical and financial support from the U.S. government. These include the Bay of Pigs invasion and several guerrilla movements organized by the CIA during 1960–1964 to operate inside Cuban soil, as well as Operation Mongoose, a vast covert program of destabilization, violence, and sabotage amounting to what Harvard Professor Jorge Domínguez has described as “U.S. government sponsored terrorism” (Domínguez 2000, 312). Since Cuba was at peace with the United States and there were no Cuban attacks against U.S. territory, all of these acts would have been in violation of international law. The second category includes attacks by Cuban exiles against Cuban territory, with the acquiescence, indifference, or neglect of the U.S. government and U.S. law enforcement agencies that had an obligation to enforce the Neutrality Act (18 U.S.C. 960) which forbids the launching of military attacks against a country with which the United States is at peace.<sup>2</sup>

The third category of acts covers the entire package of harsh economic sanctions known comprehensively as the Cuban Embargo, maintained by the United States against Cuba for over fifty years—with only slight modifications from 1962 to 2014—and most of which remained in place as late as 2016. Since 1997 the embargo has been condemned by overwhelming majorities at the UN General Assembly, including almost all of the United States' closest allies such as Great Britain, Germany, and Japan. The United States consistently has argued that the embargo is not a violation of international law because it amounts to a unilateral refusal by the United States of trade, investment, and financial transactions with Cuba. Under international law, so goes this reasoning, states are free to trade or not to trade with any other state as they see fit. On October 26, 2016 the United States abstained rather than voted against the annual resolution in the UN to lift the embargo.

But reality is much more complex than the embargo's defenders would claim. The United States is the world's leading financial power and the U.S. dollar the world's reserve currency. U.S. sanctions have prohibited other countries and their banks from engaging in dollar transactions with Cuba, thereby making trade with Cuba more cumbersome and expensive. The embargo also has in-

cluded significant extra-territorial measures that seek to bar foreign entities from doing business with Cuba. The 1992 Cuban Democracy Act prohibited vessels that land in a Cuban port from landing in a U.S. port anytime in the subsequent six months until October 14, 2016 when the Obama administration relaxed the restriction. The Act also extends the embargo's provisions to U.S. owned subsidiaries around the world even when they are registered and operate in other countries. The 1996 Helms-Burton Act, also still in force, discourages trade and investment in Cuba by subjecting foreign persons to civil liability in U.S. courts for "trafficking" in property confiscated by the Cuban government. A foreign company leasing, managing a hotel, or buying agricultural products grown on land confiscated by the Cuban government would be subject to legal action in federal district courts by the former owners of such land. The legislation also gives the U.S. State Department authority to deny visas to managers, directors, and owners of such companies. Although every U.S. president since 1996 has waived many of the legislation's provisions, the Act remains U.S. law, and as such it acts as a major deterrent to investment in Cuba, as indeed was intended by its sponsors. States around the world, including the United States' closest European and Asian allies and trading partners have condemned roundly as illegal under international law Helms-Burton's highly extraterritorial provisions through which the U.S. government has sought to control and punish the activities of entities not based on U.S. soil. Thus, there is consensus that some significant portions of the embargo are serious violations of international law, and are not purely unilateral measures within the United States' legal competence (White 2014).

Cuba's legal case for damages resulting from U.S. sponsored attacks from 1959 to 1971 is strong. Cuba was at peace with the United States and did not engage in any attacks against the United States. There was an intense political, economic, and ideological conflict between both countries, but at no point did Cuba engage in any acts against the United States justifying the use of military force by the United States against Cuba, under either the United Nations Charter or customary international law. Cuba's nationalization of U.S. assets could have justified political and economic counter-measures, including the embargo, but not the use of military force. Thus, the United States bears responsibility for the considerable economic, material, and human damages caused by these attacks. The same analysis applies to damages caused by Cuban exile attacks carried out from U.S. soil against Cuba in the face of U.S. indifference. Under U.S. law, as well as under international law, the U.S. government had an obligation to prohibit such attacks, and its failure to do so made it responsible for the damages flowing from those attacks.



With regards to the damages caused by the embargo, U.S. responsibility is arguably more nuanced, but still could be defined as significant from the Cuban viewpoint. It is true that states are free to trade and invest as they see fit, and there is no international legal obligation to allow trade between one's citizens and those of another country. But with regards to the damages arising from the embargo's extraterritorial aspects contained in the 1992 Cuban Democracy Act and the 1996 Helms-Burton Act, one can argue that insofar as these extraterritorial sanctions violate the rule against extraterritoriality central to public international law, they make the United States liable for the damages resulting from them.

Morally, it is also quite difficult to make a case for the embargo, especially since the end of the Soviet Union in 1991, and Fidel Castro's speech of the same year in which he announced that Cuba no longer would sponsor or support "national liberation movements" anywhere. By 1993, Cuba, bereft of any strategic patrons or allies and mired in its own economic depression of epic proportions that saw a 35% collapse in its GDP, had ceased to pose any kind of security threat or geopolitical challenge to the United States and its allies.<sup>3</sup> The maintenance of such a harsh, comprehensive, and indiscriminate set of sanctions as was kept in place during the following two decades raises large and disturbing questions about the United States' moral and political responsibility for the highly unnecessary and unjustifiable suffering, deprivation, and economic and human damages caused by these sanctions. It is inappropriate and unworthy of the United States' highest values to trivialize, much less dismiss, the human costs to ordinary Cubans of this U.S. policy. Although technically they may have been mostly legal, the sanctions were considered politically and morally objectionable by the overwhelming majority of the members of the United Nations, including almost all of the members of the community of liberal democratic states of which the United States claims to be the leader.

In sum, one can draw two tentative conclusions with respect to Cuba's claims against the United States. First, with regards to the damages caused by the embargo, the weight of the claims is much more moral and political than legal. Under international law, states are free to adopt unfriendly economic measures towards another even in peacetime for the sake of particular foreign policy objectives. This is recognized by the framework of the World Trade Organization, of which Cuba and the United States are founding members. The WTO rules allow states to refuse to trade with another state, in the name of a "national security" exception. States define unilaterally the reasons for invoking such an exception and their justification cannot be challenged legally within the WTO's dispute settlement mechanisms. Nevertheless, the damages caused to the Cuban economy by the embargo's



extraterritorial provisions would still be considered illegal under customary international law, and the United States can be held responsible for them.

Cuba has an indisputably even stronger legal case with regards to the damages caused by peacetime attacks or acts of military aggression and violence carried out, sponsored, or supported by the U.S. government, such as the Bay of Pigs invasion and Operation Mongoose. And the same is true of attacks carried out from U.S. soil in violation of U.S. law. It is patently false to argue, as does Professor Michael J. Kelly, coauthor of the Bush administration—funded study by Creighton University on U.S.-Cuba claims (Creighton 2007), that “the Cuban counter-claim for reparations should not be taken seriously... Those claims are not supported by international law... [whereas] the property claims [by the United States] are” (Robles 2015). Customary international law clearly establishes that states are responsible for damages caused by peacetime acts of violence or military force against other states, even more so when the attacked state, as was the case with Cuba, was not carrying out any attacks or acts of violence against the United States.<sup>4</sup> To argue otherwise would make a mockery of the principle of state responsibility so central to the fabric of international law. This same principle also would hold the United States government liable for attacks or acts of violence carried out against Cuba from U.S. territory, even if the U.S. government was not behind them.

The carefully documented Cuban counterclaims have received little attention in the United States, and the U.S. government so far has not acknowledged the possibility that they could be even partially valid. The most recent serious study on the U.S.-Cuba claims, the 2015 Brookings Institution report authored by former National Security Council official Richard Feinberg, gives the Cuban claims brief coverage and does not accord to them any significant weight in future negotiations (Feinberg 2015). All the same, the Cuban government and its skilled negotiators take these claims quite seriously and they see them not only as a major bargaining chip, but also as an instrument for putting the United States on the defensive in any future efforts to settle all claims between both countries.

### **Past Claims Settlements by the United States with Communist Countries: The Soviet Union, the People's Republic of China, and Vietnam**

Over the past eight decades, the United States has carried out major claims settlements with Communist countries that carried out extensive nationalizations and expropriations of U.S. property. These settlements can shed valuable light on what a future U.S.-Cuba claims settlement could look like.

### *U.S.-Soviet Claims*

The first such case involved the Soviet Union, which following the 1917 Bolshevik Revolution nationalized some \$433 million worth of U.S. assets. In addition, the Soviet government repudiated \$75 million of Russian bonds sold to American investors (“Problem of Russian Recognition” 1924). In 1933 President Franklin Roosevelt, as part of his decision to recognize the Soviet Union and establish full diplomatic relations with the Soviet government, agreed to settle all U.S.-Soviet claims. Known as the Litvinov Assignment, named after Soviet Foreign Minister Maxim Litvinov, the agreement assigned all U.S. claims to property located on Russian territory to the Soviet government and all claims by the Soviet Union to Russian property located on U.S. territory to the U.S. government. In addition, the Soviet Union agreed to make a lump sum payment to the United States. In essence, U.S. claimants ended up receiving \$0.097 for every dollar’s worth of certified claims. Three key features of the U.S.-Soviet claims settlement stand out. First, the settlement involved compensation to the United States through a lump sum payment and an assignment in property claims, the total of which was far lower—about 90% lower—than the sums claimed by the U.S. government. Second, the settlement was final; it barred any and all future claims by each country and its citizens against the other. Third, the deal was negotiated by the president in the form of an executive agreement, and did not require Congressional approval. It should be noted that, although the Congress did not take action as a body with respect to the agreement, many conservative Republicans and Democrats who detested the Soviet regime criticized and opposed it, as much as many members of Congress opposed President Obama’s December 2014 opening to Cuba and would be expected to oppose a future U.S.-Cuba claims agreement that fell short of full compensation. Although, as will be seen later, the Litvinov Assignment was challenged as unconstitutional in *United States v. Pink* (1942), the U.S. Supreme Court sided with the president, upholding his right to settle property claims with foreign countries as part of his Article II powers of recognizing foreign governments and carrying out the foreign relations of the United States.

### *The People’s Republic of China*

A second case involved the People’s Republic of China, which upon the triumph of the Communist Party in 1949 nationalized or expropriated some \$197 million worth of U.S. assets. The United States, in response, “blocked” \$80.5 million of Chinese assets located on its territory (Levie 1979). Some of these blocked Chinese assets belonged to Chinese nationals, others to Chinese government entities.

In a 1979 executive agreement signed by President Carter with the Chinese leadership as part of the normalization of relations between the United States and the People's Republic, the two parties agreed to a final claims settlement (Agreement 1979). China agreed to pay the United States a lump sum payment of \$80.5 million as compensation for U.S. assets expropriated or nationalized by China. This amounted to about \$0.40 for every dollar of U.S. assets claimed. The payment was made in the form of an initial \$30 million payment, followed by five annual installments of \$10.1 million each. With regards to the Chinese assets in the United States, the U.S. government "unblocked" them, making them available to the Chinese government to claim. Because the ownership of these blocked assets was in many cases unclear or uncontested, decisions regarding ultimate title involved in many cases lengthy litigation in U.S. courts, something which the Chinese government fully expected. Also, and quite relevant to the Cuban case, the U.S.-China settlement did not cover the property claims of Chinese Americans or Chinese living overseas whose assets in China had been seized by the Chinese government and who were not U.S. nationals at the time of the takings (Sit 1996).

### *U.S.-Vietnam Claims*

Following its occupation of South Vietnam and the end of the Vietnam War in April 1975, the victorious Vietnamese government proceeded to expropriate all U.S. assets in South Vietnam. Simultaneously, the U.S. government froze around \$200 million worth of assets in the United States belonging to the now defunct South Vietnamese government. With interest, those assets would grow to almost \$250 million. In 1986, the United States Foreign Claims Settlement Commission certified the U.S. claims to assets and property expropriated or nationalized by Vietnam to be worth around \$99.3 million (Lang 1995). The Commission also determined appropriate that 6% interest be tacked on to the principal, starting with the year of the taking, until full compensation was paid. Under this standard, the U.S. claims were worth around \$230–\$250 million by 1995.

In 1994, with the Cold War over, the Vietnamese Communist Party moving to liberalize the country's economy, and with U.S. corporations increasingly eager to enter a market of 70 million people, President Bill Clinton took steps to normalize relations between the two countries by ending the nineteen-year harsh trade embargo the United States had maintained against Vietnam since 1975. Negotiations on claims followed. Surprisingly, in spite of the bitter conflict that raged between the adversaries for nearly forty years and the massive casualties on both sides during the war, an accord was reached

in 1995 in the form of a presidential executive agreement that did not require congressional approval (Agreement 1995).

Vietnam had wanted to bring to the table the issue of the horrific damages caused by U.S. military action to Vietnamese civilians and the environment. Credible estimates have put the number of Vietnamese civilians killed by the United States at one to two million people, coupled with economic and material damages of somewhere between \$20 and \$40 billion. In addition, the environmental damages to Vietnam's land, forests, and food supply had been catastrophic. The United States insisted on decoupling the larger issue of U.S. responsibility for war damages from that of claims involving its nationals' property. On the U.S. side, President Clinton knew there was zero chance of Congress ever approving any funds for compensating Vietnam for U.S. war damages. On the Vietnamese side, there was an equally pragmatic realization that, over time, the country's economy would benefit enormously from the increased foreign investment flowing as a consequence of the normalization of relations, and that those benefits would outweigh whatever compensation Vietnam was theoretically entitled to, but which the U.S. Congress never would agree to underwrite anyway. In the end, pure pragmatism prevailed over the principled claims of morality and ideology. The accord provided for Vietnam to pay in full the \$230–\$250 million worth of U.S. claims, while the United States agreed to unfreeze the \$250 million worth of South Vietnamese government assets in the United States for full transfer to Vietnam as the successor government.

Some similarities as well as significant differences stand out when comparing the Vietnam and Cuba cases (Mowry 1999). In both cases there were substantial grounds for bringing into the negotiations the larger issue of significant material and human damages caused to the population and economy of a far smaller nation by U.S. power. In Vietnam's case the United States firmly rebuffed such efforts and will attempt to do so when dealing with Cuba as well. It is reasonable to expect Cuba to conclude, as Vietnam did, that, however meritorious its claims are, no U.S. government is ever likely to accept them even partially, and that the long-term economic benefits of normalization, including greater foreign trade and investment, justify moving on and reaching a reasonable deal. With respect to the property claims themselves, however, the Vietnam case turned out to be less challenging than Cuba's because the South Vietnamese assets frozen by the United States were roughly equivalent to the claims by U.S. citizens. Thus, it was relatively easy for Vietnam to agree to pay the U.S. claims in full. This is not the case, of course, with regard to Cuba. The amount of Cuban funds frozen in the United States always has been less than

the U.S. claim totals, and those funds have been substantially depleted since 1996 by a series of unwise court judgments, as will be seen later.

### **The President's Authority to Negotiate and Implement Foreign Claim Settlements**

Under the Constitution's Article II, the President has exceedingly wide authority over the conduct of U.S. foreign relations. Indeed, the most compelling reading of one of the U.S. Supreme Court's landmark decisions in the field of foreign relations, *United States v. Curtiss-Wright Corp.* (1936), is that the President can do anything in matters of foreign policy, unless it is prohibited or specifically assigned by the Constitution to another branch. *Curtiss-Wright*, along with *United States v. Belmont*, lay out a theoretical framework within which to analyze presidential authority in the field of foreign policy, including the negotiation and settlement with foreign states of claims involving property and assets located in those states, as is the case with U.S. property claims against Cuba. Outside the United States, in the "vast external realm" (Sutherland in *Curtiss-Wright*) of international relations dominated by the interaction of chaos and the power of sovereign states, the U.S. president's authority is at its maximum, limited only the specific dictates of the Constitution.<sup>5</sup> Were it not for the exercise of presidential action, including diplomacy and negotiation, U.S. claimants would be utterly powerless to recover any claims at all. Also, property claim negotiations never take place in a vacuum solely dictated by claimants' interests. As was the case with the Soviet Union in 1933, China in 1979, and Vietnam in 1995, these negotiations always occur in a broader strategic context in which the nation's larger foreign policy interests and high questions of diplomacy and statecraft must predominate over the interests of U.S. nationals who at one point freely and knowingly undertook the substantial risk of investing outside the territory and legal realm of the United States.

A series of major U.S. Supreme Court decisions since the 1930s have reinforced the substantial degree of presidential power in the settlement of foreign claim disputes. In *United States v. Pink* (1942), Mr. Pink, New York's Insurance Commissioner, refused to turn over to the federal government the assets of the First Russian Insurance Co., located in New York, challenging the validity of the Litvinov Assignment of 1933 through which President Franklin Roosevelt had settled all outstanding property claims with the Soviet Union. Since the claim settlement with the Soviet Union provided compensation at a rate of only \$0.09 per dollar, Pink wanted to use the proceeds of the First Russian Insurance Co. to compensate New Yorkers instead of turning the funds

over to the federal government. Pink challenged the president's power to enter into a claims settlement with a foreign government that affected the property rights of U.S. citizens without Congressional involvement. The Supreme Court rejected Pink's challenge. The claims settlement with the Soviet Union was part of a much broader decision to normalize relations with the Soviet Union, which also included recognizing the Soviet government and establishing full diplomatic and economic relations with it. The president's power under Article II to conduct foreign relations includes the power to recognize foreign governments and carry on relations with them as he sees fit. Claim settlements negotiated by the president through executive agreement in order to implement such a process are within the president's constitutional authority.

In fact, *Pink* also underlines the unconstitutionality of the well-known provisions in the Helms-Burton Act of 1996 that link normalization of relations between Cuba and the United States to resolution of the property claims. Although Congress has the power "to regulate Commerce with foreign Nations" and therefore can extend the Cuban embargo at will, it cannot prevent the president from normalizing relations with Cuba at the political and diplomatic levels. *Pink*, *Belmont*, and *Curtiss-Wright* all affirm the president's plenary powers over recognition and the conduct of foreign policy toward a particular nation. Essentially, although Congress can regulate all aspects of U.S. trade and investment with Cuba, it cannot prevent the president from conducting whatever policy towards the island he or she deems most suitable.

The president's authority to carry out foreign claim settlements through executive agreement, as part of the responsibility for the conduct of foreign relations, was further affirmed in *Dames & Moore v. Regan* (1981). Following Iran's seizure of U.S. diplomats as hostages in late 1979, President Carter used his authority under the 1977 International Economic Emergency Powers Act to freeze all Iranian assets in the United States and allow pre-judgment attachments against them. *Dames & Moore*, a U.S. company which claimed it was owed over \$3 million by the Iranian government for work *Dames & Moore* had performed for it, obtained a pre-judgment attachment against Iranian assets frozen by the president's order. Shortly before leaving office in January 1981, President Carter signed an executive agreement with Iran ending the hostage crisis. As part of that agreement, Iran returned the U.S. diplomats safely, and the United States and Iran agreed to establish the Iran-U.S. Claims Tribunal at The Hague to settle both parties' outstanding property and damage claims against each other. Any of the Tribunal's Awards against Iran would be funded out of the Iranian assets previously frozen by the president. As part of the agreement, President Carter also

issued executive orders nullifying all previous pre-judgment attachments against Iranian assets in the United States, and providing that any U.S. claims against such assets in U.S. courts would be “suspended” and would have to be pursued through the Iran-U.S. Claims Tribunal. President Ronald Reagan quickly ratified his predecessor’s actions. Dames & Moore, objecting to the nullification of its pre-judgment attachment, and preferring to have its claim heard in U.S. federal district court rather than the Hague Tribunal, sued the new Treasury Secretary Donald Regan, arguing that the president had no power through executive agreement to suspend the property claims of U.S. nationals and route them through an international claims tribunal rather than the federal courts.

The Supreme Court sided with the president. It reaffirmed *Pink*’s broad language granting the president ample authority to settle foreign claims of U.S. citizens through executive agreements that were part of broader negotiations involving important foreign policy interests. The U.S.-Iran agreement involved a major foreign power, and was part of a broader deal through which the Iranians had agreed to return the hostages and settle outstanding property claims through an international arbitration tribunal. In this particular case, the Supreme Court also made reference to the fact that, although Congress had not been involved in the negotiations, it had not as a body objected to them.

The U.S. Supreme Court again reaffirmed *Pink* in its controversial decision of *American Insurance Association v. Garamendi* (2003). In 1996, President Clinton signed an executive agreement with Germany creating a legal mechanism, the Foundation, for settling Holocaust-related claims by U.S. nationals against German companies and the German government. According to the agreement’s terms, claimants would have to present their claims through the Foundation. Meanwhile, California had passed a statute, the Holocaust Victim Insurance Relief Act (HVIRA), requiring all insurance companies doing business in the state to make available information regarding any insurance policies issued in Germany between 1920 and 1945. The law’s obvious purpose was to facilitate Holocaust-related litigation in state and federal courts by making available to potential litigants information regarding the existence of insurance policies the proceeds of which they might be entitled as heirs. The American Insurance Association sued California’s Attorney General, arguing that the legislation had been preempted by the president’s executive agreement for settling Holocaust-related claims with Germany, and therefore, violated the president’s foreign relations powers under Article II of the Constitution.

In a narrowly divided 5–4 opinion that transcended the more typical liberal-conservative ideological divide among the justices, the Court struck down the



California statute. The president had signed an executive agreement with a foreign power to create a specific mechanism for settling certain types of foreign property claims. The California statute got in the way of this by creating an additional layer of burdens and requirements. In response to the dissenting opinion pointing out that the California statute's requirements were purely focused on making information available, the Court argued that the mechanism created by the president in his exercise of his foreign relations powers was meant to be full and exclusive, and therefore any action by California in addition to it was outside of the state's legitimate powers. The *Garamendi* opinion is especially interesting because, unlike in *Pink*, the recognition of a foreign state or government was not the axis around which the claims settlement agreement revolved. Also, unlike in *Dames & Moore*, the claims mechanism was not grounded on the need or urgency to resolve a major crisis in U.S. foreign policy. Although Holocaust-related claims and their resulting litigation in U.S. state and federal courts had been an irritant in German-U.S. relations, they never had developed into a first-order threat to the peace and stability of relations between the countries. Nevertheless, as part of his foreign policy responsibilities, the president had seen fit to address the issue by negotiating an executive agreement with Germany, leaving no scope for any alternative or even supplementary mechanism, even one as seemingly innocuous as requiring insurance companies to provide certain kinds of information in order to be allowed to do business in the state.

There are significant implications for U.S.-Cuba property claims from the long line of cases stretching from *Pink* (1942) to *Garamendi* (2003). Chief among these is the breadth of the president's power to settle foreign property claims through executive agreements without Congressional approval. There are significant parallels with the Soviet case in 1933 and the Chinese case in 1979, in which President Roosevelt and President Carter settled claim disputes at 9.7% and 40%, respectively, of their alleged value. It is doubtful whether, in light of the precedents already established by the U.S. Supreme Court, Congress could muscle its way into a future U.S.-Cuba agreement by declaring it invalid as providing inadequate compensation. At any rate, for Congress to do so, it would have to act as a body through veto-proof legislation or joint resolution, something which seems politically unlikely if not downright unfeasible.

### **The Problem of the "Terrorist State" Court Judgments**

One significant factor clouding the resolution of property claims is a series of court judgments awarded by U.S. state and federal courts against Cuba on the basis of the §1605A "terrorist state" exception created by Congress in 1996 as an amendment to the 1976 Foreign Sovereign Immunities Act. These judg-



ments currently total close to \$4 billion. Not only have they created a new obstacle to future U.S.-Cuba economic relations, but they also have affected the future resolution of the U.S.-Cuba property claims by depleting the amount of Cuba's frozen assets in the United States.

In 1976, Congress crafted the Foreign Sovereign Immunities Act with three goals in mind: 1) to preserve within the U.S. legal system the classical principle, central to international law and the comity of nations, that a sovereign state should not be forced to appear in the courts of another sovereign state to answer for its public acts (*The Schooner Exchange* 1812); 2) to create certain narrow exceptions, focused principally on commerce, so that states when acting as commercial instead of public actors may not be immune to jurisdiction when dealing with other parties, thus facilitating reliability, transparency, and fairness in business practices; 3) to place in the hands of the federal judiciary, not the executive branch, the decision of when and whether these narrow exceptions may apply. In 1996, however, Congress, suffering one of its periodic bouts of extraterritorial enthusiasm, in this case triggered by a combination of ideological zeal, a pliable president eager for reelection during an election year, and the presence of the redoubtable Sen. Jesse Helms as the chair of the Foreign Relations Committee passed, in addition to the Helms-Burton Act, a significant amendment to the venerable Foreign Sovereign Immunities Act. The amendment, in 28 U.S.C. §1605A, created a new exception to the well-established principle of foreign state immunity, applicable to cases where a state is on the State Department list of sponsors of terrorism:

28 U.S.C. §1605A: Terrorism exception to the jurisdictional immunity of a foreign state

(a) In general.-

(1) No immunity.—A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case not otherwise covered by this chapter in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources for such an act if...engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency.

(2) Claim heard.—The Court shall hear a claim under this section if—(A)

(i) (1) the foreign state was designated as a state sponsor of terrorism at the

time the act described in paragraph (1) occurred, or was so designated as a result of such act, and, subject to subclause (II), either remains so designated when the claim is filed under this section or was so designated within the six-month period before the claim is filed under this section.

In 1996, only Iran, Cuba, Iraq, Libya, and North Korea were on the State Department list of state sponsors of terrorism, so the amendment was an election-year gift to the United States' two most powerful political lobbies at the time: the anti-Castro Cuban exiles and the Israeli lobby. By creating a special exception to sovereign immunity for states on the state sponsors of terrorism list—the list being itself a creature of the executive branch and its political priorities and calculations—the amendment eviscerated the cardinal principle of the Foreign Sovereign Immunities Act, which was to place immunity decisions in the hands of federal judges rather than executive branch officials. In the well-known case of *Saudi Arabia v. Nelson* (1993) the U.S. Supreme Court had held that mistreatment or even torture of a U.S. national by the Saudi police on Saudi territory was not actionable in a U.S. court of law; police conduct, including torture, was a public act protected by sovereign immunity. As a close U.S. ally, Saudi Arabia was not on the terrorist list, and most likely never would be. Similar acts by Iran or Cuba, however, would not be shielded from litigation in U.S. courts. In this regard, the amendment was highly discriminatory and unprincipled; it only punished torture and various other acts by governments Washington does not like, but U.S. citizens subject to similar conduct by governments that Washington likes or tolerates continue to lack a remedy.

In addition to violating the principle of sovereign immunity, which is one of the foundations of public international law, the amendment also constituted a gross violation of the principle of extraterritoriality. It made foreign states liable for acts committed outside the territory of the United States, and under circumstances where the exercise of jurisdiction by the federal courts is inappropriate as extraterritorial and in violation of the sovereignty of other states. It was not long before other states retaliated in kind. In 2000, the Iranian parliament passed a law opening its courts to lawsuits against the United States by Iranian citizens who had suffered damages as a result of the CIA-financed and organized coup against the democratically elected government of Prime Minister Mossadegh in 1953 (“Iran MPs” 2000). Under the legislation, a number of Iranian citizens won multimillion dollar judgments against the United States. And it was precisely in this context that the Cuban government brought before its courts its multibillion dollar claims against the United States in 1999 and 2000.

Using the amended Foreign Sovereign Immunities Act provision, U.S. claimants have won a series of exorbitant judgments against Cuba, the overwhelming majority of them in state courts in South Florida presided over by highly politicized judges who have to run for reelection every few years, totaling close to \$4 billion.<sup>6</sup> Cuba did not defend against any of these lawsuits on the grounds that, as a sovereign state, it was not subject to the jurisdiction of another state's courts as a matter of well-established international law. Under these circumstances, some rather dubious claims have been upheld and awarded extraordinarily large sums of money. For example, Janet Ray Weininger won a \$24 million award plus \$65 million for punitive damages for the alleged torture and execution of her father, Mr. Thomas Willard Ray (*Weininger v. Castro* 2005). The amazing fact about this claim is that Mr. Ray was a CIA agent who, as a bomber pilot during the Bay of Pigs invasion, dropped bombs on innocent Cuban civilians while attempting to destroy the Central Australia sugar mill. His plane was shot down by Cuban aircraft fire. His family claims that he landed alive and was executed. Cuba argues that he died from the injuries suffered from the forced landing and resisting capture. The family claims that the Cuban government refused for several decades to return his body as part of a cruel game. The Cuban government simply refused to return the body until the U.S. government officially acknowledged him as a CIA agent, something that Washington callously refused to do for twenty years, in essence leaving Mr. Ray out in the cold in the status of an "unlawful combatant" such as the U.S. government assigned to most of the Guantánamo terror suspects. In the long annals of military conflict there is probably no other instance of someone bombing a foreign nation with which his country was at peace, and then having his family sue successfully for millions of dollars for his death. The bombing of a sugar mill and the innocent civilians working and living around it surely was an act of terrorism divorced from any military purpose, but Mr. Ray never will have to answer for it.

The "terrorist state" default judgments against Cuba are extremely problematic for two reasons. First, a number of holders of these judgments have been successful in gaining access to Cuba's frozen assets in the United States. Following Cuba's nationalizations of U.S. property, the U.S. government froze all assets and accounts of the Cuban government and Cuban nationals in the United States, totaling close to \$200 million. Assuming that interest had been paid on these assets at a rate comparable to inflation, they would now add up to \$1.6 billion. As happened in the cases of the Soviet Union, China, and Vietnam, these funds could be used in a future U.S.-Cuba settlement to offset, partially or in whole, U.S. property claims against Cuba. But most of the Cuban funds in

the United States have been depleted as a consequence of successful action by some of the holders of the “terrorist state” default judgments. The most spectacular example was the \$97 million payout of Cuban frozen assets to the holders of the Brothers to the Rescue default judgment authorized by President Clinton shortly before he left office, under political pressure from a unanimous Senate vote on the issue. Not surprisingly, this action enraged many Foreign Claims Settlement Commission (FCSC)-certified claimants, who reasonably expected the frozen Cuban funds to be available for a future U.S.-Cuba claims settlement, rather than to satisfy some of the highly inflated, legally dubious claims of the “terrorism” default judgments. Second, the outstanding terrorism judgments also complicate enormously the normalization process by making subject to attachment any Cuban assets, property, or funds brought into the United States as part of regular U.S.-Cuba commercial or investment transactions.

### **Lessons from History: Moving Forward on U.S.-Cuba Claims**

History’s first lesson is that the best course of action to settle U.S.-Cuba claims probably would be a lump sum settlement payable to the U.S. government that would provide partial compensation for U.S. property claimants. The president’s authority to do this through an executive agreement is beyond question, especially when done, as is the case, as a key element or condition of a broader U.S.-Cuba normalization of relations. Realistically, Cuba would prefer to pay the negotiated amount in several installment terms, as did the People’s Republic of China in its accord with the United States.

Cuba always has indicated it is prepared to compensate U.S. property owners for their losses. But it also has insisted that this must be done without surrendering in any way Cuba’s sovereignty. Some thoughtful scholars and policy makers, such as Brookings Richard E. Feinberg, have suggested that one way to compensate some of the larger former U.S. property owners would be by giving them a form of beneficial or equity ownership interest in exchange for their claim (Feinberg 2015). Some of the options recommended by Feinberg include preferential “vouchers” or debt-equity swaps, “rights” to operate, “final project authorizations” that would “allow claimants to short-circuit the frustratingly lethargic project approval process” for a particular investment, “preferred acquisition” rights, and in some exceptional cases even “restoration of properties to former owners” under “pro-development” conditions (Feinberg 2015, 32–33). Although well-meaning, such policy options are rife with danger. Essentially, they amount to creating a special class of preferential rules for former U.S. property owners and investors, something Cuba did not do for

those European or Canadian property owners whose assets Cuba nationalized and eventually compensated in the form of lump sum settlements with their respective countries. It would discriminate in favor of U.S. investors, unfairly leaving at a relative disadvantage investors from nations such as Spain, Canada, and France which resisted U.S. pressures and remained engaged in the Cuban economy through the harsh decades from 1994 to 2014. It also would be corrosive of Cuba's rule of law and its nascent efforts to combat corruption and favoritism. Under Feinberg's proposed scheme, some U.S. claim holders would be entitled "to pass to the front of the line in competitive bidding, for example for an attractive beach front property, the formation of a joint venture with a state enterprise, the provision of power to the state energy grid, or entry into the telecom service sector" (Feinberg 2015, 32). What Feinberg describes as "the frustratingly lethargic project approval process" is, in part, the result of a Cuban legal framework to insure that there is no mad rush of foreign investment capital into Cuba that will play havoc with well-established social, cultural, economic, and environmental priorities. Giving preferential treatment to a special class of future investors would limit Cuba's sovereign right to regulate all foreign investments on equal terms, under the same standards imposed under Cuban law, and on the basis of clear, transparent rules equally applicable to all investors regardless of nationality. As a small but proud nation attempting to craft its own development model that will avoid the worst extremes of runaway capitalism and Soviet-era sclerotic socialism, Cuba has the right to insist on the careful regulation of foreign investment and economic development solidly grounded on an impartial, strong legal framework equally applicable to all. If Cuba were to start making exceptions to its own laws on behalf of certain investors, there would be no way to resist the pressures of others who also would want preferential treatment, and the fundamental values of impartiality, transparency, and equal treatment under the law would suffer, at great cost to Cuba's future institutional integrity and rule of law.

History's second lesson is that the odds of success in a future U.S.-Cuba deal, and in future U.S.-Cuba relations in general, would be enhanced if the United States were to acknowledge in some form—perhaps political and rhetorical—the reality of Cuba's suffering under five decades of U.S. open and covert warfare and economic sanctions. It is unlikely that the United States will ever agree to make any payments to satisfy the Cuban claims, especially because Congress never will appropriate even nominal funds for it. But national pride and sovereignty mean a great deal to Cuba, as shown by the course of its relations with successive U.S. governments since 1959. The president of the United States might

issue an unequivocal statement, akin to the one President Bill Clinton made to the Guatemalan people in 1999, containing an admission that in its conduct toward Cuba over five decades the U.S. government often fell far short of the values of the American people.<sup>7</sup> Such admission could be coupled with a pledge by the United States that it has no claim or right to dictate to Cuba its future course, and that it respects Cuba as a full, sovereign, equal power, with relations between the two countries subject to what the United States' Founders called "the law of nations"—the shared principles of international law.

A third lesson we might draw is the need to settle the nettlesome issue of the "terrorist state" default judgments. It is the responsibility of the United States, which unnecessarily created this problem in the first place, to solve it. One alternative is for Congress to step in with legislation dictating some form of at least partial compensation. Given current political realities, this is not likely. A second option is for the executive branch to challenge systematically in federal court the validity of the state default judgments on the basis of an initial inadequacy of subject matter jurisdiction on the part of the state courts that issued the judgments (Lyubarsky 2016, 467–479). The challenges might have to go all the way to the U.S. Supreme Court, but the executive branch would have a good chance of prevailing. A third option is for the President, drawing on his considerable authority to settle foreign property claims, to fold the default judgments into the package of Foreign Claims Settlement Commission (FCSC) claims (Lyubarsky 2016, 488–493). Holders of default judgments would have the alternative of either renouncing their court judgments and going with the FCSC option under which they would recover less; or they could reject the FCSC option in favor of keeping their default judgments but at the risk of not recovering anything at all in the future. There is a significant disadvantage, however, with this proposed solution. The default judgments, in light of their enormous size, would wind up taking a disproportionate share of whatever fractional settlement is agreed to by Cuba and the United States. Both Cuba, which does not recognize the validity of the default judgments, as well as the vast majority of U.S. holders of the initial FCSC-certified claims who would be squeezed out by the default judgment holders, would object strongly to such a proposal.

One final option, and possibly the most realistic, would be for the president, as part of his executive agreement with Cuba settling all property claims, to suspend both the "terrorist state" default judgment claims, and the enforcement of the underlying judgments themselves, at least against a sufficiently broad category of Cuban assets and entities as to permit normal commercial transactions between the two countries. The claims and their accompanying judgments would not be invalidated but simply suspended until Congress could appropriate or oth-

erwise determine the source of funds for payment of the judgments. Congress might agree to set up a fund to compensate, at least partially, holders of the default judgments. If Congress chose a mechanism antithetical to the president's foreign policy objectives, the president always could veto it. The president's justification for the suspension of the default judgments would be based on the far larger foreign policy interests of the United States in normalizing political and economic relations with Cuba (*United States v. Pink*, *Dames & Moore v. Regan*). Eventually, such bold but unavoidable exercise of presidential authority would be challenged in the federal courts, where no identical case has been settled by the U.S. Supreme Court. But the executive branch would have a reasonable chance of prevailing, on the basis of the long line of cases discussed earlier.

Although, under President Obama, the U.S. and Cuban governments held significant preliminary discussions on the issue of property and damage claims, the job will have to be completed by his successor. It is possible that President Trump, looking at the long-term American strategic interests in a thriving US-Cuba commercial relationship, will continue to move forward to reach a settlement of the claims. Success in this endeavor would make room for the many other creative and constructive possibilities open to the future of U.S.-Cuba relations.



## NOTES

<sup>1</sup> *Demanda del Pueblo de Cuba al Gobierno de Estados Unidos por Daños Humanos* (31 May 1999); *Demanda del Pueblo de Cuba al Gobierno de los Estados Unidos por Danos Económicos Ocasionados a Cuba* (5 January 2000). The Cuban claim pointed to 3,478 lives lost and 2,099 persons disabled as a consequence of U.S.-sponsored or permitted attacks against Cuba, with compensation requested at the level of \$10 million for each person killed and \$5 million for each person disabled. The Cuban judges were sure to point out that the requested compensation levels per person were far lower than those ordered by U.S. federal Judge Lawrence King in the Brothers to the Rescue lawsuit against Cuba, *Alejandro v. Republic of Cuba*, 996 F. Supp. 1239 (1997). Cuba assessed U.S.-caused economic damages during the 1959–1999 years at an additional \$121 billion.

<sup>2</sup> “Whoever, within the United States, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for, or takes part in, any military or naval expedition or enterprise to be carried on from thence against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace, shall be fined under this title or imprisoned not more than three years, or both.” (June 25, 1948, ch. 645, 62 Stat. 745; Pub. L. 103–322, title XXXIII, § 330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.) First passed in 1794, the Act was last revised in 1994.

<sup>3</sup> To place in perspective the Cuban economic crisis of the early 1990s, one must recall that during the Great Depression years of 1929–1933, U.S. GDP experienced a peak-to-trough decline of 25–27%.

<sup>4</sup> See the 1839–1842 correspondence between British Foreign Secretary Lord Ashburton and U.S. Secretary of State Daniel Webster in relation to the “Caroline” incident (Moore 1906). See also *Naulilaa Arbitration, Portugal v. Germany, Arbitral Awards of 31 July 1928, 30 June 1930, and 16 February 1933* (Pfeil 2016). The International Court of Justice affirmed the same principle of state responsibility for damages flowing from the unjustified use of military force against another state in 1986 in *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States)*, 1986 I.C.J. 14.

<sup>5</sup> As Justice Sutherland eloquently wrote, “not only, as we have shown, is the federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation.” *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936).

<sup>6</sup> The most prominent judgments are: *Alejandro v. Republic of Cuba*, 996 F. Supp. 1239 (1997), (Brothers to the Rescue lawsuit, \$187 million); *Villoldo v. Ruz*, No. 08-14505 CA-25, 2011 WL 3791913, (Fla. Cir. Ct. Aug. 19, 2011), (Florida state court judgment, \$2.8 billion); *Vera v. Republic of Cuba*, No. 01-31216-CA-11 (Fla. Cir. Ct. May 15, 2008),



(Florida state court judgment, \$95 million); *Jerez v. Republic of Cuba*, No. 05-18719-CA-9 (Fla. Cir. Ct. Jan. 30, 2007), (Florida state court judgment, \$200 million); *Weininger v. Castro*, No. 03-22920 CA 20 (Fla. Cir. Ct. June 15, 2005), (Florida state court judgment, \$89 million); *Hausler v. Republic of Cuba*, No. 02-12475, 2007 WL 6870681 (Fla. Cir. Ct. Jan. 19, 2007), (Florida state court, \$400 million); *McCarthy v. Republic of Cuba*, No. 01-28628 CA 04 (Fla. Cir. Ct. April 17, 2003), (Florida state court, \$67 million).

<sup>7</sup> “For the United States, it is important that I state clearly that support for military forces and intelligence units which engaged in violence and widespread repression was wrong, and the United States must not repeat that mistake” (Broder 1999).

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## **U.S.-Cuba Security Cooperation After D17: Opportunities and Challenges**

Geoff Thale

Geography compels certain kinds of cooperation between Cuba and the United States. As Fidel Castro noted in a 1974 interview, “We cannot move, nor can the United States....We are neighbors” (Mankiewicz and Jones 1975). The fact that the two countries lie so close to each other means that travel and commerce are all but inevitable, that security questions related to commerce and travel will emerge, and that the two countries will have to address at least some of these issues jointly. There will be a range of security issues, including border security issues related to human smuggling and contraband; maritime and aerial security issues, related to the safety of travel and the safety of ships, planes, and shipping between the two countries; and environmental threats and natural disaster challenges in shared or cross border areas. The agencies responsible for ensuring security on these and other issues in both countries will necessarily develop relationships.

In addition to geography, the realities of Cuba’s integration into the hemispheric (and the increasingly globalized world) through trade, travel, and political and social interaction compel cooperation. Cuba’s international relations have already led it to begin considering transnational security issues like money laundering, financial crimes, and cybercrime. As relations with the United States normalize over time, dialogue and cooperation on those issues that transcend borders will become imperative as well.

### **History U.S.-Cuba Relations**

Historically the United States, as well as various political interests within the United States, has seen Cuba through the lens of U.S. security interests. The United States sent troops to Spanish-held Cuba in the early 1820s to attack pirates preying on U.S. shipping in the Caribbean. Politicians in the slave states of the American South, eager to expand areas where slavery was permitted, eyed Cuba

in the 1840s and 1850s. As far back as the Founding Fathers of the United States, some U.S. political leaders saw Cuba as a part of the United States, key to controlling shipping in the Caribbean and essential to preventing European powers from dominating the region, and that sentiment drove repeated waves of interest in Cuba in the 19th century. The U.S. also had economic interests it sought to protect—there were U.S. investors in Cuban agriculture dating as far back as the 1820s, and U.S. trade with Cuba, under the terms of an “an effective reciprocal trade agreement” between the U.S. and Spain regarding Cuba, flourished (Cope-land, Jolly, and Thompson 2011, 3). U.S. geostrategic and economic interests in Cuba culminated with the U.S. intervention in the war of Cuban Independence in 1898, and Spain’s agreement to cede Cuba to the United States. That agreement led within a few years to formal Cuban independence, but another document, the Platt Amendment attached to the Cuban constitution in 1901, that permitted U.S. intervention in the island, stood until 1934.

In the context of this broadly asymmetric relationship, the U.S. and Cuba came to a series of security related agreements. The U.S. military base in Guantánamo, seen at the time as critical to U.S. control of Caribbean shipping lanes, was leased to the U.S. government in 1905. Under the Platt Amendment, U.S. troops intervened in Cuba in 1906, 1912, and 1917. An extradition treaty was negotiated in 1904, and renegotiated in 1926. Since the collapse of diplomatic relations after the Cuba Revolution triumphed in 1959, the treaty has not been in force. While Cuban (and all Latin American) migration to the United States was not formally restricted, visa requirements for entry to the United States were imposed in the 1920s.

U.S. and Cuban security cooperation expanded dramatically in the period after World War II. During the war, Cuban President Fulgencio Batista had allowed the U.S. military to use Cuban territory; U.S. planes looking for German submarines in the Caribbean flew from Cuban airfields. By 1950, as the United States prioritized the fight against Communism in the Western Hemisphere, the political scientist Lars Schoulz argues that the United States entered the postwar period with democracy, development, and anti-Communism as elements of its agenda toward Latin America. By the early 1950s, democracy and development had been dropped, and anti-Communism prioritized (Schoulz 2009, 11). Given the role of Latin American military and security forces in the fight against Communism, the U.S. was stepping up security cooperation with Cuba. That year, Cuban President Carlos Prío requested that the U.S. send an expert on Communism to advise the Cuban government, launching the CIA’s relationship with the Cuban Buro de Represión Anti-Comunista. Meanwhile the FBI continued

its work with the Cuban Military Intelligence Service, which had begun during World War II. In 1952, Cuba was one of the first countries to sign a “mutual defense assistance agreement” with the United States (Slany, Kane, and Sanford 1983, 38). Shortly after Batista returned to power via a coup d’état in 1952, the U.S. approved arms sales to the Cuban military and expanded training courses for Cuban soldiers (Slany, Kane, and Sanford 1983, 914–915). Military assistance continued, as the Batista government fought popular unrest and the Castro-led insurgency that emerged in 1956, with measures that included repression of political dissent, press censorship, and suspension of constitutional guarantees.

In March of 1958, the State Department suspended arms sales to Cuba, with Acting Assistant Secretary of State Christian Herter telling President Eisenhower that “We could not continue to supply weapons to a government which was resorting to such repressive measures” (Hull 2013, 147). But other forms of security cooperation and U.S. political support for the Batista government continued until the last weeks of the dictatorship in late 1958.

### **Security Concerns post-1959**

Over the next two years, U.S.-Cuba relations soured, culminating in the suspension of diplomatic relations at the beginning of 1961. The diplomatic break required an almost complete suspension in security relations, because most legal trade and commerce were suspended, and the agencies responsible for assuring the security of trade and commerce and for responding to shared threats, were unable to maintain systematic relations. During this period, the United States supported the Bay of Pigs invasion and, after its failure, Operation Mongoose, a series of efforts to support sabotage and assassinations in Cuba. While, as William LeoGrande and Peter Kornbluh have documented, there were repeated secret contacts between the U.S. and Cuban governments over the next fifty years, the trade embargo and the suspension of diplomatic relations meant that there were no systematic contacts between the U.S. and Cuban agencies concerned with potential security cooperation (LeoGrande and Kornbluh 2014). This was true of law enforcement relations between U.S. Department of Justice agencies—the international affairs division of the Attorney General, the Federal Bureau of Investigation, the Drug Enforcement Administration—in their relationships with the Cuban Ministry of Justice and Ministry of the Interior, and agencies like the National Revolutionary Police and the Public Prosecutor. Secret contacts also took place involving border and migration relations (with the U.S. Justice Department and its Immigration and Naturalization Service, and later with the Department of Homeland Security and its agencies like

Immigration and Customs Enforcement) and the U.S. Coast Guard, with their counterparts in the Border Guard and Cuban immigration agencies. There were contacts between the military and the intelligence services of the two countries.

There were exceptions in which contacts occurred openly: the U.S. National Weather Service and its hurricane tracking center stayed in touch with Cuban counterparts because of the need for weather reporting vital for shipping and flights; the Federal Aeronautics Administration and their Cuban counterparts have coordinated regional flights and air traffic issues. After a migration crisis in 1994 led to secret talks, the U.S. and Cuba established a migration accord, and agreed on twice yearly meetings to review implementation (Beardsworth 2009). Those talks, though they have experienced ups and downs over the course of the last twenty years, have been the most regular channels for dialogue on any security related topic.

Today the challenge is to rebuild security cooperation on a new basis. Security related contact began to grow in the mid-1990s, through the migration talks and through contacts between the U.S. Coast Guard and their Cuban counterparts. The Coast Guard—Border Guard contacts had started with communications between the two services about endangered ships at sea. It grew when both sides tried to ensure that protests by Cuban Americans in small boats at the edges of Cuban territorial waters in 1996 did not escalate into larger conflicts, with the United States posting a Coast Guard officer at the U.S. Interest Section in Havana to serve as a liaison (Beardsworth 2009).

Security contacts also grew around the issue of counternarcotics cooperation. On the U.S. side, interest in counternarcotics cooperation with Cuba was driven by three factors: a growing recognition that the Cuban government was committed to fighting domestic consumption and international transshipment of drugs, and could serve as a reliable partner because the two countries had a shared interest; a growing concern about drug transshipment in the Caribbean region; and, under the Clinton Administration, a broader thaw in U.S.-Cuba relations permitted contact around security related issues and counternarcotics coordination was seen as helpful in building domestic support for the broader thaw, because it was easy to defend politically and harder to oppose.

It is important to emphasize the multiplicity of factors that went into the U.S. decision to expand counternarcotic cooperation. The shared interest in fighting drugs was a necessary element, but not a sufficient one, on the U.S. side. Cocaine had been flowing through the Caribbean throughout the 1980s, and the Reagan Administration had done little to explore cooperation with Cuba on the issue. The change in U.S. understanding of Cuba's commitment was important;

under the Reagan and Bush administrations, there had been a view of Cuba as cooperating with drug traffickers. In fact, the U.S. Attorney in Miami pursued the idea of a racketeering indictment on drug conspiracy charges against Raúl Castro, then head of the Cuban Armed Forces, in 1992 and 1993. The indictment was never issued. But action by Cuban authorities in 1989 to arrest, convict, and ultimately execute Cuban general Arnaldo Ochoa and other senior officers on charges related to drug trafficking and corruption came to be seen as evidence of the Cuban leadership's opposition to drug trafficking. The Ochoa affair was controversial in Cuba and the subject of much debate and speculation internationally. But whatever other factors may have been involved, there is little doubt that the Cuban government's actions sent a strong signal about their stance against drug trafficking (Lee 2009). More broadly, with the accession of a Democratic Administration in 1992 that was less hostile, the view of Cuba's commitment became more realistic. Finally, the fact that the Clinton Administration was pursuing a broader diplomatic reengagement with Cuba meant that security cooperation was part of a larger strategy, both with Cuba and in U.S. domestic politics.

In Cuba, especially since the economic crisis after the collapse of the Soviet Union weakened Cuba's own military and border control capacities, there has been an interest in international cooperation on counternarcotics (Kornbluh 2000, 1–2). Britain and Cuba signed a counternarcotics agreement in 1995, and other nations followed suit. This willingness to cooperate extended to the United States. Cuban willingness to cooperate on counternarcotics arises from Cuba's commitment to preventing drug trafficking and drug use, and out of recognition that counternarcotics cooperation might provide an opening toward the normalization of relations, on terms of equality, that Cuba has sought with the United States.

In the mid- to late-1990s, in several cases of counternarcotics cooperation Cuban authorities detected drugs in the holds of ships docking in Cuba and shared the information with U.S. law enforcement. Both sides saw these interactions as positive. In the best known of these cases, in October 1996 the U.S. Coast Guard, operating in international waters, boarded a freighter headed to Miami on the suspicion that it was carrying cocaine. When the crew tried to scuttle the ship, it drifted into Cuban territorial waters. Contacts between the Coast Guard and Cuban authorities led Cuba to seize the vessel, tow it into port, inspect it, and find more than seven tons of cocaine. Cuba and the U.S. collaborated in the investigation and prosecutions in the case (Darling 1997). By 2000, according to Peter Kornbluh, "over the last four years, the U.S. Coast Guard, the DEA, the U.S. military's Southern Command, and retiring 'drug czar' Barry McCaffrey's Office of National Drug Control Policy (ONDCP) have all argued



that, because of the island's geo-strategically significant location in the Caribbean and its government's clear willingness to work professionally with other nations, Cuba merits greater consideration as a potential partner in counter narcotics operations" (Kornbluh 2000, 8)

In 1999, after extensive discussions between Cuban and U.S. authorities, the U.S. Coast Guard put a liaison officer at the U.S. Interest Section in Havana in order to strengthen case-by-case cooperation, principally with the Cuban Border Guard, on counternarcotics (Beardsworth 2009, 30).

That relationship has endured seventeen years, including the years of great tension between Cuba and the United States under the George W. Bush Administration following the invasion of Iraq. That the relationship has endured (and in fact that it deepened significantly while continuing to operate case by case) is a testament to the shared interest of both sides in counternarcotics cooperation. Even in 2003 and 2004, when the relationship was at a nadir, the Bush Administration had released the report of a Commission for Assistance to a Free Cuba, the Cuban government had arrested a group of seventy-five dissidents and publicly worried about the possibility of a U.S. invasion, the relationship between the Coast Guard and the Cuban Border Guard continued. The U.S. government's 2005 International Narcotics Strategy Control Report (INCSR) acknowledges, even if grudgingly, that U.S. Cuban cooperation exists and is useful (U.S. Department of State 2005).

If the relationship was originally established out of both shared interests and in the context of a broader political opening, it has brought concrete benefits to both sides in the years since it was established. The various U.S. Coast Guard Liaison Officers who have been stationed in Cuba have had successful and positive interactions with Cuban Border Guard officials, and found the relationship cordial and cooperative. Cuban officials have shared information with the U.S. Coast Guard Liaison Officer about suspected drug planes or boats passing through Cuban territorial waters, which has allowed Coast Guard cutters to detain the ships or follow them in international waters or the planes in international airspace. On the other side, U.S. officials have used the Coast Guard Liaison Officer to pass information to Cuban officials about vehicles entering Cuban waters or airspace. Both sides have found the relationship to be a constructive one. In addition, the confidence building involved has allowed the Liaison Officer to reach out to Cuban officials about other issues (Withers 2012).

Cuba has sought to move the relationship from a case-by-case cooperation to a formal written agreement, as it has with many other countries, regularizing Coast Guard—Border Guard cooperation. Cuba has formal written coun-



ternarcotics agreements with more than thirty countries, and prefers a written agreement with the United States to systematize and normalize the cooperation that exists. The U.S. has sought, especially since the Obama Administration came to office in 2009, to increase the level of cooperation—with more information sharing, more fluid contact, and so on—but initially avoided signing a formal cooperation agreement. U.S. officials, especially prior to the December 17, 2014, announcement that both countries would seek to normalize relations, had worried that signing a written agreement with the government of Cuba would open them to domestic political criticism from those who believe, or at least assert, that Cuba is not a reliable partner in fighting drug trafficking, and that the Administration is making dangerous concessions.

That was a continuing source of tension between the two governments, with the Cuban authorities proposing and the U.S. rejecting a written agreement (or failing to respond to diplomatic notes on the topic). But especially since the beginning of the Obama Administration's second term, the U.S. has been more forthcoming about the kinds of cooperation it is willing to engage in, and Cuban authorities, while not dropping their position that a written agreement should be signed, were more willing to move ahead with concrete steps. On January 16, 2017 the Obama administration signed an agreement with the Cuban government that covered the security issues that had been mutually preoccupying.

There had been previously substantial progress in 2014 on a number of issues, including refining the text of a written search and rescue agreement, the establishment of direct communication links between U.S. Coast Guard and Border Guard ships (rather than communications being routed through Coast Guard and Border Guard onshore offices), direct communication between the 7th District of the Coast Guard in Miami and the Border Guard in Havana (without being routed through foreign affairs officials in each government), a first time visit by a Coast Guard cutter to a Cuban port, and the planning of a visit by Cuban Border Guard officials to the U.S. for a workshop. These measures all moved forward in 2014, prior to the December 17 agreement, which came at the end of the year.

It has been clear that the Obama Administration, even apart from the secret talks to discuss the Alan Gross case, the release of the Cuban Five, and normalization of relations, has sought to move relations forward on security cooperation and other issues where the two countries had common interests. And it has been clear that the response of the Cuban government has been positive. So prior to December 17 there was movement forward on Coast Guard and related counternarcotics and migrant smuggling issues. With progress toward normal-

ization of relations, opportunities for more, and more significant cooperation, in the interest of both countries could be constructed along lines of equality, and could contribute to broader and better working level understandings between government officials on both sides of the Florida Straits.

## Conclusions

It is in the interest of political actors in both countries to make progress on these issues in the future. Concrete advances in security cooperation will, on the U.S. side, help assure the Obama legacy on Cuba, and put in place agreements that will be difficult to reverse in the Trump administration. Agreements on issues such as counternarcotics and law enforcement are hard to attack politically and hard to overturn, even in a more conservative administration. Furthermore, these agreements build bureaucratic constituencies that see them as beneficial and so seek to maintain them. On the Cuban side, concrete agreements help assure the legacy of President Raúl Castro, and build relationships that will be difficult to reverse.

Coast Guard–Border Guard relations, which have been pragmatic and constructive, can and should grow, with more exchanges on both sides to understand each other’s operational cultures and styles. Because the U.S. and Cuba have had so little contact for so long, and because the relationship has been characterized by hostility, the two sides have little knowledge of each other’s political, bureaucratic, and operational culture and style; thus it is easy for misunderstandings to occur, and easy for those misunderstandings to escalate because of the burden of historical mistrust. The Coast Guard–Border Guard contact since the late 1990s has helped build understanding and improve trust. Now both sides should build on that foundation, to develop broader relationships between a greater range of officials on both sides and in a variety of contexts. The Coast Guard and the Border Guard should explore opportunities for exchanges, with Cuban Border Guard officials considering participating in courses and programs run by the Coast Guard in the United States for U.S. and foreign officials, and U.S. Coast Guard officials being invited to participate in activities in Cuba to an increasing extent. In addition to coordination of counternarcotics and drug interdiction and of search and rescue at sea, there are other areas for greater cooperation between the Coast Guard and the Border Guard.

Another area in which cooperation has grown and could be further developed is on planning for oil spills and other human-caused disasters. The Deepwater Horizon spill in 2010 potentially threatened contamination of Cuban territorial waters; Cuban deep water drilling in 2012 and 2013 raised fears that a spill might reach the Florida coast line. Recognition on both sides of the potential

for a crisis led to a new willingness to explore ways to communicate and coordinate in the event of a disaster.

On both the U.S. and the Cuban sides, multiple agencies are involved in planning and coordinating response to a potential spill. The U.S. Environmental Protection Agency and the Cuban Ministry of Science, Technology and the Environment (CITMA) play major roles. Cuban Civil Defense, the Border Guard, and the U.S. Coast Guard are also involved. Driven by pragmatism and by a shared perception of threat (and on the U.S. side by the particular vulnerability of the politically important state of Florida), both sides have made real progress on this issue. Prior to December 17, 2014, the U.S. showed great creativity in using multilateral forums to discuss these issues (often holding bilateral sidebar discussions with Cuban participants) and Cuba showed great flexibility in meeting in multilateral forums although its clear preference was to hold direct bilateral talks. As with the counternarcotics cooperation, the creativity and flexibility that both sides showed—likely the product of a new found political commitment to moving the security relationship forward—enabled progress.

Since December 17, 2014, the work done in previous years has borne fruit. In the context of movement toward normalization, direct bilateral discussions between the various agencies involved have moved ahead, and there are reports that an agreement will be signed in 2016. Migration is another sensitive topic in which the Border Guard and the Coast Guard have an important role to play.

There are, as noted earlier, semiannual migration talks, in which U.S. and Cuban officials discuss the implementation of the 1996 migration agreement. Cuba's starting point in those discussions is the position that the United States should end the Cuban Adjustment Act (CAA), legislation from the 1960s which gives the Attorney General the authority to admit any Cubans who arrive at U.S. ports of entry, grant them work permits, and set them on a rapid path to U.S. citizenship. Cuba considers the CAA a magnet for disorderly and irregular migration and objects to the implication that Cubans are political refugees fleeing a repressive regime. On January 12, 2017 the Obama administration modified migration regulations pertaining to Cubans eliminating the "wet foot-dry foot" policy and the special parole status for Cuban medical personnel who applied and contributed to brain drain..

Most analysts thought that the Obama Administration had deemed that the political cost in the Cuban American community of changing the policy would be high. But support for the CAA had declined among the most hard line sector of the Cuban exile community because there was a perception that recent migrants, once they had become citizens, had travelled back and forth to the island and

stayed in touch with family, rather than supporting the hard line opposition. But support for the CAA remains high among many of the Cuban Americans who supported President Obama's moves to normalize relations. While they do not see Cuban migrants as political refugees, they appreciate the ease with which relatives and friends can come to the United States.

This broad political calculation will likely change in the next years. Some Cuban American members of Congress who represent hard line views have called for changes to the CAA. Meanwhile, several factors may affect the CAA calculus in years to come, including the media interest in the growing number of Cuban migrants entering the U.S.; the groups of Cuban migrants in Central America and Mexico; the broader—and ugly—debate about immigration in the United States; and the stark contrast between the treatment of Cuban immigrants and the treatment of Central American immigrants, especially children and young people fleeing violence. Clearly many Cubans concluded that the advantages the CAA offers might come to an end, and the number of Cubans crossing the U.S. border to take advantage of the CAA increased substantially in 2015-2016 (Rodriguez 2016). Cuba will certainly continue to call for the end of the CAA. Domestic political pressures could lead to changes on the U.S. side in 2017 or 2018.

Whatever happens on the CAA and in the context of the migration talks, there are avenues for greater Coast Guard–Border Guard coordination on identifying human smuggling rings taking Cubans by fast boat to the Florida Keys and to Mexico. Increasingly, smugglers are involved in organized criminal activities, and are threats to migrants as well as to the framework of legal migration. Coordination between the Border Guard, the Coast Guard, and law enforcement agencies could help disrupt smuggling networks.

Meanwhile, there may be new ways to think about the issuing of visas for study and professional training in the U.S. for Cuban professionals, which might allow Cuban professionals to study and gain increased expertise in specialized areas in the United States, then return to Cuba. Some movement has already occurred. A White House fact sheet, issued on the occasion of the president's trip to Cuba in March 2016, noted that Cubans will be eligible for the Humphrey Fellowship program, which brings mid-career professionals for nondegree study in the United States. This is an area that could benefit from creative thinking.

In the counternarcotics and migration arenas, other kinds of cooperation can take place, building on, but not limited to, the Border Guard–Coast Guard relationship. In terms of counternarcotics, the U.S.-Cuba relationship could become more important and strategic in the future, and could encompass a number of different areas. In recent years, the marijuana trade from Jamaica

and the Caribbean toward the Bahamas and the U.S. has been the principal transshipment problem in and near Cuban waters. That trade may decline as marijuana legalization in some parts of the United States advances and legal, regulated domestic production replaces illegal international trade. This won't happen overnight, but it is a long term trend.

On the other side, there may be significant growth in the Caribbean cocaine trade. While demand in the U.S. is leveling off, demand in Europe is growing, and a growing part of that trade is passing through the Caribbean. In terms of U.S. trade, shipments routes that ran through the Caribbean in the 1980s and 1990s, and then shifted to Mexico and then Central America over the last decade seem to be shifting again. In an example of the classic balloon effect, pressure on drug cartels and transshipment groups in Mexico and Central America is doing little to stop the drug flow, but is leading criminal enterprises to shift their trafficking routes back toward the Caribbean.

In that context, Cuba could face a more serious problem, and be a more significant player, with the U.S. and with the Caribbean states, in interdicting and coordination counternarcotics efforts. In addition to the focus on interdiction, criminal investigation, and information sharing between Cuban police authorities and the U.S. Drug Enforcement Administration in relation to smugglers and smuggling rings is an important avenue for cooperation. And there is a growing focus on trying to address the other aspects of drug trafficking and other contraband smuggling. While both Cuba and the United States have focused on and coordinated interdiction of drug transshipment, other areas of organized crime present serious security threats on which security cooperation could be in the mutual interest of Cuba and of the United States.

One significant area has to do with money laundering. Drug traffickers and other organized criminal groups seek to bring their illegal cash income into the legal financial system and often try to obscure its origins by moving it from one banking institution or one country to another. This will be a challenge for Cuba as the updating of the Cuban economy is likely to present more opportunities for criminal groups to move money in the private sector and insert money into the financial system, among other activities. Cuba is aware of this problem; three years ago it joined GAFISUD, the Latin American chapter of the Financial Action Task Force, an intergovernmental body that develops norms to prevent money laundering and terrorist financing.

As Cuba and the United States make agreements on the use of credit cards, banking arrangements to pay for tourism, imports and exports, and other financial transactions, the relevant agencies on both sides—the U.S. Treasury

Department and the Cuban Central Bank among them—should seek out opportunities to cooperate in developing regulatory frameworks that identify and prevent money laundering, and serve the joint security interest of attacking transnational organized crime.

Cuba has a significant advantage over many other countries in the Caribbean and Central America in that it has relatively strong institutions—regulatory and law enforcement bodies—that are far less susceptible to corruption than are many similar institutions in other countries. Cuba ought to identify this as an important strength. This is especially the case because criminal enterprises are looking not only for transshipment locations for drugs and contraband of all types, and not only for banking and financial systems they can exploit for money laundering purposes. They are looking for locations that can serve as logistical and planning centers for organized crime and as safe havens for organized crime leaders. Cuba’s relatively strong institutions make it far less susceptible to the corruption that enables this kind of activity. Here Cuba may have examples for the rest of the region.

### **What Other Areas Exist for Progress in U.S.-Cuba Security Cooperation**

Fugitives and extradition treaties is another area of mutual concern and potential mutual benefit to the two countries. Cuba and the U.S. have had some cooperation, through the FBI and the Ministry of Justice, on fugitives who have fled the United States and come to Cuba. On a case-by-case basis, the two countries have worked together to identify, locate, and return fugitives. There are possibilities for building this case-by-case cooperation into more systematic contact between the Ministry of Justice and a liaison officer in the U.S. Embassy. Discussions about this are underway.

While Cuba and the United States have an extradition treaty dating back to 1905, it has not been in practical force since 1959. Both sides have a number of fugitives they would like to see returned, but this is politically a very difficult area and one left for long term discussions. Cuba has made clear that it considers several well-known U.S. fugitives (especially Assata Shakur) to have received political asylum, and the U.S. has not responded to Cuban requests to extradite several Cubans wanted in Cuba. The most notable is Luis Posada Carriles, wanted in Cuba for terrorist acts, but who is residing safely in the U.S. after a court refused to order his extradition. But despite this impasse, both sides have taken steps to return fugitives for nonpolitical crimes, and ought to work to establish formal protocols that cover information shar-

ing about wanted criminals and procedures for the detention, prosecution, and possible return of wanted criminal suspects.

Immediately, the two sides ought to pursue the development of regular channels of contact and communication to discuss cases of current fugitives. Just as with the U.S. Coast Guard and Cuban Border Guards, the U.S. justice system and the Cuban system have different methods and procedures, and it would be useful for some basic exchanges to enable both sides to understand how the other works, and what reasonable expectations would be. The Washington Office on Latin America (WOLA), in cooperation with the Centro de Investigaciones de Política Internacional (CIPI), has arranged two seminars with former U.S. security officials to brief CIPI students and alumni about how U.S. security institutions work, and about decision making and information sharing processes. Other colleagues have organized similar seminars on other issues. It would be useful to conduct such a seminar on the norms and procedures by which the U.S. justice system cooperates and shares information with other governments, just as it would be useful to have Cuban academics or others make parallel presentations to U.S. audiences.

Another topic, which deserves its own separate treatment, involves new opportunities for military to military dialogue. While this sometimes sounds taboo to both sides, there have been regular and respectful contacts at the fence line of the U.S. Naval base in Guantánamo for many years, and U.S. and Cuban forces have cooperated in disaster response in both Haiti and Pakistan. In the context of normalization, it would be useful to explore building on those experiences (Withers 2012).

Finally, in an era in which the threat of domestic terrorism has increased in the United States, and in which Cuba has long experience preventing domestic terrorism, the possibility of U.S. and Cuban intelligence services engaging in discussions and information sharing on terrorism related topics should be explored. Cuba has shown a willingness to do this in the past (most notably after 9/11), and the United States ought to explore it.

After the announcement on December 17, 2014 that the two governments would work toward normalization of their relationship, a steering committee was established to guide the overall dialogue process. Once embassies had been reopened, the steering committee had its first formal meeting on September 11, 2015. One of the working groups established focuses on law enforcement cooperation. According to press reports, the list of topics identified at a first meeting in November 2015 included counterterrorism, counter-narcotics, transnational crime, cybercrime, secure travel and trade, and fugi-



tives (Progreso Weekly 2015). Technical teams have since had discussions on a number of these topics, including meetings between the U.S. Transportation Security Administration and its Cuban counterparts, and discussions on cyber security and cybercrime. Internet access and use in Cuba has expanded and is expected to continue to grow in the future, so cybercrime and cyber security are important topics for discussion.

The U.S.-Cuba relationship is a complicated one, fraught with misunderstandings and distrust. There are long term disagreements between the two countries over fundamental questions that will be difficult to resolve, and resolutions difficult to accept. Security cooperation is likely to move forward cautiously, because of that history. But because both sides have pragmatic interests in security cooperation—on drugs and organized crime, on migration and human smuggling, on criminal fugitives, and even on military to military cooperation in third countries and intelligence sharing on terrorism—there is an important basis for moving ahead, and new opportunities in the context of more normal relations. Politically, in the context of areas where a Republican administration in the U.S. might move backwards, progress in these areas will be hard to undo, and both sides ought to move at a deliberate pace in making agreements.

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## **Developing Regional Capacities to Face Climate Change: Spaces for a Common Cuba-U.S. Agenda**

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In a world threatened by a confluence of various dimensions — economic, social, technological, financial, energy, environmental, cultural — of a global crisis, climate change has become a major concern for humanity and a challenge for development. The Global Risks Report of the World Economic Forum (2016) highlights the lack of mitigation and adaptation to climate change as the global risk with the greatest probable impact in the coming years, followed by the use of weapons of mass destruction, the crisis of water resources, involuntary migration, and changes in energy prices. The last three global risks on this list are closely linked with climate change and its consequences. Given these realities there is consensus that the international community should develop capacities to respond to climate change and its consequences.

According to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC 2014), human influence on the climate is clear and to the extent that humans alter climate, there will be increased risk of severe, widespread, and irreversible impacts. This report emphasizes that means to limit climate change and advance sustainable development exist, but immediate responses to this global challenge are necessary. Delay will increase the costs and risks not only of climate change, but also of the necessary response strategies. Responsiveness (in terms of mitigation and adaptation) is dynamic and varies among individuals, communities, countries, regions, and sectors, depending on income, availability of technology, physical assets, natural resources, human resources and institutions, social networks, governability, and the political will of governments and policy makers.

The imperative to create and strengthen the responsiveness of Latin American and Caribbean countries to the climate change threat has been recognized by various regional and subregional entities such as the Community of Latin American States and the Caribbean (ECLAC), the Bolivarian Alliance for the Peoples of Our America (ALBA), and the Caribbean Community (CARICOM), among others. However, the chances of permanent and sustained

progress have encountered various barriers, including the technological and financial constraints affecting the countries of the region. Cuba, despite its economic constraints, given its status as a developing country and the effects of the economic and commercial blockade imposed by the U.S. government for more than fifty-five years, has long experience with cooperation in capacity building for socioeconomic development within the country, in the Latin American and Caribbean region, and elsewhere.

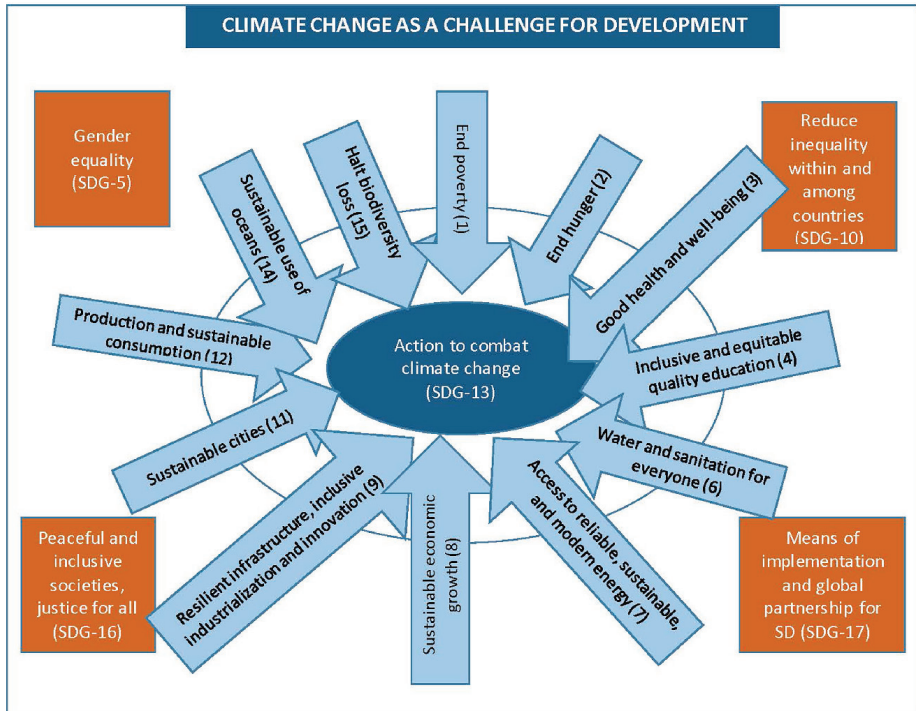
The new context created by the restoration of diplomatic relations between Cuba and the United States is a starting point for the process of normalization of relations between the two neighboring countries. It opens up new options for a common bilateral agenda with impact in the Latin America and Caribbean region. One of the first areas of understanding between the United States and Cuba has been in the environmental sphere. Joint coordinated actions of the two countries in the creation and development of regional capacities to respond to environmental challenges, particularly climate change, would be a contribution of great importance to the region. This chapter examines strategies for the confrontation of climate change where there is potential for collaboration between Cuba and the United States, with potential benefits for the Caribbean region and other parts of the Western Hemisphere.

### **Multilateral Bases for a Bilateral Cuba-U.S. Agenda with the Goal to Foment Regional Capacities for a Response to Climate Change**

Any bilateral initiative that seeks to promote the development of regional capacities to tackle climate change must consider the results of the most recent multilateral negotiations related to this issue. Cuba-U.S. initiatives could be achieved by realizing the agendas and global targets set out in the Post-2015 Development Agenda and the Sustainable Development Goals (SDGs) adopted by the United Nations in 2015, as well as the Paris Agreement of the United Nations Framework Convention on Climate Change (UNFCCC) of 2015 which share a spectrum of goals and represent a global consensus.

The Sustainable Development Goal at the center of Figure 1, SDG-13, explicitly refers to the confrontation with climate change. Many of the remaining SDGs are directly or indirectly linked to this overarching global challenge. The four SDGs located at the corners of Figure 1 are associated with aspirations of equity or alliances (between genders, among countries, within societies, global partnerships). The remaining twelve SDGs address climate change directly. Seven are issues related to areas, sectors, and activities impacted by climate change (poverty, hunger, welfare, water, economic growth, oceans, and biodiversity) and

**Figure 1. The Challenge to Climate Change at the Crux of the Post-2015 Sustainable Development Agenda and the Sustainable Development Goals (SDGs)**



Source: Authors' analyses

the remaining five are linked to possible solutions or responses to climate change (education, innovation, sustainable cities, energy production, and consumption).

Article 11 of the 2015 Paris Agreement refers to the promotion of global, regional, national, and subnational capacities to respond effectively to climate change. The document emphasizes that responses ought to be under the control of the countries involved and should be based on national priorities. However, one issue that affects compliance with the 2015 Paris Agreement, as well as both the Post-2015 Development Agenda and the SDGs, is the availability of means of implementation. For developing countries to move toward sustainable paths of development requires, above all, funding and the necessary technologies. Access to new and additional financial resources and to environmentally sound technol-

ogies has been historically a widespread demand of the developing countries to advance on the path of sustainable development. This claim has been endorsed by the various summits on the environment and development and related topics, dating back to the Earth Summit in Rio de Janeiro in 1992. Access to funding and technologies are a basic need for the application of common but differentiated responsibilities in response to climate change, and also a fundamental need to support equity. Evidence suggests that results that are perceived as fair can lead to more effective cooperation (IPCC 2014). Indeed, equity has become a key condition for the wider acceptance of international agreements, especially when it comes to global issues such as climate change and other environmental challenges that impact on the development of all nations.

In the context of climate change negotiations, these issues have remained at the forefront of discussions and agreements made since the adoption of the United Nations Framework Convention on Climate Change (UNFCCC) in 1994 and the Kyoto Protocol of 1997, although with little progress in practice. They were again at the forefront in the recent deliberations at the 2015 Paris Conference as a key component of the means of implementation that would support developing countries' contributions to responses to climate change.

For developing countries, it is imperative to have the means for implementation (financial resources and appropriate technologies) to contribute on a larger scale to the confrontation with global challenges such as climate change. The contribution of the more developed countries of the region, particularly the United States, would undoubtedly support both regional efforts (e.g., collaboration in the Caribbean Basin) and bilateral efforts (e.g., linkages between Cuba and the United States) in response to global warming. In the Cuban case, the lifting of the U.S. economic embargo would be the starting point to explore bilateral and regional collaborative options with broader reach.

While there has been progress in the conceptualization of these issues, significant gaps still remain in this field, and the actual transfer of financial resources and technologies from developed countries to developing countries shows an alarming lag. Funding pledged to respond to climate change (including amounts announced for the Green Climate Fund) is extremely limited in relation to the identified adaptation and mitigation needs in developing countries. Often, rather than additional resources, the funding for climate change is "recycled," or subtracted from already committed Official Development Assistance funds. Moreover, financial aid actually given is far less than the financial pledges of developed countries.

Due to the growing social gaps and the economic, financial, and technological constraints affecting developing countries, particularly the poorest ones,

the scope of their responses to climate change will be limited. The realization of the contributions developing countries can make will always be linked to preferential access to the means of implementation, especially financing and access to technologies. Developed countries should include transparent and binding commitments regarding the transfer of funding and technology to developing countries. Thus far, in the best of cases, these transfers have remained in the discussion stage, with no intention of actualization.

In the context of the bilateral relation between Cuba and the United States, both a Memorandum of Understanding (MOU) and a joint statement referring to opportunities for collaboration in environmental matters were signed in November 2015. The Memorandum of Understanding for cooperation in the conservation and management of protected marine areas was signed on November 18, 2015, between the Ministry of Science, Technology and Environment (CITMA) of Cuba (through the National Center for Protected Areas) and the National Oceanic and Atmospheric Administration (NOAA) of the U.S. Department of Commerce and the National Park Service of the U.S Department of the Interior. Through this legal instrument, both countries recognize their common interest in managing protected marine areas, conserving biodiversity, and promoting sustainable use of natural resources. The memorandum refers in particular to five special marine areas: the Guanahacabibes National Park and Bank of San Antonio in Cuba and the Florida Keys and the Flower Garden Banks National Marine Sanctuary, Dry Tortugas National Park, and Biscayne National Park in the United States.

An earlier bilateral link, the Joint Declaration between the Republic of Cuba and the United States of America for cooperation in matters of environmental protection, was signed on November 24, 2015. The Joint Declaration attaches particular importance to the sustainable management of natural resources and shared ecosystems, particularly marine biodiversity; the treatment of causes and effects of climate change; and measures to reduce the risk of natural disasters and other vulnerabilities that affect both countries. This declaration also expresses the desire to promote the exchange of scientific and technological information and resources and to develop joint scientific research and advance mutually beneficial cooperation.

Both the aforementioned Memorandum of Understanding and the Joint Declaration are unprecedented steps in scientific collaboration and environmental management between the two countries, which could be enhanced in the future. However, the scope of the actions to be undertaken is still limited by the impact of the economic embargo that restricts Cuba's access to financial

resources and appropriate technologies for sustainable development.

Access to finance and technology on preferential terms is important to all developing countries, but is especially critical to those countries most vulnerable. The commitments of developed countries should give high priority to providing the means of implementation to meet the challenges of adaptation to climate change, as well as to cover losses and damages. This is a matter of high priority for the countries of the Caribbean Basin due to their high degree of vulnerability and exposure to the consequences of climate change. In these countries, adaptation to climate change—that is, actions to reduce vulnerability, constitutes the first priority in response to global warming.

The specification of a transparent roadmap for financial support from developed countries to developing countries for purposes of response to climate change is still pending. Such a roadmap would indicate financial targets to be met from the present until 2020, when a cumulative 100 billion dollars that has already been committed by developed countries would have been disbursed. It is necessary, therefore, to identify with greater transparency the sources and amounts of committed funding from the present through the coming decades (2020, 2030, and beyond). This funding will support developing countries' responses to climate change, via adaptation and mitigation, and at the same time support other development priorities through their close links with responses to climate change (see Figure 1).

The 2015 Paris Agreement indicates that by 2025 a new funding target of at least 100 billion dollars a year from developed countries will be established to address the needs of developing countries. These funds would be used to finance measures for adaptation, mitigation, and capacity building in developing countries. Various financial channels could be put at the service of financing generated by the 2015 Paris Agreement, including: the Green Climate Fund (GCF) and the Global Environment Fund (GEF), which are responsible for the operation of the financial mechanism of the Agreement; or the Fund for the Least Developed Countries and the Special Fund for Climate Change, administered by the GEF, or the Adaptation Fund. The barrier is not the availability of channels for disbursement but rather the amount of funds actually available, which grows slowly. Despite the various channels to attract and mobilize financial resources to tackle climate change, in practice the actual amount of funds disbursed by donors is very limited in relation to the identified needs in terms of adaptation, mitigation, and capacity building.

Article 9 of the 2015 Paris Agreement states that developed countries should provide financial resources to developing countries to support both



mitigation and adaptation, corresponding to their obligations under the Paris Agreement. It also calls upon other parties to give or continue their support voluntarily, but emphasizes that developed countries should maintain leadership in mobilizing climate change funding and that such resource mobilization must show progress over previous efforts. It also refers to the wide variety of sources, instruments, and funding channels, with recognition of the important role of public funds. An additional need is for a balance within the funds committed for mitigation and adaptation, in line with the priorities of developing countries, particularly those most vulnerable to climate change, the least developed countries (LDCs), and small island developing states (SIDS). A significant step in this direction would be achieving further bilateral and regional initiatives in the Caribbean, given the presence of many SIDS in the region, including Cuba.

While all sources of funds, including public and private, and both bilateral and multilateral flows can contribute to the necessary financing required by developing countries, priority should be given to public financing, because it is less volatile, being less exposed to market uncertainties. The role of private financial flows and investment in the developing world as part of the means of implementation of responses to climate change should not be exaggerated, given the instability and volatility to which such flows are subjected, especially in a context of economic crisis like the one that has predominated since 2008. One example is the effect of this period of economic slowdown and contraction on the global carbon markets.

In September 2015, in the U.S.-China Joint Presidential Statement on Climate Change, both countries recognized the priority role of public financing in the transition to technologies with low carbon intensity. While this particular joint statement refers to United States and China as major emitters of greenhouse gases and their contributions to the response to climate change at global and national levels, the text of the statement also contains relevant topics for possible models of U.S. regional collaboration in the Caribbean or bilateral agreements with Cuba. These issues include: the recognition of the principle of common but differentiated responsibilities; needs to give greater priority to adaptation to climate change, to guarantee secure funding, and to provide technology support to respond to global warming especially for the most vulnerable countries such as small island developing states; the need to strengthen cooperation and constructive dialogue; as well as the need to undertake actions that foster the transition towards development with low carbon intensity and greater resilience to climate change (The White House Office of the Press Secretary 2015).

According to Article 9.7 of the 2015 Paris Agreement, developed countries should provide clear and consistent information about the support for developing countries to be offered and mobilized through public interventions, which would effectively monitor public funding sources to be used as needed. Regarding access to suitable technologies by developing countries, including those with low carbon intensity, developed countries would be required to remove commercial barriers that affect these flows, such as those associated with stricter and more uniform rules of intellectual property protection. Support for basic investments in research and development (R&D) in developing countries should also be prioritized as a precondition for progress on sustainable development, taking into account the great socioeconomic and technological gaps that persist between developed countries and developing countries. In the context of the 2015 Paris Agreement, the Executive Committee of Technology and the Climate Technology and Center Network have been requested to support all initiatives related to research, development, and technological demonstration, and the development of endogenous technological capabilities.

In the debate about new technologies to respond to the global climate challenge, two elements stand out: the broad field of technologies for adaptation in different socioeconomic sectors (agriculture, energy, industry and infrastructure, tourism, and health care, among others) and technologies for mitigation, among which are renewable energy sources and technologies that promote energy efficiency. If effective actions that adequately address the financial, technological, and capacity building demands of developing countries did not exist there would be a dangerous delay in responses to the challenge of climate change which would entail higher costs and risks. Furthermore, in the absence of effective responses, compliance with the recently adopted Post-2015 Development Agenda and the Sustainable Development Goals (SDGs) would also be jeopardized. Effective strategies do exist; however, as far as financing and concrete measures to ensure the necessary access to the technologies required by developing countries, the Paris Agreement fell far short of what is required, because it does not include clear, explicit, and measurable targets for financing and technology transfer.

Although the 2015 Paris Agreement marks a key moment in the process of global confrontation with climate change, the actions proposed by countries that are Parties to the Agreement are still insufficient to achieve the levels of response necessary to meet the scientifically demonstrated requirements. Climate change was not the only matter negotiated in Paris; other key development issues such as international trade and finance, international cooperation, technology develop-

ment, and energy were also negotiated. Climate change is not only an environmental challenge, it is above all a challenge for development.

Despite its limitations, the 2015 Paris Agreement provides a framework for joint action to respond to climate change at the global, regional, bilateral, national, and local levels. One of the pillars of the agreement is the need to promote transparent and effective international cooperation, which is a major challenge in a world like today marked by asymmetries and inequalities. The lessons, achievements, and limitations of the Paris Agreement on these issues could be used as the basis of discussions for bilateral relations between Cuba and the United States, and possibly for regional cooperation in the Caribbean Basin.

### **Building Regional Capacities for Climate Change Response**

The Latin American and Caribbean region has 8.5% of the world's population, accounts for 8.6% of global GDP, and 5.2% of world exports (IMF 2015). While the region has social indicators that exceed the average of developing countries, it remains the world region with greater asymmetry in the distribution of income and the highest level of external debt per capita (about \$2,937 per capita in 2014). The external debt of Latin America and the Caribbean reached \$2,083 billion dollars in 2015 and the cumulative payment for debt service (principal and interest) amounted to about \$2,924 billion between 2008 and 2015, years marked by economic crisis and global and regional economic downturn. In addition, Latin America and the Caribbean is a developing region that spends a higher proportion (47% in 2015) of its export earnings from goods and services to pay its foreign debt, compared to an average of 33% in all the developing regions (calculated from IMF 2015).

In 2015, Latin America and the Caribbean recorded its worst economic performance since 2009, with a decrease of 0.4% in gross domestic product (GDP), which in turn caused a drop of 1.5% in GDP per capita in the region (CEPAL 2015). This situation, which reinforces the economic slowdown that began in the region in 2011, was conditioned to a large degree by the weakness of the world economy in recent years, the consequent collapse of prices in the international markets for raw materials exported from the region, and the growing volatility of the global financial markets. These trends, which did not seem to change substantially in 2016, have been accompanied by a decline in tax revenues and working conditions in the region. The expected average regional growth of economic activity for 2016 will be just 0.2% (ECLAC2015).

Climate change has been identified as a serious challenge for the region, with projected adverse impacts on food production, the availability of fresh wa-

ter in quantity and quality, the expansion of vector-borne diseases, loss of habitats, biodiversity, and ecosystem services, and increased risks for island states and low-lying coastal areas, among other consequences. The Caribbean island states are characterized by their high vulnerability to such global environmental challenges such as climate change and natural disasters.

### **Priorities of the Insular Caribbean for Capacity Building**

The small island nations of the Caribbean Basin are vulnerable to global economic challenges because these small territories have fragmented markets and a high dependence on international trade and financial markets. The priority areas of these countries in terms of their economic activity include the dynamism and sources of growth of their economies, the behavior of their main commercial and financial markets, and options for integration into the global economy. Priorities in health, water and sanitation, food security and the situation of young people and women are critical in the social sphere. In relation to the management of environmental risks, the key issues for this group of countries include climate change; the state of the oceans, seas, and biodiversity; waste management; and energy challenges.

The Small Island Developing States (SIDS) were recognized for the first time as a special case of the link between environmental and economic development at the United Nations Earth Summit in Rio de Janeiro, 1992. Agenda 21 adopted at the Rio Summit, emphasizes that all the problems and challenges of the coastal areas are concentrated within this very specific type of state (UNDESA 2014th). International institutional action regarding SIDS has evolved considerably since the UN Earth Summit in 1992. A crucial turning point was the adoption of the Action Plan of Barbados (1994) at the World Conference of the United Nations on Sustainable Development of the Small Island Developing States, and subsequently when the Mauritius Strategy of Implementation (2005) was reached. These plans and strategies synthesize the results of numerous meetings and discussions about the vulnerabilities, concerns, and priorities of SIDS and show the high degree of consensus about the requirements of sustainable development in those territories. More recently, the 2015 Paris Agreement devotes particular attention to the special situation of SIDS, as they are considered (along with LDCs) a particularly vulnerable group of countries.

The Third International Conference on SIDS, held in September 2014 in Apia, Samoa, with the theme “Sustainable Development in SIDS through Genuine and Sustainable Associations,” devoted special attention to the challenges of SIDS in the current context of global economic crisis and increasing global

environmental challenges. During the preparation for the Third Conference of SIDS (2014) academic and political debates proliferated around the so-called “blue economy.” The blue economy concept focuses on enhancing opportunities and mitigating the limitations of island developing countries. Developed countries, including the United States, have historically favored options that tend to liberalize access to the natural resources and biodiversity (in both land-based and marine ecosystems) that are under the jurisdiction of developing countries. The SIDS are a group of countries with special requirements for their process of development, considering that they are highly vulnerable to global economic problems—such as the 2008 crisis—and to environmental challenges such as climate change. A concept like the blue economy facilitates the visualization of those special requirements, and encourages developed countries to be mindful of the need to strengthen the capacities of SIDS and to address their environmental and economic vulnerabilities.

The debate about the blue economy highlights the diverse ecosystem services provided by seas and oceans, identifying both their potential value and current threats. Focusing on ecosystem services broadens the perspective well beyond the developing island countries and promotes a comprehensive global perspective on the value of the seas and oceans. The blue economy debate explicitly advocates for a framework of sustainability for developing countries, emphasizing equitable access, development, and distribution of the benefits of the resources of the seas and oceans, with the reinvestment of these benefits in human development and debt relief. It also highlights key issues such as energy (“blue energy”) and food security, among others. Moreover, it strengthens the idea of international cooperation based on scientific research as a pillar of the blue economy, as well as the principle of common but differentiated responsibilities. The blue economy framework is particularly relevant in the context of the linkages between the United States and the Caribbean, including Cuba. However, the interpretation of the concept of the blue economy as an aspect of the “green economy” is worrying because it might mistakenly be assumed that the blue economy subscribes to the general principles of the green economy. Before, during, and after the “Rio + 20” Conference in 2012, the concept of the green economy, in practice, tends to favor the economic dimensions of sustainable development, to the detriment of its social and environmental dimensions.

The economic components of this new blue economy concept are at odds with conventional models in several ways. For example, those options that encourage extreme commodification of ocean resources (energy, minerals, etc.) should be avoided in the blue economy, and the transfer of knowledge and

technologies from the North to the South should be encouraged, not limited. Likewise, the blue economy takes into account the risks that may result from removing carbon from the oceans using large scale technologies that would affect “blue carbon” stored in the ocean, such as those based on geoengineering technologies. In October 2010, the 193 member countries of the Convention on Biological Diversity (CBD) adopted unanimously the decision to establish a de facto moratorium on geoengineering projects and experiments. Through this agreement, governments are asked to ensure that no geoengineering activities will be carried out until the risks to the environment and biodiversity and their cultural and economic impacts have been considered. This decision was preceded by the 2008 moratorium on ocean fertilization, stopping a series of risky “experiments,” both public and private, to capture carbon dioxide in the deep ocean by pouring nutrients on the sea surface. The United States is not among the member countries of the CBD.

Out of a total of sixteen Small Island Developing States (SIDS) of the Caribbean with statistics for recent years, five have a GDP (PPP) per capita below \$6,000, according to data for 2011–2012 (United Nations 2013). In Haiti this indicator does not exceed \$800, an expression of its economic and productive constraints. Five of the Caribbean SIDS analyzed show, however, figures of GDP per capita exceeding \$12,000, notably Bahamas (\$21,908) and Trinidad and Tobago (\$17,437). Of the sixteen Caribbean SIDS considered, nine have less than 500,000 inhabitants, with much smaller populations in countries such as St. Kitts and Nevis (55,000), Dominica (72,000) and Antigua and Barbuda (91,000).

In general, small territories with limited populations and therefore very restricted domestic markets, and with excessive dependence on international trade and finance, have significant barriers to take advantage of economies of scale. Also, these island states are subject to an elevated energy and food vulnerability due to a substantial dependence on imported food and energy (especially hydrocarbons). In general, they use fossil fuels intensively for electricity generation, industry, and services. Caribbean SIDS have limited institutional capacity and are also economically affected by the high cost of infrastructure and public administration, including transport and communications.

Most of the sixteen Caribbean SIDS considered have a high Human Development Index (HDI) with the exceptions of Guyana which has an average level and Haiti which has a low level. In Haiti, social indicators show particularly high deterioration, with a life expectancy of just 63 years, an infant mortality rate of 57 per thousand live births, 64% accessibility to potable water, sanitation for 26% of the population, and an adult literacy rate of 48.7% (UNDP 2014; United Nations

2013). Amid the current global trends, a group of these countries faces serious challenges for replenishing the workforce needed to boost their economies, as a combined result of trends in population aging and migration flows (United Nations 2013). Caribbean countries with older populations are Cuba (19% of the population over 60 years), Barbados (16.5%), Dominican Republic (14.3%), and Trinidad and Tobago (14%). Those with greater flows of migrants are San Vicente (9.1 per thousand), Guyana (8.2 per thousand), Grenada (8.1 per thousand), and Jamaica (5.8 per thousand).

The symptoms of environmental vulnerability affecting Caribbean SIDS are many, including location in an area with great intensity and frequency of natural disasters such as hurricanes, earthquakes, and volcanic eruptions; limited endowment of natural resources and over-exploitation and depletion thereof (e.g., freshwater resources, soils); and high population density with concentrations in coastal areas. The loss of biological diversity affects economic resilience and food security, with serious implications especially for agriculture and rural communities. Bird species, for example, are facing the highest rate of extinction in SIDS due to anthropogenic influences (habitat destruction, over-fishing, and introduction of invasive species).

Some specialized sources (see UNDESA 2014b) point out that instead of Small Island Developing States (SIDS), these countries could be called “large ocean states” because in many cases their land mass represents a very small part of the total area under their jurisdiction. With jurisdiction over large marine areas, these states need sufficient capacity in terms of human resources and institutional networks for sustainable management of the oceans, which constitutes a major challenge for them. Most of the population of the SIDS are dependent on oceans and seas, which are affected by marine pollution, the unsustainable exploitation of marine resources (including illegal or destructive fishing practices), physical alteration and destruction of marine habitat, and unsustainable coastal development. In addition, climate change tends to accelerate ocean acidification, coral bleaching, extreme weather events, ocean warming, and the elevation of sea levels. Sea level elevation compromises the very existence of some of these nations. All of these environmental issues, including the impacts of climate change, offer prospects for broad cooperation between the United States and the Caribbean countries, including Cuba, both for scientific research and the management of natural resources.

The availability of fresh water is a serious concern in many of the island states. In some Caribbean SIDS annual freshwater availability per capita is well below the level of 1,000 cubic meters (m<sup>3</sup>), designated as the level of water scarcity



(United Nations 2013). Levels in some countries are extremely low: the Bahamas (55 m<sup>3</sup>), Barbados (284 m<sup>3</sup>), Saint Kitts and Nevis (453 m<sup>3</sup>) and Antigua and Barbuda (590 m<sup>3</sup>). Many of these nations are highly dependent on rainfall to feed surface intakes and replenish ground flows. Freshwater resources are particularly sensitive to changes in climate. Changes in rainfall patterns can cause more severe and prolonged droughts or may increase floods. In addition, a rise in sea levels can cause saltwater intrusion in coastal aquifers and affect the water quality of shallow wells.

With more climate change the economic, social, and environmental challenges faced by the SIDS, and the Caribbean in general, would be exacerbated. In economic terms, climate change affects key sectors such as agriculture, fishing, tourism, and the generation and distribution of electricity. In the social sphere, food insecurity, human displacement, and security problems would increase and human health decline. In environmental domains, climate change would have adverse impacts on water resources, increase droughts and floods, change ecosystems (e.g., ocean acidification), and cause biodiversity loss (e.g., coral bleaching).

For all these environmental, economic, and social reasons, SIDS have a very active agenda in multilateral negotiations on climate change. Many of these countries are members of the Alliance of SIDS, known as AOSIS, which calls for encompassing and effective agreements regarding adaptation to and mitigation of climate change. The 2015 Paris Agreement recognizes the need for special treatment to developing countries most vulnerable to climate change, such as least developed countries (LDCs; e.g., Haiti) and Small Island Developing States (SIDS; e.g., Caribbean island states). The Paris Agreement highlights the need to improve the responsiveness of these countries to climate change, especially with regard to development, dissemination and deployment of technologies, access to climate finance, and education, training, public awareness, and communication. The 2015 Paris Agreement also advocates for strengthening regional and international collaboration with regard to adaptation and mitigation measures and the development and transfer of technologies. Actions aimed at capacity building should be under the control of the recipient countries of collaboration to align with national priorities of the recipient country. This entails, among other things, appropriate institutional arrangements, effective participation, incorporating a gender perspective, harnessing collective experience, and respect for national sovereignty.

As has been mentioned Cuba has extensive experience in regional and international cooperation in various spheres related to capacity building to face environmental challenges, through education (with more than 1,200 employees in 18 countries in 2015) health care (with more than 50,000 employees in 67 countries), energy, infrastructure, scientific research, and strengthening of nation-



al teams. In Cuba's Nationally Determined Contribution, delivered to the Secretariat of the Convention on Climate Change before CoP-21 in Paris in 2015, Cuba reaffirmed its willingness to continue cooperation in capacity building, especially in areas such as technical assistance in the preparation of national communications and inventories of greenhouse gases, development of modeling and climate projections, realization and implementation of hazard, vulnerability, and risk studies, coastal vulnerability assessments, and impacts of extreme events and climate change, as part of the environmental impact assessment of works and development projects (Government of the Republic of Cuba 2015).

Cuba currently has a Center for Building Capacities for Disaster Risk Reduction and Climate Change Adaptation which, with international assistance, has carried out many activities and is able to continue promoting South-South cooperation. All this experience could be enhanced through bilateral cooperation between Cuba and the United States. Regional cooperation between the United States and the Caribbean in general could be mutually advantageous when the interests of all parties are complementary and could contribute to regional efforts to build capacity to respond to the climate emergency.

## **Final Considerations**

Responsiveness to climate change refers primarily to the capacity for adaptation and mitigation. These capabilities depend on various factors such as economic income, availability of technologies and physical assets, natural resource endowments, human resources, institutional and social networks, governability, and political will. Collaborative efforts between Cuba and the United States in addressing climate change through both adaptation and mitigation should duly consider the positive impact of these initiatives on a regional level—in the Caribbean context—and even at the hemispheric level. The realization of these initiatives would be reinforced by the beneficial impact of these regional and hemispheric collaborations. For example, the aforementioned collaborative projects could contribute to the improvement of the regional capacity for response to climate change through the promotion of technological exchange, development of basic infrastructure, joint research, training of human resources, and institutional support. The contribution to the development of regional capacities to cope with climate change, taking as a starting point bilateral initiatives between Cuba and the United States, should take into account the priorities, interests, and particularities of sustainable development in the countries benefitted.

In this attempt to build capacity for the region, a well-conceived collaboration ought to take into account recognized approaches (UNEP-GEO 5 Assess-

ment), such as the environmental goals of each country and the region, regional policies and the existing and projected environmental changes. This will have a positive effect on the resolve to develop a process of transition towards sustainability, including moving from conventional to sustainable scenarios.

Expert studies of priority issues for the Latin America and Caribbean region and North America, such as the UNEP-GEO 5, reveal that they have much in common. Identified priorities for Latin America and the Caribbean are the issues of water, biodiversity, use and degradation of the soil, climate change, and energy, with environmental governance as a cross-cutting priority. In the case of North America, the priorities are water, soil, and energy, with environmental governance and climate change as cross-cutting priorities. Given all this, developing common axes that enhance research, development, technology transfer, and innovation and modes of action of governments, communities, and civil society on these issues, could create joint sources for work.

In other words, the issues for a common regional agenda where Cuba and the United States could make significant contributions include: monitoring and evaluating the driving forces underlying climate change, building innovative responses to climate change and other interrelated environmental problems, creating capacities of the relevant parties to counter the adverse effects of climate change, and at the same time reaping the benefits associated with cooperation. Additional goals and means include strengthening institutional capacities for the design and implementation of research, technological development, and technology transfer; developing environmental governance that relies on the principles of inclusiveness, transparency, and accountability for results; and, no less important and perhaps key, sustained improvement of the informational base and access to it by all relevant parties. These joint efforts should contribute to decision making and coherent and committed action for sustainable development, including meeting the sustainable development goals (SDGs) and other international agreements.

In this regard, the Cuban proposal to address climate change as a global problem that affects everyone, but particularly small island states and the least developed countries, emphasizes the need to consider supporting research and development as a precondition to advance sustainable development. For this, effective methods that allow for the evaluation of technology needs for adaptation and mitigation must be developed; access to finance and technology, on preferential terms, contributing decisively to confront and respond to the enormous challenges of global warming must be guaranteed; loss and damage coverage provided; and trade barriers that currently limit access to that technology and financing

must be removed. Only in this way could a common sustainable agenda that takes into account national and regional priorities, and global goals, be constructed.

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## **Cuba's Chance to Get Back to the Future... In a Sustainable Way**

Julia Sagebien and Eric Leenson

Contemplating the fate of a post-embargo Cuba has been a preoccupation for some time. On December 17, 2014, the day that the U.S. and Cuba simultaneously announced their rapprochement, the discussion moved beyond specialized academic and policy circles and began to involve more U.S. business people, government officials, and even global celebrities and tourists.

Inside Cuba, popular expectation for an improved standard of living is high, as is the government's assertion that these improved conditions will be achieved within the parameters of socialism and a state-planned economy. Outside Cuba, especially in the U.S., the general sentiment seems to be, "We better get there before we (the Americans, that is) ruin it." As for Cuba's long-time business and diplomatic partners such as Canada and the European Union (EU), the concern appears to center on the question: "Will they still love us tomorrow?" given the possibility of intense competition from the United States.

But rather than crystal ball gazing and reacting with hope, fear, or indifference, observers could instead ask themselves: *How can Cuba leverage the particular internal and external circumstances facing both the country and the world at this time to achieve optimal outcome in terms of optimal economic well-being, preserve long-held values, and contribute to global sustainability?* A billion-dollar question, but oddly enough, one with a possibly feasible answer.

This chapter explores a set of possible answers to this question by first highlighting national and global circumstances affecting Cuba's potential for sustainability. Secondly, it suggests that the combination of dynamics unleashed by the December 17, 2014, U.S.-Cuba rapprochement (D17) and by the December 2015 United Nations Climate Change Conference in Paris (COP 21) offers the Cuban leadership a clear binary choice: to foster or hinder a sustainable Cuba for the 21st century. Lastly, it suggests a four-pronged course of action designed to deliver an optimal level of sustainable development for the island.

## Timing Is Everything: A Constellation of Circumstances That Can Enable a Sustainable Cuba

In explaining historical events and the prospect of future events, Cubans are fond of highlighting the components of *momentos coyunturales*, a set of changing circumstances that contribute to (or even determine) the occurrence of specific events. This section suggests that Cuba is facing one such *momento coyuntural*, one that can either foster or hinder the island's path toward a sustainable economy. It also highlights ten key constituents of this dynamic.

### *1. The need to leverage existing economic, social, and environmental capital*

Cuba for over half a century has invested heavily in basic education, as well as in technical, professional, and scientific training. Its workforce is educated, skilled, hardworking, polyglot, and used to working with sophisticated foreign partners as a result of a policy of universal free and public education.

The 1989 breakup of the Council for Mutual Economic Assistance (COMECON), the end of Soviet largesse, and the subsequent hardening of the U.S. embargo ushered in a precipitous contraction of the economy. This "Special Period in Time of Peace," in the early 1990s crippled Cuba's productive capacity and, over time, its physical and industrial infrastructure, rendering it fundamentally obsolete. Underemployment, wasted industrial assets, and low productivity became endemic. While these external threats caused tremendous hardship, surprisingly, they fostered Cuba's transformation into an "accidental Eden" from an environmental point of view as portrayed in the documentary *Cuba: The Accidental Eden*. The lack of hard currency caused a collapse in importing capacity that, in turn, deprived the country of industrial agricultural inputs. Organic and low-intensity methods of food production as well as low levels of carbon emissions became the norm.<sup>1</sup>

Despite the serious economic, social, and financial woes of the post-Soviet era, the government of Cuba did manage to retain social and political cohesion. This made possible the continuation of policies such as the provision of minimum necessities to all Cubans in terms of food, housing, health, and education, as well as the preservation of some of the centers of excellence in sectors such as biotechnology and medicine, and of essential environmental policies. The island's enviable environmental record is also the result of the proactive environmental policy framework<sup>2</sup> developed after the 1992 United Nations *Conference* on Environment and Development (also known as the Rio Conference and the Earth Summit).

## 2. *An expanded space for state and non-state enterprise*

The 2011 economic guidelines outlined in the Cuban government's *Lineamientos de la Política Económica y Social del Partido y la Revolución* that ushered in an era of enterprise renewal in the state sector as well in the non-state sector, including the cooperative and "self-employed" sectors (Communist Party of Cuba 2011). This economic updating was soon followed by a new foreign direct investment (FDI) law, by a campaign aimed at attracting new foreign direct investment, and a commitment to unify the country's two currencies (the convertible and the Cuban pesos) in the near future (Trotta 2014; Frank 2015). Though still very much a state-controlled economy with numerous challenges and distortions, entrepreneurship at all levels seems to be having a revival. The space for non-state enterprise is being institutionalized and expanded.

## 3. *Not just about doing business with the US, but with everyone else too*

Besides deepening trade and investment links between Cuba and the U.S., the rapprochement of December 17, 2014, also allowed for Cuba's progressive re-insertion into the international financial system. For example, the removal of Cuba from the U.S. list of state sponsors of terrorism has enabled previously blocked U.S. dollar financial transactions to take place. This change has facilitated positive negotiations with the Paris Club of lenders and permitted an improvement in Cuba's country rating with regard to financial risk.

In the near future, Cuba is likely to renew its membership in international financial institutions (IFIs) and regional development banks (Vidal and Brown 2015). This would provide much-needed capital for the modernization of the country's physical and telecommunications infrastructure. Readmission to the World Bank and the International Monetary Fund, however, won't be readily forthcoming. First, it requires repeal of the Helms-Burton Act, mandating that the United States oppose Cuban admission to such international institutions and decrease funding to these institutions if Cuba is admitted over U.S. objections (Groombridge 2001). Secondly, membership in IFIs would require Cuba's willingness to open its national accounts, something that in Cuba is perceived as a loss of sovereignty.

The prospect for admission to regional institutions is mixed. Admission to the Inter-American Development Bank (IDB) is hampered by the bank's requirement that member countries also belong to the Organization of American States (OAS), something that Cuba is not likely to achieve soon. However, because the Corporación Andina de Fomento (CAF) a Latin American development institution does not have such a requirement and its membership

roster does not include the United States, the CAF is exploring the possibility of Cuban membership, and is already providing technical advice (Ore 2015). Importantly, in 2015, the CAF was admitted to the network of Accredited Entities Green Climate Fund and Cuba is already exploring the possibilities of a working relationship (CAF 2015).

#### *4. A brave new world of business transparency*

For Cuban companies and their foreign partners, U.S.-Cuba rapprochement on December 17, 2014, has drastically changed the business model in tangible and intangible ways. The presence of U.S. firms will increase competition significantly and it will actually grow the Cuban market exponentially. But U.S.-Cuba rapprochement has also changed “business as usual” in less obvious but equally significant ways. Since the early 1990s when Cuba “opened for business” with the capitalist world, the need to safeguard business activity from the draconian U.S. efforts to isolate the island financially and commercially led to a non-transparent and secretive way of doing business. Cuba-based companies, whether state or mixed, national or foreign, especially those that depend on some form of foreign capital (investment, credit, commercial financing) or export markets will be subjected to the same level of business scrutiny as companies elsewhere in the world. They will have to provide reliable market statistical information as well as submit private financial reports to home state fiscal authorities and, in the case of publicly held companies, publish financial reports based on internationally accepted accounting standards. Any large company doing business in Cuba will also be open to scrutiny by international corporate responsibility watchdogs. This implies that the Cuban government would be well served by a careful analysis of a potential partner’s global social responsibility record, as well as by learning how such strategies and practices can be translated into competitive market and financial advantages, and vice versa. Cuban officials can still prevent putting “a bad apple” into the barrel.

#### *5. Time to act before the gas runs out...*

To date, Cuba lacks sufficient major operational oil or gas reserves and its hydroelectric energy generating potential is low. The preferentially priced “Venezuelan Oil for Cuban Doctors” program that has been essential to Cuba’s economic growth came under threat in 2015 as the result of the sweeping victory of the anti-Maduro opposition forces in the National Assembly elections (Pugile 2015). Though Cuba’s oil and gas rich ALBA allies have balked at calls from developed countries for them to lower their fossil fuel production in the global



effort to lower CO<sub>2</sub> emissions (Edwards and Roberts 2015), Cuba's lack of hydrocarbon energy resources has forced the island's leaders to develop a significantly different renewable energy strategy—one with a target of over 20% generating capacity from renewable energy sources.

### *6. ...And all our friends vanish*

Latin America's "pink tide," the rise of the left-of-center ALBA governments in the first decade and a half of the 21st century, is receding, and not just in embattled Venezuela. Argentina has elected a right-of-center leader and Bolivian voters have blocked Evo Morales's attempt to extend his mandate into a fourth term. The dismal political fate of Brazil's suspended leader Dilma Rousseff adds to the trade bloc's woes.

Like Venezuela Brazil has for years used revenue from a commodities boom to pay for Cuban medical and educational services. According to Frank and Boadle (2016), 11,400 Cuban doctors have worked in Brazil, and in 2015 alone, Brazil paid Cuba more than \$500 million for the doctors' services as well as another \$100 million to the doctors themselves. Over the last thirteen years, Brazil's government provided at least \$1.75 billion in credit on favorable terms, some of it used for the creation of the Special Development Zone in Mariel. The new centrist administration in Brazil facing a substantial economic downturn has not been able to be as supportive.. Though suspension of the medical program and credit facilities is unlikely, the terms might be adjusted to provide more clear benefits to Brazil at Cuba's expense. In addition, public and private Brazilian investment in Cuba has declined.

### *7. Brain drain and escape valves*

Cuban political asylum seekers and economic migrants alike have for decades benefited from preferential U.S. immigration policies, as well as from the support of financially and politically strong émigré communities. However, the recent weakening of Cuba's restrictions on its citizens' travel abroad, combined with the well-grounded fear that the U.S. is about to end its preferential treatment of Cuban immigrants, has turned the steady flow of migrants into a major exodus (Chardy 2016).<sup>3</sup>

A redeveloped Cuba must find a way to stop this debilitating brain drain by offering its youth attractive career prospects, and to some extent to reverse the flow by attracting a new generation of transnational Cubans who stand astride both sides of the Florida Straits. This creation of local opportunities is also necessary to fund the social welfare needs not only of youth and work-

ing people, but also of an aging population. The worst-case scenario, however, would be a combination of fuel shortages, a stagnant economy, and a closed emigration “escape valve” because these would lead to a buildup of economic frustrations and political and social tensions.

### ***8. COP 21—A most happy anniversary gift to D17***

Nearly a year after the simultaneous announcement by presidents Obama and Castro that their administrations intended to renew diplomatic relations, another momentous event took place across the Atlantic. The 2015 United Nations Climate Change Conference in Paris (COP 21) managed to set in motion, for the first time, a robust and credible global decarbonization agenda (Mabey et al. 2016).

National and local governments, with assistance from supranational organizations and NGOs, are leading the way to create environmental policy frameworks capable of transforming economies in ways that can cap global warming at two degrees Centigrade above preindustrial levels. Significantly, COP 21 is the first climate change conference that is being backed by important sectors of the business community, as well as by the financial muscle needed to bring about this transformation (Wenzel 2015). Billions of IFI, public, and private money is being poured into this emerging low-carbon world (Climate Funds Update 2016). For investors and for the companies leading the charge in building a low-carbon economy, the business case is clear: reaping first-mover competitive advantages, as well as considerable profits in the medium- and long-term. Their best advice for climate change doubters and naysayers is simple: follow the money.

Since the majority of new carbon emissions is likely to come from the BRICS countries (Brazil, Russia, India, China, and South Africa) and from the rest of the developing world as a result of their economic growth, the agenda requires a fair and equitable balance between the needs of developed and developing countries in order for the COP 21 goals to be achievable. Fortunately, mutually beneficial sets of agreements were reached.

The global commitment to address the special needs of developing countries in the global decarbonization effort is extraordinarily good news for Cuba. It offers the country an opportunity to capitalize on its social and environmental assets, while hedging against the effects of its economic liabilities. But most importantly, it makes available the resources necessary to achieve a sustainable Cuba.

### ***9. What kind of world do we want? The 2030 agenda — at home***

Cuba is in the midst of designing the basic parameters of its economic development policy with an outlook toward 2030. During the April 2016 7th Congress

of the Cuban Communist Party Congress, two draft documents were approved: The Conceptualization of the Cuban Economic and Social Model of Socialist Development and The National Plan of Economic and Social Development until 2030: Proposal for a Vision of the Nation, Strategic Axis and Sectors (Partido Comunista Cubano 2016). These documents together are commonly referred to as the “2030 Strategic Agenda.”

According to the analysis of the documents conducted by the Cuban economist Juan Triana (2016):

- The *vision* for Cuba is to continue being sovereign, independent, socialist, democratic,<sup>4</sup> prosperous, and sustainable. In other words, rather than a departure from the traditional values of the Revolution, the documents outline the optimal path to follow at this historical stage in the development of Cuba’s socialism;
- the *strategic axis* to support this vision and achieve the necessary structural transformations revolve around: 1) effective socialist government and social integration; 2) productive transformation and international integration; 3) infrastructure; 4) human potential, science, technology and innovation; 5) natural and environmental resources; and 6) human development, justice and equity;
- the *strategic sectors* where development is expected to concentrate are: 1) construction services and products; 2) energy; 3) telecommunications; 4) logistics; 5) tourism; 6) professional services (medical); 7) agricultural production and value-added production; 8) pharmaceuticals; 9) sugar and derivatives industry; 10) light industry, mostly for domestic consumption (Partido Comunista Cubano 2016).

Though the “Commanding Heights” of the economy will remain in state hands (*propiedad social*) the 2030 Strategic Agenda also envisions the participation of actors representing all of the legal forms of property: state, private, foreign, and cooperative. Moreover, the state will continue acting as the overall planner of the economy. The use of the term “private sector” and the intention for all sectors to have equal access to business inputs (credit, wholesale, etc.), is a far cry from earlier revolutionary days when nearly the entire economy was in the hands of the state.

Several other statements relevant to the arguments of this chapter are outlined in the 2030 Strategic Agenda. For example, *non-state mediated interactions between economic actors (forms of property)*, are encouraged rather than, as has been done discouraged, siloed, or vertically administered. Significantly, despite

the participation of private agents in the economy and the recognition of the importance of market forces and market mechanisms, the accumulation of capital in private hands and the exacerbation of social inequalities will not be tolerated. Lastly, an explicit acknowledgement that the administrative structure and managerial culture of the Cuban state and its parastatals have been obstacles in development, along with a commitment to reform and modernization of these management decision systems, adds a hopeful note to the prospect of an effective process of reform.

When seen in its entirety, the 2030 Strategic Agenda suggests strategies that include: 1) a campaign to attract foreign direct investment; 2) the modernization of the national power grid with a target of 22% renewable energy sources; 3) the development of productive value-chains, especially those directed towards exports and import substitution; 4) the implementation of modern technological and managerial methods intended to increase productivity and economic efficiency; 5) a clearer definition of the roles of, and the relationships between, the state and both the public and the private sectors; 6) the sustainable management of all natural resources; and 7) the primacy of coastal zone vulnerabilities in development planning, especially as it relates to climate risks and increased sea levels.

#### *10. What kind of world do we want? The 2030 agenda — globally*

The Cuban national agenda is being formulated with a great deal of attention to congruence with the seventeen sustainable development goals (SDGs) outlined by the United Nations' 2030 Agenda for Sustainable Development (United Nations 2015). Both the Cuban and global UN agendas converge in their aim to: end all forms of poverty; promote sustainable food security; fight inequalities (gender, age, race, religion, sexual orientation, etc.); ensure access to education as well as to clean water, sanitation, and energy; promote inclusive and sustainable development and management of resources in ocean and terrestrial ecosystems; promote peace, safety, and good government; tackle climate change; and strengthen the partnerships necessary to implement these goals. Fortunately for Cuba and the rest of the world alike, these quixotic SDGs are being woven into many national development strategies, as well as into the international cooperation agendas of developed countries and into the corporate responsibility strategies of many companies worldwide.

### **Fundamental Choice: Adopt either a 19th/20th Century or a 21st Century Industrial Policy Model**

Cuba has faced many crossroads in its unique history. However, the constellation of opportunities and threats outlined above presents the Cuban leadership with

an important choice in the design of a new industrial policy. The challenge is to design a model that will accommodate the planned vision of the nation, including strategic economic development across many sectors and goals. In other words, the recently released Cuban Communist Party's 2030 Strategic Agenda outlines a vision and a broad-brush economic development plan—but what will the actual structure of the productive mechanisms and the industrial sectors be? Where and how will the rubber meet the road? Reducing the options into a binary choice, fundamentally, the choice before the Cuban leadership is between following an industrial policy based on 19th-20th century models of development and one based on a 21st century model. One option has the potential to deliver a sustainable Cuba, while the other would most certainly hinder it.

A 19th-20th<sup>th</sup> century model would revolve around the renewal of heavy industry capacity to support the planned light manufacture and construction sectors; quick expansion of the mass tourism sector with reliance on environmentally degrading golf courses and cruise ship visits; insertion of the planned value chains in the low-wage maquiladora-type export manufacturing network within special tax zones; large scale agroindustry and nickel production for export; and specialized market niches in sectors such as biotech and medical services—all fueled by high-carbon energy sources (the remaining 80% of the sustainable energy grid) and distribution logistics. All of this would be regulated through stringent environmental and labor regulations.

Adoption of a 21st century industrial model, on the other hand, would involve concerted state-led development efforts around: the creation of highly paid knowledge worker jobs linked to the science-based R&D of the emerging low carbon—economy industrial structure; redevelopment of physical and energy infrastructure using specialized green funding mechanisms, as well as specialized green products, services, and technologies; selection of niche global markets and commercial and investment partners specializing in the low carbon economy and committed to achieving the SDGs through their own operations and managerial systems. While stringent environmental and labor practices would always be maintained and enforced by the state, carefully selected industry partners will be attracted and expected to meet world-class corporate responsibility standards.

Though these two options are far from mutually exclusive, choices will, by necessity, coexist for a long time, the 21st century industrial option undoubtedly delivers an optimal outcome. Fortunately, Cuba's 2030 strategic agenda is consonant with the COP 21 vision, as well as with the UN's Sustainable Development Goals. The key to successful implementation is the industrial structure through which the Cuban 2030 Strategic agenda is to be achieved.

At this moment in global history, ever-growing financial, scientific, productive, and managerial resources are being directed toward the achievement of low-carbon global economy and toward the SDGs. These resources have the potential to foster Cuba's leap into a 21st century industrial economy and in this way meet the goals of the 2030 strategic agenda. What once seemed a distant utopian dream is now the requirement for avoiding a dystopian global catastrophe in the not so distant future.

### **A Four-Pronged Strategy Designed to Deliver a Sustainable Cuba**

Recognizing the nature of a *momento coyuntural* is only the first step. Devising a strategy that leverages strengths and diminishes the impact of weaknesses is the next. One possible strategy for the attainment of a sustainable Cuba takes advantage of the set of circumstances and dynamics examined in the previous section. It focuses heavily on the articulation of foreign financial, investment, and commercial partners into the Cuban development strategy because these economic agents are being progressively integrated

#### ***1. Inviting the Right Kind of Capitalists to do Business in Cuba***

Once the renewal of diplomatic relations was cemented by the reopening of embassies, by multiple high-level delegations to and from both countries, and by successive rounds of embargo-easing negotiations, the focus of the U.S.-Cuba relationship turned toward the commercial opportunities available for both sides. In response, traditional investment and commercial partners such as the EU, Canada, and China are busy rearticulating the importance of their bilateral relations to Cuba's economic and social well-being. ALBA partners, on the other hand, are fighting for their political survival at home while trying to maintain their endangered trade and cooperation agreements with Cuba. Nearly absent from all the cross-national dialogues is the issue of corporate responsibility (CR) imperatives of foreign companies already operating in or on their way to Cuba

In the case of the United States, the priority assigned to establishing commercial relations completely overrides the social and environmental interests of the Cuban people, not to mention the Cuban government's pledge to build a "prosperous and sustainable socialism" (Communist Party of Cuba 2011). This U.S. priority is also surprising in light of the U.S. and worldwide preoccupation with the deleterious effects of increasing economic inequalities and the looming dangers of climate change. At a practical level, this omission is the understandable result of the time-consuming difficulty of disentangling the fifty-seven-year-old labyrinth of measures, acts, and laws that are collectively

known as the U.S. embargo. Negotiators must establish a relationship of equality and mutual respect before the commercial partners can even think about modeling the ideal bilateral business relationship between an environmentally and socially proactive socialist state-run system and a capitalist trickle-down and laissez-faire private sector-led system.

A look at some of the idiosyncrasies of the Cuban enterprise system can also shed light on the reasons that corporate responsibility has not been a talking point for the Cubans when negotiating deals. In a socialist system, state enterprises have an implicit responsibility to serve the well-being of society by fulfilling social objectives. Explicit corporate responsibility strategies, such as those practiced in capitalist countries, are not considered necessary because corporate responsibility is integral to existing operations and long-term objectives of the socialist state enterprise system. Moreover, social welfare, education, and environmental policy are considered to be under the exclusive jurisdiction of the state, so that corporate proposals and attempts to engage in these areas are seen as encroachments by the private sector on the sovereign territory of the state.

As is often pointed out by Cuban leaders, allowing market forces to increasingly shape the Cuban enterprise system is simply a necessary evil and a means to foster a prosperous and sustainable socialism. Thus, one possible reason for the omission of consideration of corporate responsibility in the Cuban vetting and due diligence processes is a deeply held ideological suspicion of capitalism. The notion that capitalists could act responsibly and in support of sustainability may still be an oxymoron in Cuba's socialist mindset. Moreover, the notion that capitalists might actually manage to "do well by doing good" suggests some very uncomfortable questions for the entire socialist project. Conversely, the fact that the U.S. political system seems out of step with the American social realities of inequality and lack of opportunity, as demonstrated by the anger of both Trump and Sanders supporters, suggests that there is something quite troubling at the core of the free-market Promised Land.

Foreign companies have, to date, operated in Cuba in well-guarded silos. Any overreach is noted and frowned upon. Cuban distrust of this sector's attempts at *protagonismo* (self-important and misguided agency) is understandable when seen in the context of the dominance of U.S. commercial interests in pre-Revolutionary Cuba. As counterintuitive as it may seem, the end result of this strict separation between the roles of each sector leads Cuban state officials to fundamentally agree with Milton Friedman's assertion that "the business of business is business." The 2030 Strategic Agenda documents' mention of the need for further integration of these sectors with the state sector and with each other might be a



harbinger of an upcoming debate on the role of the private sector in the achievement of not just prosperity, but of social and environmental sustainability as well.

The realpolitik of the U.S.-Cuba commercial rapprochement, in practical rather than ideological terms, requires that corporate responsibility considerations be factored into any proper due-diligence analysis of potential foreign partners. Good sustainability practices should be a requirement for all business partners. Granted, many of the Canadian and European companies already in Cuba do operate in ways that would qualify them as good corporate citizens. In fact, many have tried to put in practice in Cuba the responsible strategies and projects that they have put in place in other parts of the world. Unfortunately, these corporate responsibility-related overtures are not always well understood or welcomed by Cuban officials and thus, corporate projects responsible to Cuban goals remain the exception rather than the rule. Some foreign company executives might welcome the release from the often-impossible demands placed on them by the advocates of corporate citizenship; but before they celebrate this freedom, they should realize that the Cuban state's *modus operandi* for business externalities is to develop ever more stringent regulations and to increasingly micromanage commercial relationships.

## *2. Developing a 'Business Case' for a Sustainable Cuba*

The Cuban case for a sustainable Cuba has existed since the 1990s as a result of the "accidental Eden" brought about by the collapse of the Soviet bloc and by the adoption of proactive sustainability measures inspired by the 1992 Rio Conference. However, a business case to back this sustainability effort has not yet been needed because the Cuban state has managed to address social and environmental externalities relatively successfully within great constraints. In a post-embargo scenario, the rate of economic growth and the sheer heterogeneity of the business sector will necessitate the attraction of the right kind of sustainability-oriented partners and financing sources. These future partners will, indeed, require a business case. Fortunately, many of the priority sectors outlined in the 2030 Strategic Agenda align perfectly with those that hold the greatest potential for a sustainable business model.

Two sectors reveal strong business cases for a sustainable Cuba: sustainable tourism and food production, especially organic agricultural exports. If Cuba is to remain competitive over the long term in the "sun and sand" market, it must safeguard its magnificent culture and its comparatively pristine environment. This will take proactive planning, the right kinds of business partners, and niche market targeting. Another promising sector is food production. National import substitution strategies in the agricultural sector are a necessary



component of the explosive expansion of the tourist sector that is expected with normalization. However, it is unclear at this point how this increased food production can be achieved sustainably. Nevertheless, the opening of the U.S. market to Cuban organic food products would bring a bonanza to the agricultural sector. Moreover, it would bring much welcomed development opportunities for the poorer food-producing eastern regions of the island. The business case for sustainable tourism and for organic agriculture exports is as attractive to the Cuban partners (as a substantial source of foreign currency) as it is for foreign commercial partners (high-margin, high-demand niche markets).

The renewable energy sector also offers many sustainability-oriented opportunities. Oil exploration in the Gulf of Mexico, though promising, has yet to show results and the preferentially priced Venezuelan oil—for-the doctors program, essential to Cuba's economic growth, has come under threat. These threats are behind the Cuban government's objective of generating 20% of its energy output with renewable resources in the near future. This sector will provide foreign partners with a clear business case, while, for the Cuban government, renewable energy is more an issue of national security than a clear cut business imperative. A number of projects are already under way, such as a British investment in biomass generation out of sugar bagasse (Cuba Journal 2016).

Two additional sectors will have to operate with a great deal of attention to sustainability: coastal zone development (including tourism, ports, waste management, fishing, urban development, etc.) and mining. Because Cuba is a climate change hot spot and highly susceptible to coastal erosion due to rising sea levels and warming waters (leading to the death of protective coral reefs and an increase in major hurricane activity), responsible development of the coastal zones of the island is imperative. As for the mining sector, nickel has been one of Cuba's major foreign currency-generating exports. As mentioned earlier, the siege mentality that the U.S. embargo created not only for the Cuban state, but also for foreign companies operating on the island, made it necessary to conduct business in an opaque and secretive manner. However, once the embargo is lifted there will be calls for greater transparency and requirements for public foreign companies to publish audited financial statements along with social and environmental balances. Fairly soon, what happens in Moa—where Canadian mining giant Sherritt International has been mining nickel for decades—will no longer stay in Moa. Cuba's mining industry's operational practices, though improving, will for the first time come under the careful (and vociferous) scrutiny of global anti-mining activists.

Sustainability-oriented business partners are already starting to operate in Cuba, especially in the renewable energy, tourism, and agriculture sectors. A

recently announced large sustainability-oriented joint venture in the consumer goods sector stands to revolutionize the way business models have been traditionally conceptualized in Cuba. For example, one of the first European ventures authorized to operate in the Mariel Special Development Zone (ZEDM) is Dutch Unilever N.V. with Cuban Intersuchel S.A. (Brownlee 2016). According to Unilever, the \$35 million-plus joint venture will not only contribute to the development of the country and to the well-being of the population, but it will also endeavor to protect the environment (Unilever 2016). The venture will be managed according to the Sustainable Living Plan, Unilever's business model that is based on the use of sustainably sourced materials, a commitment to consumers' well-being, improving working conditions and opportunities, as well as promoting diversity and equal opportunity (Unilever 2015). Surely many factors affected the decisions made by the Cuban government and by Unilever executives. However, what is undeniable is that this kind of partnership will provide a major stepping-stone in the development of the business case for a sustainable Cuba. Hopefully, many others will follow.

### *3. The Great Leapfrog Forward—the Post-COP 21 Low Carbon Economy*

The previous section presented the business case for a sustainable Cuba in terms of the sustainability opportunities available in five existing economic sectors. This section suggests that the most powerful business case for a sustainable Cuba will come from the opportunities inherent in the low-carbon global economy emerging since the 2015 United Nations Climate Change Conference in Paris (COP 21).

Many in and out of Cuba have envisioned and posited the desirability of a sustainable Cuba as well as dreamed of a possible surge in technology. However, the capital, the technology, and the committed business, national, and supranational and NGO partners that could actually make a post-COP 21 low-carbon global economy possible were simply lacking. What makes this choice of a 21st-century industrial policy feasible at this time are recent historical opportunities, including the U.S.-Cuba rapprochement of December 17, 2014, and the eventual lifting of the embargo, and the threat of an end to the Venezuelan energy lifeline. Now Cuba's national priorities are very much in line with global external resources committed to post-COP 21 decarbonization strategies in both developed and developing countries.

A post-COP 21 industrial policy has additional potential outcomes that are likely to make it highly attractive to the Cuban leadership. Adopting post-COP 21 industrial policy has the potential to position Cuba as a global leader in emerging economies' technological and industrial responses to climate

change, and as such facilitate the country's adherence to the UN's 2030 Agenda for Sustainable Development (United Nations 2015). Moreover, Cuba provides a unique opportunity to build a developing country model case because it is less hampered by the exigencies of remediation of existing high carbon-dependent industrial infrastructures.

This option would also have the advantage of positioning the new Cuban development model in the same direction as the new post-COP 21 industrial dynamics are pointing, thereby permitting a systemic great leap.<sup>5</sup> In short, a 21st century industrial development option can provide a "norte" (north), a long-term orientation for where the Cuban model of prosperous and sustainable socialism should go, with whom, with what resources, and how it might get there, without neoliberal dogma or capitalist triumphalism.

#### *4. Bottom-Up Strategies for Keeping Development Sustainable — social entrepreneurship, shared economy, and 'jugaad' frugal innovation*

If markets and private enterprises are to be increasingly incorporated into the updated Cuban development model, it follows that the experiences of progressive enterprises of all sizes, not just the large ones, should be examined in terms of the potential positive or negative dynamics they could unleash. Progressive companies share with Cuba's socialist ethos an overriding concern with the socioeconomic welfare of citizens and the health of the environment. However, they do so profitably. As such, they suggest an additional means by which to attain a prosperous and sustainable socialism.

In measured but far-reaching ways, the Cuban government is opening up spaces for non-state sector business enterprises, and within this entrepreneurial milieu, a number of social enterprises have taken shape. Though many are led by *cuentapropistas*, cooperatives have been the most likely to adopt socially responsible and innovative behaviors for a number of reasons. First, because the solidarity exigencies of the cooperative model itself are generally in alignment with the principles of social responsibility; second, they tend to be larger, better funded, and more business-savvy than small-scale entrepreneurial ventures; and lastly they are given preferential treatment by the state, enabling their growth in terms of revenue and employment.

Examples of endogenous social enterprises such as ArteCorte, Cooptex, the cultural project Fidiás, the Patio de Pelegrín, and Cooperativa Sagebien have been examined (Betancourt and Sagebien 2013; Sagebien and Betancourt 2014; Sagebien and Leenson 2015; Sarmiento forthcoming; Vila 2013; Voltan et al. forthcoming). Besides social entrepreneurship ventures and innovative

solidarity business models, Cuba is fertile ground for the “sharing economy” such as car share and tool share enterprises. Moreover, this kind of solidarity in the consumption aspect of the economic equation is absolutely necessary to achieve the overall sustainable economy objectives laid out in previous sections. The recent exploration of microfinance mechanisms being conducted by Cuba’s National Association of Economists and Accountants (ANEC) and a Dutch group should assist not only entrepreneurial development but these kinds of social innovation models as well.

After so many years of privation, most Cubans aspire to more and better products and services at good prices. Therefore, it’s important to find ways to create low-cost, high-quality goods by reimagining processes and repurposing resources to meet the needs of a market with enormous financial constraints. This is exactly what frugal and “jugaad” innovators do.. “Jugaad,” a colloquial Hindi word, roughly translates as an innovative fix or an improvised solution born from ingenuity and cleverness (Radjou, Prabhu, and Ahuja 2012). The adaptation of frugal, or jugaad, innovation principles to the needs and challenges of developing nations like Cuba has also been suggested (Jugaad Innovation, n.d.). The term jugaad bears a surprising similarity to the colloquial Cuban term *resolver*—improvising and making do through inventiveness. No wonder, then, that Cuba is home to a wealth of local jugaad innovation examples (Herrero 2015; Sagebien and Herrero 2016).

Alabama-based Cleber LLC, the first American company to receive authorization from both the U.S. and Cuba to set up a manufacturing operation in the island’s Mariel Special Development Zone, is a quintessential example of jugaad innovation, or bottom-up solutions to sustainable development challenges (Trotta 2016). Cleber’s embargo-busting Oggun tractor, an updated version of the Allis-Chalmers Model G from the 1940s, is an open-source manufacturing model (OSMM) that uses a modular design and common components. The basic design serves as a platform on which interchangeable modular components are used to create a broad range of agricultural and light construction equipment (Cleber LLC 2016). It is, therefore, perfect for the island’s agricultural modes of production (70% of which are on small plots) and small cooperative-led construction and repair work, because the Oggun is inexpensive to maintain, simple to operate, and relatively cheap to buy when compared to other tractor/excavators. Cleber’s Oggun could be seen as a prototype for other jugaad innovations: inspired, bottom-up, affordable, decentralized solutions to Cuba’s many challenges.

## **Carpe Diem—Partners in the Development of a State-led Low-Carbon Industrial Policy Based on Sustainable Business Models**

For over fifty-five years Cuba's development has been guided by egalitarian socialist values, a strong need to protect the country's sovereignty, a leading role for the state as planner and producer, and since 1992, a strong commitment to environmental protection. These factors continue to provide the essential pillars of its 2030 Strategic Agenda.

The development strategy outlined above proposes four main components: inviting capitalists to do business in Cuba, creating a business case for sustainability, committing to a low-carbon economy, and using strategies that will keep development sustainable. The success of this four-pronged strategy, should Cuban leaders choose to pursue all or any part of it, will depend largely on their moving swiftly to seize the opportunity with the support and collaboration of a broad coalition of committed national and international actors. This section offers a broad-brush outline of an action plan for a possible coalition of actors.

### ***1) The Cuban Government***

The pursuit of a 21st century industrial policy based on a model of sustainable economic development that links Cuba's 2030 Strategic Agenda, the UN's 2030 Agenda for Sustainable Development, and the post-COP 21 low-carbon global economy will require a very proactive approach by Cuban officials and state planners. For example, officials and planners could research, target, and pursue the companies that best fit the development of a low-carbon industrial policy and design a new portfolio of desired sustainable businesses. This, in turn, would require a substantial period of mutual exploration, much interdisciplinary research on policy and business partner options, copious professional training, and many conversations and negotiations. But it is possible and it can begin to take place now.

### ***2) The European Union (EU), its Delegation to Cuba, and European Business Partners***

The European Union's installed 'green' base and its commitment to the use of policy mechanisms while fostering private initiative is unmatched elsewhere. The European Union Delegation to Cuba has for decades worked on a number of cooperation projects, two of them especially germane to this project: through a partnership with the European Foundation for Management Development (EFMD), managers in Cuban state enterprises have received leading-edge business management education for decades; and EUROCLIMA a regional coop-

eration program between the EU and Latin America focused on climate change is assisting the island's efforts to design strategies for mitigation and adaptation (EFMD 2016; EUROCLIMA 2016).

The recent diplomatic rapprochement between France and Cuba with its renewed trade, cultural, and cooperation aid provides a truly fertile ground for possible collaboration. The Paris Club–Cuba debt agreement should further favorably position EU projects and companies (Chow 2015). As far as business interests in Cuba, Spain, and Italy are leaders in commerce and investments. In sum, the EU is uniquely poised to present to Cuban authorities a mutually beneficial set of sustainable business and low-carbon industrial policy cooperation proposals and business alliances.

### *3) Engage Leading Thinkers and Doers in the United States*

The participation of U.S. companies, government representatives, non-profit organizations, investors, academics, Cuba experts, and entrepreneurs is essential for the success of sustainable development in Cuba. Their leadership and support are needed for the political process to lift the embargo, and because the U.S.-Cuba relationship is very much a work in progress, highly dependent on the agenda of those who involve themselves in building the relationship. The active support of these concerned individuals and organizations is required to gain top-notch expertise and an entrée into the relevant circles of power in the United States.

### *4) International Aid Agencies, the United Nations, and the IFIs*

Besides EU cooperation programs, Canadian, and Swiss cooperation agency aid are also important. In addition, a number of international agencies with successful track records in Cuba such as the United Nations Development Program (UNDP) could consider ways to adapt their development projects in pursuit of low carbon innovations. The Corporación Andina de Fomento overtures toward Cuba are seen as a stepping-stone toward the island's rejoining the international financial community. Once the Helms-Burton Act is lifted, membership in other IFIs will soon follow.

The Inter-American Development Bank has been very active assisting a number of Latin American countries to develop well-integrated post-COP 21 industrial strategies and economic development plans. Though formal projects are not yet possible, the IDB could act in an advisory capacity where such projects can be showcased (PROADAPT 2016)

### ***5) Knowledge Partners***

Environmental and development NGOs, environmental and economic think tanks, and university researchers, along with specialized low carbon and alternative energy centers could help Cuba explore its options. These efforts would be accompanied by working partnerships with Cuban research entities and NGOs.

### ***6) Business Groups and Green Investors***

Business and investment readiness for launching an era of decarbonization is advancing swiftly. Preliminary research indicates that there are business coalitions and organizations that would consider exploratory conversations with Cuban authorities on how their concepts, projects, and business ideas could be woven into Cuba's redevelopment. Possible collaborators are Business for Social Responsibility, We Mean Business, the Prince of Wales's Corporate Leaders Group, Ceres, selected embassy trade desk personnel, and forward-thinking joint ventures already on the island (e.g., Unilever). These groups would work in close collaboration with the Cuban Chamber of Commerce, Cuban state enterprises, and relevant ministries.

International private foundation money for green or low carbon research and development could also provide considerable funding if win-win partnerships can be developed (Nakhouda 2015). For example, green investors could fund a Cuban research center on climate change adaptation for coastal zones that could then export this knowledge to other small tropical island countries; Cuban scientists could join international efforts to explore the pluses and minuses of climate engineering; Cuban ingenuity could be used to develop low-cost technological solutions for developing world consumers adhering to frugal innovation strategies.

### ***7) Cuban Non-State Small and Medium-Sized Enterprise Sector***

The literature on regional economic development strategies has recently emphasized the importance of local development initiatives. Sectors such as tourism and agriculture offer ample opportunities for new job creation outside of Havana at a moment when the State is pulling back from providing employment for a substantial portion of the population. The adoption of frugal or jugaad innovation principles in addressing the needs of these populations could create not just small business opportunities, but also a rapid improvement in the quality of life for many of these communities. Similarly, the adoption of a social enterprise ethos in business creation could offer a means through which to create business opportunities without excluding social well-being and environmental protection.



### 8). *Multi-Stakeholder Coalition Building*

Trusted interlocutors are absolutely essential to the success of any Cuba-related endeavor. Private sector international partners should keep in mind that their most well-meaning efforts run the risk of offending Cuban sensitivities. This is even more likely when presenting sustainable business models and green investment options because Cuban officials are not fully versed on recent advances by private industry, global investors, and leading philanthropists in low carbon business options. Therefore, multi-stakeholder working groups under the guidance of trusted international interlocutors such as UNDP, the European Union, Canada, and selected NGOs will be much needed in the process of approaching and negotiating with the Cuban government.

### Conclusion

At times, working in Cuba can be exasperating, frustrating, confusing, and contradictory. Nonetheless, the possibility of working together to get Cuba “back to the future” is very much worth a try, not only for Cuba, but also for all nations, especially developing ones trying to adapt to new climate and social realities. Cuban officials supported by international actors such as IFIs, bilateral assistance from several countries (especially the EU) on a low carbon path, and visionary companies committed to innovation-oriented partnerships, could actually bring about groundbreaking innovations. The convergence of the basic outlines of the 2030 Strategic Agenda, the UN’s 2030 Agenda for Sustainable Development, and the post-COP 21 low carbon global economy augurs well for Cuba’s leap into a 21st century industrial structure. Fortunately, the impetus for the development of such a global low-carbon economy at an international and at a local national level, as well as on a global corporate and financial sector level, is sufficiently strong to withstand the vagaries of U.S. policy stances on climate change.

Oddly enough, Raúl Castro’s oft quoted assertions, repeated in the 7th Congress of the Cuban Communist Party documents, that Cuba’s development must proceed both *sin prisa pero sin pausa* (without haste but without pause) and with great care for the effects of these changes on citizens, might indeed be better achieved by setting a clear target for development towards the opportunities of the post-COP 21 low carbon economy. Granted, because so much of what this leap involves is uncertain and changeable, acting upon these dynamics will require a substantial advance on the part of Cuban leaders and international partners. But perhaps leaps of faith are less daunting, when the alternatives, in this case, a polluted and economically backwards Cuba functioning in a climate change-ravaged world—are so thoroughly unattractive.



## NOTES

<sup>1</sup> Informal conversations with Cuban army personnel suggest that Cuba's swift and effective response to the privations of the Special Period was due in great measure to the fact that in the 1980s Fidel Castro and the Fuerzas Armadas Revolucionarias (FAR) had devised a contingency plan to respond to a possible extreme tightening of the U.S. embargo. For example, organic and urban agriculture methods were being studied as part of the response to a U.S. blockade of oil supplies and agricultural inputs.

<sup>2</sup> More information on the 1992 Conferences is available at <http://www.un.org/geninfo/bp/enviro.html>.

<sup>3</sup> Preferential treatment of Cuban immigrants refers to the Cuban Adjustment Act or the so-called "wet-foot, dry-foot" policy. For more information see [http://www.huffingtonpost.com/hirania-luzardo/why-refugee-status-for-cu\\_b\\_9720428.html](http://www.huffingtonpost.com/hirania-luzardo/why-refugee-status-for-cu_b_9720428.html).

<sup>4</sup> Cuba practices a form of direct (rather than representative) democracy within a one party (rather than multiparty) system.

<sup>5</sup> It is important to note that this leapfrogging would occur mostly in the productive sectors, rather than in the consumption sectors such as internet and telecommunications, which would require substantial outlays by consumers for hardware, software, and bandwidth, money that Cuban citizens simply do not have, at least at this time.

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## **What Is the U.S. Waiting For? Time For A New Migration Framework**

Robert L. Bach

On December 17, 2014, Cuban and U.S. officials not only ended a long period of diplomatic hostility, they unleashed an era full of expectations of far-reaching cooperation. Change will come, Secretary of State John Kerry declared, as both sides shift from policies imprisoned by history to pursue “opportunities of today and tomorrow” (Rivkin 2016).

Few policy areas more clearly call out for change than the historically entrenched migration practices of both the U.S. and Cuban governments. For nearly the entire period since the Cuban Revolution, the United States has strategically and often explicitly used its migration policies to undermine Cuba’s economic progress and political influence. U.S. refugee programs undoubtedly responded to humanitarian dilemmas, but they also served to stimulate the exodus of skilled professionals and drain Cuba of its most productive and entrepreneurial groups. U.S. migration policies also aimed at bolstering opposition to Cuba’s political system and social values. Each departure was declared an escape, a defection, and each admission to the United States a life-saving rescue. Even as U.S. and Cuban officials found ways through the decades to prevent migration crises from becoming larger tragedies, the policy framework for airlifts, boatlifts, special admission programs, and changes in interdiction policies remained embedded in Cold War logic.

Not surprisingly, then, the opening of diplomatic relations was cause for great optimism. Looking back, signs of change could be found in U.S. actions to expand travel for Cuban families and to promote remittance flows to the island. Before 2014 the Cuban government also began to change its emigration policies, dropping onerous bureaucratic exit requirements and even depoliticizing departure by embracing migration as a right. The December 2014 bilateral announcement certainly promised more change.

Anticipated policy shifts, however, have not materialized to the degree expected and, in some ways, the migration policy framework has worsened

and remained a point of contention between the two governments. U.S. officials repeatedly and emphatically refused to change policies. According to a senior Department of State official, the United States had no plans to change its policies because the situation in Cuba would not change overnight (Gonzalez 2015). Apparently, U.S. officials had in mind some set of unspecified preconditions that Cuba must meet before they release migration policies from the grip of an old policy framework that they admit themselves is outdated and counter-productive. However, on January 12, 2017 President Obama announced the end of the “wet foot, dry foot” policy that allowed Cubans who arrived in the U.S. without visas to obtain legal residency. In addition, the Cuban Medical Parole Program that provided visas and parole status for Cuban medical personnel working abroad was also ended.

Previously the U.S. posture had hurt developing relations with Cuba, and regionally, had contributed to a serious worsening of conditions for migrants throughout the Caribbean and Central America. U.S. intransigence has provided Cuban officials with reason to suspect U.S. intentions, certainly in terms of migration, but also more generally. U.S. inaction seemingly confirmed a commitment to Cold War principles and with them the goals of undermining the Cuban economy, fostering political dissent within Cuba, and reinforcing opposition from segments of the Cuban émigré community. At the 7th Party Congress in 2016, President Raúl Castro linked migration to several of the most toxic issues in the bilateral relationship, including the embargo and U.S. attempts to achieve regime change through “democracy promotion”<sup>1</sup> programs. Castro called for the party faithful not to let their guard down. U.S. officials may have acknowledged the failures of previous policies, Castro warned, but they “do not hide that the goals remain the same and only the means are being modified” (Armstrong 2016b, 7).

Even with the January 12, 2017 changes the extent of strategic change needed in relations between the United States and Cuba will not evolve smoothly and predictably, and the speed of reforms will certainly vary across policy areas. Migration policies may simply be an arena in which change will be slow. After all, perhaps more than in any other policy area, the decades of conflict reached deeply into lives and spirits of families and communities. A divided sense of right and wrong among family members and loved ones on both sides of the Florida Straits will take time to repair and reconcile. The task may be beyond what either government can easily achieve soon.

Migration policies are also much more complex than many believe. They intertwine with nearly every other area of economic, political, and social reform, and provide opponents of change with recurring opportunities to mobilize resis-

tance. Migration policies are typically reduced to relatively simple, if vigorously contested, questions of admissions—who leaves Cuba and how will they be admitted to the United States. Migration, however, is entangled with and integral to policies related to market reforms, how new and old jobs and skills will be distributed throughout the economy and country, and how quickly remittances from family abroad will generate visible shifts in wealth and income inequality. Even seemingly separate areas of policy reform, such as the opening of airline travel, expanded trade relations, and future educational and career opportunities have a migration component. In this sense, migration policies cut across nearly every item on the U.S.-Cuba negotiation agenda and, as a result, are fundamental to the progress of normalization and the safety and security of the entire region.

The purpose of this chapter is to begin to reframe discussions of migration between Cuba and the United States beyond the narrow confines of the current Migration Accords and working group exchanges. For years, U.S. and Cuban officials have met regularly to discuss migration issues stemming from irregular boatlifts and rafters in the Florida Straits. They operate under the terms of the Migration Accords, which set out the principles of safe, orderly, and legal migration and updates each government with data on patterns of the migration and changes in legislation. With the December 17, 2014, announcements, both governments agreed to use this model to hold bilateral discussions on a wide range of issues from environmental safety to commercial ties.

The framework served its purpose, acting as sort of an emergency response planning process. Yet its focus has been tactical and incremental, consisting largely of maintaining a communication channel, exchanging data, and minimizing the potential for misinterpretations during a crisis. With that foundation, the time had come for U.S. and Cuban leaders to move forward beyond conflict resolution to face new strategic questions. The strategic focus should be to examine how migration can support mutual and reciprocal economic and social prosperity and how to craft cooperatively—in essence, to co-construct—a forward-looking migration framework aligned with future opportunities.

### **Disruptive Yet Normal Migration**

An initial step calls for a fundamental shift in perspective. For some time now, the realities of Cuban migration to the United States have not matched their official characterizations. Actions designed to mitigate emergencies have done little to change the deeply rooted sources of the flow. Despite proclamations from both governments that the Migration Accords are built to support safe, orderly, and legal migration, the realities of the migration flow are anything but safe, orderly, or legal.

Although dedicated officials have worked hard to respond to migrants adrift in the Florida Straits, the overall flow has stabilized around a low intensity dangerous and disorderly pattern. Even as President Obama took his historic trip to Havana, in March 2016, and cruise ships sailed once again between Florida and Havana, the U.S. Coast Guard found itself repeating an all too familiar, tragic refrain: “Our deepest condolences to the families of the nine people who recently [lost] their lives,” U.S. Coast Guard Captain Mark Gordon recently declared. “Unfortunately, tragedy is all too common when taking to the sea in homemade vessels with no safety or navigation equipment” (Sky News 2016).

In the last few years, the migration flow has become even more dangerous and illegal. The Coast Guard reports that Cubans now encounter violence in Cuba before departure as smugglers compete over the availability of boats. Violent, armed clashes with boat smugglers have also become a routine reality as they reach U.S. shores. Fueled by huge cash inputs from Miami-based sponsors willing to pay as much as \$10,000 per smuggled person, Cuban migration is thoroughly embedded with criminal enterprises (Williams 2007). Shifting geographical routes from Cuba to the United States have also increased migrants’ exposure to and entanglement with dangerous and disorderly smuggling groups and corrupt officials.

Boat smuggling across the Florida Straits now represents only a small fraction of the illegal immigration from Cuba. The new routes pass through Ecuador, Colombia, Panama, Costa Rica, Nicaragua, Honduras, and Mexico before reaching the U.S. border in Texas and Arizona (Clary 2016, 2016b). The shift has placed Cuban migrants firmly within the framework and control of well-organized transnational smuggling groups (Jorge Duany, cited in 2016, 2016b). Cubans have joined thousands of other migrants forced to travel through the same illegal networks, including unaccompanied minors fleeing overt fear and coercion. The entire flow now faces deeply entrenched gangs who battle over turf and abuse migrants as a routine means of extracting money, influence, and power (Maydeu-Olivares 2016).

The shift, of course, has not been accidental, but rather results from the deeply intertwined actions of transnational organized crime networks and corrupt informal and formal authorities (Isacson et al. 2014). Although to those working to protect migrants the flow appears to be an innocuous reunification of family members, each step of the migratory move involves violations of laws and official tolerance of, if not support for, violence and abuse. The U.S. Deputy Attorney General Secretary has described it as follows, “the conditions for these migrants en route to the United States are horrible. Human smug-



gling ventures lead to extremely dangerous circumstances that pose a threat to public safety and are serious humanitarian concerns. We have encountered smuggled aliens that have been kidnapped, taken hostage, beaten, sexually assaulted, threatened with murder or have died as a result of dangerous conditions” (US Department of Justice 2014, 1). Taken as a whole, the migration framework thrives on a general collapse of the legitimate authority of public institutions, rendering harm to both the migrants and to the communities and nations throughout the region (Walser et al. 2011).

Given this visible dystopia, any attempt to identify what may be normal in this migratory system seems impossible. Yet, a second step in reframing discussions of Cuba and U.S. migration policies must involve efforts to understand how many aspects of Cuban migration are already normal and constructive. Current Cuban migration is disruptive, but it is far from unpredictable or uncommon. Cuban migration looks a lot like migration from throughout the Caribbean, and its foundations are rooted in conditions prevalent throughout the region and the hemisphere. Like every other nation in the region, “What’s driving people to come here [the U.S.] doesn’t change. That’s economic opportunity” (Abraham 2015, 3). As one migrant currently trapped in a dangerous border community between Colombia and Panama described it: “We are just trying to find a place to better our life” (Rampietti 2016, 2).

Out of this chaos there are opportunities for the U.S. and Cuban governments to search for and forge cooperative and constructive policies that would benefit both their own citizens and others in the region. Regular and predictable migration from Cuba is evident in three features of current flows. First, Cuban migration to the United States does not represent a systemic crisis, even though media attention currently focuses on a post–December 2014 surge to the United States. Cuban migration has increased over the last two decades in ways that mirror trends in other countries. Familiar demographic, social, and economic pressures within Cuba drive out-migration as much as they do throughout the Caribbean and Central America. Even during periods of upheaval, such as the Mariel crisis in the early 1980s. The volume and social composition of migrants reflect more the impacts of evolving domestic economic and social reforms than sudden shocks attributable solely to Cuba’s unique political economy (Bach 1985).

A second familiar and predictable feature of Cuban migration is that temporary policy shifts do not disrupt underlying systemic trends. Rumors of impending U.S. legislative changes to migration policies, for instance, have often generated a short-lived surge to the United States on the U.S.-Mexico border while recurring debates about a legalization program spurs bursts of border crossing activities. In

nearly all these situations, the temporary outflow is not supported by corresponding structural shifts either in the economy or political systems. Since December 2015 there have been few economic or political changes to support a huge outward push. An official from the U.S. Department of State, which keeps watch for these changes, recently remarked in an off-the-record statement to this author in 2015 that even as the flow from Cuba increases “one [would be] hard pressed to find a bona fide refugee in the U.S. in-country processing program in Havana.”

A third feature of Cuban migration on which new migration policies could be based involves generally recognizable domestic economic and social shifts that will with time transform opportunities for the Cuban population. These shifts are complex, some negative and others promising. Cuba’s long-term, slow economic decline, for example, when combined with the systemic differences with the United States in standard of living, will generate persistent pressures and incentives for migration. The early period of normalization with the United States involved more migration, not less.

The similarity and predictability of migration flows from Cuba and the region do not reduce the challenges the United States will face in managing them. But they do suggest an opportunity to include Cuba in a broader, more normal policy framework that tries to respond to a core set of economic and social patterns. In the last decade or two, even migration flows from Puerto Rico to the United States mainland followed a pattern repeated in Cuba and throughout the Caribbean and Central America.

Naturally, similar regional migration trends will not fully shape what a normal framework might face in any particular country. Cuba’s demographic trends will exert powerful influences on migration pressures. Cuba’s population has been declining for some years and, by some estimates, will fall even faster toward 2032. As in other countries, demographic change resulting from a rapidly aging population and fertility decline will have substantial economic and social consequences. According to the Cuban National Statistics Office and the Latin American and Caribbean Demography Center, the aging of Cuba’s population will affect economic productivity (Oxford Analytica 2013b) and increase the cost of health and social services (Oxford Analytica 2013a). These trends, in turn, will create and exacerbate sectoral differences.

Like other countries in the region, urbanization will likely accelerate and support further economic and social changes. However, since the 1960s, Cuba’s explicit policies to decentralize its population and infrastructure has limited this expected urbanization trend. According to one estimate (Ebanks 1998), both Havana and Santiago de Cuba would be twice their current size if Cuba had fol-

lowed regional trends. The size of Cuban cities would also have been larger if they included the approximately two million Cubans, mostly from urban areas, who left the island during this period and now live in the cities of South Florida and New Jersey. With over three-quarters (77.1%) of Cubans currently living in a city, an accelerated shift would challenge and strain the capacity of cities, especially Havana, to accommodate new residents (CIA 2016).

The reality of migration, however, is that it is most often the population's dynamic sectors and groups that participate in the movement. Hardship and decline at home create their own pressures, but stagnation typically does not stimulate an immediate outflow. The 'special period' in Cuba in the early 1990s, which produced such deep economic pain that it reduced the physical health of average Cubans, did not spark widespread out-migration. Rather, an outward flow reawakened after 2008 and especially in the 2011–2012 period, as Cuba embarked on a round of economic and social reforms that created and stimulated constructive opportunities, including changes to small business and housing ownership rules.

Alignment with these economic and social trends could serve as a policy target for crafting a new U.S.-Cuba migration framework. Currently, for instance, Cuba's comparatively well-educated labor force is inefficiently deployed (Locay 2004). The size of the professional sectors is too large and the flexibility of the entire workforce is too constrained. But with institutional reforms, new opportunities may emerge. Cuban leaders are urging their state sector managers to experiment with new productive arrangements, overcoming what President Raúl Castro called "the habit of waiting for instructions from above" (Armstrong 2016). They are also calling for experimental risk-taking in agriculture and urban services.

These and other reforms, plus the further opening of travel, commerce, and foreign investment, will increase, not decrease, migration incentives. How these opportunities are organized through migration policies will help shape the new opportunities and contribute to further growth. Workers in the tourism industry, for instance, may be able to use their employment with international hotel chains to move to other countries for skills training and temporary employment. The growing number of Cubans studying computer engineering will also want to search for jobs that are connected both electronically and geographically to an ever widening international cyber community. With the introduction of market incentives into the economy, Cubans will be on the move.

The current U.S.-Cuba bilateral migration framework is not organized to support these constructive changes. A new approach, responding to incentives to cooperate on economic and social development, will have at least two pri-

mary features. First, a new framework will need to be regional rather than narrowly bilateral. Second, it will need to focus more on institutional rather than individual and family mechanisms to organize migration. To be successful, however, leaders from both countries will require innovative strategic discipline to continuously push back or outrun the legacy of policies that otherwise will foster the disorders and dangers that obstruct progress.

### **Foundations of a New Approach**

In their historic joint press conference in 2015, U.S. and Cuban leaders seemed to have very different starting points for a discussion of migration, despite their best efforts to convey shared interests. Secretary Kerry was quick to double down on the current framework and its narrow focus on bilateral relations. “I’ll say very quickly,” he stated in his opening remarks alongside Cuba’s Foreign Minister Bruno Rodriguez Parrilla, “we [the U.S.] currently have no plans whatsoever to alter the current migration policy, including the Cuban Adjustment Act, and we have no plans to change the ‘wet foot, dry foot’ policy at the same time. That’s where we are” (U.S. Department of State 2015). In contrast, Foreign Minister Rodriguez focused much more broadly on regional complexities, including the “dramatic situation of migration of people escaping from poverty and military conflicts...the risks, the dangers, and the need to establish an international and bilateral cooperation against trafficking in persons, human smuggling, and other events related to organized international crime” (U.S. Department of State 2015).

Naturally, rhetorical differences do not in themselves reflect divergent commitments, but in this case they highlight significant strategic variations in policy emphases. For the United States, migration seems to be primarily a bilateral issue with Cuba, influenced heavily by legacy principles and impacted by the turmoil of U.S. domestic politics. For Cuban leaders, the path forward appeared to embrace a regional focus that recognizes how improvements in relations with the United States should reach expansively into the conditions that perpetuate migratory tensions. With these strategic differences, it is not surprising that the focus of initial bilateral discussions were on tactical steps, a checklist of sorts, of moves needed across a range of topics, including travel, commerce, postal service, agriculture, public safety, and even illegal migration. Such negotiations, of course, were long overdue and necessary confidence-building efforts after nearly six decades of open hostility. However, even as these discussions proceeded, Cuban migration had emerged as a strategic problem for the region. It has increased tensions between the two governments and exposed the systemic weaknesses of U.S. policy toward Cuba and its allies.

## Steps toward a New Strategic Framework

Fortunately, a search for strategic cooperation on migration has support from progress made on measures to combat smuggling and human trafficking. Only a few years ago, Cuba and the United States were at odds over the very existence of the problem. U.S. officials condemned Cuba for ignoring the problem, while Cuban leaders highlighted the scale of the problem inside the United States. Drawing on the international framework for combatting smuggling and trafficking, Cuban and U.S. authorities successfully worked past substantial differences in definitions, the reporting of trafficking data, and perceptions of the extent and seriousness of the problem (Smith 2015). Both governments now share a public desire to prevent the illegal activities, protect victims, and enforce existing laws, setting the stage to take additional actions under the international framework.

Faced with shared risks and the consequences of illegal activities in communities in both countries, transnational strategies demand high levels of cooperation and agreement on broad principles, policies, and priorities, especially in areas where threats to safety and security overlap and converge (U.S. Office of the President 2011). To facilitate reaching this strategic vision, Cuban and U.S. negotiators would undoubtedly benefit from the successes that other governments in the region have had enforcing laws against human trafficking. For instance, U.S. enforcement authorities recently collaborated with their Mexican partners to target a trafficking organization responsible for smuggling Mexican women into the United States and then subjecting them to commercial sexual exploitation. Twenty-four women had been forced into prostitution on the East Coast through threats of violence against them and their children. The principal traffickers were apprehended in the United States and sentenced to 25 to 50 years of imprisonment, while Mexican authorities arrested the mother of the main defendants in Mexico. She was subsequently extradited to the United States where she was sentenced to 10 years in prison for her involvement in the scheme.

Regional cooperation, however, has also proven difficult, especially beyond the pursuit of specific cases. For instance, the United States currently deploys personnel throughout the region to work with allies to combat drug trafficking. Yet some senior U.S. leaders have acknowledged that these efforts are insufficient and uncoordinated. During congressional testimony, Marine General John F. Kelly, serving as commander of the U.S. Southern Command, reported that he was “frustrated by the lack of a comprehensive U.S. government effort to counter the TOC [Transnational Organized Crime] threat.... Nearly four years after the release of the President’s National Strategy,” he de-

clared, “interagency activities—especially in Central America—remain poorly coordinated and minimally funded” (Kelly 2015, 17). General Kelly called for a more integrated, counter network regional strategy that matched priorities and principles with the magnitude, scope, and complexity of the threat. General Kelly, currently head of Homeland Security, has not yet made any extensive comments on possible policies toward Cuba.

Regional cooperation will also face difficulties where policies and principles conflict. Efforts to combat human trafficking, for instance, may interfere with, or at least compete with, policies designed to promote tourism, travel, and trade. Countries linked by routine air and sea transportation share a need to monitor and inspect safety procedures and security preparations in ports and airports. But without a broad vision for and agreed upon standards of compliance, security measures may become one-sided intrusions into areas of national sovereignty, including access to sensitive critical infrastructure and a legally protected database of personal identifiable information.

The unfolding migration dilemma in Central America offers another example of how regional strategy cooperation underpins efforts to combat shared risks. It also underscores that, without an effective strategy, conflicting Cuban and U.S. migration priorities retain their proven ability to unravel cooperation and progress toward normalization.

In 2015-2016, thousands of Cuban migrants, and increasingly large numbers from South America, have been stranded along the smuggling routes that they counted on to take them from Ecuador through Central America to the U.S. border. Initially, Cuban migrants faced only the systemic dangers of migrating through this dangerous area. Governments, including the United States, tolerated the dangers because the priority policy principles at work involved granting the Cubans an exceptional reception. At the end of the long journey, Cuban migrants would receive special entry privileges, welfare benefits upon resettlement, and a facilitated pathway toward permanent residency (Fendt 2016). That possibility has been substantially diminished since January 12, 2017 leaving hundreds of Cubans stranded in Mexico, Central America, Ecuador, and Colombia.

When several governments in the region disrupted this historical practice and closed their borders to the migrants in 2015 and 2016, regional cooperation unraveled quickly. U.S. authorities reiterated the United States’ longstanding position on Cuban migration but increasingly they failed to address the difficult realities for the governments, their citizens, and thousands of the migrants from all over the region. U.S. officials offered a weak and largely dismissive remind-

er, repeating decades old assurances that there exist legal and safe options for Cubans who want to migrate to the United States (Robles 2016).

Not surprisingly, the reassurance achieved little. Regional leaders and hundreds of migrants interviewed by journalists pointedly turned to U.S. exceptionalism toward Cubans as the reason for their difficulties. Some regional leaders challenged the U.S. position, pointing to the similarities of the economic hardships for Cuban migrants with those of their own citizens. One Cuban migrant described her situation in familiar economic terms: “We sold everything we had in Cuba. Our house and everything in it,” she said.” Coyotes [people smugglers] cheated us along the way and now with the border shut off we can’t continue our trip” (Rampietti 2016, 2).

Regional leaders scrambled to create an alternate approach. Not surprisingly, the initial response was to try to expand the existing arrangements, turning to the United States to expand its exceptional practices. Undermining U.S. reassurances that legal alternatives existed, Costa Rica and Panama reached a special deal to fly thousands of Cubans to Mexico, even though once there the migrants still had to pay smugglers to negotiate their way past the violent drug trafficking organizations that control access across northern Mexico to the U.S. border (U.S. Department of Justice 2011; Mora 2011). Reminiscent of years in which the United States responded to Cuban outflows with airlifts and boatlifts, Costa Rica’s foreign minister tried to minimize the special nature of the problem. This airlift solution, he declared, is an absolute exception and only for those people who entered national territory legally.

Colombian officials have taken a different approach and challenged the principles and priorities of the entrenched exceptions for Cubans. Colombian government leaders, worried that migrants would face extreme danger from the combination of drug smugglers and human traffickers operating in the area, closed the door to migrants. They also announced efforts to deter more migrants from coming to the border area (Jackson 2015; Rampietti 2016).

The need for a new regional approach to migration is clear. The challenge is how it will develop. A regional consensus seems to exist on the underlying organization of the migration flows (Williams 2007). Whether through Central America, Mexico, or directly across the Florida Straits, migration from the region is now well-organized and largely dependent on smuggling groups (Duany 2007). There also seems to be widespread agreement that points to U.S. exceptional and increasingly indefensible policies toward Cuban migrants.

In this era of normalization, strategic cooperation between the United States and Cuba could lead to new policies and priorities, overcome the dif-



difficulties of coordinating among partners, and develop integrated operational activities based, for instance, in the law enforcement and safety standards embedded in the anti-trafficking campaigns. Strategic cooperation could unfold and realize its benefits in at least three ways.

First, governments in the region would be able to cooperate more fully and quickly with each other. In the first weeks of the recent episode, Nicaraguan authorities closed their border with Costa Rica and condemned the Cuban migrants as counterrevolutionaries, repeating the tired Cold War rhetoric that now antagonizes governments and the migrants themselves. Unlike before, the Cuban government tried to defuse the situation with an announcement that reassured and encouraged its citizens to return home where they would be treated as normal returning travelers. Departure and return could now be routine features of a normal migration policy even when serious problems occurred.

Second, as regional principles and priorities shifted to focus on ways to mobilize stranded migrants to return home—emphasizing an otherwise normal feature of regular migration—international organizations could prepare more effectively to offer relief, including transport home. Without such assistance, many Cuban migrants did not have the money to return home and re-engage in their normal lives even if they so desired. The United States already provides funds to the International Organization of Migration and other groups to provide assistance to stranded migrants, including in some instances resettlement in their home country. With a very different strategy, these organizations could prove invaluable to establishing temporary programs with updated goals.

Third, regional governments need to organize to coax the United States to change its migration policies toward Cuba. Perhaps they need to borrow ideas from the successful efforts to convince the United States to relent and join Cuba in the Summit of the Americas. Otherwise, the United States does not seem able or willing to weigh the impact of its policies on the region. Joining Cuba in a strategic discussion of regional migration could actually make a difference for the United States, enabling it to achieve some counterweight to the prominence of stalemated domestic policies.

### **Building an Alternative Binational Institutional Strategy**

To break clearly from the limits of past policies, a core principle of a new constructive migration framework should focus on fostering mutual growth and social development, and that means cooperative migration policies should create and expand human capital skills, fostering the development of brains rather than draining the brains off the island. While many have called for the end of



U.S. policies that encourage Cubans to leave the island, and there is plenty of logic to support such moves, the challenge is that currently few alternatives that, even in the absence of these exceptional policies, would resolve some of the deeply-seated inequalities that have and will continue to drive outmigration. One of the clearest examples is the current, expansive skills mismatch between education and training versus job opportunities in Cuba which drives professionals and others to leave the island.

A different binational approach to organizing migration is needed that fosters temporary, circular movement abroad to gain skills, advance careers, and earn assets that contribute to family and community at home. The approach would need to be reciprocal. The United States could benefit from the skills of many Cubans, especially professionals who have complementary experiences. Perhaps surprisingly, U.S. nonimmigrant policies—a part of the U.S. migration system often overlooked—already provides mechanisms to support these new efforts. The following examples begin to identify components of a new binational institutional approach that could solve current problems and realize shared benefits.

### **Binational Medical Professionals**

The United States announced the end of the Cuban Medical Professional Parole Program (CMPPP) on January 12, 2017. This Bush era program designed to persuade Cuban doctors to defect to the United States (Armstrong 2015). It hindered hemispheric medical cooperation, puts the professionals and their families in a difficult political and economic position, and undermined any efforts to build a regional health care system that could share expertise during emergencies and serve communities together in dire need of medical assistance. The response to the Haiti earthquake and the Ebola emergency showed how medical professionals from Cuba and the United States could serve together cooperatively and constructively. In each situation, once deployed at the scene to aid victims, the doctors were able to work together, exchange resources, and share information.

However, Cuban medical professionals, especially doctors, face a deeper structural challenge. Ending the CMPPP by itself did not solve the problem. Cuban doctors are far from the first or only group of medical professionals in Latin America to want to leave their country to pursue opportunities that better fit their skills. Argentinian doctors, for instance, went through a period of medical brain drain as many searched for better alignment of their education and specific medical training with available service opportunities. Paradoxically, the Argentinian medical system had succeeded in educating too many doctors who were overqualified

for the type of care needed by the majority of the population (Portes 1976). To advance their careers, and to realize the value of their training, the doctors sought places in the United States and Europe where they could access advanced equipment, apply their skills to more complex treatments, and participate fully in their expanding professional community.

A comparable situation has long existed throughout the Caribbean (McAlester 2012). Highly educated university graduates, unable to find jobs at home that matched their training, have sought opportunities abroad. In turn, their participation in North American and UK hospitals and patient care facilities has in many ways become essential to the performance of those institutions and the well-being of local communities abroad. The migration pattern formed binational households in which the income they gained abroad could support their families at home. Family members circulated back and forth between households to maintain the social ties challenged by geographical distance.

The formation of these binational ties, however, does not generate the reciprocal benefits in the Caribbean that many, and certainly Cuban, leaders would desire. Informal brain drain, driven simply by the pervasive wealth differences with North America, could reproduce the same relative harm of exceptional, targeted U.S. policies. For instance, as Cuban institutions work to expand enrollments in computer-related and other cyber skills programs, a new skills mismatch could emerge that stimulates efforts to seek employment abroad. Domestic demand for these skills will likely be insufficient to absorb the new graduates, even as foreign investment and domestic reforms expand opportunities. A new generation of cyber savvy youth will also be less likely to be satisfied economically, socially, and culturally in a context where their peers have electronic and geographic access to an expanding international community.

A constructive migration framework needs to anticipate and support expanded circular movement that is both temporary and targeted, and can function at a scale greater than past exchanges. Currently, familiar binational exchanges involve limited university exchange programs, conferences, or philanthropic fellowships. A binational institution would be an entity located both in the United States and Cuba, with professionals, workers, and students participating in each location who would routinely spend time in each place. A binational medical institution, for instance, would engage faculty and students in programs, classes, and even joint treatment efforts in both places. Imagine, for instance, a training institution for emergency medicine in which the varied experiences of doctors who have responded to crises around the world could be shared. U.S. doctors and students could benefit from the field experiences of many Cuban

professionals who have worked in remote areas, perhaps helping to resolve some of the problems in the United States with the delivery of health care in rural areas and among deeply impoverished communities. In turn, Cuban professionals could become part of an advanced medical community with access to the latest technology and techniques. Both groups would have much to learn from each other and benefits to share to local communities. But it would require an institutional stability to ensure that the benefits of circular movement are shared reciprocally in both Cuban and U.S. communities.

The U.S. visa system currently offers at least a skeletal structure of this type of institutional migration (Travieso-Diaz 1998). Intra-company transferees, for instance, are eligible for an L visa that permits employees of firms with locations in different countries to spend extended periods in each place. Visa regimes such as these increase the integrity of migration policies and practices because responsibility for ensuring periodic return is shifted from the individual and the government to an institution that benefits directly. Of course, the United States would still need to eliminate the special privileges that allow Cubans to stay in the United States. But in this case the United States would not be removing a privilege as much as expanding an opportunity.

### **Binational Sports Professionals**

The migration of sports celebrities, especially baseball players, offers another example of an opportunity to transform a legacy of danger and disorder into reciprocal benefit. Although it may seem frivolous to focus on baseball as a model for large-scale transformation of migration policy, the persistent and sometimes wild travels of Cuban baseball players to the United States uncovers and highlights the core principles of a new migration framework. It underscores how, without substantial reform, current policies perpetuate illegal, disorderly, and unsafe realities, corrupt authorities, and delegitimize core cultural institutions.

The huge gap between the salaries and career celebrity of players in Cuba with those who make it to a U.S. major league team creates an overpowering, yet unsurprising, incentive for migration. For Cuban athletes, whether they became stars or only longed for the chance, Cold War policies turned sports dreams into ideological theater. Every athlete who left Cuba was defined as a traitor who was abandoning a privileged position given to them by the Revolution. In turn, the United States used each instance to reinforce its own ideological priorities, denouncing Cuba with each celebration of an individual's rescue.

In recent years, these highly politicized characterizations have waned and some Cuban players have been able to return to the island. But for many play-

ers the journeys have changed for the worse. From early recruitment to transit and on to performance, the journey now resembles smuggling and trafficking: openly dangerous, explicitly illegal, organized by renegade middlemen, and implicating major institutions. The similarities are not surprising because the entire transaction has become intertwined with the same networks that move families, children, and workers throughout the region. Baseball players are now smuggled out of Cuba into Central America and Mexico before reaching the United States, following the same routes and methods used by criminal organizations.

The trade in baseball players succeeds through the deliberate evasion of immigration laws and thrives on the corruption of local authorities. It also involves the coercive and abusive treatment that supports the financial gains typical of human trafficking (U.S. Department of Homeland Security 2013). While the smuggling and trafficking of sports workers does not reach the scale or depths of the harm facing women and children, baseball players were often held captive for months and abandoned before they reach the United States. For each player who makes it to the United States and is awarded a celebrity contract, many more are hurt and can no longer perform or are simply not competitive enough to be wanted by the major leagues. They end up stranded stateless in an unfamiliar Central American community (Talbot 2007).

During the last decade, a series of legal actions in U.S. courts have exposed these coercive migratory labor practices. According to Paul Minoff, the lawyer for one of the players, “We can no longer turn a blind eye to the suffering of these players and their families, can no longer allow their journey to a better life to be handled by criminals of the lowest order...Nobody can deny that our stock of Cuban baseball players, for the most part, involves smuggling, kidnapping, extortion and extreme danger” (Scoutsaysweetersisabust 2016, 1)

Financial rewards and the glamor of stardom have also allowed baseball officials and government agencies to tolerate the obvious risks embedded in these migration realities. For example, in August 2010, according to journalistic accounts derived from court documents, Leonys Martin and his Cuban family landed on the shores of Mexico where they expected a safe reception. Instead, two armed men met them. One said, “You are worth a lot...I am not going to let you go” (Passan et al. 2013, 1). Later they were taken to a house in Florida where they remained captive while waiting for a Major League Baseball team to pay the arranged contract. Major league baseball scouts, and those receiving fees paid by these scouts, reportedly watched the stranded players train informally and relayed their assessments back to their teams (Posner 2016; Sanchez 2016a, 2016b).

The harm from this particular migration pathway is not limited to those who must endure the journey itself. As with other forms of trafficking, families and the broader community are harmed by a corrupted version of success and the steps required to be competitive. Future athletes in Cuba are denied, on the one hand, open opportunities to compete fairly for recognition, while on the other, few rewards from their success abroad can be recovered and shared with the players' local communities. It is a system, an underground labor market that works to drain Cuban sports of their best performers, limiting the success of the athletic community from the benefits of international investments and recognition, and transferring the financial gain to the United States.

Major League Baseball has recently engaged in discussions with Cuban officials to begin to alter the conditions and terms of recruitment for Cuban players (Straus 2016). The plan's terms would be good first steps toward building a new binational approach to migration. In particular, Cuban players would be able to move back and forth between the United States and Cuba, allowing them to work in the major leagues and maintain their residences and family ties on the island. Athletic programs in Cuba could grow with increased financial support and the players and coaches could participate fully and advance within their professional community. Almost certainly, the circular exchange would stimulate investments in Cuban athletic infrastructure to support baseball and other sports and, of course, major league baseball would benefit. By early 2017 some progress had been made in this direction.

The benefits would be almost immediate. In particular, the transparent rules and regularized circular movement could take the money out of smuggling, significantly transforming and reducing disorderly and illegal migration. But as a binational institutional approach, it is only a good start. The Major League Baseball (MLB) would create a new institutional entity led by Cuban entrepreneurs and MLB's corporate and union leaders to oversee the recruitment and signing of Cuban ball players (Sanchez 2016a). It would also use portions of the Cuban players' salaries to support youth baseball and sports facilities in Cuba.

The plan needs several supportive U.S. policy changes. First, without a special visa arrangement or repeal of the Cuban Adjustment Act, the expectations and value of normal circulation of players between the United States and Cuba could be easily destabilized. The value of a binational institutional approach rests upon routine, stable circular movement. If Cuban athletes and their traveling companions remain exceptionally eligible to adjust their immigration status under the Cuban Adjustment Act, their recruitment would continue to be linked to unique financial rewards rooted in their settlement in the United

States. Major League Baseball, like other international corporations, needs to share responsibility for the players' adherence to visa rules and circulation between the United States and Cuba, accepting the risk of losing their investments if a player violates the immigration rules.

Second, a binational institutional framework could help establish labor standards as part of the international labor flow and promote rules for mutually beneficial investments. In the MLB plan, for instance, it is unclear why Cuban players themselves should be asked to underwrite the new arrangements. Presumably, part of this requirement results from necessary efforts to get past the U.S. embargo's restrictions on U.S. financial support that goes directly to the Cuban government. Obviously, the United States could eliminate that restriction. Still, arrangements with Cuban players should not, without agreement, differentiate their recruitment from their colleagues already in the MLB. Major League Baseball currently does not require players to devote part of their salaries to non-profit youth baseball and sports promotion in general, although many professional players voluntarily contribute. Major League Baseball teams should support practices as they do elsewhere in the Caribbean as a way to build farm teams and leagues that create a future pool of talent. Because of the popularity of sports, these investments would help demonstrate the benefits of a reciprocal migration framework. U.S. players at all levels could increase their play in Cuba, enabling youth from both countries to learn from each other and test their growing skills.

Third, these baseball arrangements could help to establish broader rules for binational labor policies. As travel between the countries increases and foreign investment expands, more Cubans will work for foreign employers, and more U.S. employers will hire local Cubans. As noted previously, the United States has a full range of nonimmigrant visa categories designed specifically to enhance the temporary movement of people in various professional, labor, training, and educational categories. Having a well-received institutional model designed specifically to promote circular movement, and to benefit both Cubans and United States citizens when they are in each other's country, could serve to prevent each business, each worker, each sector from negotiating new rules and practices. Binational sports institutions can lead the way because they could be clearly mutually rewarding, reciprocally organized, and positively detached from the legacy of previous conflicts.

## **Conclusion**

Former Cuban President Fidel Castro once described to U.S. diplomats his essential criticism of U.S. policies: "Perhaps it is idealistic of me, but I never ac-

cepted the universal prerogatives of the United States. I never accepted and never will accept the existence of a different law and different rules” (LeoGrande and Kornbluh 2014, 29). Whether due to different prerogatives or not, future progress between Cuba and the United States depends on a fundamental reformulation of migration policies and principles deeply rooted in exceptional rules and laws. The best way to ensure that new practices benefit both the United States and Cuba is for the two countries to design them in consultation.

The two governments have made a good start, taking up a broad range of issues for discussion. But without a broader strategic discussion, and innovative approaches that focus as much on shared benefits as harmonized procedures, it is not clear what direction normalization will go when all the issues are added up. A broader strategic discussion is also urgently needed to maintain cooperation when specific problems and episodes of noncompliance inevitably emerge. Already, migration policy issues are contributing to both bilateral and regional tensions.

So much needs to be and could be done, that the natural question is why the United States appears to be so reluctant to change its migration policies. What is U.S. policy waiting for? The answer is likely to be a combination of several considerations. First, according to informal comments by U.S. officials, a major reason comes from a familiar source and concern: the Cuban community in the United States, including many of the same organizations and groups that resisted the opening of relations with Cuba the first place. The argument appears to be that Cold War U.S. immigration policies provide protection, a safety net, for Cuban citizens in case the normalization process stalls or reverses. Once the legacy safety net provisions—such as the Cuban Adjustment Act—are fully eliminated, the argument goes, it would be much more difficult to reinstate them.

A second argument stems from the general domestic political turmoil around immigration policy. At a time when immigrant groups still strive for legalization, struggling especially to protect family members from deportation, the perception is that a change in Cuban policy would reinforce an overall conservative view of immigration. To the extent that ending exceptional programs for Cubans is seen as taking something away from immigrant communities, no change is viewed as a better political strategy.

Ironically, as immigration politics spin perceptions 360 degrees, some migration and refugee advocates have turned Cuban exceptionalism into a model for all groups. Some church leaders in Miami, for instance, who have struggled for decades to reconcile the clear inequality and unfairness of the Cuban programs with how Haitians and others have been treated, have now simply switched to advocate that all immigrants should have what the Cubans have



(Wenski 2015). Groups dedicated to protecting Central American migrants, especially unaccompanied minors reaching U.S. borders, appear especially interested in extracting some of the generous protections embedded in the policies toward Cubans to support their legislative efforts.

A third, but far from final, possibility is an old one that has now ironically flipped its political context. For years, most observers acknowledged the exceptional influence of the conservative Cuban community in South Florida in crafting U.S. migration policy. National political candidates had to pay attention to the community's conservative leanings if they hoped to do well electorally, especially in Florida. The strength of that community, however, has waned. The exile generation has aged, a more liberal U.S.-born Cuban American generation has emerged, and all of South Florida has become more diversified with the influx of non-Cuban immigrants and non-Hispanic citizens resettling from northern cities. A new political calculation focuses on efforts to integrate the more liberal Cuban Americans into a national Latino coalition in which there is strong support for maintaining and expanding all immigration opportunities and privileges. Changes in migration policies for Cubans could appear generally restrictive and undermine these broader campaign efforts.

The challenge for U.S. and Cuban cooperation on migration is that nearly all of these arguments for delaying change are rooted in domestic U.S. politics, as they have been for the last roughly sixty years. A new approach that engages the United States and Cuba in constructing a larger regional framework must overcome these domestic concerns. One way is to demonstrate the mutual benefits of the binational institutional arrangements discussed earlier. Routine, circular migration that builds binational ties can be more powerful and helpful to U.S.-based communities than the older, legacy frameworks of one-way, permanent migration. U.S.-Cuban cooperation could also make more progress, in the absence of an effective regional strategy, on addressing some of the conditions that drive people out of the region, including the suppression of violence and abuse and transformation of criminal transnational gangs.

The promise of December 17, 2014, and the expectations of change had only just begun to yield concrete ideas for large-scale policy reforms.



## NOTES

<sup>1</sup> Democracy promotion refers to a series of outreach programs sponsored by the U.S. government designed to engage Cubans in activities that could soften support for the Castro government and to expand interest in a range of nongovernmental interests. Consistent with efforts taken in other Communist countries, the programs began by providing informational materials (books, newspaper clippings, etc.) often critical of the government. The 1996 Helms-Burton Act increased the aggressiveness of these programs and began providing assistance and support to nongovernmental organizations and groups. Under the Bush Administration, the democracy promotion programs became explicitly associated with “regime change” and have sparked opposition from Cuban authorities.

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## **Cuba, the U.S. and the Concept of Sovereignty: Toward A Common Vocabulary?**

Ashley Miller & Ted Piccone

The December 17, 2014, announcements by Presidents Barack Obama and Raúl Castro that the United States and Cuba had agreed to reestablish diplomatic relations (known as D17) was a watershed moment in U.S.-Cuba relations. After an extended period of hostilities and antagonism, D17 opened a new, more positive chapter in the way these two countries relate to one another as sovereign nations. This is not merely a theoretical or rhetorical issue: it goes to the heart of Cuba's longstanding quest for true independence. Yet the two states understand the critical concept of sovereignty very differently, or at least emphasize different aspects of it, and have lived it in asymmetrical ways. In an effort to help these two nations live out their differences in peace while also finding new opportunities for dialogue and cooperation, it is useful to examine areas where they may agree on the concept of sovereignty as well as where they disagree. Developing a mutual understanding and respect for where each other stands on this concept will support the next stage of closer relations and consolidate this pivotal shift towards normalization.

To tackle this thorny subject, we will discuss different elements of classical and modern definitions of sovereignty as they apply to the recent history of U.S.-Cuba relations: traditional state sovereignty, economic sovereignty, territorial sovereignty, and popular sovereignty.

### **Sovereignty Defined**

Although understandings of sovereignty have evolved over time, the earliest and most traditional definition asserts that states have the freedom to govern themselves as they choose, with full control over their internal and external affairs and free from interference or intervention (Glanville 2014, 2). This definition shifted after World War II when sovereignty and the reality of the interdependent nature of the modern world were couched in an internation-

al and globalizing system of interstate relations grounded in human dignity (Dent et al. 1996, 3). Thus, over time a state's respect for universal human rights became an important element of the legitimacy of state sovereignty. With the creation of the United Nations based on the sovereign equality of all members, but also on the adoption of the Universal Declaration of Human Rights, member states agreed to establish a set of norms that curtail their own sovereignty to a limited extent in order to better maintain peace and security (Grimm 2015, 84).<sup>1</sup> After the Cold War, as democratization trends accelerated and UN member states began to exhibit less tolerance for atrocities like the Rwandan genocide, the concept developed further to reconsider the nonintervention aspect of sovereignty. States began constructing norms to govern interstate actions to protect populations (e.g., humanitarian interventions in Somalia and the Balkans) and hold leaders accountable to their international commitments (e.g., the UN-mandated intervention to restore democratically-elected President Jean-Bertrand Aristide to power in Haiti and the proliferation of regional anti-coup mechanisms in Latin America and elsewhere).

This evolution was underpinned by a contemporary and pragmatic reconciliation of state sovereignty with state responsibility, which led to the adoption by consensus of the Responsibility to Protect (R2P) doctrine at the United Nations in 2005.<sup>2</sup> While implementation of R2P has been controversial in places like Libya, it has also played a key role in UN-mandated actions in Côte d'Ivoire and in a number of peacekeeping operations. Today's conceptualization is termed by some as "humanized sovereignty," by others as "responsible sovereignty" (Grimm 2015, 125; Jones et al. 2009, 9; Deng et al. 1996). The 1993 Vienna Declaration and Program of Action, which Cuba committed to and has affirmed (Minrex 2003), upholds the notion of "humanized sovereignty" and codifies human rights, declaring that "human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments" and asserting that "democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing" (United Nations 1993).

When the concept of sovereignty first emerged, the principle of self-determination was paramount; the sovereign (no matter how chosen) was the law-maker and thus considered to be above scrutiny under the law.<sup>3</sup> This changed in the 18th century with the American and French revolutions and the adoption of constitutional processes whereby popular sovereignty became the basis of legitimate rule. Popular sovereignty is derived from the consent of the governed and based on the protection of individual rights; when the state fails to

protect these rights, the people have the right to dissolve the government and set up new trustees for that protection (Glanville 2014). This is most commonly exercised through regular free and fair elections.

The evolution of sovereignty in Spain and Portugal differs in some critical manners from that of France and England, which had important and lasting implications for Latin American state development (including Cuba) given the colonial relationship. When they were first established in the 15th century, the Spanish colonies were seen more as Queen Isabella's personal property than property of the Spanish state (Crahan 1982, 25). Therefore, leadership in the New World benefited more from a close and favorable relationship with the crown than anything else. This coupled with the personalistic structures of the Iberian empires meant political participation under colonial rule was contingent on government favor, which reinforced the monarchy as the source of authority—the opposite of the popular sovereignty being germinated at the same time in the United States and France (Crahan 1982, 28). Furthermore, Spain and Portugal did not develop their modern nation-states until after the imperial period, and so left a legacy of paternalistic leadership that was continued by the *caudillos* of Latin America. Thus, when the colonies transitioned to become republics—which in practice were power transfers from one group of elites to another more than revolutions as seen in the United States and France—there were few meaningful protections for individual rights for the new governments to expand or avenues for political participation (Crahan 1982, 35). In the 19th century when constitutions were being drafted, liberal values from France, Britain, and the United States were largely incompatible with the Spanish tradition, leading to strict press laws and limited freedom of worship, in an effort to protect the Catholic Church. Rights were determined by one's position in the whole and their suspension or restriction was protected in these new constitutions in the name of order, stability, and progress (Loveman 1993, 4).

State sovereignty has been a cornerstone of many regional treaties and charters in the Western Hemisphere, including the 1948 Charter of the Organization of American States. However, it has also been recognized and codified that the protection of human rights and freedom are critical to peace and states should respect human rights (Crahan 2013, 372). Moreover, despite the strong tradition of nonintervention on the basis of respect for state sovereignty, a regional consensus has been growing regarding the necessary conditions for when intervention on behalf of human rights may be permitted, including an immediate threat to fundamental human rights where all other remedies have been exhausted and there is minimal effect on the existing authority structure



(e.g., not used for regime change), and the intervention will be of limited duration with minimal use of force that is unlikely to cause greater injury than the threatened violation (Crahan 2013, 373).

Nevertheless, the principle of sovereignty based primarily on the U.S. and French traditions remains the foundational element of interstate relations, reflected in international treaties, founding documents of regional and international organizations, and international laws to which states, including Cuba and the United States, have almost universally subscribed. Yet the vocabulary used to discuss sovereignty diverges among many nations, no more acutely and perhaps with no greater implications than between these two countries.

### **A Very Brief History of Cuba's Sovereignty**

For most of Cuba's era of independence (1902–present) it has labored under limited sovereignty, based in part on its history under Spanish rule as previously examined and due to a series of U.S. interventions and controls. U.S. interference began as far back as the U.S. military intervention to support the Cuban war for independence in 1898. Cuba took its first steps toward self-government with the election of the constitutional convention in 1900, but that was followed by the well-known 1901 Platt Amendment—written into the Cuban constitution—which ultimately preserved the U.S. right to intervene in Cuba's internal affairs, curtailed Cuba's freedom to enter into treaties with other countries, and monitored its financial relations. From 1906 to 1922, U.S. Marines were sent to the island numerous times to enforce civil peace and protect U.S. commercial interests.<sup>4</sup> The United States also maintained control of an open-ended lease of the Guantánamo Bay land on which it established a 45-square-mile deep water naval base that—despite President Obama's good-faith efforts to at least close the detention center there—remains active today.<sup>5</sup> In 1934, President Franklin D. Roosevelt, as part of his Good Neighbor policy, withdrew the Platt Amendment, one year after the Cuban government renounced it, but kept control of Guantánamo Bay.

Around this same time, Havana hosted the 6th International Conference of American States in 1928. This meeting was relevant for the discussion of the limits on sovereignty. The Cuban delegate asserted at the Conference that complete condemnation of intervention “would result in ‘sanctioning all the inhuman acts committed within determined frontiers,’” and thus there should be limits on nonintervention (Crahan 2013, 372).

In response to the 1959 Cuban Revolution and catalyzed further by the Missile Crisis of 1962 and a series of nationalizations of private property



owned by U.S. citizens, the United States withdrew diplomatic recognition of the island and imposed a comprehensive arms and economic embargo; three decades later, the embargo was codified in U.S. law in 1996 after Cuba shot down two aircraft piloted by Cuban exile groups operating out of Florida.<sup>6</sup> The United States has also carried out multiple attempts to terminate the Communist Party's control of the Cuban state. The most well-known of these is the failed Bay of Pigs invasion in 1961, but the year prior President Dwight D. Eisenhower approved a plan to train Cuban exiles to commit violent acts of terrorism within Cuba against civilians, and the CIA trained and commanded pilots to bomb civilian airfields (Alzugaray and Quainton 2011, 77). This is to say nothing of the U.S.-sponsored assassination attempts against Che Guevara and Fidel Castro and suspected U.S. government involvement in attempted kidnappings and disappearances of Cuban nationals and diplomats over the years (Alzugaray and Quainton 2011). U.S. government officials justified some of the terrorist attacks on Cuban soil on the grounds of coercive regime change, which was aimed at fomenting a violent overthrow of the Castro government. Such attacks reinforced the still dominant Cuban view that the superpower United States presented an existential threat to their socialist system and demanded a vigorous defense of traditional concepts of nonintervention in internal affairs and self-determination, concepts hardwired in Cuban diplomacy. In addition to battling in the halls of the United Nations, Cuba retaliated against those attacks in other ways, including sending five Cuban agents to the United States to obtain information about planned terrorist activities against Cuba (known as the Cuban Five), providing support for revolutionary forces in Central America and Southern Africa, and providing safe harbor for fugitives fleeing U.S. justice (Alzugaray and Quainton 2011). Cuba also turned to the Soviet Union as its chief sponsor and ally and developed a complex relationship that created dependencies that also impinged on its sovereignty.<sup>7</sup>

The facts are clear: for much of its history as a modern nation state, Cuba has been unable to fully exercise its sovereign authority in the international system. Now fast forward to December 17, 2014: For the first time since President Franklin D. Roosevelt articulated his Good Neighbor policy, the president of the United States stated that he was prepared to accept Cuba as a sovereign nation based on mutual respect. Seven months later, the two governments agreed to reestablish diplomatic relations after more than five decades of frozen relations, hostilities, and isolation. This was a major breakthrough—the formal recognition of Cuba's right to sovereign equality under the Vienna Convention and other norms of international law. Also that year, President Obama removed

Cuba from the list of State Sponsors of Terrorism, another critical step in recognizing the realities of today's Cuba, one which no longer supports international terrorism (though still harbors U.S. fugitives, a matter being addressed through bilateral dialogue). Among other things, this step restored Cuba's sovereign immunity in U.S. courts after years of civil judgments that found Cuba liable for billions of dollars in damages to U.S. plaintiffs. He further instructed his cabinet to begin a series of talks and negotiations on a wide variety of issues ranging from environmental protection to counternarcotics and postal relations, all on the basis of sovereign equality. This was an indispensable foundation on which to start the process of full normalization.

### **Three Facets of Cuba's Limited Sovereignty**

Despite the events of recent years, three elements of Cuba's sovereignty remain compromised. First and foremost is Cuba's economic sovereignty. Under U.S. law, Cuba faces one of the most onerous sets of U.S. sanctions of any country in the world. This includes a prohibition on U.S. investment in and trade with Cuba (with exceptions for food, medical supplies, and some telecommunications when paid for in cash in advance), a freeze on Cuban government assets in the United States, the elimination of all U.S. tourist travel to Cuba, and limitations on financial transactions, with burdensome penalties being levied on international banks that commit violations. In practice, the financial restrictions are extended to third parties because most financial transactions run through U.S. banks; similarly, the trade restrictions have wide impact since freight until October 2016 could not be unloaded in the United States from vessels that have visited Cuba within the previous 180 days without a specific license from the Treasury Department (Sullivan 2016, 20).

President Obama was committed to easing the embargo where he could and took several steps in 2015 and 2016 to allow greater travel, trade, and exchanges (U.S. Department of Treasury 2015). He can do more—U.S. legal experts have made a persuasive case for this—and are expected to take additional measures as the normalization process unfolds. Such actions could include expanding people-to-people travel to license individuals to travel under the authorized category of “support for the Cuban people,” extending educational travel beyond credit-granting programs, more liberally interpreting current statutes regulating the sale of medical products, further clarifying banking and finance regulations, and permitting U.S. insurers to sell a broad range of policies and products to non-U.S. travelers and carrier service providers (Propst 2015). On October 14, 2016 the Obama administration further relaxed some restrictions.

The regulations announced in January 2016 which made possible the reestablishment of commercial flights between the two countries and further liberalized financing terms for exports to Cuba were a useful next step, but much more remains to be done to attract business and assure U.S. banks of when and how they can do business without running afoul of regulations as currently written. These efforts could be advanced by the Trump administration or could be reversed. But the core of the embargo remains in place and requires congressional action to lift it. To that end, President Obama has called on Congress to repeal the embargo (or “blockade” in Cuban parlance) without conditions, a long-standing demand of the Cuban government. Various factions of the U.S. Congress in both houses and on both sides of the aisle have mobilized to ease or lift the embargo, but due to strong opposition in the Republican leadership, no action is expected in the near future. Conditions placed on lifting the embargo as currently codified include the establishment of a democratically elected government in Cuba, a transition government expected to lead to a government that does not include Raúl Castro, as well as the resolution of outstanding certified U.S. property claims in Cuba (Libertad Act 1996, Sections 204–207;., Feinberg 2015). Unless Congress rescinds or otherwise reforms the current laws governing the embargo, these large hurdles would have to be cleared to resume a fully normal economic relationship that acknowledges and respects Cuba’s economic sovereignty.

Secondly, Cuba’s sovereign control over its own territory has been traditionally limited. U.S. control of the site at Guantánamo Bay has had multiple uses over the years but its current use as a camp for detaining “Global War on Terror” prisoners outside the law is shameful. President Obama, to his credit, tried to end this practice but Congress opposed him and he did not succeed before his term in office concluded. If and when the detention center is closed, there will be a strong argument—both legal, in light of normalizing relations, as well as practical—for finally returning Guantánamo Bay to Cuba. Some observers have even suggested creative uses for the site going forward that would benefit Cuba and the region, such as converting it to a research and education center (Pickering 2015). The Cuban government has made it clear that the return of the site at Guantánamo Bay is a requirement for full normalization, and it is equally clear that it is a critical step in fully recognizing and respecting Cuba’s territorial sovereignty.

Another unresolved aspect of territorial sovereignty concerns the nearly 6,000 outstanding U.S. property claims. Bilateral talks on this topic were underway, starting in December 2015. On this issue, there is some common ground. Both countries recognize that a government has a sovereign right to national-

ize property contingent on adequate and effective compensation for the takings (Feinberg 2015, 8–10). Indeed, Cuba has settled a number of property claims with countries such as Canada, Spain, France, Switzerland, and the United Kingdom, so there is clearly room for negotiation and resolution (Feinberg 2015, 11). This matter fits more squarely within a classical definition of sovereignty which Cuba typically relies on and thus may be a matter the two governments can see eye to eye on, politics aside. Cuba's claim for damages associated with the embargo, on the other hand, could complicate matters.

The final aspect of sovereignty to consider is popular sovereignty. This constitutes perhaps the most sensitive and widest gap between the two countries. Under international law, as well as both the U.S. and Cuban constitutions, the people are sovereign and the source of governmental authority rests with them (Deng et al. 1996; Glanville 2014; U.S. Constitution; Constitution of Republic of Cuba). But the two countries have very different ideas with respect to how the people exercise their sovereignty.

International law, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), enshrines the notion that government authority stems from the will of the people. As article 21(3) of the Universal Declaration of Human Rights states: "The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections" to be held in an environment of respect for civil and political rights (United Nations 1948). Such an environment would include giving citizens a right to freely express their views, receive information from independent sources, freely assemble and form organizations, allow independent election monitors, and other similar civil and political rights. Seeking out the expression of the will of the people in this manner provides a mechanism of regular accountability between the governors and the governed, in keeping with more modern accepted norms of the responsibility inherent in sovereignty (Arthur 1996; Deng et al. 1996; Chambers 2004; Glanville 2014; Lagon and Kaminski 2014).

Cuba has a very different model. The Cuban Constitution itself states that "[I]n the Republic of Cuba, the sovereignty resides in the people, from whom all of the power of the State emanates" (Cuban Constitution, Art. 3). Yet, according to Cuba's leadership, the will of the people was fully expressed in the 1959 Revolution; consultations through Communist Party structures and mass organizations, referenda, and elections to the People's Assembly, in their view, are adequate to meet the requirements of popular sovereignty.<sup>8</sup> Some sovereignty scholars argue that sovereignty and liberal democracy are not prerequisites

of one another and in fact do not necessarily go hand-in-hand, by extension supporting—or at least not negating—Cuba’s approach as a legitimate expression of its sovereignty (Tansy 2010). This stands in contrast to periodic opportunities for holding leaders to account through regular, free, and fair elections prevalent in many other countries around the world.

In addition to the obvious tension between these principles and universal human rights norms which Cuba (and the United States) have accepted under international treaties such as the ICCPR is the question of international scrutiny of state behavior on these matters. In this regard, Cuba, like the United States, has a mixed record. It has accepted UN mechanisms like the Universal Periodic Review (UPR), a process by which states systematically and publicly examine one another’s human rights records and offer recommendations for improvement. It has a 100 percent participation rate and Cuba, like the United States, has fully engaged as both a peer reviewer and a state under review. Cuba has even accepted upwards of two-thirds of the recommendations offered to it by other countries to improve its human rights practices, although less than one third of the accepted recommendations were robust, action-oriented recommendations (Universal Periodic Review Info 2015). By acceding to these mechanisms, Cuba accepts the principle of international scrutiny of its human rights record, just as the United States and every other nation in the world does and just as scholars have asserted is required in the modern, “humanized” understanding of sovereignty (Grimm 2015, 125). Thus, on this point there is some agreement between the two states.

Cuba is no stranger to the UN human rights system in other ways, either. For example, it has a strong record on delivering economic and social rights, which Cubans proudly tout as a key achievement of the Revolution. Not only has it lived up to its commitments domestically by extending such rights to all citizens, but Cuba has stood as a champion for economic and social rights on various platforms at the UN. For example, nearly all of the fifteen resolutions for which Cuba was a primary sponsor at the UN Human Rights Council in 2015 fell in this category. By objective measures like the UN Development Program’s Human Development Index, Cuba has much to offer the rest of the world in terms of the progress it has made in delivering universal rights to education and health care.

On the other hand, Cuba has fallen short of its numerous commitments to uphold international labor standards, despite having extensive language protecting workers’ rights in its constitution. As of January 2016, Cuba had ratified ninety International Labor Organization (ILO) conventions, including eight of eight fundamental conventions, the most recent of which was ratified in Sep-

tember 2015—so it is still actively engaging with the ILO. By comparison, the United States has only ratified fourteen conventions, and two of eight fundamental conventions, the latest of which was in February 2001. These numbers reveal a clear divergence in terms of each government's official commitment to ILO labor standards; in practice, the two states' behavior and policies dramatically diverge as well. Through its ILO membership, Cuba has addressed sixteen freedoms of association complaints, the most recent of which was filed in 2003 and closed in 2006 with the inspection committee expressing regret that the Cuban government had not done more to heed its recommendations. The complaint addressed Cuba's recognition of only one official, state-controlled trade union, and the hostile environment for independent trade unions (which are prohibited), including arrest and harassment of trade union members, lack of legal right to strike or bargain collectively, and the infiltration of state agents into the independent trade union movement (International Labor Organization 2006). This case, just one example, further reveals the tension between Cuba's closed political system and its supposed commitment to universal labor rights.

In addition to an embargo conditioned on the establishment of democracy on the island, for many years the U.S. Congress has earmarked approximately \$20 million per year for democracy promotion programs in an effort to foster popular resistance, overthrow the Castros, and pressure Cuba to adhere to international norms of civil and political rights. A few of these programs have been innocuous enough in their support of a weak and suppressed Cuban opposition, democratic forces, and human rights defenders. But many have been decidedly acerbic to bilateral relations by—in the Cuban view—manipulating Cuba's internal affairs by attempting to recruit participants covertly into fomenting dissent or actively overthrowing the Castro regime. Zunzuneo, the “Cuban Twitter” program crudely designed to provoke opposition through social media, is but one recent and highly publicized example (which failed). Alan Gross came to embody both the face of U.S. democracy promotion efforts in Cuba and the tension it fosters. Gross, a USAID government contractor working reportedly to expand internet access for religious communities on the island using these democracy promotion funds, was arrested in 2009 for “acts against the independence and territorial integrity of the state,” and sentenced to fifteen years (Popular Provincial Court 2011). The United States had hoisted itself by its own petard as the Alan Gross situation came to define bilateral relations before finally reaching resolution when Cuba released Gross on humanitarian grounds as part of D17.<sup>9</sup> In addition to these highly publicized examples of programs funded by the \$20 million yearly earmark, since 1984 the United States has also

appropriated an additional \$797 million in total (\$27 million in FY2015 alone) to run Radio and TV Martí (Sullivan 2016, 48). These U.S.-based broadcasts meant to foment anti-Castro sentiment reach only a very small audience on the island and have been less than successful in turning the tide in favor of democracy than they have been in offending Cuban pride and fueling the simmering tension.

Because of this long history of U.S. attempts to overthrow the Cuban system, the embargo and issues like U.S. democracy programs in Cuba, the legacy on this issue is bitter and acutely felt. These approaches have been harmful to the bilateral relationship and of highly questionable impact. It is difficult to have a frank conversation on this topic because it hits at fundamental existential questions. In their D17 speeches, both presidents expressed an understanding of their deep differences on democracy, human rights, and foreign policy, but also a genuine willingness and commitment to dialogue on these issues (“Speech by Cuban President” 2014; White House 2014). While both states appear open to a respectful dialogue on these important issues, the bilateral talks on human rights did not begin until March 31, 2015.

### **Concluding Observations**

In light of the developments of D17 and a mutual desire to coexist more peacefully, what should the United States and Cuba do next? On the U.S. side, the government—including Congress—will have to revisit its democracy promotion programs if it is to make good on its stated promise to let the Cuban people determine their own future. President Obama had advanced far in this direction by acknowledging that the United States was no longer in the business of regime change and calling on Congress to lift the embargo (White House 2015). His historic trip to the island in March 2016 continued building momentum toward normalization and pressure for lifting the embargo. Obama did make additional regulatory reforms, but it is Congress that needs to take the next big step, as well as the Trump administration. Over time, critical constituencies like U.S. agricultural groups, U.S. business councils, the tourism sector, and other sectors of the U.S. public who want to engage more regularly with their Cuban counterparts will have to convince Congress that it is time to lift the embargo. The travel ban should also be lifted, though as with the embargo, a number of other conditions should be met for this to happen; it is at least a potential middle step toward wholesale repeal of the embargo.

On the Cuban side, as Havana considers how to update its model to achieve prosperous socialism, it faces a dilemma on how to modernize its interpretation of popular sovereignty. How should Cuba exercise popular sovereignty in ways



that more closely align with the international treaty commitments it has accepted? Under 2002 amendments to its constitution, Cuba's socialist system is considered permanent, thereby making more substantial moves toward a more liberal economic system difficult.<sup>10</sup> Nevertheless, is there a means by which Cuban citizens can more actively participate in building this new model of prosperous socialism in keeping with modern definitions of popular sovereignty, including the holding of free and fair multiparty elections observed and reported on by independent monitors and an independent media? This is for the Cuban people to determine as the nation recovers all aspects of its sovereignty and sheds its Spanish tutorial inheritance in favor of political pluralism as practiced today throughout Latin America and the Caribbean.

The United States can support the Cuban people in their own process of self-determination, but should not do so through aggressive interventions that punish the entire population as it has through the embargo. The United States is in a sensitive position given the history of hostility and overreach and so must be respectful of Cuban sovereignty while also encouraging Cuba to upgrade its respect for international norms of labor, civil, and political rights. Likewise, the United States can continue to improve its own human rights record and invite more international scrutiny. For example, the United States could come to an agreement on terms for international inspection visits to U.S. prisons, including to the detention center at Guantánamo Bay.<sup>11</sup>

Over time, the United States and Cuba can enjoy a healthier bilateral relationship as Cuba fully realizes its independence as a sovereign state accountable to its citizens. But success is not guaranteed. With leadership changes in both countries (2017 in the United States, 2018 in Cuba), staying on the path of respectful dialogue between equal sovereigns is not a foregone conclusion. It will require patience and a mutual commitment through negotiations on both sides led by strong leaders who are able to consolidate the progress to date and continue to build on it.



## NOTES

<sup>1</sup> Human rights movements sometimes struggle with national sovereignty which they see as offering justification for states to place national interests above universal values to which they have committed to upholding via international agreements (Grimm 2015, 123).

<sup>2</sup> The responsibility to protect doctrine adopted by UN member states in the 2005 Outcome Document of the World Summit asserts that state sovereignty carries with it an obligation to protect populations from genocide and other crimes against humanity (United Nations 2005, para. 138–140). The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity, and ethnic cleansing, and their incitement; the international community has a responsibility to encourage and assist States in fulfilling this responsibility; and the international community has a responsibility to use appropriate diplomatic, humanitarian, and other means to protect populations from these crimes. If a State is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect populations, in accordance with the Charter of the United Nations (United Nations 2009). It has been argued that implementation of the principle skews against smaller countries. Individual states are unlikely to go up against a major power (especially a nuclear power) because it would likely result in more harm than good, thereby not fulfilling one of the major responsibilities inherent in R2P (Weiss 2007, 109). This is to say nothing of coalitions, however. For an in depth discussion of legality and legitimacy of intervention, see Weiss.

<sup>3</sup> Deng et al. (1996, 3) note a corollary to this assumption put forward by scholar Lon L. Fuller in response to arguments post-WWII that those alleged to have committed crimes under Nazi law could not be held liable for acts considered legal under the system unless legislation dictated otherwise. Fuller argues that “there is an internal morality to law and that a legal system that so fundamentally violates that morality, as did the Nazi system, loses its legitimacy as law.” This critical observation paves the way for the development of a more modern interpretation of responsible sovereignty.

<sup>4</sup> The U.S. interventions in 1906 and 1917 were at the invitation of Liberals in Cuba as they revolted, and they welcomed similar interventions in 1919 and 1921 as support for their efforts to wrestle power from the Conservatives (Domínguez 1978, 45).

<sup>5</sup> Joseph Lazar (1968) offers an extensive exploration of the history of the asymmetric lessor-lessee relationship with regards to the Guantánamo Bay property. In Lazar’s estimation, the lease began during the U.S. occupancy during the war with Spain, was codified in the Paris Treaty of Peace and Platt Amendment, and was extended in the 1934 Treaty of Relations with Cuba, though Cuba retains “ultimate sovereignty” (733, quoting Article III of the 1903 Agreement for Lease). The lease, however, cannot be terminated without the consent of both parties, giving the United States veto power over Cuba’s control of its own territory.

<sup>6</sup> The embargo was codified in the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, also called the Helms-Burton Act, but various facets are maintained through six different U.S. statutes: the Trading with the Enemy Act of 1917, the

Foreign Assistance Act of 1961, the Cuban Assets Control Regulations of 1963, the Cuban Democracy Act of 1992, the Trade Sanctions Reform and Export Enhancement Act of 2000, and Helms-Burton (Sullivan 2016, 20).

<sup>7</sup> U.S. officials for years assumed that the Cuban-Soviet relationship was steady and mutually beneficial for the duration of the Cold War, but Blight and Brenner (2002) offer an in-depth exploration of the immense complexities of the relationship, focusing on 1961 to 1968. Through a combination of archival research and oral history known as critical oral history, they uncover how tensions rose over Cuba's support for insurgencies in the Third World leading Cuba to undermine the Soviet Union's leadership in the Third World and the Soviet Union to send insufficient oil to the island starting in 1967 (xxi–xxiii).

<sup>8</sup> “Historically, the United States has intended to establish its domination and hegemony on our homeland and, since 1959, it has tried to change the political, economic and social system that our people, fully exercising the right to self-determination, has freely chosen.” Remarks made by Cuban Foreign Minister Bruno Rodríguez at October 27, 2015, UN General Assembly (Rodríguez Parilla 2015).

<sup>9</sup> In addition to releasing Alan Gross on December 17, 2014, Cuba also released a Cuban convicted of spying on behalf of the United States. The United States in turn released the remaining three of the “Cuban 5,” five Cubans convicted of espionage in the United States.

<sup>10</sup> Bruno Rodríguez stated at the UN General Assembly in October 2015 that “the Cuban people will never renounce its sovereignty or the path that it has freely chosen to build a more just, efficient, prosperous and sustainable socialism,” reinforcing the Cuban government's strong commitment to protect its socialist model (Rodríguez Parilla 2015). Furthermore, Article 3 of the Cuban Constitution goes so far as to enumerate the right of citizens to fight “using all means, including armed struggle,” against those attempting to overthrow the political, social, and economic order established by the Constitution, though it does not extend the same right of recourse to remedy governmental disregard for popular sovereignty.

<sup>11</sup> In 2015, UN Special Rapporteur on Torture Juan E. Méndez was denied access to Guantánamo; other similar requests have also been blocked.

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## MOVING AHEAD





## **Political Polarization in the U.S.: Perspectives and Consequences for Cuba**

Carlos Ciaño Zanetti

From the outset of the 21st century, a process of ideological and political polarization in the United States has increased. This can be attributed, in part, to several causes: the policies implemented both internally and externally in the aftermath of the September 11, 2001 attacks, the subsequent 2008 electoral victory of the first black president of the United States, as well as the successes of the extreme conservative right in the Congress and state and local governments in 2010. As a consequence, the political spectrum has moved more to the right. In addition, there has been a growing rejection by a considerable number of Americans of the traditional centers of power, as well as politicians, government officials, and public servants as indicated by the November 8, 2016 election of Donald Trump as President.

The current ideological-political polarization in the United States reflects positions and contradictions between the exponents of liberal and conservative thought, especially among members of Congress. From 2009-17 there has also been tension in the relations between the legislative branch of the U.S. government currently under the control of a Republican majority and the executive branch in the hands of representatives of the moderate liberal wing of the Democratic Party. The 2016 electoral focus reflected the sharpness with which these contradictions have been expressed. Both U.S. domestic and foreign policies have been impacted by these contradictions and U.S. policy towards Cuba has not been unaffected.

The restoration of U.S.-Cuba diplomatic relations in 2015 and the initiation of talks that may eventually lead to full normalization of relations, as announced on December 17, 2014, was, in the case of Washington, a result of the exercise of presidential powers. This has provoked diverse reactions in the Senate and House of Representatives, which have been the site for the introduction of a variety of bills, some in favor of advancing the process of normal-

ization with Cuba and others that seek to stop or reverse it. Such efforts reflect the ideological and political polarization in the United States. The lifting of the blockade, an essential requirement to achieve full normalization of relations with Cuba, must be approved by Congress. This is not considered likely at present given that the House of Representatives is dominated by conservative Republicans. Substantial differences exist between representatives of conservative and ultraconservative thought in the Republican Party and liberals in the Democratic Party. Due to the extraordinary weight of the United States of America in international relations, they also impact the rest of world. For Cuba, just beginning to restore diplomatic relations with the United States after more than fifty-four years and in the midst of a series of discussions initiated on the main topics of mutual interest to achieve normal relations, the results of the 2016 U.S. elections were of vital importance. This is especially true considering that the changes that have taken place so far were made by executive orders that President Trump can reverse partially or completely.

This chapter aims to demonstrate that the ideological and political polarization currently existing in the United States is a reflection of objective problems afflicting that society. These are the result of uneven economic growth, a persistent increase in social inequality, the inability to advance government projects, a crisis of political parties, and contradictions in the sociocultural interaction of people, among other factors that affect the functioning of the U.S. system.

### **Origins of the Current U.S. Political Polarization**

The economic recession that the United States suffered in the late 1970s and complicated developments in the international arena led to the rise of a conservative movement that reached its peak in 1980 with the landslide victory of Ronald Reagan in the presidential elections and by Republican gains in Congress (12 seats in the Senate and 34 in the House). This occurred against the backdrop of the Soviet invasion of Afghanistan, the Iranian revolution including the taking of U.S. hostages, the triumph of the Sandinistas in Nicaragua, the wars of liberation in the southern cone of Africa with the presence of Cuban troops, the triumph of the left in Grenada, and the war in El Salvador, all of which constituted challenges to U.S. foreign policy.

The rise of the conservative movement in the United States, however, began to lose momentum in the mid-1980s. In 1987 the Reagan administration reached agreements with Mikhail Gorbachev's USSR on nuclear arms reductions, the Soviets withdrew from Afghanistan, the Cold War ended, and the socialist camp disintegrated. By 1985 the Iranian hostage crisis had been resolved, the United

States had invaded Grenada, given military aid to the contras in Nicaragua, and supported the military regime in El Salvador in its fight against the FMLN guerrillas. In Africa, wars for independence in Angola and Namibia were coming to an end and in the United States the brunt of an economic crisis had passed. In the midterm elections of 1986, Democrats regained eight of the twelve Senate seats that they had lost six years earlier. While Republicans managed to stay in the White House with the victory of George H. W. Bush in 1988, the conservative movement no longer had the strength it had shown in previous years.

During Bill Clinton's administration (1993–2001) a major corruption scandal among people close to the president seriously affected the entire executive branch and contributed to a resounding Republican victory in the midterm elections of 1994. Nevertheless, the Democratic president, who was not exactly a liberal, recovered and won reelection in 1996. In 2000 the Republicans, losing the popular vote against Vice President Al Gore, a candidate who failed to inspire the electorate, won the White House as a result of a Supreme Court decision.

The terrorist attacks of September 11, 2001 marked the resurgence of a conservatism that led the country into the wars in Iraq and Afghanistan, which initially received the support of a large part of the population. Domestically, this also facilitated the adoption of extreme measures of police and security control and citizen oversight, while contributing to the reelection of George W. Bush in 2004.

The disastrous wars in Iraq and Afghanistan that the United States could not win left thousands dead and tens of thousands physically and mentally maimed, as well as resulted in many unpopular policies. These brought about the resurgence of the liberal movement in the United States, which led Republicans to lose six Senate seats and thirty in the House of Representatives in 2006, and reached its peak in 2008 with the victory of the first black president of the United States, the Democrat Barack Obama.

As in 1980 during the rise of conservatism, in 2008 the consequences of serious external problems were combined with the most substantial economic crisis the country had suffered since 1929. In addition to losing the White House in the 2008 elections, in Congress the election was a reflection of what happened to the Democrats in 1980, with the Republicans losing eight Senate seats and twenty-one House seats to the Democratic Party.

The midterm elections of Obama's second term in 2014 were similar to 1986 during Reagan's second term, with the Democrats losing nine seats in the Senate. Something comparable also happened in the House on both occasions, which appears to confirm that the rise of liberalism was losing momentum. While the United States had emerged from the worst of the economic crisis do-

mestically, the external outlook remained ambiguous. The situation, of course, was not exactly equivalent to that of the mid-1980s, as there were many new factors influencing it. The new factors included the presence of a black president which exacerbated racism as well as the international situation, which in addition to raising complications, was being heavily manipulated to try to portray Obama as weak on foreign policy and national security. Perhaps the most distinctive feature of this era was the ideological and political polarization taking place, particularly in the shift in conservatism to extreme positions, forcing the entire Republican Party toward the right, which was demonstrated by shifting power in Congress, especially in the House of Representatives. In 1988 the Republicans managed to retain the White House and the constellation of forces in Congress did not undergo significant changes.

### **Ideological and Political Polarization in the United States Today**

As a result of the accentuated ideological polarization that is currently observed in U.S. society, which is even more marked in its political system, a critical situation of governability exists. Many of the policies that the Obama administration sought to implement have been blocked as a result of congressional resistance. This has frequently obliged Obama to draw on the presidential powers that the Constitution provides in order to advance some projects.

Republicans in Congress have succeeded twice in leaving the executive branch without funds for government operations and have often blocked the prerogative of the president to appoint senior officials, ambassadors, and even judges to federal courts (seeking, in the case of the judges to have as many openings as possible for 2017 when they will occupy the White House). Thus it is clear that the principal protagonists in the clashes between liberals and conservatives in the political arena are the elected officials of the Democratic and Republican political parties. While liberals are consolidated in the Democratic Party and becoming the dominant force within it, conservatives are concentrated in the Republican Party and appear to control virtually the entire party.

### **Expressions of Polarization in the Political Parties**

The Republican Party, which, in general, has always been more to the right than the Democratic Party, has become much more conservative in recent years. In addition, extremist organizations and movements such as the Tea Party and Freedom Works for America, among others, have emerged in support of ultra-conservative Republicans. In addition, organizations such as the Freedom

Caucus, begun in February 2015, now have approximately forty members in Congress. In fact, today there are no liberal nor moderate Republican lawmakers, as there were in the past, nor any centrists; virtually all of the Republican lawmakers are between conservative and very conservative.

Nevertheless, the Republicans show greater fissures and divisions than do the Democrats, and this is particularly evident in the relations between ultraconservatives and the more pragmatic conservative members of Congress who prioritize the long term. This division was evident in the attempts by the ultraconservatives to depose the Speaker of the House of Representatives, John Boehner, who was forced to resign in late 2015.

What is notable is how the more conservative Congressional Republicans prioritize ideological aspects of issues, even if on occasion they damage their electoral interests—as with the issue of immigration and the Latino vote. While many recognize and advocate for developing policies to attract a percentage of the Latino vote as a requirement to win elections, others, especially the ultraconservatives, consider that this is not necessary. Rather what is regarded as necessary is guaranteeing a decisive majority of the white vote, which can be achieved if they stay firm in defending more conservative principles and policies. An August 2015 Gallup Poll found that only 28% of Republicans and 14% of all Americans have a favorable impression of Congress, at a time when Republicans have a majority and control both houses (Gallup 2015). Such Republicans also have an extremely hostile attitude toward President Obama. This is not surprising given the racist prejudices and feelings of aversion that exist in some sectors of the Republican Party.

In a recent forum held in Washington, former Secretary of State Colin Powell openly expressed his anger at what was happening in the Republican Party. Among other things, he stated: “I think the party has shifted much further right than where the country is, and it should be obvious to party leaders that they cannot keep saying and doing the things that they were doing and hope to be successful in national level elections in the future, not just 2016” (quoted in Schwab 2015).

Meanwhile, the Democratic Party has also changed, as most of its members have shifted to the left and are liberal and moderate liberals, who represent the dominant force in the party. However, the migration of the Democrats to the left is not as pronounced as the Republicans to the right. While it is no longer possible to find liberal Republicans, it is possible to find conservative Democrats. Today the hackneyed phrase “nothing is more like a Democrat than a Republican” has become obsolete because it is very difficult to find Republi-

cans to the left of the most conservative Democrats, at least in general, although there are always exceptions related to specific issues.

Although the Democratic Party does not exhibit as many internal fissures as the Republicans, in many Congressional votes it seems to be less cohesive than the Republican Party. No doubt this is related to the fact that Democrats hold a broader range of policy approaches. In addition, the power of the Democratic Party has perceptibly declined in recent years. When Obama assumed the presidency in 2009, the Democratic Party had control of a majority in the Senate with sixty of a hundred seats (counting two independents who vote Democrat) and of the House of Representatives with 257 out of 435 seats. In 2010 Democrats lost the majority in the House and in 2014 lost the Senate majority. In mid-2016 Democrats controlled 46 seats in the Senate, while their House seats have been reduced to 186. The 2010 election gave Republicans control of redistricting in nine states, enabling them to increase their seats in the House of Representatives and state legislatures (Greenfield, 2015).

Democrats have also lost the governorships in several states; in mid-2016 Republicans controlled 30 of the 50 states. As for state legislatures, in 2009 the Democrats had absolute control of 27 and Republicans of 14. In 2016 Republicans controlled 30 and the Democrats controlled 11. Another factor to consider looking forward is that the Democratic Party, unlike the Republicans, lacks young national leaders, which could jeopardize the future of the Democratic Party in the medium term.

Despite all the above, the Democratic Party, was thought to have had better prospects on the eve of the elections in November 2016. It was more united around a presidential candidate and many more Republican senators than Democrats faced reelection, with some of the former showing signs of vulnerability. Nevertheless, the Republicans captured the White House and both houses of Congress on November 8, 2016

Those results may be the consequence of some complicated recent political and ideological trends in the U.S. For example, some polls indicate that although a greater number of Americans consider themselves Democrats, the number of those who regard themselves as leaning conservative is significantly higher than those who perceive themselves as liberal, although the margin has been reduced significantly in recent years. The number of Independents has increased. Most Independents are moderate, though the number who consider themselves conservative is higher than the number who considers themselves liberals. This complicates electoral forecasts, as the Independents ultimately tip the balance in favor of one candidate or the other, and they will vote depending on their assessment of the candidates.

The extreme conservatism of the Republican Party has prompted a considerable number of its members to leave and they now consider themselves Independents.

The overall shift of the Republican Party to extremely conservative positions, coupled with the control that ultraconservative groups currently have over Congress, prevents the legislative advance of numerous projects generally supported by most U.S. citizens and, in many instances, by Republicans themselves. As a consequence, citizens express a lack of confidence in politicians and government institutions, particularly Congress, and widely believe that the country is moving in the wrong direction.

The main issues in foreign and domestic policy being debated in 2015–2016 in the United States that reflect the positions of U.S. citizens show clear evidence of the extreme ideological and political polarization in the country.

### **Issues where Polarization is Evident**

At the international level we see that despite having lost its role as a hegemonic power, the United States of America remains the main economic, military, and technological power in the world. The development of its foreign policy is aimed at meeting the challenges of the contemporary world, given the need to maintain its role as the world leader. With the objective of manipulating nationalism and raising patriotic sentiment, the United States sometimes attempts to revive the population's desire to regain its lost hegemony and exacerbate fears of international instability. Fear of expansionism by Russia is used to justify requests for larger amounts of funds for the Pentagon. Other threats used for manipulation are fear of Chinese expansionism, dangers posed by North Korea, terrorism from ISIS, Boko Haram, and Al Qaeda, the war in Syria, and Iran's alleged plans to amass an arsenal of nuclear weapons.

Domestically, social inequality and growing income inequality characterize the country which currently has about 50 million people living below the poverty level. In a blog post on Bloomberg Politics, Peter Gosselin invites us to "Imagine a country where people in the economic top 1 percent scoop up more than one-fifth of all income, those in the top 10 percent control almost 80 percent of wealth, and wages for those in the middle barely budge over four decades" (Gosselin 2015). Numerous contradictions arise at the core of U.S. society, affecting the entire social fabric and are expressed in the conflicts between representatives of both ideological and political poles. Public opinion on economic inequality, including the minimum wage and taxation policies, vary with political party, according to a PEW/USA Today poll. In January 2014, 90% of Democrats thought that the federal government should act to reduce



economic inequality, in contrast to 45% of Republicans. Conservative Republican politicians have in recent years opposed and blocked executive actions in this regard, while all the Republican presidential candidates in 2016 proposed to reduce state intervention to preserve social safety nets. With respect to the minimum wage, some Democratic politicians favor increasing it to \$10 per hour, as proposed by President Obama, others to \$12 or even more. Republican politicians, including Donald Trump opposed raising it (Pew 2014). According to the Pew/*USA Today* poll, 73% of the public (90% of Democrats, 71% of Independents, and 53% of Republicans) support raising the minimum wage from \$7.25 to \$10.10 per hour (Pew Research Center 2014). Something similar happened with the proposal to increase taxes on the wealthy recommended by the Obama administration that has been largely opposed by Republicans. An AP/GfK February 2015 survey indicated that 68% of those questioned say wealthy households pay too little in federal taxes (Olemacher and Swanson 2015).

Health insurance is an important issue confronting U.S. citizens. President Obama's health plan, known as Obamacare, which provided health insurance to more than six million Americans who did not have it, was the subject of very strong opposition by Republicans in Congress, but finally, after a long confrontation, it was approved. All the candidates for the 2016 Republican presidential nomination pledged to reject, eliminate, or modify the plan radically if they reached the White House. President Trump has led the effort to substantially modify OBamacare, although there have been some Republicans who argue for its total elimination.

Education, both the cost of public university tuition and the standards for public elementary and secondary schools, is another issue confronting U.S. citizens. With respect to the high cost of college education, according to a poll of registered voters (Quinnipiac University Poll 2015), 61% of U.S. voters favor major new spending by the federal government to help students pay tuition at public (government funded) colleges (85% of Democrats, 57% of independent voters, and 36% of Republicans). Republicans have managed to block relevant legislation in Congress.

The Common Core is an educational evaluation system aimed at standardizing and strengthening academic quality in public primary and secondary schools. The adoption of this new evaluation system is another issue demonstrating political polarization between liberals and conservatives and Democrats and Republicans. The problems that relate to standardization are numerous, and the results of the polls vary and tend to confuse and give contrasting figures. According to a newspaper blog, support of the Common Core standards varies from 33% to 59%, but what is evident is that conservatives overwhelmingly oppose it. The



blog cites survey results claiming that the Common Core system is supported by 57% of Democrats and only 35% of Republicans (Clement 2015).

Immigration mainly that from Mexico and Central America is also the subject of a confrontation of ideas and policy proposals, avoiding the approval of a law granting some legal resolution to more than 11 million undocumented. Obama's executive action to alleviate this situation was annulled in February 2016 by the decision of a judge in Texas, and later by a federal appeals court, that has prevented the president from making progress on this issue. Furthermore, 26 Republican governors are suing the Obama administration for allegedly exceeding its authority with respect to immigration, even though such executive action has the support of three-quarters of the American people, as reflected by a poll by the Public Religious Research Institute in February 2015. If in 2010 only 49% of the population supported a legal resolution for illegal immigrants, now 64% support it; and only 30% favor deportation against 45% who did in 2010 (National Survey of Fox News, July 2015).

Congressional Republicans oppose any global agreement on the issue of climate change, arguing that it may damage the U.S economy. Obama announced a substantial increase in the use of alternative energy and promised to spend \$3 billion for this purpose, but Congressional Republicans have blocked the delivery of the money. Seventy-one percent of Democrats and Independents who favor stricter environmental regulations agree that global warming is due to human activity. By and large Republicans and some Independents disagree.

The issue of abortion is one of the most controversial and heated issues that divide liberals and conservatives and Democrats and Republicans. According to a Quinnipiac University poll of August 2015, 23% of Americans think abortion should be legal in all cases and 33% in most cases; 14% believe it should be illegal in all circumstances and 26% in most cases. According to a poll in mid-September 2015 by the Bloomberg firm, 67% versus 29% agree with the decision of the Supreme Court that it is a constitutional right for women to opt for an abortion.

In 2015 sixty-nine percent of Americans opposed Republican bills in Congress to defund Planned Parenthood (a provider of family planning and health programs); 44% had a favorable opinion of Planned Parenthood versus 39% who had an unfavorable opinion, according to a Quinnipiac University poll released September 28, 2015. Planned Parenthood receives more than 500 million dollars annually in federal funding for contraceptive services, research, and treatment of sexually transmitted diseases, and other services that do not include abortion. Senator Ted Cruz, a 2016 Republican presidential candidate, even threatened to leave the government without funds to operate again if de-

funding the program was not approved. The Trump administration has promised to defund Planned Parenthood, as well as abortion programs.

Like the issue of abortion, same-sex marriage also divides liberals and conservatives, and most polls show that about 55% of the U.S. population supports it. In the Democratic Party, President Obama and all the initial candidates for the presidential elections of 2016 spoke in favor of same-sex marriage, while none of the Republican candidates supported it. Some of the Republicans openly declared opposition. A few others tried to offer as a solution the proposal that the matter be decided by the states. In 2015 the Supreme Court decided by a one–vote margin to affirm same-sex marriage, which has provoked strong criticism from conservative sectors of the court which they consider too liberal.

Republicans in both Houses of Congress introduced proposals in recent years to drastically slash budgets for medical programs for sex education and others related to birth control that are supported by liberals and a large majority of Democrats. Meanwhile, Republicans have been giving increasing support to programs favoring measures aimed at promoting sexual abstinence before marriage.

There has also been an increase in racial confrontations and police actions against black citizens in the United States resulting in the loss of human lives. A recent survey of Americans indicated that 74% believe that racial discrimination against blacks is a serious or very serious problem (17% more people than five years ago) and 43% believe that it has become worse since Obama took office (Agiesta, 2015).

President Obama has referred repeatedly to the need to establish controls on the sale of certain types of weapons and the amount of ammunition, but Republicans in Congress oppose him almost unanimously and favor the interests of the National Rifle Association, one of the most powerful lobbies in the country. Americans are divided, although the number of those who support stricter controls tended to increase after the latest incidents at educational institutions that caused numerous losses of life. In 2016 all the Democratic presidential candidates favored gun control to varying degrees, but all the Republican candidates opposed any kind of gun control.

Although one of Obama's promises when he took office in January 2009 was to close the U.S. prison at Guantánamo, Republicans in Congress have impeded this by not granting the funds required for the transfer of prisoners to other prisons and imposing other restrictions.

More recently, the issue of accepting Syrian refugees has highlighted the contradictions between the Executive and Congress and among the 2016 Democratic and Republican presidential candidates. After the 2015 terrorist at-

tacks in France, Republican lawmakers and candidates of that party expressed opposition to allowing entry to the 10,000 Syrian refugees that the President proposed to admit. In January 2017 the Trump administration proposed strict control over visas for citizens of seven predominantly Muslim countries.

Several aspects related to U.S. foreign policy provide grounds for additional confrontations between the Executive and Congress. Republican lawmakers, most of whom are hawks, bitterly criticized Obama, accusing him of being weak on issues related to national security, but in general terms and without presenting concrete alternative proposals. In this context, one of the biggest clashes in recent years between Democrats and Republicans, as well as between the Executive Branch and Congress and within Congress took place. The agreement reached with Iran by the five countries that are permanent members of the United Nations Security Council plus one (Germany) concerning Iran's nuclear program unleashed a fierce battle when Congressional Republicans decided not to accept it and Trump used it to attack Clinton during the 2016 presidential campaign. A poll conducted in August 2015 by the University of Maryland indicated that 72% of Democrats expressed their support for the Iranian agreement as opposed to only 33% of Republicans.

Electoral processes are also points of contention where acute ideological and political polarization in the country is played out. This can be seen clearly in two different dimensions: one with a more strategic character given its far-reaching implications and the other with a more immediate expression. Electoral processes related to the first dimension are increasingly controlled by economic elites. From local to presidential elections the whole system is determined more and more by the power of money. Billionaires, corporations, powerful lobbyists, political action groups (PACs), and Super PACs (whose role grows in every election) determine who can be elected, ensuring that any politician who does not represent the interests of the ruling class cannot come to power. "It is estimated that the 2016 campaign will be the most expensive in history, with the candidates, political parties, the Super PACs and special interest groups spending perhaps up to 10 billion dollars" (Lichtblau and Confessore, 2015 ). The network of the Koch brothers alone stated it intended to spend \$889 million in the 2016 campaign (Vogel and Everett, 2015).

The Federal Election Commission reported that between April and June 2015, 17 months before the 2016 election, the presidential candidates had already spent \$48 million, double what had been spent in the same period in the 2012 election. A recent national poll by Bloomberg Politics found that 78%

of respondents rejected the decision taken in 2010 by the Supreme Court authorizing unlimited expenditures by corporations for political causes, which is what has allowed the Super PACs to allocate hundreds of millions of dollars to election campaigns. Only 17% approved of the Supreme Court decision.

Representatives of foreign governments also contribute money to U.S. politicians to advance issues in their interest. In an article in the June 26, 2015, issue of *Open Secrets*, journalist Will Tucker revealed that several presidential candidates had received money and have been contacted in the last six years by agents of foreign governments. Hillary Clinton is among those who have received money (\$82,148 in two years), followed by Marco Rubio (\$31,100) and Ted Cruz and Rand Paul (\$30,000 each). Tucker stressed that Rubio was contacted fifty-three times, eight of them personally, by registered agents of the Republic of Georgia. Rubio later wrote an article in *Politico* advocating for Georgia's entry into NATO and the shipment of arms to that country (Tucker 2015).

In this regard, a study by Princeton University professors Gilens and Page highlights that economic elites and organized groups pursuing their own interests have substantial influence over politics in the United States while ordinary citizens have little or no influence. According to the study, a proposed policy with little support among the U.S. elite is adopted only 18% of the time, but those with strong support by elites are adopted 45% of the time. They conclude that while Americans enjoy many of the central features of democracy, such as regular elections and freedom of expression and association, in fact policy is dominated by business organizations of great influence and a small number of wealthy Americans. This suggests that the most immediate dimension of political polarization in the electoral processes is related to the campaigns of the Democratic and Republican candidates, an issue that is evident in all instances, at the local, state, and federal levels, and particularly in the 2015–2016 presidential campaign (Gilens and Page 2014).

In the Democratic Party, Bernie Sanders, a declared socialist not afraid to describe himself as such—though he is not a Marxist socialist but a partisan of democratic socialism—openly questioned the establishment and called for a political revolution. His movement achieved a very enthusiastic concentration of supporters and won 23 primaries and caucuses, as opposed to 20 for Hillary Clinton. Bernie Sanders had the backing of a large majority of young people less than thirty years of age. Hillary Clinton was eventually the Democratic Party nominee with the support of Sanders.

In the run-up to the November 8, 2016 elections, there were high levels of dissatisfaction by members of both the Republican and Democratic Parties with

their presidential candidates. In June 2016 40% of Republicans were dissatisfied with Trump and 43% of Democrats with Clinton (Pew Research Center polls taken from June 15–26, 2016). The reasons were varied and not all were based on ideological factors. One of the principal reasons voters indicated that they would vote for their party's candidates was to vote against the candidate of the other party. Fifty-five percent of Republicans surveyed stated they intended to vote for Trump as a vote against Clinton. Fifty percent of Democrats held they would vote for Clinton as a vote against Trump (Pew Research Center surveys June 15–26, 2016).

While party platforms are not a specification of what a new administration's precise agenda will be, they do reflect the general ideological tendencies of the party and candidate. The July 2016 Republican platform reflected neo-conservative positions and some of Trump's basic tenets. It emphasized U.S. exceptionalism, the importance of acting unilaterally in the international context, the recovery of U.S. dominance in terms of military preparedness and weaponry, the appointment of judges who favor a strict interpretation of the constitution, strengthening of "law and order," greater deregulation of business, and limited government.

In addition, the Republican Platform attacked the Obama administration for its alleged incapacity to overcome the stasis in U.S. economic growth, abuse of the president's executive powers, violations of the constitution, and the decline of the U.S. as a superpower. The platform included conservative calls for limiting public spending especially on social welfare programs, reducing federal intervention in the states, eliminating regulations on businesses and the financial sector, as well as lowering taxes and environmental controls. The platform also championed a version of free trade and open markets unrestricted by international accords, including the Paris agreement on climate (Republican Platform 2016). With respect to social policies, the platform criticized the Obama administration for engaging in social engineering through support for affirmative action, same-sex marriage, and legal abortion, regularizing one's immigration status, gun control, and Obamacare (Republican Platform 2016).

The Democratic Platform was liberal and reflected pressure from Clinton's primary challenger Senator Bernie Sanders and his supporters. As a consequence, it focused on the reconstruction of the middle class and the elimination of poverty, as well as the promotion of workers' rights. It emphasized elimination of discrimination on the basis of race, ethnicity, gender, religion, or sexual orientation. A major promise was the reduction of inequality. Immigration reform included mechanisms for undocumented aliens to achieve citizenship. Rather than a re-

duction in the role of the federal government, it was to assume a greater but more efficient role. In particular, it was to become more active in promoting economic growth and security for the working and middle class, as well as expanding and repairing the national infrastructure. The federal government would also become more proactive in regulating financial institutions and corporations, in addition to closing tax loopholes for the wealthy and corporations. There was also a commitment to more effectively protect the environment.

Internationally the Democratic Platform favored diplomacy to secure U.S. interests. It also supported improved national security by means of flexible and agile armed forces. There was a commitment to expand strategic alliances to more effectively confront threats including terrorism, arms proliferation, climate change, and cyber-attacks. The necessity of defeating ISIS was to be pursued through joint efforts with regional powers. (Democratic Platform 2016). In short the Republican platform reflected a move to the right and the Democratic to the left, highlighting the increased ideological and political polarization in the United States as well as within the main political parties.

With respect to Cuba, within the Democratic Party there is a consensus in support of the process of normalization of relations with Cuba initiated by President Raúl Castro and President Barack Obama on December 17, 2016, after eighteen months of negotiations. In the two years since then the gradual reaching of agreements on travel, telecommunications, environmental defense, cooperation with respect to interdicting narcotrafficking and human trafficking, among other issues of mutual interest, has proceeded slowly. The change in U.S. policy toward Cuba is an example of the use of soft power to achieve regime change in Cuba, if not immediately then over the medium term. Because the lifting of the U.S. blockade of Cuba requires Congressional action, the new president will be limited in what can be done, although political pressure can be brought on Congress. Reflecting this position on October 26, 2016, for the first time the United States abstained rather than voted against the UN General Assembly's resolution to lift the U.S. blockade on Cuba.

The Republican Platform contradicted, to a degree, the position of Donald Trump, who in February 2016 criticized the Obama administration for not negotiating a better deal with Cuba. Trump also criticized the Cuban Adjustment Act which provides a fast track mechanism for Cubans arriving in the United States to achieve citizenship (*Tampa Bay Times* 2016). The Republican Platform took a harder line by supporting the continuation of the economic, commercial, and financial blockade of Cuba; subversive actions; Radio and TV Martí, among other steps. The platform also indicated that a Republican administration would

reverse much of what the Obama administration had accomplished with respect to the normalization of relations.

It was precisely that possibility that encouraged the Obama administration to issue a Presidential Directive on October 14, 2016, in an attempt to solidify the progress already made with respect to normalization of relations with Cuba. Presidential Policy Directive (PPD-43) was designed to help make irreversible the steps taken by the Obama administration since D17. This PPD included provisions allowing Cuban pharmaceuticals to receive approval from the U.S. Food and Drug Administration and be marketed and distributed in the United States. In addition, joint medical research by U.S. and Cuban scientists would be permitted. U.S. agricultural corporations could sell products on the island and U.S. enterprises could help develop Cuba's civil aviation security system. Cargo ships stopping in Cuba could now proceed directly to U.S. ports. Previous steps to facilitate travel to Cuba by U.S. citizens were reaffirmed. However, commercial and financial restrictions continued in force largely as a result of the U.S. blockade of Cuba, which requires Congressional action to lift. Prior to Trump's inauguration on January 20, 2017, the Obama administration announced additional changes that eased regulations, but reduced the preferential status of Cuban migrants to the U.S. who did not have visas.

Josefina Vidal, head of the U.S. department at the Cuban Foreign Ministry, stated the new regulations "are positive" but benefit "more the United States than Cuba and the Cuban people" (Faber 2016, 2). In Cuba, there was a sense that the steps taken by the United States would have limited impact as long as the blockade was in force. While negotiations have proceeded, substantial differences persist and the sense in Cuba is that the goal of U.S. policy continues to be regime change and the transformation of the Cuban economic and political system.

### **Consequences for Cuba**

Since the announcement on D17, political polarization and the conflicts between the U.S. Executive Branch and Congress have become sharper. The Executive Branch, a good number of Democratic lawmakers, some Republican lawmakers, and business sectors interested in trade and investment are leading the groups that favor negotiation to normalize relations between the Cuba and the United States. On the other hand, the more conservative Republican Members of Congress, including senators and representatives of Cuban origin act as exponents and managers of opposing actions, leading those who advocate maintaining a policy of confrontation.

Congress is the place where this fight has developed most vigorously. Some initiatives presented in Congress by supporters of normalization included



a bill introduced in January 2015 in the House to lift restrictions on travel to Cuba which had 42 co-sponsors—35 Democrats and 7 Republicans. On February 2, 2015 Senator Dick Durbin introduced a bill with bipartisan support to lift the U.S. blockade on Cuba.

In mid-July 2016 the Committee on Appropriations of the Senate approved more flexible regulations for travel to Cuba, but it did not reach the full Senate. The opponents of the normalization of relations with Cuba also pushed legislation including a bill passed by the House of Representatives that prohibits the use of U.S. funds to facilitate exports to the armed forces and intelligences services of Cuba.

None of these proposals have been approved and signed into law. The strength of the ultraconservatives, particularly in the House, has so far prevented any move to strengthen the policy of normalizing relations with Cuba via legislation. This has been the will of the vast majority of the Republicans in the House and of the Chairs of Committees particularly in the House.

Democrats and some Republicans in the Senate have allowed this chamber to block anti-normalization legislation, without the need for President Obama to resort to his veto power. The majority of polls demonstrate that between two-thirds and three-quarters of Americans support the restoration of diplomatic relations and the lifting of the blockade.

In terms of Congress lifting the embargo and the ban on travel by U.S. tourists to Cuba, polls indicate widespread support. For example, a survey by the Pew Research Center in January 2016 indicated that 63% of Americans supported the restoration of diplomatic relations with Cuba and a similar figure the lifting of the blockade and the ban on tourist travel for U.S. citizens. A few days earlier, a Florida International University poll indicated that 68% of people of Cuban origin in Miami Dade County supported the restoration of relations. In July 2016, an AP/GfK survey indicated that 75% of Americans supported the restoration of relations, while another Pew Research Center poll on that date indicated that 83% of Democrats, 75% of Independents, 56% Republicans and 52% of conservative Republicans supported it. This same survey indicated 55% of conservative Republicans supported the lifting of the blockade.

## **Perspectives**

2016 did not bring about significant changes in bilateral relations between Cuba and the United States. It is not expected that a Republican Congress will lift the blockade in 2017, although probably some will continue to introduce bills to ease, lift, or strengthen it. Given Republican control of the White House and Congress none are likely to bear fruit. Divisions among the Republicans, how-



ever, might impede strengthening the blockade.

Regular meetings in both capitals between Cuban and U.S. officials are likely to continue to take place in an attempt to advance the bilateral agenda that seeks to resolve differences in order to achieve full normalization of relations, an effort that will surely be difficult and will take several years. Officials will continue talks on specific issues of common interest where some agreements or understandings could be reached.

Members of the U.S. Congress and officials of state governments, as well as businesses interested in trade and investment will continue to travel to Cuba. The pressures of the private sector on Congress and the Executive Branch to lift the blockade and to introduce new relaxations no doubt will continue.

The political landscape of 2016 was profoundly marked by the presidential and congressional elections that took place in November 2016. Cuba policy was mentioned during the campaign, but it was not an especially relevant subject except for a small group of Cuban voters in Florida and they did not appear to heavily determine the vote one way or the other. delete highlighted portion. Nevertheless, the Republican capture of the White House and continued domination of Congress will have major impact on the process of normalization.

Given the victory of Trump, and taking into account the actual internal situation in the U.S., and in the light of some statements and appointments made by the new administration, it is reasonable to assume that Cuba could be faced with some critical situations that could reach unforeseen dimensions. With respect to Cuba, Trump has said on a number of occasions that he was in agreement with the new Obama policy. At other times, he stated that he could have obtained a better deal, or that he would totally reverse the Obama actions if Cuba didn't agree to certain demands.

What appears to be the most sensible and logical is the maintenance, as a strategy, of the continuance of the process of normalization of relations. However, there also exist reasons and indicators that suggest, at least in the first phase of the Trump administration, that there will be increasing pressure to extract concessions, as well as a return to aggressive rhetoric, stagnation, and possibly some reversals.

Figuring out from these indicators what is sensible and logical is not precisely what has occurred at this time. Given this, we have to wait in order to see what occurs. Hopefully Trump's advisors will point out to the President that with Cuba pressure and demands to obtain concession do not work.

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## CHAPTER 16

# **The New President and U.S.-Cuba Relations: Reactions and Actions by the U.S. Congress**

The Honorable Mike Kopetski

For fifty-five years the relation between the governments of Cuba and the United States was one of fundamental differences of political ideology, of economic systems, and of choices of foreign alliances. Attempts to reconcile differences occurred but never took hold. With their joint announcement on December 17, 2014, President Raúl Castro and President Barack Obama dramatically changed the trajectory of the relationship. The internal debate in both countries leading up to their respective decisions must have been fierce; hard-liners are vocal in both nations. Though progress has not been consistent, the forward trajectory towards a durable relationship has not changed course since its birth nearly two years ago on D17. This journey is remarkable and historic in itself.

President Obama—using the executive powers of the presidency—demonstrated that a president can take bold actions to improve substantially the wounded relationship between two countries. Such improvements include resuming official diplomatic relations, establishing binational government-to-government working groups on specific topics, and reducing impediments for Americans to visit Cuba for those who meet the requirements of at least one of the 12 legal purposes for their visit. The travel ban remains in place for those who cannot prove such. Actions also included encouraging businesses to explore the Cuba market for U.S. goods and services and building upon scientific cooperation between the countries on shared environmental, health, and technological challenges. Bold actions also include the president's March 2016 personal visit to Cuba as part of a broad effort to increase support among the American people for rapprochement.

The U.S. and Cuban governments had help from outside forces to generate support for the construction of a new relationship between the two nations. Two notable examples of these external forces suffice. Support and encouragement came from U.S. allies in the Americas, including the Caribbean, Latin America,

and Canada, as well as from European allies. Another external source of support was the Vatican, given the actions of Pope Francis which served as a catalyst for cooperation between the two nations. His subsequent timely visit to Cuba in September 2015 and his mention of rapprochement in his address to a Joint Session of the U.S. Congress also exerted pressure. No doubt the Pope's actions favorably influenced opinion on Capitol Hill and throughout the U.S.

The president's power does have limits. Neither a pope nor a president can single handedly make law in the U.S. Current laws, seen as stumbling blocks to a true working relationship, need changing and only the Congress can place these changes, in the form of legislation, on the president's desk. The two major legal impediments to moving the U.S.-Cuba relationship forward are the economic embargo and the U.S. restrictions imposed by U.S. law making it difficult for Americans to readily visit Cuba. Making these changes in U.S. law, however, requires cooperation between the executive and legislative branches of government.

### **D17: Year One on Capitol Hill (2015)**

D17 had an immediate impact on Capitol Hill. Interested parties and existing organizations mobilized their resources to enhance and build support within the legislative branch for President Obama's policy change. One year after D17 proponents had built a strong foundation on many fronts. They established new coalitions and augmented existing ones with more resources; developed talking points, arguments, and counterarguments; established lines of communication within and among supportive entities on Capitol Hill, with government, and with a variety of interest groups; and they expanded their base of support among staff and Members of Congress.

After the collapse of the Soviet Union in 1989, the Cold War mindset towards Cuba lived on within the dominant forces in the U.S. foreign policy community like a low grade cold virus that would not go away. There were short periods of hope suggesting that perhaps—maybe—the two nations might sustain a conversation only to suffer a relapse back into the old prevailing attitude and policy approach. Sometimes the medicine taken did not improve the condition, but only worsened the relationship. In short, this is how the Helms-Burton Act of 1996 became law. However, the joint actions taken by the two presidents on D17 terminated the old mind-sets and swept in a fresh approach that has taken hold on Capitol Hill.<sup>1</sup>

Not for a moment did anyone on Capitol Hill entertain the idea that Obama and supporters of change would have an easy time implementing the new Cuba agenda. A few hours after the two Presidents made their separate announcements, Senator Marco Rubio made clear on CNN his complete opposition to President

Obama's Cuba plans. In addition to denying appropriations to fund the President's plans, the Florida Republican senator made clear his intent to block the confirmation of any nominee to serve as U.S. ambassador to Cuba: "Not only will I vote against it, but I reserve the right to do anything within the rules of the Senate to prevent that sort of individual from ever coming up for a vote" (Jaffe 2014). Senator Rubio immediately made clear that the Cuba policy battle was joined.

### **Successes and Setbacks in 2015**

Whether a particular action or event impacts debate or votes in Congress is a subjective determination. After all, what argument or which person finally persuaded a Member to vote Yea or Nay can be a mystery not satisfied by an examination of the Member's campaign contributions. Perhaps a particular witness in a hearing, or a staff analysis of the pros and cons of an issue influenced the Member, or a constituent offered convincing reasons to him or her in the district office. On a foreign policy issue, the Member could have visited the country affected and saw first-hand the reason to be supportive of the legislation. It is not unusual for a Member to trust the judgment of another Member who has expertise in certain topics. Given that all Members constantly face many decisions, one commonality among them is that they usually stay quiet or undecided until required to do otherwise. Nonetheless the following paragraphs describe some of the major events and actions occurring during 2015 that more than likely had a direct informational impact on Capitol Hill.

Remarkable work augmented existing coalitions and created new ones whose purpose was to educate the public and lawmakers on the U.S.-Cuba relationship. The major coalitions are Cuba Now, Cuba Study Group, Engage Cuba, and the Council of the Americas' Cuba Working Group. In addition to these groups, four additional entities' efforts have had an impact on Capitol Hill debates: the U.S. Chamber of Commerce's Americas Program and Congressional and Public Affairs Division; the Center for Democracy in the Americas (CDA); the Environmental Defense Fund's (EDF) Cuba Program; and the U.S. Agriculture Coalition for Cuba (USACC).<sup>2</sup>

An uptick in the number of Members and staff visiting Cuba occurred in 2015. Essentially there are two mechanisms by which Members travel to a foreign country. One is by an official "Congressional Delegation" (CODEL) paid for by the taxpayers. The other is through the auspices and financing of a non-profit organization. For example, in February 2015, Democratic Leader Nancy Pelosi led an official delegation (a CODEL) of eight other House Members to Cuba. The Center for Democracy in the Americas (CDA), a prominent nonprofit organization,

experienced an increase in assisting Member and staff visits to Cuba. More Members were increasingly going to Cuba either by CODEL or through the auspices of non-profit organizations. The Environmental Defense Fund (EDF) was another nonprofit organization whose decade-old Cuba Program quietly but effectively provided scientific support and a means of cooperation between U.S. and Cuban scientists and policy makers. Their common objective was to help protect Cuba's environment, particularly its marine resources.

Anxious to get early attention and promote their state's products and services, three U.S. governors visited Cuba in 2015 and met with business and government officials. Governor Andrew Cuomo, Democrat of New York, led a delegation representing business interests in April (Craig 2015), Republican Governor Asa Hutchinson of Arkansas led a similar delegation in September (Governor Hutchinson 2015) and Governor Greg Abbott, Republican of Texas, made an official visit in November (Governor Abbott 2015). With their visits, these governors were casting aside the outdated Cold War-attitudes towards Cuba and moving forward with their own policy of engagement.

In addition to the above, academia and think tanks called for papers, organized symposia, and public forums to assess the new relationship between the United States and Cuba, and explore its policy ramifications and its future. The written products of this expertise feed hungry policy makers in Washington, DC, and on Capitol Hill.

Meanwhile on June 2, 2015, President Obama nominated Ms. Roberta Jacobson to serve as U.S. ambassador to Mexico. Jacobson had played a leading role in the negotiations for reestablishing diplomatic relations with Cuba. Opponents of the policy change with Cuba, including Senator Marco Rubio, opposed Jacobson's appointment, in part because of her role in the negotiations. Senator Rubio used the nomination as a not too subtle reminder to the President of his deep-rooted opposition to the U.S. having an ambassador to the Republic of Cuba. Five months later, on November 10, 2015, the Senate Foreign Relations Committee voted 12 to 7 in support of Ms. Jacobson's nomination. Senator Marco Rubio, a candidate for the Republican nomination for president, voted "no" and placed a Senate hold on a final Senate vote on her confirmation (Wilkinson 2015).

Proponents of improved U.S.-Cuba relations introduced legislation in both the House and Senate. The bills focused on repealing the embargo, removing travel restrictions for Americans, allowing telecommunication exports and data services, eliminating shipping and airline restrictions, and allowing credit and banking services, especially for agricultural products. These bills were not voted out of committee. However, some of these provisions in the Senate



Bills were amended into appropriation bills. In the House, the opponents of strengthening U.S.-Cuba relations, led by Congressman Mario Díaz-Balart (R-FL), inserted language in House appropriation bills that would, in effect, halt implementation of some of the President's actions made by executive authority.

One of these appropriations measures was considered on the House floor on June 3<sup>rd</sup>. The Commerce and Justice Departments appropriations bill (HR 2578) contained a provision that prohibited funding for U.S. exports that might go to Cuban military personnel or their families. Proponents of reform offered an amendment to remove this provision. The amendment failed 153 to 273 (Farr of California Amendment 2015). On June 4, 2015 another amendment was offered to the Transportation Department appropriation bill HR 2577 that would remove a provision in the bill that would halt implementation of the President's action to reduce tourist travel restrictions to Cuba. The amendment also failed but the vote was 176 to 247—only forty-two votes short of the necessary 218 votes required (Lee of California Amendment 2015). Optimists would regard this trend as a reasonable baseline from which to work in 2016.

On July 23, 2015 the Senate Appropriations Subcommittee on Financial Services and General Government inserted language in their appropriation bill removing travel restrictions for U.S. citizens, allowing credit financing for agricultural exports to Cuba, and reducing restrictions on merchant ships carrying goods to Cuba (Congress. Gov 2015).

The Pew Research Center released a poll on July 21, 2015. The results were startling: 73% of Americans supported reestablishing diplomatic relations with Cuba, a ten-percentage point gain since January 2015. Internal numbers by political party reported a nine-point gain among Democrats from 74% to 83%. Republicans showed a 16-point gain in support from 40% to 56%. Seventy-two percent of Americans favored repealing the embargo in July, a six-percentage point increase since January. The internal numbers by political party for ending the embargo saw Democratic Party support rise 4 points from 78% to 82%. Republican Party support for ending the embargo rose a whopping 12% from 47% to 59% (Pew Research Center 2015). Given the increasing popular support for better relations between the United States and Cuba, Democratic Members advocated a new relationship with Cuba on safe political turf. Republican Members opposed to reform were faced with diminishing support for their position both with the U.S. public at large and from within their own Party. Also significant is the fact that the shifts in public opinion reflected in the polling occurred in a short six-month period. These changes occurred because of the leadership taken by the two Presidents—Obama and Castro. Leadership involves risk tak-

ing, persuasive arguments with a tincture of education and timing. The two leaders exhibited these beginning on D17 and followed up with concrete actions. They began the journey with the loud microphone of a joint statement. It was not one President saying “Mr. Castro or Mr. Obama, “tear down that wall”. Rather, to paraphrase, it was both Presidents saying: “Together, let’s tear down the wall between us”. Powerful! The American public was listening.<sup>3</sup>

Following his visit to Cuba in September 2015, Pope Francis addressed a Joint Session of Congress on September 24th. The Pope’s influence on Capitol Hill is unmeasured, but he does have an audience. Needless to say it was the hottest ticket in town. Even non-lobbyist former Members, who normally have Floor privileges for Joint Sessions, were relegated to Statuary Hall where the Pope did a walk-by after his televised speech. In 2015 there were 138 Catholics in the House (68 Democrats and 70 Republicans); Catholics in the Senate numbered 26 (15 Democrats and 11 Republicans). Without saying the word “Cuba” in his speech the Pope stated “I would like to recognize the efforts made in recent months to help overcome historic differences linked to painful episodes of the past. It is my duty to build bridges and to help all men and women, in any way possible, to do the same. When countries which have been at odds resume the path of dialogue—a dialogue which may have been interrupted for the most legitimate of reasons—new opportunities open up for all” (Pew Research Center 2015).

Religious leaders have been an important voice on Capitol Hill in previous debates on other issues. Rare has such a leader, though, been given such a forum. No doubt the impact of the Pope’s speech resonated beyond Catholic and other Members; it also reverberated throughout the United States.

As a result of Presidents Barack Obama’s and Raúl Castro’s actions in December 2014 on July 20, 2015, the Cuban Embassy reopened in Washington, DC, and the U.S. Embassy resumed operations in Havana. After fifty-four years of closure, on August 14, 2015, Secretary of State John Kerry officially reopened the U.S. Embassy in Havana. Normally, this act would lead to the appointment and Senate confirmation of a U.S. ambassador to Cuba. Unfortunately, this did not happen.

The U.S. Chamber of Commerce, long opposed to the embargo, in November 2015 amplified their support for President Obama’s new initiative towards Cuba by sending the largest business delegation to Cuba since 1959. Sixty representatives from thirty-two of the largest U.S. companies met in November with the Cuban business community and trade officials in Havana (Craig 2015).

During the year after D17 the governments of the United States and the Republic of Cuba signed three cooperative agreements, two relating to environ-

mental protection and the third relating to mutual bilateral postal services. With respect to environmental agreements, on November 18, 2015, representatives from the two nations signed a Memorandum of Understanding (MOU) agreeing to work together on Marine Protected Areas (MPA). The two nations also agreed by an MOU dated November 24 to cooperate on an even wider range of environmental topics. The Environmental Defense Fund (EDF) played a major role in securing both agreements and was rightfully recognized for facilitating the MOUs. The two environmental MOUs add environmental cooperation to the list of reasons for maintaining the new U.S.-Cuba relationship, reasons attractive to environmentally conscious Members of Congress.

The last significant 2015 event directly affecting Members came from Members themselves. On December 16, 2015 a bipartisan group of House Members announced the formation of a Cuba Working Group (CWG) whose purpose is to restore the relationship between Cuba and the United States. In the first sentence of his press release announcing his participation in the CWG, Republican Congressman Tom Emmer noted the fact that the Cuba Working Group was a bi-partisan effort: "I'm proud to join with my colleagues from both sides of the aisle to advance policies that will improve... (our) foreign policy" (Emmer 2015). The same collegial spirit is found in Democratic Congressman Jim McGovern's press statement: "...this bipartisan Cuba Working Group of 12 (sic) House lawmakers will address a wide range of issues with growing support from both parties in Congress" (McGovern 2015). Bi-partisanship is alive in the House and will serve well the proponents of the new Cuban foreign policy.

## **Two Significant Observations about Year One of Normalization on Capitol Hill**

Eleven months after D17, the effect of President Obama's action was noticeable on Capitol Hill: opponents and supporters were hard at work. What was different from the past was the growing power of supporters for reform in both parties and the fact that they were working together. This cooperation was occurring in the midst of generalized public criticism of Congress. Congress was widely regarded as "dysfunctional" as a result of which "nothing gets done" in Washington whether because of the partisan divide or the power of lobbyists. However, this author consistently found a spirit of cooperation within the House, within the Senate, between the two Houses, between the White House and the Congress, and within the lobby community. Of note was the cooperation between the two nation's embassies, agencies, and their staffs. This atmosphere of cooperation and sharing

of information and ideas was significant. Though early in the effort, the working environment boded well for the future.

A second general consensus in late 2015 became apparent after a few conversations with informed sources working in the halls of Congress: no one expected passage of reform legislation, whether a stand-alone piece (i.e., an individual bill) or as part of a broader bill containing a number of issues until 2017 at the earliest. When pressed, a few respected staff and lobbyists allowed that legislation was not out of the question but was unlikely. One possibility was some action in a “lame duck” session after the 2016 election and, if anything, as part of some larger bill. Three potential areas of legislation mentioned were lifting or modifying the U.S. travel restrictions, opening up the telecommunications sector, or something in the financial services sector that would facilitate export of U.S. goods to Cuba. A number of reasons for the prediction of no imminent action were offered by these same informed sources. First, opponents of normalizing relations with Cuba were proactively using the appropriations process—that is, control of the government’s budgets—to try to thwart some of President Obama’s Cuba policy changes. Proponents of action to improve the relationship with Cuba were quite busy burning their limited political bargaining chips to counter this obstructive action. The reality of the 2016 election year provided the second reason: limited Floor time dictates that very few bills would be debated and voted on in either the House or the Senate. A third reason was that Cuba-related issues were a lower priority than other trade related legislation. Fourth, and most importantly, most Members doubted that the necessary majority of votes existed to pass reform legislation: the proponents of improved relations simply did not have the votes.

### **Analyzing Member Concerns on Changing Cuba Policy**

After one year of multifaceted yet organized efforts on the Hill, the time was appropriate to analyze Members’ positions on Cuban rapprochement whether for, against, or undecided, and try to categorize the reasons for their positions. For any legislation, with 435 voting Members in the House, generally it takes 218 votes to pass legislation. Getting 218 votes requires determining the questions or stumbling blocks undecided Members have concerning the proposed legislation. Issues may be substantive or political, or hesitation may be simply a matter of timing. The strategy is to have private conversations with Members, lobbyists, and staff to find out what they are saying, whether they are supportive or opposed, and to what degree, and why are some undecided.

The following is a summary analysis of conversations between the author and Members of Congress, their staff including committee staff, and lob-

byists on issues related to Cuba. The conversations took place from mid-August, 2015 to late November 2015. Meetings were held in Capitol Hill offices, at lobby organization offices, in person and by telephone. Some individuals were interviewed more than once. In an attempt to describe and assess the effort in Congress to pass reform legislation affecting the U.S.-Cuba relationship one must go to Capitol Hill and talk to Members, staff, and the lobbyists involved in these issues. Mores—morally binding customs, or rules of the road—guide how this may be done. One vital caveat in writing about these concerns is safeguarding the sources of information. Senior Congressional staff, lobbyists, and even Members enjoy sharing their views but only on the condition that their names not be made public. They find job security—and reduced political problems—in anonymity. Thus the usage here of such non-identifying descriptors of sources as “senior lobbyist,” “noted trade expert,” “key committee staff members,” or “Capitol Hill veteran.” There is a reality to this approach in that hard predictions on Capitol Hill are difficult to come by as experience teaches the professionals who work there. Personality conflicts, new information, politics “back home,” and politics in Washington, all loom in the background for Members and staff. The author thanks the Members, staff, lobbyists and others who contributed by sharing their insights and expertise off the record.

Perhaps the most frequently mentioned reason by many Members for not yet taking a position regarding changes in U.S.-Cuba relations was that they felt that they were not sufficiently informed about policy questions related to Cuba to make an educated decision. Typically, Members do not to study an issue, let alone make a decision, until the issue becomes salient, such as when constituents raise it, a committee hearing concerns the issue, or a vote is at hand. Members are constantly faced with many issues of local, state, or national importance, and understandably focus most of their attention on these issues. Members face fewer foreign policy questions and these questions generally do not affect their bids for reelection. Thus, it is not surprising that many Members have not developed firm commitments for or against U.S.-Cuba rapprochement.

One of the more interesting responses explaining the relative paucity of strong opinions about U.S.-Cuba relations, and the need to educate Members, came from a veteran Republican lobbyist. He pointed out that over half of the Republican Members in the U.S. House have served three terms or less, and as a result, few Members or their staffs are familiar with U.S.-Cuba history or current policy questions. This observation is most encouraging from the perspective of influencing undecided Members: for the less well-informed Members, hearing

arguments in favor of (or against) legislation to reform U.S.-Cuba relations from academics, lobbyists, and constituents can fall on fertile ground.

Members, lobbyists, and staff agree that probably the most effective means of gaining support for rapprochement is for Members and staff to go to Cuba and see for themselves the changes taking place on the island. Similarly, the recent visit of thirty U.S. corporate CEOs has accelerated the “buzz” about the Cuba market and support within the business community. These visits energize the business lobbyists representing corporations in Washington and has a similar effect on Members in whose state or district the business is located.

Members want to know whether ending the embargo will bring new business and jobs to their State or District. This is especially true regarding legislation related to lifting the trade embargo and to tourist travel. In support of lifting the trade embargo, the agriculture industry organized an effective coalition related to farm products (USACC) that supports repeal of the current restrictive market practices in favor of the normal credit financing laws for exports. As part of this effort, agriculture related delegations from a number of farm states increased their visits to Cuba. Clearly, Members are hearing from these industries and many of the Congressional leaders for reform represent farm states. As for the travel industry, a nationally active coalition is connecting tourism to jobs in the United States by promoting legislation to remove the existing legal barriers in U.S. law preventing Americans from readily visiting Cuba. The tourism industry is aggressively lobbying Members in both their Capitol Hill and district offices. One noted trade expert pointed out that the stronger and wider the support in the business community within the states and Washington, DC, the more difficult it would be for the next president to roll back the advances gained.

Ultimately, legislating means having a new policy idea and writing language that captures the idea then writing more words that spell out parameters to sufficiently implement the new act. A veteran committee staff member observed that perhaps the hesitancy of some Members to commit to repealing the embargo, for example, might be because specific legislation to sequentially repeal it has not been written in sufficient detail. After all, the devil is in the details. Engaging these Members to make certain the proposed legislation, where possible and acceptable, contains provisions that address their concerns is at the heart of legislating. This process takes time.

Yet another element that is creating reluctance to support legislation that would change U.S.-Cuba relations is political factors involving other Members of Congress or lobbyists from various sectors. Fear of retribution is one trait Members and lobbyists sometimes have in common. Many Members of

Congress opposed to rapprochement deeply hold this position and some of them have powerful positions in Congress. This is especially true in the Senate where a lone Senator under Senate rules can delay, if not stop, legislation from proceeding. Whether true or not, many have a reputation for taking reprisals against Members voting the “wrong” way or punishing lobbyists who assist the other side. “Punishment” usually means, for example, not supporting or even attacking important legislation the offending Member or lobbyist is seeking. Again, whether true or not, Members and lobbyists feel the fear and are not ready to risk their own non-Cuba related legislation.

Another political factor is prioritizing Cuban issues among the myriad of issues before Congress. In a discussion with a veteran lobbyist for a major U.S. multinational corporation and member of the coalition in favor of rapprochement he stated that his company was very supportive of repealing the embargo, but was not now active on the Cuba issue because the corporation had more important and immediate legislative priorities. This lobbyist cited two issues before the House at that time: the battle to reauthorize the Export-Import Bank and passage of the Trans-Pacific Partnership (TPP) trade agreement. Other business lobbyists, part of the high technology coalition, voiced the same reason for not being more engaged in repealing the Cuba embargo. One strong supporter of repealing the embargo suggested that a specific group of agricultural lobbyists would become more active once it was more apparent that legislation to lift the embargo would come to a vote in the House with a healthy possibility for success. Until then, the lobbyist would avoid alienating the Members opposing rapprochement within the House. Committee and individual staff members also echoed this lobbyists’ analysis. Somewhat related to this strategic reason for giving Cuban issues a lower priority was the belief of one lobbyist who said that their business depends upon the development of a larger middle class in Cuba who can afford more expensive electronic consumer goods. They believed that economic growth is “far down the road” in Cuba’s future. Though supportive of lifting the embargo, the lobbyist stated that such legislation was not an “immediate priority” for their company.

A very different issue that emerged in discussions with Members and staffs are political considerations related to the Government of Cuba itself. There are two camps of Members who raise the Cuban government’s record on human rights, including political freedoms for Cuban citizens. One camp will support legislation that promotes rapprochement even though Cuba’s lack of progress “makes it difficult”; they hope that change will come in the future through engagement. The other camp is either undecided or opposed to rapprochement but will become supportive if the Cuban government makes some positive changes



on these issues before Congress votes. The two governments have discussed these and other complex, difficult issues affecting the U.S.-Cuba relationship. Any positive agreement on these two issue areas will have an effect on how certain Members of Congress will vote.

However, there appears to be a small core of Members whose positions will not be affected by the Cuban government making changes regarding civil liberties or religious rights. They will oppose any legislation favoring rapprochement until there is a regime change in Cuba. Most often this means adopting a democratic form of government. Whether President Raúl Castro's retirement at the end of his second term in 2018 has an effect on these Members' position on the embargo is unknown.

Providing political cover is important to Members especially with Cuba. Some staff and lobbyists suggested that having conservative think tanks and academics publicly support pro-rapprochement legislation would be very helpful to conservative Members, in terms of persuading them or for providing political cover for them. An examination of House votes on Cuba-related issues reveals strong support in the Democratic caucus but much less among Republicans. The challenge is to provide reasons from credible sources, such as conservative academics or think tanks, in order to gain more support from conservative Members.

Not an insignificant number of Republican Members would vote in favor of legislation supporting rapprochement with Cuba but for the fact that they believe they would be enhancing President Obama's legacy. They prefer not to do so. One must keep in mind that foreign policy votes rarely affect a Member's reelection and, therefore, a Member can readily find another public reason for his or her "no" vote regardless of their true reason. Whether this reasoning carries over well into President Trump's administration remains to be seen. President Obama's actions have changed the atmosphere and attitude towards rapprochement making it much easier for the next President to go beyond what is in place today, but Trump's positions on Cuba have been somewhat contradictory.

Except for the small, but committed group of Members who oppose legislation favoring rapprochement unless there is a regime change in Cuba, none of these hurdles are insurmountable. What gives reason for optimism is the fact that educating Members and staff does create converts.

### **Year Two of the Normalization Process on Capitol Hill (2016)**

The proponents of rapprochement do have traction on Capitol Hill after two years of work. One finds a broad and deep foundation peopled by experts in



the legislative process. The experts, and the organizations they represent, have developed and implemented successful legislative strategies over the years. In this effort, they have built a support structure that is both diverse and national. Diverse in that the foundation is not limited to business interests, but also includes civil society, religious, environmental, and other sectors as well. National because, though most have offices in Washington, proponents are also drawing upon state and local entities and politicians to lobby their local members of Congress. In January, Governor Terry McAuliffe, Democrat of Virginia, promoted his state's goods and services following in the footsteps of Governor Andrew Cuomo (Democrat) of New York, Republican Governors Asa Hutchinson of Arkansas and Governor Greg Abbott (Rep.) of Texas (Vozzella 2016).

Another excellent illustration of this is found in Engage Cuba's program to develop State Councils whose agenda is to lift the embargo and repeal travel restrictions on Americans. To date ten states from across the country have formed councils. The U.S. Chamber of Commerce also organized a well-publicized national delegation of thirty-five CEOs to Cuba and has plans for more visits. All of this is most significant in that foreign policy between the two nations is no longer determined by the internal debate and politics of the states of Florida and New Jersey.

Members of Congress and their staffs are also going to Cuba either as part of official delegations (CODELS) or under the auspices of nonprofit organizations. One of those trips was a bipartisan delegation of 39 Members of Congress that accompanied President Obama on his historic March 2016 visit to Cuba. It was the largest delegation to accompany a U.S. President abroad. After nearly ninety years, President Obama was the first president to visit our neighbor only ninety miles away. The newly formed U.S.-Cuba Business Council sent a delegation of forty to Cuba alongside the President's delegation. In early 2017 Republican Congressman Tom Emmer and Democratic Senator Patrick Leahy each led delegations of their colleagues to Cuba.

The Center for Democracy in the Americas (CDA) has organized visits for more than 60 House and Senate Members since 2001. Since D17 CDA has arranged visits for five delegations for Members and senior staffers. Significantly, the delegations since that time have included more Republicans than Democrats. This signals that Republicans increasingly want to learn for themselves about changes occurring in Cuba and how U.S. policy affects peoples' lives on the island. This is a sure sign that Republicans are seriously focused on this issue.

Americans are also going to Cuba in record numbers as a result of the easing of restrictions by President Obama. Cuban officials reported in early July

2016 that the number of U.S. tourists had increased by 84% over the previous year's level (Portland Press Herald 2016). This does not include the thousands of Cuban Americans who visit relatives in Cuba on family visas. U.S. tourists suffer bureaucratic hurdles in getting their visas and endure other limitations imposed by the policies, such as severe limits on credit card usage. They see the changes in Cuba, enjoy themselves and return home questioning policies imposed by their own government.

Academia, think tanks, and various policy institutes continue holding seminars, public discussions, publish papers and books furthering ideas and discussions about the relationship. Members and staff do take notice of this growing attention.

All the visits to Cuba, by both official delegations and ordinary citizens, and growing expertise on Capitol Hill, supported by wide-ranging scholarship has provided a foundation now cemented by common purpose and hardened by bipartisanship. Proponents of legislation designed to improve further the relationship continued in 2016 to build upon the broad foundation laid in 2015. On June 16, 2016, the Senate Appropriations Subcommittee on Financial Services and General Government in considering the appropriation bill S.3067 adopted four amendments by a vote of 22–8 for two of the amendments and majority voice votes for the other. The amendments would repeal restrictions on credit financing for agricultural products, repeal the travel restrictions, allow sales of telecommunication equipment, and repeal certain restrictions for U.S. shipping vessels and regularly scheduled flights. Fourteen Democrats joined with eight Republicans on the recorded votes (Fishbein 2016). This action, coupled with the maneuvering in the House, encourages hope for possible success in 2017.

The House proponents of U.S.-Cuba rapprochement were busy in 2016. Their defining action took place on July 6 during the House Floor debate on consideration of HR 5485 the House's version of the Financial Services and General Government appropriation measure. Proponents of normalization of relations offered two amendments: one repealing the travel restrictions and the other offered by Congressman Crawford, and others, would repeal certain credit financing restrictions for agricultural exports. Opponents fought hard and had to engage the Republican leadership for assistance, always a sign an opposing amendment might pass. An agreement was reached and the amendments were pulled from consideration.<sup>4</sup> In return, the proponents were promised a hearing on the agricultural related issues before the House Committee on Agriculture with the objective to discuss a broad, longer-term agriculture policy towards Cuba. The public hearing was held on September 14, 2016 with five witnesses

from the public and included statements from committee Members. Chairman Conaway's statement made clear that, though he supported repealing the embargo and travel restrictions, Cuba must first improve human rights for its citizens and institute principles of democracy in its form of government (House Committee on Agriculture 2016). Congressman Crawford was satisfied with the hearing and believed that the fact that the hearing took place helps keep the momentum going in favor of removing the U.S. barriers to trade with Cuba. It is true that proponents can state that the House Agriculture Committee has held a hearing on the issue. Mr. Crawford and his bi-partisan group of colleagues felt some progress was made (WOLA 2016).

Opposition efforts continued in the Senate. However, Senator Marco Rubio released his Senate "hold" on the vote to confirm Ms. Roberta Jacobson as Ambassador to Mexico and the Senate confirmed her nomination on April 26, 2016, eleven months after President Obama nominated her and five months after the Senate Foreign Relations Committee voted in favor of her nomination (Morello and O'Keefe 2016). The Jacobson confirmation delay did send a clear message to the President that this delay was only a warm up bout to the actual fight against any nominee for the US ambassadorial post in Havana.

The president waited five months until Congress was near its election recess to nominate Jeffrey DeLaurentis as the U.S. Ambassador to Cuba. Senator Rubio again made clear that he would oppose the nomination. (Hirshfeld Davis 2016).

Despite the expected and fierce opposition on Capitol Hill to normalizing relations by some, proponents have had many successes in two years. One of the more important is the political reality that President Trump will find a strong group of Members who will oppose attempts to roll back progress made in the relationship, even if he is so inclined. This commitment to forward movement to normalize relations with Cuba by the Congress is unique. Throughout modern history, nothing has impacted the U.S.-Cuba relationship more than the U.S. changing of its president, as William LeoGrande and Peter Kornbluh thoroughly documented in their definitive work *Back Channel to Cuba* (LeoGrande and Kornbluh 2014). Given the activity of Congress over the past two years, any changes in the U.S. relationship with Cuba in the future will greatly depend both on the Trump administration's policy and the willingness of Congress to take action.

## **Effects of the 2016 U.S. Presidential Election**

When the power embedded in the White House changes from one major political party to the other, the extent and depth of the change is always the question, if not concern. It's normal. Where the pendulum stops on the continuum

of concern depends largely on the character, experience, ideology, campaign promises, and appointments of the new tenant in the Oval Office. Donald J. Trump promises an extreme swing of the pendulum beyond the range between that of President Clinton to President Bush—Bush “43”—and even President Bush to President Obama. In contrast for example, and recognizing they are of the same party, the change from President Obama to Hillary Clinton would have been a few degrees. Cuba policy would have remained the same given her public campaign statements (Clinton 2015).

Mr. Trump’s success in the 2016 election was not based on the usual campaign. Rather, it was based on his personal leadership attributes and knowledge of modern electronic and social media communications. At the start of his campaign he successfully directed his messages at the extreme right wing element in America. He broadened his support by appealing to a large segment of the electorate imbued with great dissatisfaction of their government and the direction they believe it had taken. Together with these forces, in the last month of the campaign he galvanized support from wavering Republican Party members. The combination produced an Electoral College win. It was a complete demagogic success.

### **President-Elect Trump on Cuba Policy and Politics**

Initially, Donald Trump created some room for maneuvering with his policy on Cuba. His clearest statement came during the Republican Party primary debate in Miami on March 10, 2016. He stated: “I don’t really agree with President Obama. I think I’m somewhere in the middle. What I want is I want a much better deal...After 50 years, it’s enough time, folks. But we have to make a good deal and we have to get rid of all the litigation that’s going to happen...I would probably have the embassy closed until such time as a really good deal was made and struck by the United States” (Trump 2016).

At that time in the primary campaign Mr. Trump’s words perhaps gave hope to those opposed to rapprochement. In like manner, supporters of better relations between the United States and Cuba may have seen areas in which they could work with the new administration. Clearly, Mr. Trump indicated a policy difference on Cuba between himself and Senators Cruz and Rubio, two of his major Republican primary opponents both of whom were opposed to rapprochement. In short, Mr. Trump tried to appeal to both sides of the Cuba policy debate in Florida. Mr. Trump readily won the Florida Republican primary with 45.7% of the vote, Senator Rubio was second with 27% followed by Senator Cruz with 17.1% and Governor Kasich with 6.8%. As a result, Senator Rubio withdrew from the race. Both senators are Cuban-Americans and with Senator

Rubio's re-election to the U.S. Senate, both he and Senator Cruz will remain in the Senate. As both senators have a continuing lust for the White House, for both substantive and political reasons, the two senators will continue their staunch opposition to better relations with Cuba.

After the nominating conventions, polling indicated few paths to a numeric victory in the Electoral College and that all paths went through Florida (Burns and Haberman 2016). As many nominees before him, Trump targeted the Cuban American community comprising 30% of Florida's Hispanic community. For the first time in their history, on October 12<sup>th</sup> Brigade 2506, an organization whose members are veterans of the Bay of Pigs invasion, endorsed Mr. Trump (Mazzei 2016). Two days later—October 14<sup>th</sup>, the Obama Administration issued a Presidential Directive removing the \$100 limit on rum and cigars American tourists could carry home for personal use. The Trump campaign criticized the action for not getting anything in return from the Cuban Government. This played into a common theme of attack from Mr. Trump, namely that the Obama administration failed to make a “good deal” and he, Donald Trump, knows how to deal. Twelve days later, the Obama Administration abstained on October 24, 2016 for the first time, on the United Nation's annual vote for the U.S. to end the Cuban embargo. Again, the “spin” in Florida was that the Cuban government gave nothing in return (Oppenheimer 2016). The next day the *New York Times*/Siena University poll reported a four point lead for Mr. Trump in Florida including a 52% to 33% lead for him among Cuban American voters (Oppenheimer 2016). Donald Trump was on his way to winning Florida by 1.3% (119,770 votes). No doubt the Cuban American vote contributed to his thin margin of victory. Further research is needed to establish voter attitudes and reasoning behind the results, nonetheless, it is instructive.

One can assume that the campaign in Florida created a working relationship between Mr. Trump and those who oppose rapprochement. One would assume that Senator Rubio, one of their leaders, will work with them in devising a list of Obama actions for the new President to roll back or to repeal. They will probably suggest specific individuals to fill key policy positions. One does not know if Mr. Trump has already made commitments on specific policy changes, but it is safe to assume he will give any and all recommendations more than serious consideration. One can also expect that Senator Rubio and his compatriots will want the new President to take actions sooner rather than later. Some will characterize this as a huge political debt that they expect will result in a life size policy payoff. Once again Florida's 29 electoral votes matter.

The October actions by the administration are also instructive. Since D17, a time would come when Americans would ask: what has the Cuban government done in exchange for U.S. actions? Not only Cuban Americans would ask this question but, also Americans across the USA including, of course, members of Congress. The question arose strongly in October. Recognizing that this is a new relationship and that trust is not built in a day and that many of the changes have benefited Americans, a segment of Americans expects the Cuban government to increase civil liberties for its citizens. This is a contentious statement but it is one that members of congress have to address when justifying their support for rapprochement.

A third instructive development from the election creates an immediate counter-vailing force in the form of farm-state support for Mr. Trump's election. As noted earlier, agricultural interests have generated strong support in Congress for legislation removing the restrictions on credit financing for farm sales to Cuba. The new president will have to decide which constituency to satisfy. This is but one example of business interests who will oppose forces who want to take away business opportunities put in place by the Obama administration.

As president Mr. Trump will become more knowledgeable of the advances made in the U.S.-Cuba relationship since D17: governmental and commercial changes, cooperation in the sciences and the military as well. He will learn the importance to the credibility of the United States in the region and will have to evaluate the importance of the potential injury the U.S. will suffer if he unwinds the progress made. He will have to decide whether to erase accomplishments made, and move forward on unresolved issues or not. He will have choices to make. In the next four years Congress may or may not put legislation on his desk for him to sign into law. The crystal ball is murky warning of troubled times ahead.

### **Effects of the New U.S Senate and U.S. House of Representatives**

Those congressional members supporting a new and better US-Cuba relationship are fortunate that they are part of a bi-partisan national effort. That's the good news. The dynamics in the Senate remain about the same as before the election. Senator McCain and Senator Rubio, opponents of rapprochement, won their re-elections. So too did Senator Leahy and Senator Boozman, two active leaders for an improved relationship. The latter will continue their bi-partisan efforts to build upon Obama's accomplishments and to challenge actions that will set them back. The outcome depends largely upon decisions made by the White House. Democrats increased their members by two seats and with the two independents will have 48 seats. The Republican senate can-

didate won a Louisiana run-off election on December 10<sup>th</sup> (Ballotpedia 2016) giving the Republicans 52 seats (*The New York Times* 2016). With Senator Harry Reid's retirement, the perspicacious Senator Charles Schumer of New York, a supporter of rapprochement, will lead the Democrats in the Chamber. Early prognostications give the Democrats minimal chance of gaining senate control in the 2018 elections resulting in a high probability of continued Republican control in the second half of Mr. Trump's first term. (SoCalGal23 2016). Legislative elections matter.

Elections every two years re-energize the U.S. House of Representatives and 2016 was no different. Republicans will continue to control the chamber with 241 members, 5 fewer than in the previous congress. The Democrats will have 194 members (Ballotpedia 2016). Forty-three new members will bring their personal experiences, priorities and talents to the institution. Some will have taken a position on the US-Cuba relationship. Most have not. Regardless, these new members will be visited by proponents and opponents of continuing the process of normalization begun on D17. More than likely they will hear from their constituents especially from those who belong to one or more of the proponents' coalitions. Convincing a majority of these new members to support rapprochement is one of the more important actions as any success depends on developing a solid bi-partisan majority in the House. Questions abound however. What position will the new president take on specific issues, e.g. related to repealing part or the entire embargo? How long will it take for the new president to have his "Cuba team" of advisors in place and ready to advise the president? How will the House leadership respond if a majority takes hold... will it come to fruition during the appropriations process as has been the case in recent history. The three determinants, therefore, are the president's position, the House leadership decisions, and whether a solid majority of support for D17 is developed. Time will clarify today's uncertainties. What is certain is that the forces in the Congress supportive of engagement, if not friendship, with the Republic of Cuba and its people will not abandon their efforts. Their strength will only continue to grow given their national, diverse, and bi-partisan efforts.

### **Capitol Hill Roadmap**

The Republican Party controls the White House, the U.S. Senate and the U.S. House which are bequeathed with the primary responsibility and power to govern. The dynamics of governing under a new president are daunting especially the first months. Congress and the White House have their hands full. Consider the demands of their agenda:



1. President Trump hires personal staff
  2. President Trump selects cabinet and other senior officials
  3. Trump adjusts Obama administration proposed fiscal year 2018 budget and submits it to Congress in February
  4. Senate confirmation proceedings begin on nominees
  5. House/Senate Appropriation Committees begin work
  6. President nominates Supreme Court judge
  7. Senate confirmation process begins for Supreme Court nominee
  8. President Trump begins work on his "First 100 Days" agenda
  9. Congressional committees begin work where appropriate
- (Beck 2016).

This suggests that the President and the Congress have many immediate actions and decisions to take given their governance responsibilities. Where will Cuba related issues surface? One place may be found in President Trump's proposed revised budget for fiscal year 2017 in item number three. Senator Rubio or Congressman Díaz-Balart, for example, could convince the President to delete or modify funding for some of the Cuba initiatives instituted by President Obama. Or, they could make such changes during the Appropriations Committee hearings. Beyond these immediate issues, of interest to many is the approach President Trump will take in developing and implementing his policy on Cuba. Is it being developed now or will it come after his Secretaries of State, Commerce and Defense and his National Security Advisor, among others, have done a policy review?.

### **Congressional Lame Duck Session Post Election**

As mentioned earlier, the general consensus on the Hill in November 2015 was that Congress would not pass any of the legislation supporting normalization of the U.S.-Cuba relationship in 2016. A few did float the possibility of passing something in a lame duck session after the November 2016 elections. It is unfortunate that none of the four Cuba related items in the Senate Appropriations bill did go forward as this was perhaps the closest the Congress would come to enacting such legislation in the next few years.

### **Conclusion: A Path to Success.**

America's legislative process is designed to make the passage of laws difficult. In addition to gaining a majority of votes in both Houses to pass a law, Congress also has procedural requirements that strengthen its democracy, whether to combat a rush to judgment or limit demagoguery. Legislating is intended to be



a deliberative process. The institution also empowers one Member over others because of the management necessity of giving power to the leadership, whether as a committee chair or the Speaker of the House—thus the phrase “some Members are more equal than others.” In addition, because the U.S. Congress does not follow the a parliamentary system, Members are allowed to work in a bipartisan manner on legislation, as was occurring in 2015-2016 on issues germane to Cuba. President Obama’s D17 initiative energized Members to initiate and work together on reforms. The effort is a positive step by Members to break down the partisan divide that has damaged Congress’ reputation. Complete success will take time. After all, they are up against a fifty-five-year history of entrenched attitudes towards Cuba. These bipartisan efforts will continue in 2017 and thereafter. In addition, the Cuba discussion is going on now not only in corporate boardrooms, but also within religious groups, environmental organizations, civil society, and academia across the nation. In a short two years, a remarkable conversation has already taken place and will continue. Pew Research polling provides an indication of the change in the public’s attitudes with 73% supporting reestablishment of diplomatic relations with Cuba (Pew Research Center 2015). Members of Congress know the numbers. Time is on the side of a new, refreshing, and effective policy towards America’s neighbor. How long and what form the new policy will take depends on who is president and to some extent which party controls either or both of the Houses of Congress. For the proponents of improved U.S.-Cuba relations, these matter in terms of strategy, patience, and perseverance. Time is on their side. On D17 both President Obama and President Castro made the commitment to work together to build a new relationship between their two countries. Suppose President Trump accepts some of the changes put in place but retracts others, or makes unacceptable demands to Cuba’s leaders? What will be Cuba’s response? Time will tell.

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### NOTES

<sup>1</sup> The Helms Burton Act Was passed by Congress in 1996 and signed into law by President Clinton. The Act put into law existing and additional economic sanctions against Cuba thereby limiting presidential flexibility in conducting foreign policy and requiring congressional action to change any provisions. It also added a provision granting authority to Americans to sue “...foreign corporations that “trafficked” in properties expropriated from wealthy Cubans or Americans following the revolution.”

<sup>2</sup> The reader is encouraged to examine the websites to see the hundreds of entities that are part of this national effort.

<sup>3</sup> “TEAR DOWN THAT WALL”: Reference to a passage in President Reagan’s speech at the Brandenburg Gate in West Berlin on June 12, 1987 directed to Mr. Gorbachev, president of the USSR.

<sup>4</sup> One wonders why so close to possible victory, the proponents of the amendments succumbed to the leadership wishes. One argument, based on pure speculation, was that the proponents were informed of the importance to the Republican Party of those Cuban Americans in Florida who opposed President Obama’s efforts. Having their support in November was critical to all Republicans on the ballot. Again the author has no evidence whatsoever of the actual arguments made.

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## **Getting Along With the Colossus: Climbing on Board without Losing the Way**

John H. Coatsworth

Relations between the United States and the independent states of the Caribbean and Central America over the past century demonstrate the difficulties imposed by the occasionally lethal combination of geographic proximity with vast asymmetries in strategic power, economic weight, and political influence. The small countries in this region are relatively poor and powerless and therefore of little practical importance to the United States. Whether they embrace or oppose U.S. policy preferences has virtually no impact on the United States. None, not even Cuba, has ever presented a serious threat to U.S. national security or to major U.S. economic interests (Desch 1993). In contrast, the United States is a superpower with immense capacity to project power and can do so with relative impunity, because so little is at stake.

For more than a century, therefore, U.S. policymakers have enjoyed a relatively free hand. They can ignore the region without doing any damage or they can escalate to imposing U.S. policy preferences, even when doing so requires the use of force to overturn incumbent governments. Poor decision-making in Washington cannot damage significant U.S. strategic or economic interests, because there are none in the region to be damaged. Even decisions that do harm to the (relatively minor) U.S. interests in the region or run counter to U.S. objectives elsewhere in the world are seldom costly enough to attract the consistent attention of high level U.S. officials or to impose discipline on the process of policy formation itself. For these reasons, among others, U.S. foreign policy toward the Caribbean and Central America has been characterized by extended periods of bureaucratic inertia punctuated by ill-considered interventions driven mainly by the vagaries of US domestic politics.

Getting along with the occasionally erratic superpower to the North without sacrificing national values and interests has defined the central dilemma of

foreign policy makers in the Caribbean and Central America for more than a century (Coatsworth 1994, 4-23).

### **From Cold War to Post-Cold War**

During the Cold War era, US policy toward the Caribbean and Central America reflected the larger bi-polar confrontation with the USSR and the evolution of related U.S. policy aims in the Western Hemisphere (Brands 2010). The U.S. strategy was to seek reliably anti-Communist allies throughout the region (mostly conservative to right wing economic and political elites), secure their support for U.S. Cold War aims, and back them with money, training, and equipment for the military and police forces that kept them in power. When challenged by the Cuban Revolution, the United States intensified its efforts to protect its allies throughout Latin America, particularly in the Caribbean and Central America even though the success of this strategy had virtually no impact on the course or outcome of the Cold War itself (Dominguez 1999). The Cold War strategy of the United States was poorly conceived at best. In most Latin American countries, citizen majorities preferred more socially progressive governments than those supported or installed by the United States. When majorities managed to elect such governments or opposition movements threatened to overturn U.S. allies, the U.S. government backed minority rule. Twelve of the 22 Latin American governments (17 in the Caribbean and Central America) overthrown with U.S. help or direct participation between 1949 and 1990 had been elected; while a thirteenth intervention (the dispatch of 22,000 U.S. Marines to Santo Domingo in 1965) prevented the restoration of a democratic regime (Coatsworth 2005). Worse yet, the strategy spilled blood needlessly. In 10 of the 13 cases, the political movements or parties tossed from power during the Cold War were re-elected to office once military rule ended.

The U.S. Cold War strategy generated widespread opposition within the United States, even within the policy establishment. Policy discipline and coherence were continually undermined from the Kennedy through Reagan administrations (Dominguez 1999). The relatively rapid abandonment of this strategy after 1989 reduced conflict and strengthened democratic regimes throughout the hemisphere. The U.S. policy shift as the Cold War ended has remained in place ever since. The principal goal of the U.S. government since the end of the Cold War is a “neighborhood” populated by stable governments respectful of U.S. policy preferences. Minor squabbles aside, the United States has achieved this goal at relatively low cost, mainly because it has (mostly) resisted the temptation to spend time and treasure rearranging the domestic politics of countries whose



governments are not popular with one or another U.S. interest group or political faction. The long overdue decision to restore diplomatic relations with Cuba in 2014 was consistent with this goal and served U.S. interests well. It removed a minor irritant in US relations with the rest of the Western Hemisphere, reduced the probability of unexpected and distracting crises, and created an environment in which both countries could discover common interests and devise mutually agreeable policies across a range of issues: disaster response and relief, regulation of oil drilling, protection of the natural environment, improved telecommunications, crime-stopping and counter-terrorism, even immigration, trade and investment. In short, the development of increasingly “normal” relations between the two historic antagonists could be achieved.

In time, if all goes well enough, both countries will benefit not only from increasing cooperation in areas of mutual interest, but also from a growing web of contacts, agreements, and relationships that the United States will be reluctant to sacrifice. Achieving this happy evolution confronts two main obstacles. The first is structural. The United States will continue to be more important to Cuba than Cuba to the United States. That is, the cost of a disruption in relations between the two countries is likely to be higher for Cuban leaders than for their U.S. counterparts. The second is more narrowly political. Most of the disruptive U.S. interventions in the Caribbean have been driven by high-level U.S. political actors responding to domestic political pressures and threats. The potential for disruptive behavior on the part of the United States will therefore remain, because U.S. policymakers will always be tempted to give greater weight to domestic political gains and discount the costs of bad relations with the Cuban government.

### **Cuba's Choices**

From the perspective of the countries of the Caribbean and Central America, the asymmetry in power between each of them (or any group of them) and the United States presents two levels of policy choice. The first is the strategic choice between what theorists of international relations call “balancing” and “bandwagoning” (Walt 1987, 18-21). Governments in the region generally choose to bandwagon, that is, to recognize their relative weakness and accept U.S. constraints on their domestic and foreign policymaking. This is sometimes referred to as part of a path to “recognition,” in which small countries receive a measure of respect for their status as sovereign states in exchange for “deference to the stronger power’s prominence in global and regional issues.” (López-Levy, 28). Recognition is more commonly referred to as accepting U.S. “hegemony,” because deference to U.S. global and regional goals has often imposed constraints on the *domestic* policy making of small states. And such constraints have proved especially

difficult for governments committed to major domestic reforms or “revolution.” Governments that wish to avoid deferring to U.S. global and regional interests, usually to protect domestic agendas, have occasionally opted to balance against U.S. influence and power by mobilizing both domestic and international support. Except for Cuba, few governments in the region have successfully done so, because they typically have little to offer external powers, regional partners, international organizations, or even domestic supporters to compensate for the cost of incurring U.S. hostility. The Cuban government is not the only state in this region to have rejected U.S. constraints on its policymaking, but it is the only one that did so during the Cold War and survived.

It appears likely, nonetheless, that the restoration of diplomatic relations with the United States together with an international environment that has become less competitive will provoke a change in Cuba’s strategic posture. Cuba is now inevitably embarked on a shift from a strategy of balancing to a strategy of bandwagoning, that is, deferring to U.S. global and regional interests in exchange for a U.S. commitment to treat Cuba as a sovereign nation with respect to its internal social, economic, and political arrangements. However, the U.S. and Cuba governments embrace divergent theories about how political and social life should be organized. Both aspire to a form of democracy that its people view as legitimate. Neither finds the other qualified to discuss its own political system. In renewing diplomatic relations, the U.S. government abandoned regime change as an implicit short-term goal, but explicitly reaffirmed its ideological commitment to regime change as a strategic objective for the future. The Cuban government, in contrast, has committed itself to implementing a series of economic reforms premised on regime stability. The U.S. posture suggests that the United States, for the first time in 50 years, may be willing to accept incremental change rather than political rupture in Cuba. Nonetheless, in its explicit insistence on defining what the goal of Cuba’s “transition” should be, the United States has, rhetorically at least, left open a return to past policies aimed at disruption and regime change. The key issue in U.S.-Cuban relations in the next five to ten years will be whether the divergent strategic goals of the two countries can be accommodated without overt conflict. In the short term, accommodation is likely to be difficult for both countries as each moves through significant political changes. In the United States, the 2016 election could result in a U.S. administration inclined toward a return to greater hostility and pressure. In Cuba, the leadership transition beginning in 2018, together with deepening economic reforms, could produce a heightened sense of external vulnerability.

Whether it will be possible to reach such an equilibrium will depend on two questions: (1) To what extent does deference to U.S. policy preferences threaten Cuba's domestic social, economic, and political arrangements, and (2) How much credibility should Cuba assign to a U.S. commitment to respect Cuban sovereignty, were it to be offered by the United States. Once Cuba makes the strategic choice to bandwagon, whether explicitly or not, it will confront a second, more tactical level of choice. Cuban policymakers will have to determine what policy instruments are likely to prove most effective in retaining their freedom to advance significant national, regional, and global interests, even when those interests do not conform to U.S. policy preferences.

The fundamental asymmetry of power between the two countries does not guarantee that the more powerful country will succeed in its goals and the weaker of the two will fail. For the immediately foreseeable future, the U.S. government is unlikely to focus much energy and attention on Cuba, given the other foreign policy challenges it faces. For the most part, therefore, professional diplomats and mid-level policy managers should be able to continue forging mutually beneficial ties across a wide range of issues, as mentioned above. However, any combination of events in or related to Cuba that touches U.S. domestic political nerves could be destabilizing to the new relationship. Election seasons in the United States tend to produce an uptick in inflammatory rhetoric with attendant pressure on U.S. presidents to take action against the Cuban government and Cuban interests, even when no tangible U.S. interest is at stake. In 2016, however, the U.S. administration's 2014 decision to resume diplomatic relations and the voters' rejection of (mostly Republican) primary candidates calling for a return to hostile relations, moved Cuba off the election agenda (Kopetski, 2016). Disruption could also occur even in the context of a well-intentioned effort by a U.S. administration to secure congressional action to repeal or substantially modify the past legislation that continues to hamper US-Cuban economic ties. As the price for ending the embargo, the U.S. president or Congress could be tempted to look to the U.S.' longstanding regime-change agenda for a list of concessions it would demand of Cuba with potentially disruptive effects on the normalization process.

Though Cuba is demonstrably weaker than the United States, its government has at its disposition a portfolio of instruments with which to preserve and strengthen its freedom of action, even in the face of U.S. pressures. In contrast to the Cold War era, Cuban foreign policy goals are not necessarily or fundamentally at odds with those of the United States in many regional and global issue arenas. Cuban policymakers should thus find it possible to demonstrate flexibility

at a fairly low cost as they are already doing in discussions ranging from drug interdiction to environmental issues. Cuba's positions on a series of global issues, from climate change to terrorism suggests multiple areas in which Cuba could quietly accommodate US global interests without substantially altering its own positions. Difficulties are most likely to arise in the context of renewed U.S. pressures on what the Cuban government understands as domestic issues that are not legitimately subject to external interference.

### **Managing Relations with the United States: Latin American Precedents**

The challenges Cuba faces in managing relations with the United States while shifting its own strategic posture are not unfamiliar to historians of relations between the United States and other Latin American countries in the modern era. Mexico, for example, offers a possible model that could provide some insight into the tactical choices Cuba will face over the medium to long term. Mexicans themselves described it for many decades as "revolutionary nationalism." In this model, policymakers implicitly prioritize good relations with the United States, but work within that framework to regulate and limit U.S. economic ties, strengthen the state sector of the economy in a state-dominated partnership with the private sector, and consolidate the dominance of the governing political party (Loaeza 2010). This model might be called "bandwagoning at arm's length."

After various experiments with a strategy of balancing, Mexico's nationalism expressed itself in a largely successful effort to combine official endorsement of U.S. Cold War aims with policies aimed at reducing undue U.S. influence by limiting and regulating foreign (especially U.S.) investment and trade. State-led industrialization tied Mexico's private sector more closely to official protection and favors than to U.S. and other foreign investors. Government control of unions, peasant organizations, and other popular interests did not trouble the United States since it contributed to the stability of the country's "open authoritarian" regime. At the same time, the Mexican government's ability to mobilize some measure of popular support (and demonstrate it through often formal—though often dubious—election victories for the ruling party) strengthened its leverage with the United States. U.S. administrations tolerated Mexico's state-led development policy that limited opportunities for U.S. investments and trade and even managed to ignore occasional public disagreements with U.S. foreign policy (over Cuba, for example) in the belief that forbearance helped to strengthen Mexico's ruling party and thus preserve stability on the U.S. southern border.

Cuba, however, cannot offer to the United States what Mexico provided during the Cold War. The United States placed a high value on Mexico's muted endorsement of U.S. Cold War aims. In the Post-Cold War era, Cuba has nothing of comparable value to offer. Deferring to the United States on regional and global foreign policy issues, most of which are no longer vital to Cuba or the United States, will not be sufficient to guarantee U.S. forbearance. Moreover, the prospect of instability in Cuba (unlike Mexico in the Cold War era) could prove welcome to some U.S. interests and policy makers and interest groups. And since Cuba does not share a 2000-mile border with the United States, the threat that instability on the island could spill over into the United States is easy to discount.

The Cold War era offers two other examples of balancing that may be instructive. In Guatemala, the United States intervened to overthrow the elected reformist government of President Jacobo Arbenz in 1953. At roughly the same time (1952-54) the United States opted to support and provide large-scale economic aid to the unelected "revolutionary" government of Bolivia (Murphey 2016, Dunkerely 1984, Gleijeses 1991). The domestic policies of these two governments were quite similar (agrarian reform, nationalization, social programs targeted at education, public education, and poverty reduction). In the Guatemalan case, however, the local Communist Party, the *Partido Guatemalteco de Trabajo (PGT)*, provided crucial support for the reform agenda. As Gleijeses put it, "Arbenz's partner was the PGT. No other partner was possible, for no political party shared Arbenz's commitment to social reform and his willingness to put the interests of the nation before his own. The dedication, honesty, and selflessness of the leaders of the PGT were noted even by the US embassy" (Gleijeses, 1991, 378). Arbenz thus chose to pursue a foreign policy that attempted to keep the United States at bay without alienating the PGT, maintaining Guatemala's membership in the Rio Treaty organization and the Organization of American States, but withdrawing from ODECA (the *Organización de Estados Centroamericanos*) in 1953, rather than join an anti-Communist crusade promoted by other ODECA members at the behest of the United States. That is, the Arbenz government was unable to defer to U.S. hegemony without sacrificing its most crucial domestic political allies and thus its reform agenda (Grandin 2011).

The Bolivian Nationalist Revolution followed a contrary trajectory. The government of Victor Paz Estensorro came to power in an uprising in which militias of tin miners played a crucial role in defeating the national army. With the tin miners' union, the *Federación Sindical de Trabajadores Mineros de Bolivia*

(FSTMB) occupying the mines and patrolling the streets of the capital, La Paz, the government nationalized the mines. With peasant militias (often armed by the tin miners) seizing estate lands, the government proclaimed a transformative agrarian reform. These and other measures of the MNR (*Movimiento Nacionalista Revolucionario*) government made it more radical in most respects than its Guatemalan counterpart. Indeed, the anti-U.S. and anti-imperialist rhetoric of the MNR and its leaders, including President Paz, was often more strident than that of Arbenz and the PGT. The U.S. supported the MNR government, nevertheless, in large part because Paz and the MNR “moderates” were careful to defer to the United States on global and regional issues, endorsing U.S. positions in the global Cold War and repeatedly expressing support for the “inter-American system” led by the United States. This attitude was made possible, in part, because the MNR domestic coalition depended critically not on the Bolivian Communist Party, small in size and disoriented by the MNR’s prior flirtations with fascist ideology, but on the tin miners’ union, which was one of the largest Trotskyist (anti-Soviet) political organizations in the world. The MNR accepted U.S. hegemony, because it could do so without sacrificing its domestic reforms and its political base.

In the Post-Cold War World, it may be easier for small countries to negotiate the terms of their deference (as Bolivia did successfully for a time), because the U.S. no longer insists on a uniformity of posture in a global confrontation with a single strategic enemy whose allied parties and organizations once had considerable influence within several Latin American countries. For example, when the United States sought support in 2003 from the two Latin American members of the UN Security Council (Chile and Mexico) for a second United Nations Security Council Resolution that would have clearly authorized a U.S. invasion of Iraq (in contrast to an earlier resolution that did not do so explicitly), both countries refused despite urgent U.S. pressures. Neither suffered as a result.

The Mexican example would suggest that Cuba may want to accelerate its efforts to attract foreign direct investment from non-U.S. sources, pre-balancing against U.S. companies in preparation for a future day when the U.S. Congress finally lifts the embargo. Trade relations with the United States also present opportunities for Cuba to manage its external economic ties in the interest of preserving sovereignty through pre-balancing. The diversification of trading partners that has occurred throughout Latin America in the past two decades has already been praised for freeing policymakers in the region from worrying so much about the United States. In the Caribbean, however, market forces are more likely to increase than to diminish Cuba’s trade with the United States, but careful management on the Cuban side, along with the persistence

of the U.S. embargo, can help Cuba avoid excessive economic dependence on the United States for some years to come. More important in the short to medium term are the political and economic reversals suffered by a series of South American governments with which Cuba has successfully created special relationships, born of ideological affinity, since the turn of the century. The two most important to Cuba's economy have been nearby Brazil and Venezuela, neither of which is likely to continue. Cuba has also sought to balance by developing, maintaining, or deepening relations with countries outside the hemisphere whose leaders find it convenient to irritate the U.S. government from time to time (e.g., Russia, Iran, North Korea). These relationships may bring economic or ideological benefits that exceed the costs of irritating the United States, or they may not. In any case, since Cuba can no longer rely on either regional or global powers to provide much in the way of economic or other meaningful support, Cuba has no crucial external allies to worry about offending should it tilt occasionally toward deference. Or to put in differently, deferring to U.S. regional and global preoccupations will not be as costly to Cuba as once might have been the case. Doing so in the Cold War era, when the United States was demanding that Cuba sever its ties to the USSR would have been far more costly. In addition to insisting on access to investment and trade opportunities, which the Cuban state can regulate, U.S. global and regional interests include such priorities as combatting terrorism, drug trafficking and climate change, all of which can probably be managed by Cuba's foreign policy team without provoking U.S. concerns.

### **Cuban Internal Reforms and Cuban Sovereignty**

Unlike the revolutionary changes of the 1960s and 1970s, Cuba's domestic economic reforms over the past eight years have mainly inspired approving comments from U.S. authorities. If Cuba continues to encourage its non-state sector of micro- and mini- enterprises and an expanding sector of increasingly productive cooperatives of all kinds, succeeds in attracting substantial foreign direct investment in key sectors, makes a great success of its new container port at Mariel, capitalizes on its attractiveness to U.S. and other tourists, and eventually implements its long-delayed currency reform, the U.S. government is likely to be (rhetorically, at least) supportive. Cuba will probably need to do even more, however, to set the country's economy on the path of sustained productivity growth. Perhaps most important will be raising the rate of capital formation, repairing the fiscal capacity of the state both to invest in physical infrastructure and to improve the quality of public services that have not yet



fully recovered from the crisis of the 1990s, and developing a strategy to make better use of the country's exceptionally well-educated and under-employed human capital (Torres 2016).

The Cuban government appears committed to moving ahead ("*sin prisa, pero sin pausa*," as President Raúl Castro put it), using the re-establishment of U.S.-Cuban relations to push the United States toward dropping the embargo entirely. Cuban authorities may also find it prudent to push through major changes in economic policy well ahead of President Castro's retirement from the presidency in 2018 (and 2021 from head of the Party) to allow time for the changes to be absorbed prior to the installation of the new government and party leadership. An acceleration of the reform process that coincided with a sharp rise in non-US foreign direct investment would be particularly helpful, though the reaction of foreign investors particularly from Europe since December 17, 2014 has been cautious. Legal issues, particularly the need to reduce risks by improving guarantees and enforcement mechanisms for private contracts, have been major concerns.

In managing this process, the Cuban government might also look to reinforcing domestic support by engaging with emerging civil society interests and organizations, prioritizing improvements in the quality of public services (especially health care, education, electricity, potable water, food distribution, and transport), responding more effectively to the needs of an expanding and potentially supportive non-state sector and looking for ways to mobilize support for its developing reform program among diaspora communities, especially in the United States (Arboleya 2016).

Inevitably, however, there will be friction in the U.S.-Cuban relationship. In foreign policy, Cuba will likely continue to prepare for this eventuality by strengthening its relations with international and regional organizations, such as the United Nations and the various Western hemisphere organizations that exclude the United States, and work even harder to strengthen bilateral relations with regional powers, as it has already done with Colombia and Mexico, as well as with Western Europe. (Marin 2016) Cuba may also seek to develop deeper relationships with civil society organizations in the United States, including potential and actual US companies interested in Cuba, to help generate better understanding of Cuban goals and policies among U.S. policy and economic elites. Finally, working to expand the web of collaborations on issues of mutual interest, mentioned above, could also provide some additional insurance against the threat of escalating tensions in the face of potentially disruptive events.



## Conclusions

Both Cuba and the United States can benefit from the new era of diplomatic relations that began on December 17, 2014. “Learning the art of living with our differences” will require both countries to make adjustments in their foreign policy making. U.S. policymakers have explicitly endorsed the concept of a “peaceful transition” in Cuba. This concept, however, has two aspects. The first is a willingness to move toward normalization of relations without insisting on immediate domestic political and social changes in Cuba. This posture represents, for the first time in 50 years, a U.S. willingness to accept incremental change rather than political rupture. The second aspect, however, is an explicit insistence on defining what the goal of Cuba’s “transition” should be. Future U.S. administrations may not have the political capacity to avoid meddling aimed at pushing Cuba toward U.S.-defined goals.

In this new era of U.S.-Cuban relations, both countries can probably count on willing, if not always disinterested, help from various governments and non-governmental institutions to help them get through the bumps in the road that lie ahead, including the European Union, the Vatican, major regional powers such as Brazil and Mexico, and various regional and UN bodies. More important than anything else will be the Cuban government’s ability to manage economic reforms that create opportunities for more citizens and get the economy growing again while enhancing its own ability to mobilize and make visible domestic support for its vision of Cuba’s future.

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## **Spoiling the Spoilers: Evading the Legacy of Failed Attempts to Normalize U.S.-Cuba Relations**

Philip Brenner & Colleen Scribner

As Cuba and the United States celebrate each new advance in the effort to move from normal diplomatic relations to normal relations, the negotiators on both sides are aware that prior efforts at normalization ended badly. They have endeavored to make the advances irreversible so that new administrations or events do not return the two neighbors to a relationship characterized by implacable hostility. In using the term “normalization,” we mean the creation of a relationship that is marked by cooperation, a willingness to accept the legitimacy of each other’s internal system and laws, and a commitment to resolve differences through negotiation.

Scholars have identified several factors that can engender a normalization process between countries, including changes in the international system, cultural commonality, strong leadership, regime change, severity and longevity of the antagonistic relationship, specific catalysts, and economic incentives (Fehrs 2011, 4). For example, President Nixon’s desire to threaten the Soviet Union with the possibility of a U.S.-China alliance contributed to the U.S. rapprochement with China (Goh 2005). Egypt’s peace treaty with Israel brought Egypt economic and military aid from the United States in addition to a strong bilateral trade partnership with Israel, amounting to \$100 million in 2014 (Shamah 2015).

However, scholars have not examined in detail the factors that may have contributed to failed efforts at normalization. By examining two failed attempts to normalize U.S.-Cuba relations, this chapter intends to begin filling that gap. It then identifies the factors that have militated against normalization between Cuba and the United States since December 17, 2014, when the two countries announced they would restore diplomatic relations, and proposes actions policymakers could adopt to shield the process from disruption.

### The Carter Years

On March 15, 1977 just weeks after his inauguration, President Jimmy Carter signed Presidential Directive/NSC-6 which stipulated that the United States “should attempt to attempt to achieve normalization of our relations with Cuba” (Presidential Directive/NSC-6 1977, 1). This new approach accepted the Cuban Revolution as an accomplished fact and followed on the heels of a State Department announcement that the president would not renew the ban on travel to Cuba by U.S. citizens. These decisions altered somewhat the rationale for the embargo, which had been premised on the alleged threat that Cuba posed to the United States. Instead, the sanctions were justified for their value as a bargaining chip in an attempt to improve human rights in Cuba, to discourage Cuba’s foreign intervention, and to gain compensation for expropriated property. Carter and several key advocates within his administration—such as UN Ambassador Andrew Young—also viewed an opening to Cuba as part of a “broader strategy of establishing a much closer rapport with the Third World” (Smith 1987, 117). This approach was consistent with recommendations of the Commission on United States—Latin American Relations.<sup>1</sup> The Commission’s 1974 report argued that in order to improve relations with Latin America, the United States had to stop treating Cuba as a pariah. It urged “that the United States act now to end the trade embargo” in order to achieve “a normal relationship with Cuba” (Commission on United States—Latin American Relations 1974, 29). Notably, Carter chose Robert Pastor, previously executive director of the Commission, as his principal Latin America specialist on the National Security Council (NSC) staff.

Initiated by President Fidel Castro, negotiations began in March 1977 on fishing and maritime boundaries accords, which the two countries signed in April. In September, the United States and Cuba began to use their own diplomats to staff the sections of the Swiss and Czech embassies that respectively handled their “interests.” The staffs reopened their old embassy buildings and the new interests section missions began to function as quasi-embassies, expanding the opportunities for diplomatic engagement. Washington also agreed to stop any terrorist activities toward Cuba and to cease overflights.

At the same time, South Dakota Democratic Senators George McGovern and James Abourezk pushed forward legislation aimed at lifting the embargo on food and medicine and allowing two-way trade. Carter remained neutral on the bill. He was concerned about turning over to Congress a foreign policy initiative, and that Cuban citrus might hurt domestic growers (Pastor 2012, 242). The bill was defeated by a combination of strong opposition from Florida citrus growers who feared competition from Cuba and the political maneuverings of Represen-

tative Dante Fascell (D-FL), chair of the House International Relations Committee, whose district contained the largest concentration of Cuban Americans in the United States (Schoultz 2009, 295; Brenner 1988, 76).

The greatest obstacle the Carter administration faced in improving relations with Cuba was its own ambivalence, reflected in the repeated disagreements between the State Department and NSC staff. As the political scientist Lars Schoultz observes, National Security Adviser Zbigniew Brzezinski “brought an exceptionally narrow Cold War perspective to nearly every policy dispute, and in the case of Cuba this approach invariably meant interpreting [Cuban] moves...as evidence of Soviet intentions” (Schoultz 2009, 293). Carter later acknowledged the influence Brzezinski had on his thinking: “Originally from Poland, he [Brzezinski] had made a special study of the Soviet Union and Eastern Europe...I was an eager student, and took full advantage of what Brzezinski had to offer. As a college professor and author, he was able to express complicated ideas simply” (Carter 1982, 51).

Brzezinski also used the media effectively to press his point of view. For example, State Department officials were surprised in November 1977 to find a major front page story in the *New York Times* that suggested Cuban troops had been deployed throughout Africa as a stalking horse for Soviet advance on the continent (Smith 1977, A1; Smith 1987, 122–123). Insiders accurately guessed that the leak of this top secret analysis came from Brzezinski. A close look at the published map revealed that in several instances the Cuban deployment was merely a handful of security advisers, technicians, or medical personnel (Smith 1977).

At this point, Cuban internationalism in Africa became a serious obstacle to the process of normalization. Cuba had sent troops to Angola in November 1975 to support the new government there. Secretary of State Henry Kissinger had viewed the Cuban move then as a direct assault on U.S.-Soviet détente, and in December 1975, President Gerald Ford announced that Cuba’s Angola operation “destroys any opportunity for improvement of relations with the United States” (Gleijeses 2002, 329–338; Kissinger 1999, 782–784).

Castro subsequently promised Carter that Cuba would remove its remaining 30,000 troops from Angola in 1977, but as South Africa became more involved, the withdrawal process slowed down. Moreover, Cuba sent some of the departing Angola-based troops to Ethiopia. The United States had supported the Ethiopian government under the long rule of Emperor Haile Selassie, who was deposed in a September 1974 coup. When General Mengistu Haile Mariam, the leader of the new military junta, consolidated his power in 1977, he de-

clared Ethiopia to be a socialist state and asked the United States to withdraw. In response to these developments, the Soviet Union shifted its support from Somalia to Ethiopia and asked Cuba to divert 20,000 troops to Ethiopia. Castro initially attempted to mediate a ceasefire between Ethiopia and Somalia, but when that effort failed, he complied with the Soviet request.

The Ethiopian case seems quite different from the Angolan, and scholars have not yet been able to explain adequately Cuban motives for sending troops to the Horn of Africa. In contrast to the Angolan case, all of Carter's advisers viewed Cuba's engagement in Ethiopia negatively because it appeared to be done at the behest of the Soviet Union rather than in pursuit of Cuban interests. Mengistu was already a brutal, corrupt dictator, and the conflict with Somalia did not threaten the regime's viability or offer mineral wealth. In his memoir, Brzezinski expressed no doubt that the Soviet Union was using Cuba as a "military proxy" in Ethiopia and he argued that "the Soviet presence in the Horn...will be a serious and direct political threat to Saudi Arabia" (Brzezinski 1985, 180–181).

As President Carter adopted Brzezinski's worldview, he repeatedly painted himself rhetorically into a corner. He responded to each new Cuban "challenge" with a tough stance, even when the reality turned out to contradict the allegations (Smith 1987, 128–140). Wayne Smith, who was in charge of the State Department's Cuba desk at the time, recalled that when he tried to provide the president with a "balanced assessment" of Cuba's role in Africa, an NSC aide informed him that the NSC was interested only in emphasizing how "the Soviets and the Cubans are the aggressors" (Smith 1987, 141–142).

Castro's insistence on upholding Cuba's commitments in Africa revolved around several other issues, including political solidarity, the Cuban role in the Non-Aligned Movement (NAM), and a desire to maintain internationalist influence. In September 1979, the NAM summit was held in Havana and Cuba became chair of the organization. As the heads of state and foreign ministers of the ninety-six member nations arrived at the meeting, they were jarred by U.S. charges that the Soviet Union had secretly dispatched a "combat brigade" to the island. Castro viewed the U.S. announcement as an effort to disrupt the summit and its leadership of the Third World.

In fact the "discovery" turned out to be misinterpreted intelligence—the 3,000-soldier unit had been in place, with U.S. acquiescence, since the 1962 Missile Crisis. However, Carter insisted the unit had to be removed because it could be used for military intervention in the Western Hemisphere. In October 1979, he created the Caribbean Contingency Joint Task Force in Key West in order to protect the region from the threat posed by the brigade, and he signed

Presidential Directive NSC-52, which both declared that U.S. policy was “to contain Cuba as a source of violent revolutionary change” and ordered national security agencies to devise strategies to “undercut Cuba’s drive for Third World Leadership (Presidential Directive NSC-52 1979, 1). He then commanded that aircraft reconnaissance over Cuba resume and military maneuvers in the region be expanded (Newsom 1987, 48–49).

Still, in 1979 Cuba met a major U.S. demand by releasing 3,600 political prisoners and allowing dual nationals to travel to the United States with their families. One unintended consequence of the eased travel restrictions was the Mariel exodus, which put the final nail in the coffin on this attempt at détente (Pastor 2012, 253). Yet even without Mariel, the Carter administration’s rationale for a changed Cuba policy had evaporated. By then the president no longer viewed Cuban relations as the gateway to greater U.S. influence in the Global South. With Cuban troops in Africa, and Cuban allies taking over the governments of Grenada in March 1979 and Nicaragua in July 1979, the U.S. president viewed Cuba as a source of threats to the United States. While some of Carter’s 1977 initiatives faced congressional opposition, the atmosphere for détente was not poisoned by Cuba’s presence on the State Department’s list of state sponsors of terrorism or by a strong Cuban lobby; neither existed at the time. Still, the efforts to reduce tension and take long strides toward normalization failed because they were not significant enough to overcome four key factors: Cuba’s close relationship with the major U.S. adversary; a determined opponent close to the U.S. president who relentlessly framed events involving Cuba in terms of the U.S.-Soviet Cold War rivalry; the clash resulting from Cuba and the United States pursuing incompatible foreign policy interests; and that the U.S. president’s initial rationale for the policy change no longer made sense.

### **The Clinton Years**

As the Soviet Union hurtled toward its ultimate demise, its economy could no longer sustain losses on the products—such as oil—that it sold to Cuba at subsidized prices. The overthrow of its allied regimes in Eastern Europe and the resulting collapse of the Soviet bloc’s trading system, the Council for Mutual Economic Assistance (CMEA), also forced the island to find new trading partners. Eighty-five percent of Cuba’s international commerce had been conducted with CMEA countries on the basis of long-term barter-like contracts under which Cuba provided sugar, citrus, and nickel and received essential manufactured products, steel, and oil. The terms of trade in these exchanges, especially with the Soviet Union, tended to favor Cuba and function like subsidies. The



U.S. Central Intelligence Agency estimated that Cuba received \$4.5 billion in trade subsidies and \$1.4 billion in other development aid in 1989 (Cardoso and Helwege 1992, 31). In addition, by 1987 Cuba had accumulated low interest rate loans from CMEA countries worth \$10 billion (Domínguez 1989, 90).<sup>2</sup>

The subsidies enabled Cuba to use its scant hard currency earnings to buy food and medicine to distribute in an egalitarian way. President Gerald Ford had relaxed the U.S. embargo in 1975 by permitting U.S. subsidiaries in third countries to sell products to Cuba. In 1990, food and medicine made up 90% of Cuba's purchases from these subsidiaries (Kaplowitz and Kaplowitz 1992, 11–13).

Without the Soviet subsidies and CMEA barter arrangements, Cuba's hard currency earnings had to be apportioned among necessities beyond food and medicine, including oil. Furthermore, new trading partners, even when they were former CMEA members, demanded payment in an internationally convertible currency, which Cuba had to earn by selling its commodities at market price.

As its international trade plummeted between 1990 and 1993, Cuba's Gross Domestic Product (GDP) declined by 30% (Domínguez 2004, 19). Cubans experienced the decline in the first instance by suffering hunger and then shortages of everything, especially health care. By 1993, average daily caloric intake had fallen below the basic level established by the World Health Organization. The insufficiency of vitamins and minerals in the daily diet led to outbreaks of health disorders that had long vanished from Cuba.

The Soviet abandonment of Cuba encouraged the most determined anti-Castro hardliners to strike what they imagined would be the final blows that could overthrow the regime. This assumption was reflected in the House Foreign Affairs Committee's report on the 1992 Cuban Democracy Act (CDA), which asserted:

The committee believes that the demise of Cuba's patrons in the former Soviet Union and Eastern Europe has intensified and brought to a head the inevitable crisis of Cuban communism, and that the United States now has a unique opportunity to influence the course of change in Cuba in a democratic direction. (U.S. Congress 1992)

The CDA tightened the embargo by prohibiting foreign subsidiaries of U.S. firms from trading with Cuba and by denying foreign ships entry to U.S. ports within six months of having docked in Cuba. The latter provision was intended to raise transportation costs for Cuba. International cargo vessels typically could not fill their capacity with goods destined for Cuba because of its small market and would need to convey a portion of their cargo to the United States for the trip to be economical.



From President George H. W. Bush's perspective, Cuba ceased to be a country of significant foreign policy interest. The United States had achieved its Cold War objectives there when Cuban troops withdrew from southern Africa, Nicaraguan elections removed Cuba's Sandinista allies from power, negotiations ended the civil war in El Salvador, and the Soviet Union ended its military mission on the island. In handing the Cuba question to Congress, Bush essentially placed the rabid anti-Castro Cuban American National Foundation (CANF) at the helm of Cuba policy, moving it from the foreign to the domestic realm where electoral politics played a greater role.

Congressman Robert Torricelli (D-NJ), the principal House sponsor of the CDA, almost gleefully told an academic audience in 1993 that his intention was to "wreak havoc" on the Cuban economy (Torricelli 1993). President Bush signed the measure in October 1992, two weeks before election day. His Democratic challenger, Arkansas Governor Bill Clinton, already had expressed approval of the CDA following a fundraiser at which Cuban Americans donated \$275,000 to his campaign (Fiedler 1992).

Despite Clinton's opportunistic support for the CDA, the Latin American specialists he appointed generally favored improved relations with Cuba. For example, the Special Assistant for the Western Hemisphere on the NSC staff, Richard Feinberg, had been president of the Inter-American Dialogue, which published a major report in 1992 calling for engagement with Cuba (Inter-American Dialogue 1992). The one clear exception was Richard A. Nuccio, the principal author of the CDA who had worked closely with Torricelli as a staff member on the House Foreign Affairs Committee. Torricelli gained influence on Clinton's Cuba policy when Alexander Watson, the Assistant Secretary of State for Western Hemisphere Affairs, named Nuccio as a special assistant for Cuba. In 1994, Nuccio moved to the NSC, where National Security Adviser Anthony Lake tasked him with serving as liaison to the Cuban American community.

Clinton's foreign policy team understood that their boss had been elected on a promise to fix domestic problems, captured in James Carville's memorable phrase, "It's the economy, stupid." Even with respect to foreign affairs, Latin America seemed like the region least likely to threaten U.S. interests. Clinton's advisers reportedly judged that little could be gained by reducing U.S.-Cuba tension, but a great deal could be lost. At a 1995 meeting of the Latin American Studies Association, Nuccio told the audience that Clinton's political goal for the following year's election was to increase the percentage of Florida's Cuban American vote he had garnered in 1992, with the hope of winning all of Florida's electoral votes. In addition, a few wealthy anti-Castro Cuban Americans were

large contributors to the Democratic National Committee and Florida's Democratic Party; these contributors reportedly pressured the President to maintain a tough stance toward Cuba (Brenner and Kornbluh 1995, 33).

In creating the CDA, policymakers should have remembered the caveat to be careful what you wish for. While it did not topple the regime, the CDA did contribute to the misery Cubans were suffering. By the summer of 1994, daily life—the lack of food, money, and especially hope for improvement—had become intolerable for many Cubans, particularly in the cities. Despite the danger they faced in crossing the perilous Florida Straits, an increasing number of people (known as *balseiros*, or rafters) attempted to leave the country in fragile rafts made of inner tubes, wood slats, or anything that might float. Throughout the entirety of 1993, the U.S. Coast Guard rescued 3,600 *balseiros*. Nearly that many *balseiros* were rescued in the single month of July of 1994. In August, nearly one thousand departed Cuba each day (Masud-Piloto 1996, 137–141).

Castro blamed the United States for encouraging the exodus and he warned that Cuba's policy of stopping illegal emigrants would end if U.S. facilitation of the emigration did not cease. Indeed, Radio Martí, the U.S. propaganda radio station beamed at Cuba, regularly broadcast bulletins about the suitability for travel by small boats in the Florida Straits. In addition, as Cuban sociologist Ernesto Rodríguez Chávez observed, the United States had welcomed “those arriving in July and August, 1994, after stealing boats, using violence, endangering the lives of people who did not wish to emigrate, and even committing murder” (Rodríguez Chávez 1994 in Masud-Piloto 1996, 138).

Until that point, it had been U.S. policy to rescue rafters in the Florida Straits and bring them safely to shore. Émigrés would then claim political asylum and, after one year under the terms of the 1966 Cuban Adjustment Act, were able to secure permanent resident status. However, the Clinton administration feared another massive influx of refugees, perhaps even greater than the 1980 Mariel exodus, when 125,000 Cubans arrived.

On August 19, 1994, President Clinton announced a new policy under which Cubans picked up at sea would be transported to Guantánamo Naval Base. Meanwhile, the more than twenty thousand who had been detained by the U.S. Coast Guard were sent to makeshift housing at the naval base and provided C rations for their meals. In September, the United States and Cuba signed a new immigration accord permitting at least twenty thousand Cubans to obtain visas through a lottery system or family reunification regulations, though the Guantánamo *balseiros* were excluded from applying for visas.

The CANF was incensed by the new policy. In an effort to please the foundation, Clinton further tightened the embargo. He severely limited remittances and restricted Cuban Americans' travel to the island to cases of "extreme humanitarian need" and only once each year (Eckstein 2009, 137). The president's action placated the CANF for nine months, until circumstances forced the Clinton administration to antagonize the lobby again. As summer approached and temperatures at the Guantánamo base began to rise past 100°F, General John Sheehan, commander of the U.S. Atlantic Command, warned the White House of probable riots by the Cubans housed at Guantánamo (Brenner and Kornbluh 1995, 33).

On May 2, Cuba and the United States signed a new accord. The Guantánamo Cubans would be allowed to enter the United States, but thereafter the U.S. Coast Guard would return to Cuba those émigrés whom it rescued at sea. A *Wall Street Journal* editorial viewed the agreement as a turning point that suggested U.S. policy toward Cuba was "ripe for a fundamental rethinking" (*Wall Street Journal* 1995). Anti-engagement hard-liners also believed the new policy was a harbinger of a new, less hostile U.S. approach to Cuba. Dennis Hayes, the head of the State Department's Office of Cuban Affairs, resigned in protest and became head of the CANF's Washington office. He had been kept in the dark about the talks leading up to the May accord because of his antagonism toward negotiating with Cuba.

Clinton administration officials asserted that the May accord did not alter their commitment to regime change in Cuba. Yet, in October 1995, the president issued an executive order that made it easier for Cuban Americans to travel and send remittances to Cuba and that permitted U.S. citizens and organizations to send humanitarian donations to Cuban nongovernmental organizations. As Cuban scholar Soraya Castro has aptly noted, the administration's behavior "illustrated the ambivalence that governed President Clinton's moves with regard to Cuba" (Castro Mariño 2002, 56). The lack of a firm stance encouraged hard-line opponents of engagement to redouble their efforts.

Republicans had gained control of the House and Senate in the 1994 midterm election. Early in 1995, Sen. Jesse Helms (R-NC) and Rep. Dan Burton (R-IN), the new chairs of the Senate Foreign Relations Committee and House Western Hemisphere Affairs Subcommittee, respectively, proposed a law to tighten the embargo. The Cuban Liberty and Democratic Solidarity Act (commonly known as Helms-Burton) codified executive orders to implement the several congressional authorizations making up the Cuban embargo. In theory, the provisions of the law could be modified or cancelled only by new laws, not by executive orders.

Notably, the committee staff members who wrote the bill largely excluded CANF lobbyists from the deliberations. This created space for other lobbying groups in favor of tougher sanctions to enter the fray and work for passage of the bill (Kiger 1997, 47–49). The Clinton administration argued that the codification of executive orders would unconstitutionally constrain a president's ability to conduct foreign policy. It was one of several provisions in Helms-Burton that led Clinton to oppose the bill, which was languishing in the Senate on February 24, 1996, when the Cuban air force shot down two Brothers to the Rescue aircraft, killing the pilots (Haney and Vanderbush 2005, 100–104).

Founded in 1991 by José Basulto, Brothers to the Rescue had flown small planes over the Florida Straits to spot rafters and report their location to the U.S. Coast Guard. Basulto came to this humanitarian project late in life, claiming he had converted to nonviolence after engaging in militant actions for many years—including a bazooka attack on a Cuban hotel where he thought Fidel Castro might be eating (Navarro 1996).

Brothers to the Rescue lost its mission when the 1994 and 1995 accords essentially halted illegal emigration by sea. At that point, the organization found a new *raison d'être*: provoking the Cuban government in the hope of derailing rapprochement (Morley 1997; Nagin 1998). In July 1995, Basulto made his first foray over Havana in a small private plane. Flying a few hundred feet over the roadway along Havana's waterfront, he dropped religious medals and bumper stickers. On subsequent flights, he dropped leaflets advocating that Cubans rise up against their government. Cuba formally protested the flights to U.S. authorities on at least four occasions. It did so informally as well, on one occasion to Rep. Bill Richardson (D-NM) and on another to a group of former high-ranking U.S. military officers visiting Cuba. This group then reported to the NSC that Cuba was likely to shoot at future flights that violated Cuban airspace.

Yet Clinton officials did little to stop the flights, which the Cuban military judged it could no longer tolerate, especially considering Basulto's terrorist background. In the immediate aftermath of the shoot down, U.S. Ambassador to the United Nations Madeleine Albright raised the stakes of inaction by denouncing Cuba's alleged barbarism. When asked by a radio interviewer what pressure the U.S. government had placed on him, Basulto joked that the authorities had been "on vacation" (Lippman and Gugliotta 1996, A19). With no other salient response beyond military action, Clinton signed Helms-Burton into law against the advice of Attorney General Janet Reno.

With Helms-Burton in place, U.S. policy toward Cuba seemed frozen in hostility. But in 1998 and 1999 President Clinton initiated steps that relaxed parts

of the embargo. For example, the Treasury Department streamlined licensing procedures for U.S. and Cuban citizens traveling between the two countries and authorized charter flights to Cuba from New York and Los Angeles. In addition, the State Department allowed an expansion of educational, cultural, humanitarian, religious, journalistic, and athletic exchanges, which led several cultural institutions, such as the Smithsonian, to organize trips to Cuba. It also enabled the Baltimore Orioles and a Cuban all-star baseball team to play exhibition games in Havana and at Camden Yards baseball stadium in Baltimore.

Four factors appear to have motivated Clinton's decisions to engage Cuba in a less hostile manner during his second term (Brenner, Haney, and Vanderbush 2002, 197–203). First, new groups, prominent business leaders, and former government officials provided some political cover by calling for a re-evaluation of Cuba policy. Second, Clinton sought to protect the institutional interests of the presidency in determining foreign policy. Third, differences between government agencies weakened those who argued for continuing hostility. For example, the Human Rights Bureau argued that eased sanctions would help to reduce human rights violations while Secretary of State Madeleine Albright sought to placate Helms with a tough line. Fourth, international pressures—from Pope John Paul II's January 1998 visit to Cuba to calls by European allies to void the extraterritorial aspects of Helms-Burton—provided a political cover and an incentive for the president to act.

Still Clinton did not go very far. He chose not to create a bipartisan commission to review Cuba policy, as several advocates of a policy change had recommended. The president reportedly rejected the commission proposal at the urging of Vice President Al Gore, who feared a backlash from Cuban American voters in Florida and New Jersey might lose him the 2000 presidential election (Ferreira and Fabricio 1999; Brenner 1999, 44). Moreover, most of Clinton's directives were reversed when George W. Bush became president, making the late 1990s *détente* short-lived.

### **Post-December 2014**

The absence of some previously significant spoiler factors after December 2014, along with positive pressure for normalization, suggested that U.S.-Cuba ties would grow stronger, enabling the budding relationship to overcome challenges (Hanson and Kinosian 2016). For example, CANF and the U.S.-Cuba Democracy PAC, the strongest anti-normalization lobbies, are weaker than in years past. Though the full picture of Cuban American influence is difficult to track because of unreported contributions for “inde-

pendent” expenditures, the U.S.-Cuba Democracy PAC spent \$425,000 in the 2014 election cycle compared to \$1,010,000 in the 2008 election cycle (OpenSecrets.org 2016). Since 2014, U.S. public opinion generally has favored normalization and an end to the embargo (Swift 2015; Norman 2016; Pew Research Center 2015). Proposed legislation to tighten sanctions on Cuba has been minimal since the December 2014 announcement, and not a single pro-embargo bill has been approved by both chambers of Congress. Meanwhile, pressure for an end to U.S.-Cuba tension from U.S. allies, especially in Latin America, has provided an incentive for progress.

Yet policy makers in both countries have found that building trust is more difficult than merely reducing fear. U.S. negotiators are acutely aware of the stories of careers derailed from work on Cuba policy and most Cuban officials personally remember instances of U.S. betrayal. While many Cubans celebrated the announcements of restored diplomatic relations, former President Fidel Castro waited more than five weeks to issue a comment. Then, in a letter to the Cuban Federation of University Students on the seventieth anniversary of his matriculation at the University of Havana, he wrote: “I do not trust the policy of the United States, nor have I exchanged a word with them, but this is not, in any way, a rejection of a peaceful solution to conflicts” (F. Castro 2015).<sup>3</sup>

Owing to misperceptions, such distrust tends to trigger overreactions. For example, in 2015 and early 2016, the Treasury Department’s Office of Foreign Asset Control (OFAC) only prosecuted cases of embargo violations that occurred from 2008 through 2010 and were already in the pipeline. Yet Cuba’s Foreign Ministry responded to a case in January 2016 as if the Obama administration were mounting a new effort to enforce the embargo by declaring that “the continuing U.S. government policy of economic-commercial persecution of our country is contradictory to the framework of the new process initiated December 17, 2014” (*Granma* 2016). Likewise, China’s trade with and investments in Cuba, which totaled more than \$1 billion in 2014 (Tiezzi 2015), could become a spoiler if wary U.S. analysts view China as a new threat in the Caribbean.

In 2015 and early 2016, both countries engaged each other in novel ways that held the potential to build confidence and generate momentum for improved relations. Of greatest significance, President Obama went to Cuba in March 2016 on a state visit. In 2015, Secretary of State John Kerry and Secretary of Commerce Penny Pritzker traveled to the island. Similarly, several high level Cuban officials, including Foreign Minister Bruno Rodríguez Parrilla and Minister of Foreign Trade and Investment Rodrigo Malmierca Díaz, met with their U.S. counterparts in Washington. The two countries created a bilateral commission to

consider a broad range of issues and held meetings to discuss property claims, drug trafficking, human trafficking, telecommunications, and environmental protection. Despite this activity, there has been little urgency to take on issues related to several key spoiler factors we have identified, such as the U.S. embargo or the U.S. control of the naval base at Guantánamo Bay.

## **Spoilers**

In reviewing the circumstances that undermined and ultimately thwarted the short-lived periods of *détente* between Cuba and the United States in the 1970s and 1990s, we have identified twenty-three factors that we characterize as “spoilers.” Spoiler factors included people and groups who actively opposed reduced tension, particular programs and policies that reinforced distrust or did actual harm; U.S. and Cuban national interests that had a higher priority for either country than rapprochement; and domestic political interests of key decision makers that conflicted with the pursuit of improved relations. The twenty-three factors are listed in Table 1.

Fourteen spoiler factors affected the Carter administration’s effort and twenty affected the Clinton administration. Today, nine factors are clearly at work with another five that may be influential. To be sure, some factors were more important than others in determining what happened previously, and currently the salience of each factor is different. Still, a simple count does correspond to two broad observations that analysts have made about U.S.-Cuba relations during these three administrations.

The first observation is that during the Carter and Clinton years, more than half of the factors that we identified as “spoilers” for each administration were operating against improved relations, which made the improvements that did occur fragile and susceptible to change. Perhaps of greatest importance in the 1970s, Cuba and the United States defined their strategic interests in ways that led them to threaten each other. During the 1990s, Cuba’s economic and military vulnerability made its key officials wary of U.S. actions, especially “people-to-people” programs. At the same time, U.S. officials felt politically vulnerable because of a robust anti-Castro lobby, Republican control of Congress, and the electoral importance of Florida and New Jersey.

Second, while the December 2014 breakthrough of diplomatic relations between the two countries generated a propitious environment for reduced tension, it was hardly sufficient for the creation of a normal U.S.-Cuba relationship. Indeed, Cuba and the United States have never had a normal relationship. The two countries cannot restore something that did not exist, so



they have been charting a new course, which in itself makes the effort vulnerable to unforeseen obstacles.

The following list of potential factors that could spoil détente highlights the fragility of the new relationship. We have grouped the list of factors from the chart into three categories for both the United States and Cuba: circumstances, institutions, and actors.

### *U.S. circumstances*

Numerous U.S. business leaders have been eager to open trade with Cuba, and many traveled to the island in 2015 and 2016 to discuss possibilities. Twenty of them accompanied New York Governor Andrew Cuomo on a trade mission in April 2015 (Craig 2015, A19). President Obama announced an easing of sanctions on commerce and investment in September 2015, and three weeks later Commerce Secretary Penny Pritzker went to Cuba to discuss the new regulations (Davis 2015, A13).

Yet in February 2016, Deputy National Security Advisor Ben Rhodes acknowledged that the Obama administration had been pursuing a small-step strategy toward normalization. “We want links between Cubans and Americans,” he remarked, “and the links between our businesses and the engagement between our countries to gain such momentum that there’s an inevitability to the opening that is taking place” (Eilperin and Miroff 2016). But one U.S. official explained in an interview that modest confidence-building steps can produce a paradoxical effect. “Momentum is one of the great spoilers,” the official said, because it creates a “sense of inevitability” that normalization will occur, and so there is a corresponding sense that there is no need for urgent action.

In fact, by October 2016 only a few agreements had been signed. This slowness appears to be one reason the Obama administration issued Presidential Policy Directive/PPD-43 on October 14, 2016. It further eased some sanctions and highlighted the steps that had been taken toward normalization up to that point. Notably, a Cuban official remarked in a December 2016 interview that Cuba’s expectation of a Hillary Clinton victory—which Cuban leaders believed would result in the continuation of Obama’s policy—had led them to move slowly in signing agreements with the United States. But after Donald Trump was elected in November, “there was a rush to conclude negotiations” before the end of Obama’s presidency as was confirmed by executive orders issued in January 2017 prior to President Trump’s inauguration.

A sense of inevitability that the U.S. embargo would soon be lifted may have led some companies to believe it was unnecessary to expend resources



on lobbying Congress to end to the embargo. In turn, the slow pace of change may have led some Cubans, out of frustration, to forgo the promised benefits of normalization. For example, in February 2016, Yulieski Gourriel, one of Cuba's best baseball players, defected from the Cuban national team. Known as a patriot who had long shunned the enticements offered to other Cubans—such as the Dodgers' Yasiel Puig and the White Sox's José Abreu—and despite ongoing negotiations between Major League Baseball officials and the Cuban government, the 31-year-old Gourriel apparently ran out of patience (Strauss 2016).

The way the United States has implemented several laws has been an obstacle to furthering a normal U.S.-Cuba relationship. Unquestionably the trade sanctions that collectively constitute the U.S. embargo are the most significant of these. At this point, the sole U.S. interest that the embargo serves is a symbolic one—a sign that the United States disapproves of Cuba's regime. While that may be the intended signal, nearly every other country in the world perceives the U.S. embargo as the wanton use of power against a poor country, a violation of international norms due to its extraterritorial provisions, or hypocrisy as the United States trades with many nondemocratic countries. In 2015 only Israel voted with the United States in the UN General Assembly on a measure condemning the embargo. On October 26, 2016 the United States and Israel abstained on the annual UN General Assembly vote to lift the embargo.

For Cuban leaders, the symbolic significance of the embargo lies with its original intent to overthrow the Cuban government. Yet the embargo is more than merely symbolic. It increases the costs of most imported items Cubans buy; it makes international transactions difficult because key provisions limit how banks can engage Cuba or provide credit; it closes off a major market for Cuban products such as vaccines and nickel; and it makes travel for most U.S. citizens difficult, thus depriving Cuba of additional tourists. In short, the embargo contributes to Cubans' impoverishment. Notably, the government news agency, *Prensa Latina*, wrote in response to President Obama's revision of some sanctions in January 2016 that “the changes...are positive but insufficient.” It lamented that they ultimately “keep intact the main body of the system of punitive measures” (Hernandez 2016).

Notably, the Obama administration did not make any changes after December 2014 in the way it spent federal dollars on democracy promotion in Cuba. For example, in January 2016, the State Department's Bureau of Democracy, Human Rights and Labor distributed a request for proposals to spend \$5.6 million on “Programs Fostering Civil, Political, and Labor Rights in Cuba” (U.S. Department of State 2016). It explained that “typically fund-

**Table 1.**

<b>Spoiler Factor</b>	<b>Carter Administration</b>	<b>Clinton Administration</b>	<b>Current Situation</b>
U.S. economic sanctions/embargo	Yes	Yes	Yes
Cuban impediments to foreign investment	Yes	Yes	Yes
U.S. "democracy promotion" programs	No	Yes	Yes
Cuban human rights infringements	Yes	Yes	Yes
Cuban Medical Professional Parole Program	No	No	Yes (eliminated 1/12/17)
Radio and TV Martí	No	Yes	Yes
Guantánamo Naval Base	Yes	Yes	Yes
Actions by local and state officials	No	Yes	Yes
Migration issues	Yes	Yes	Yes
Non-state actors actively oppose	Yes	Yes	Maybe
U.S. internal disagreement/mixed messages at highest levels	Yes	Yes	Maybe
U.S. pursuit of regional hegemony	No	Yes	Maybe
Key members of Congress against rapprochement	Yes	Yes	Maybe
Key Cuban officials who view détente as threat to Cuban Revolution	Yes	Yes	Maybe
Florida's role in presidential election	No	Yes	No
Extradition of wanted criminals	Yes	Yes	Probably No
Property claims	Yes	Yes	Probably No
Lack of formal diplomatic relations	Yes	Yes	No
Cuba allied with a major U.S. enemy	Yes	No	No
Cuban economy on verge of collapse	No	Yes	No
Cuba's support for revolutionaries	Yes	No	No
Cuba on terrorism list	No	Yes	No
Robust Cuban American lobby against rapprochement	No	Yes	No

ed” activities could include “organizational assistance...to improve management, strategic planning, sustainability, and collaboration of...labor groups, civil and political rights groups, and religious freedom advocates, and that encourage the participation of marginalized populations.” Similarly, the National Endowment for Democracy (NED) continued to be a major recipient of funds from the U.S. Agency for International Development (USAID). Its 2015 Cuba programs included: \$110,000 for civic education to promote democratic leadership and values with a training program for activists on peaceful activism and community organizing; \$13,000 to promote democratic values and political participation among Cuban youth with activities such as workshops on human rights monitoring; and \$85,000 to provide humanitarian and logistical support for human rights activists (NED 2014).

Among the U.S. laws that contribute to abnormal relations with Cuba, the Cuban Adjustment Act has a distinctive characteristic. It affords Cubans a privilege to which only they are entitled: resident alien status after one year on U.S. territory. The law was enacted in 1966 to provide an orderly emigration process for professionals and technicians whom the United States had been encouraging to emigrate from Cuba as a way of destabilizing the revolutionary government. It continues to provide an incentive for Cubans to leave their country today, because its provisions are magnified by a U.S. policy that automatically considers Cubans arriving on U.S. territory to be political refugees. While their asylum claims are investigated, which usually takes more than one year, Cubans are given “parole” status. Then, after one year passes, the Cuban Adjustment Act covers their status, and the asylum claim becomes moot. Taken together, the act and the refugee policy are a form of intervention that no normal relationship can tolerate (Sandels and Valdés 2015).

Another U.S. program that vitiated trust is the Cuban Medical Professional Parole Program. Created in 2006, it had facilitated the defect

ion of more than 7,000 Cuban medical professionals by the end of 2015, by expediting their legal travel to the United States, providing residency status, and helping them to obtain state medical licenses (Burnett and Robles 2015). As the *New York Times* editorialized, “The Cuban government has long regarded the medical defection program as a symbol of American duplicity. It undermines Cuba’s ability to respond to humanitarian crises and does nothing to make the government in Havana more open or democratic” (*New York Times* 2014).<sup>4</sup> On January 12, 2017 the Obama administration announced the end to the Cuban Medical Professional Parole Program.

### *U.S. institutions*

A U.S. president does have the authority to modify some Cuba trade sanctions (Propst 2015, 1). For example, in March 2016, President Obama eased travel restrictions for U.S. citizens by permitting individuals to design their own “educational travel” programs and not require them to use a licensed travel provider (U.S. Treasury Department 2016, 2). Nevertheless, ending the embargo in a meaningful way, especially to allow trade from Cuba as well as to Cuba, will require new legislation that revokes the Helms-Burton law. This means that the decision to remove the major obstacle to normal relations rests with Congress, not the executive.

However, a president determined to overturn Helms-Burton would have used more carrots and sticks than President Obama has deployed in pressing legislators for the change. Consider the bargain the Obama administration struck with Republican Senators Marco Rubio (R-FL) and Ted Cruz (R-TX) in April 2016 to secure Senate confirmation of Assistant Secretary of State for Western Hemisphere Affairs Roberta Jacobson as U.S. ambassador to Mexico. Rubio and Cruz had held up her nomination because the nominee had been involved in negotiating the rapprochement with Cuba. In describing the bargain, the *Washington Post* reported that, “as part of the deal, the State Department will have to produce 40 new reports a year on issues as diverse as Hong Kong autonomy, religious freedom and anti-Semitism. Government officials in Venezuela will face three more years of sanctions” (Morello and O’Keefe 2016, A4).

While U.S. officials correctly argue that Helms-Burton also requires the implementation of programs to “promote democracy” in Cuba, the State Department is relatively free to determine the nature of the programs. It could consult with the Cuban government, as it does with other countries, about the way to spend the money. There is no certainty that the Cuban government would reject such consultations out of hand, especially if they were undertaken respectfully. For example, U.S. officials could interpret Helms-Burton to mean that training Cubans to use standard business practices would promote democracy. The Cuban government recognizes that an insufficient knowledge of ordinary business skills such as accounting undermines its ability to accumulate capital. It has welcomed the Catholic Church’s introduction of extracurricular business classes. But Cuba considers all of the current “democracy promotion” programs to be subversive because they are aimed at regime change.

The Obama administration also hampered progress toward normalization by not curtailing the activities of Radio and TV Martí, the propaganda broadcasting services directed at Cuba. In February 2016, it announced that a private company would take on responsibility for supervising the stations. This appar-

ent attempt to shield the U.S. government from blame for hostile broadcasts is unlikely to build confidence with Cuba (Chardy and Torres 2016). At the same time, President Obama failed to increase funds for agencies that were too short-staffed to manage the range of new issues they handled, such as OFAC or the State Department's Office of Cuban Affairs. In contrast, the Cuban Ministry of Foreign Relations increased the number of professional staffers for the office that deals with the United States from five to thirty, according to a Cuban official interviewed in December 2015.

### *U.S. actors*

While Congress as an institution is needed to overturn Helms-Burton, individual legislators can prevent further movement toward normalization or impede it. Consider that Rep. Mario Diaz-Balart, a south Florida Republican, sits on the House Appropriations Committee. Throughout 2015, he tried to include provisions in spending bills that would deny funds to agencies that would further normalization. All were uncovered by a vigilant Senate that prevented their passage (Gibson 2015). In the executive branch, some key personnel who had been involved in moving normalization forward stopped working on Cuban affairs in 2015, which slowed the process. For example, President Obama replaced Ricardo Zuniga with Mark Feierstein as the senior Latin American specialist on the National Security Council staff. Zuniga was one of the two U.S. negotiators involved in establishing diplomatic relations. Feierstein had been USAID's Assistant Administrator for Latin America and the Caribbean, where he vigorously advocated for the democracy promotion programs that remain an obstacle to improved relations with Cuba. Daniel Erikson, a special adviser on Cuba in the State Department's Western Hemisphere Bureau, was transferred to Vice President Joseph Biden's office as a foreign policy adviser with a broad portfolio.

Cuba and the United States did begin discussions in 2015 on the issue of property claims. Yet there are several thorny problems that could arise even if the two countries agree on compensation to individuals and companies whose property the revolutionary government nationalized. For example, during the thirty-three years that Cuba was on the list of state sponsors of terrorism, U.S. law denied Cuba the protection from lawsuits by U.S. citizens that sovereign immunity normally provides. Court judgments from several cases may total as much as \$3.5 billion (Kryt 2015). As a result of the expectation that Cuban-owned jetliners might be confiscated to satisfy the judgments if they landed in the United States, the 2016 agreement on commercial airline service led only to direct flights by U.S. airlines, not *Cubana*. Economist Richard Feinberg notes that the U.S.

government might be able to pay for the judgments by using funds it acquired from penalties on violators of OFAC sanctions (Feinberg 2015, 36). But the legality and political feasibility of such an action is uncertain. Meanwhile, individuals who oppose normalization have their hands on a lever that could undermine commerce between Cuba and the United States.

Similarly, some companies may pursue a variety of routes to challenge commercial relations. For example, early in 2016, the U.S. Patent and Trademark Office awarded a trademark for Havana Club to the Cuban government. This reversed the policy that had denied Cuba the right to sell rum in the United States under that brand name. Bacardi Ltd. had rights to the trademark for U.S. sales since 1994. Bacardi reportedly vowed to “take every means available to fight” the decision (Mickle 2016).

### *Cuban circumstances*

With more than one million Cubans self-employed; with the burgeoning of new privately-owned restaurants, taxis, bed and breakfasts, and services that range from car repair to barber shops and beauty parlors; and with the growth of cooperatives, the Cuban economy has changed. However, the country’s macro-economic growth has stagnated in part because of a lack of foreign investment. In the same way that the U.S. embargo serves as an impediment to normal relations between Cuba and the United States, laws in Cuba that deter foreign investment also are an obstacle to improved relations.

A 2012 Brookings Institution study highlighted several problems foreign investors had encountered in Cuba, most of which continue today (Feinberg 2012, 58–62). These issues include: the inability of foreign companies to have a direct labor-management relationship with their workers, especially with respect to paying them hard currency salaries and providing extra incentives; problems arising from delays in payment and the uneven application of laws by the Cuban judiciary; the limited duration of some joint venture contracts; and significant delays in obtaining necessary approvals from state bureaucracies.

Cuba’s dual currency system also discourages long-term investment because it makes accounting for costs difficult. The convertible peso (CUC) is overvalued at par with the U.S. dollar and has a fixed exchange rate of about 25 Cuban pesos (CUP) to one CUC. A study by economists Emily Morris and Andrew Hutchings explains that Cuban joint ventures with foreign partners benefit from the persistence of a dual currency in the short run, because they use overvalued CUCs to pay for domestic inputs. Yet as a result, “currency dualism blocks the integration of this ‘enclave’ sector with the rest of the economy” (Morris and Hutchings 2013, 5) The

dual currency, in addition to infrastructure issues and concern over the commitment of the Cuban government, makes foreign investors wary about the real costs they will entail when the currency is unified. Further, activities that are intended for domestic consumption are closed to foreign investment, meaning that “only those activities that earn foreign exchange directly through exportation of goods or services and some activities that service the tourist sector for hard currency are worth entering because profit repatriation cannot otherwise occur” (Ritter 2012, 151).

Ultimately, as Richard Feinberg of Brookings told the *Miami Herald*, “a lot of potential foreign investors question whether there will be sufficient freedom, profitability and security for their investments” (Whitefield 2015). Despite the way by which dual currency disincentivizes investment, the transition to a single currency could be difficult in the short term for Cuba. Pavel Vidal, former central bank official, notes that, for Cubans, “the elimination of the dual currency, which is based on devaluation, means there will be an initial shock.... There won’t be initial benefits but short-term costs (inflation) and benefits in the mid-term” (Tania Valdés 2014).

### *Cuban institutions*

The Cuban military and intelligence service, like national security organizations in every country, tend to assess situations on the basis of “worst-case scenarios.” Especially with respect to the United States, which officially maintains Cuba as an “enemy,” these Cuban institutions are naturally skeptical of U.S. intentions. Paradoxically, Cuban national security institutions also have been at the forefront of engaging cooperatively with their U.S. counterparts. Cuban and U.S. military personnel have met monthly since 1995 at the Guantánamo Naval Base fence line to resolve issues and prevent problems. The U.S. and Cuban coast guards have worked together harmoniously for more than a decade to interdict drug traffickers. In January 2016, Cuba participated for the first time in the annual Caribbean Nations Security Conference, which is sponsored by the U.S. Southern Command. In short, while the posture of Cuba’s national security institutions will likely continue to be one of vigilance, engagement with the United States could serve their institutional interests and reduce their potential opposition to normalization.

For obvious reasons, some state-owned businesses, such as the tourist agency Havanatur, have been hostile to foreign competition. Yet, Albert Fox Jr., founder of the Tampa-based Alliance for Responsible Cuba Policy Foundation, has suggested that the “Cuban government may want its state-run tourist company Havanatur to be allowed to set up an office in the U.S. in return for American businesses opening warehouses or offices in Cuba” (Guzzo 2015). It



is possible that tradeoffs can be made so that both Havana and Washington can experience desired outcomes.

### *Cuban actors*

We interviewed Cuban scholars, officials, and former officials in November and December 2015 to discern whether particular people in Cuba were placing obstacles in the path to normalization. Instead of names, we were given categories of opponents who might be able to affect the process, depending on where they worked or the political influence they wielded.

**Resolute Nationalists:** The leaders of the 1959 Revolution placed the goals of Cuban sovereignty and independence above all others. In this they carried on a long tradition. It is no mere coincidence that Cuba's national bird is the *tocororo* or Cuban trogon. The *tocororo* cannot survive in a cage. Resolute nationalists worry that full normalization with the United States will overwhelm Cuba.

At worst, as former Cuban Ambassador Manuel E. Yepe warned one year after the December 17, 2014, announcement, Cuba could lose its "hard-won" political independence. Dialogue should be accompanied by extreme caution, he warned, reminding readers that in the past, normal U.S. relations with Cuba were guided by the dictums of "manifest destiny" and John Quincy Adams's "ripe fruit" theory, both of which presumed U.S. domination (Yepe 2015). At best, nationalists fear Cuban identity will be corrupted by U.S. cultural imperialism.

**Resolute Socialists:** In a similar vein, revolutionary socialists worry that an unfettered opening with the United States will encourage individualism and consumerism and replace the values of social responsibility and community cooperation that the revolutionary government promoted. For some, these values also include internationalism. Ricardo Alarcón de Quesada, former president of Cuba's National Assembly, poignantly observed in August 2015 that U.S. diplomatic recognition of Cuba was a triumph that Cuba gained "without renouncing any of its principles." He included among these "fully pursuing the development of the socialist project, searching for a workable form of socialism in the world today...[and] continuing to practice a policy of internationalist solidarity with peoples who struggle for their national rights" (Alarcón 2015).

**Security-oriented Skeptics:** Cuban critics of full normalization may combine the concerns of those in the previous two categories, and tend to have a national security background. For example, Nestór García Iturbe had been a senior diplomat and security official and now is a professor at the Instituto Superior de Relaciones Internacionales. In a June 2015 article, García argued that the Obama administration's opening to Cuba followed steps advocated in



a 1999 Council of Foreign Relations (CFR) report (Aronson and Rogers 1999). The avowed objective of the CFR proposal, he wrote, was subversive: “To create the greatest possible problem for the Cuban Revolution, with the ultimate aim of destroying it” (García Iturbe 2015). Notably, former U.S. Commerce Secretary Carlos M. Gutierrez acknowledged the legitimacy of this fear in remarking that some Cubans are “wondering what the U.S. intentions are and whether U.S. policy is designed to help the Cuban people or whether it is something more like a Trojan horse” (Mufson 2016).

**Self-serving Survivalists:** As we described above in the section on the Clinton years, the decline in Cuba’s Gross Domestic Product beginning in 1990 led to turmoil in the economy that impacted everyone. *Resolver*—strategies to overcome hardship—became the common term Cubans used to signify both frustration and determination. Workers in state enterprises—and more recently from private restaurants and hotels—engaged in theft in order to survive. The practice became so integral to the way of life for some that it shapes how they make decisions about where to work. A study by Hope Bastion Martínez found that access to hard currency in a job was less important for some workers than the ability to pilfer goods they could sell or barter (Bastion Martínez 2016, ch. 4). Increased engagement with the United States is likely to ruin the informal networks that fuel this underground economy, making these workers hostile to the change.

This category also includes some officials who may lose positions of influence or access to the perquisites of office such as a car, gasoline, and free internet. Middle-level bureaucrats may stifle innovation merely because “old habits die hard,” as economist Jorge Mario Sánchez-Egozcue succinctly described the phenomenon (Sánchez-Egozcue 2014, 134).

The degree of support for normalization may also vary by age. Younger persons may be more confident that they will be able to find jobs in the new economy they expect normalization will foster. Indeed, there appears to be a general expectation that normalized relations with the United States will necessarily entail the full implementation of plans the Sixth Congress of the Cuban Communist Party approved in 2011. These included: a significant reduction in state employment; increased use of idle farmland; a reduction in state subsidies such as free lunch at work centers; a reduction in imports, especially food; and an end to the dual currency (Communist Party of Cuba 2011).

Moreover, age may affect the variation in support for planned reforms, and by extension for normalization, because of Cuba’s changing demography. Cuba’s population growth since 2006 has been negative due to declining fertility rates, longer life expectancy, and emigration (Hernández and Foladori 2014, 27). This

creates a problem for Cuba: by 2035 there will be more Cubans over the age of 65 (the current retirement age) than in the working population (Díaz-Briquets 2015, 10–13). Cuba’s demographic profile makes older Cubans increasingly vulnerable because their source of income after retirement—direct transfers from working family members or government pensions—is diminishing. For this reason, their expectations regarding whether the changes will increase or decrease both opportunities for their children and economic growth likely contributes to their support for the normalization process.

### **Spoiling the Spoilers: The Importance of Resolve and Empathy**

Robert Pastor, the senior advisor for Latin America on President Carter’s NSC staff, often told a story about a meeting he had with President Fidel Castro in 1978. Pastor rhetorically asked the Cuban leader if he knew how porcupines made love. The answer, Pastor said, was “very carefully.” His point was that the legacy of a prickly relationship between Cuba and the United States required both countries to proceed towards normalization cautiously. Yet as we now know from experience, caution may increase the risk that the resulting slow normalization process will be spoiled by circumstances, institutions, or opponents in each country.

A second lesson derived from earlier failures is that a consistent demonstration of political determination and will is necessary to bypass roadblocks. The Obama administration appeared to understand this when it sent a clear signal of resolve by refusing to reverse a decision allowing the opening of a Cuban consulate in Miami, despite a Dade County commissioners’ vote against it in January 2016.

Such behavior, along with engagement in negotiations on several areas of bilateral concern, began to create an environment of trust. This environment contributed to forward movement toward normalization by acting as a shield against the kinds of misinterpretations that previously catalyzed overreactions to minor incidents. For example, U.S. officials quickly quashed a false claim in October 2015 that Cuba was sending troops to aid the Syrian government (Fox News 2015). In part, improved communications between Cuba and the United States contributed to the short life of the rumor. It was also essential that U.S. officials were willing to believe what Cuban officials told them.

Still, between December 2014 and February 2016, there appeared to be no overall coordination in either country aimed at fulfilling the promise of normalcy. Some action and inaction by both nations contradicted several of the positive steps each undertook. Nevertheless, President Obama’s deci-

sion to visit the island in March 2016—the first by a sitting president since 1928—and President Castro’s decision to welcome him seemed at the time to serve as the necessary catalyst for making irreversible the kind of changes presidents Carter and Clinton could not achieve. Cuban political scientist Carlos Alzugaray Treto anticipated that the trip could “consolidate the strategy of both governments to bring about a series of fundamental changes” (Eilperin and Miroff 2016). Jesús Arboleya, a senior scholar at Cuba’s Instituto Superior de Relaciones Internacionales, wrote that the visit would “mean a recognition of the legitimacy of the Cuban government. An advance in relations based on equality and mutual respect has been a historic objective of the Cuban Revolution” (Arboleya 2016).

Speaking in the Alicia Alonso Grand Theater of Havana, President Obama pointed to the common bonds between the people of Cuba and the United States and declared, “I have come here to bury the last remnants of the Cold War in the Americas. I have come here to extend the hand of friendship to the Cuban people” (Obama 2016). U.S. media reported that ordinary Cubans enthusiastically welcomed the U.S. president (Davis and Cave 2016, A9). However, the president should not have expected his recitation of the previous 120 years in the U.S.-Cuba relationship to win over Cuban leaders.

While the U.S. leader did acknowledge that early in the twentieth century “American battleships” were used “to exert control over Cuba,” he diminished the role Cubans played in their independence war by crediting the United States with Cuba’s liberation. With an eye to domestic U.S. politics, President Obama may have found it difficult to apologize for U.S. actions such as the several attempted assassinations of Cuba’s leaders, but his characterization of the post-1959 relationship as one of “shadow-boxers in this battle of geopolitics and personalities” lacked the empathy necessary to advance normalization.

Indeed, official Cuban reaction was more subdued than the public’s. Writing in *Granma*, former President Fidel Castro caustically reminded readers that when Obama called on Cubans “to forget the past, leave the past behind,” he willfully ignored the harm the United States had inflicted on Cuba during the previous sixty years, from “a ruthless blockade,” blowing up “an airliner full of passengers,” and “multiple acts of violence and coercion.” He concluded the column by asserting, “Nobody should be under the illusion that the people of this dignified and selfless country will renounce the glory, the rights, or the spiritual wealth they have gained. . . . We do not need the empire to give us anything” (F. Castro 2016).

Three weeks later, in his opening remarks to the Seventh Congress of the Cuban Communist Party, President Raúl Castro also warned Cubans about U.S.

imperial intentions. He asserted, “Relations with the United States have historically represented a challenge for Cuba, given their permanent pretension of exercising domination over our nation, and the determination of Cubans to be free and independent.” The Cuban leader noted that, “There are more than a few U.S. government officials who upon recognizing the failure of their policy toward Cuba, make no attempt to disguise their affirmations that the goals remain the same, only the means are being modified.” Then he added:

We are willing to carry out a respectful dialogue and construct a new type of relationship with the United States, one which has never existed between the two countries, because we are convinced that this alone could produce mutual benefits. However, it is imperative to reiterate that no one should assume that to achieve this Cuba must renounce the Revolution’s principles, or make concessions to the detriment of its sovereignty and independence, or forego the defense of its ideals or the exercise of its foreign policy (R. Castro 2016).

In short, while Cuban policy makers recognize that U.S. officials may overstate critical remarks to avoid a backlash from domestic constituencies, they do not completely discount U.S. rhetoric. There is considerable sensitivity in Cuba in response to U.S. pressure for reform. U.S. officials need to choose their words with empathetic care, and Cubans need to raise their tolerance for discordant notes. The adjectives and metaphors both sides use will not alone stop the normalization process, but they could contribute to public perceptions and framing, which can be spoiler factors (Brenner and Castro 2009).

Any U.S. administration must also expect there will be some rogue actions taken by individuals who oppose normalization, given the number of former terrorists still at large in the Cuban diaspora. Groups such as Alpha 66, Comandos F4, Accion Cubana, and Brigade 2506 are still able to train, acquire weapons, and plan acts of sabotage with relative impunity according to a 2008 profile of their activities. Alpha 66, for example, had a camp in the farmlands west of Miami where militants practice various maneuvers and strategize (Nielson and Kortom 2008). The executive branch must take the possibility of terrorist actions seriously and prevent them, in contrast to the Clinton administration’s weak response to the provocative flights by Brothers to the Rescue. In this regard, the Obama administration took a constructive step toward normalization in April 2016 when it denied residency to Ramón Saul Sánchez, a member of Alpha 66, and requested that he leave the country (Bagg 2016).

## Lessons from Vietnam

The Vietnam case provides the closest analogy to the U.S.-Cuba normalization process. In contrast to normalization with Germany or Japan after World War II, the United States had not defeated Cuba or Vietnam when diplomatic relations were restored and thus was unable to install the kind of regime and political system it favored in either country prior to recognition. In an article examining the process of U.S. normalization of relations with Vietnam, former diplomat Frederick Brown highlights two major obstacles that were encountered. First, he observes, “the path to normal relations was strewn with obstacles that were emotional and psychological” for the United States (Brown 2010, 318). Such obstacles are far less salient for the United States in the case of Cuba, though; on the basis of emotion, Cuban opponents of normalization may resist changes that would be necessary to engage the two economies fully (Frank 2016). The second major obstacle, Brown reports, was the influence of the Missing in Action/Prisoner of War (MIA/POW) Coalition, which sought to have an accounting of every U.S. MIA and POW (Brown 2010, 319). There is no longer a comparable U.S. lobby opposed to normalizing U.S.-Cuba relations.

On the other hand, U.S. criticism of practices in Vietnam with respect to democracy and human rights was an impediment to normalization. Vietnam’s severe limits on freedom of religion had been a focus of U.S. criticisms of the country’s human rights record. Brown concludes that Vietnam and the United States diminished the importance of this obstacle by Vietnam making some concessions and both countries “agreeing to disagree” (Brown 2010, 328–330). Similar U.S. reproach has the potential to delay normalization with Cuba. Aware of this possibility, Cuba released 3,500 prisoners in September 2015, just prior to Pope Francis’s visit to the island. It also has developed good relations with the Catholic Church, which assisted in the negotiations between Cuba and the United States.

Ultimately, the most important factor in achieving U.S. normal relations with Vietnam was pressure from large U.S. corporations, which feared inroads by Japanese and Chinese companies. “The business constituency counterbalanced those POW/MIA groups which resisted concessions,” Brown asserts (Brown 2010, 321). This suggests the U.S. private sector can be a meaningful ally in the process of thwarting spoilers with regard to Cuba. Apart from directly lobbying Congress, it can create opportunities for trade with Cuba in states with pockets of opposition to normalization. At the same time, Cuba needs to be more hospitable to U.S. investment and trade. Reducing bureaucratic hurdles and allowing U.S. companies to sell directly to Cuban cooperatives are the kinds of changes U.S.

businesses often propose (Sachs 2015). Less obvious but also important, Cuba needs to train lawyers and professionals who can relate effectively to international business practices, including a world based on enforceable contracts.

A complex cluster of forces is at play in shaping the new relationship between Washington and Havana, and governments cannot anticipate every challenge that the course of normalization might bring. Significantly, both countries say they seek to make irreversible changes from the previous abnormal relationship. Yet based on a review of the pitfalls two prior attempts at normalization encountered, this chapter has highlighted possibilities that still exist for spoilers to disrupt the process.

## NOTES

<sup>1</sup> The Commission on United States—Latin American Relations is commonly known as the Linowitz Commission after its chair, former U.S. Ambassador to the Organization of American States, Sol M. Linowitz.

<sup>2</sup> The actual subsidies were less than the CIA's estimates which valued CMEA products, such as tractors, as if their prices on the world market were the same as seemingly equivalent U.S. products. But CMEA tractors, refrigerators, and so on were inferior and attracted little demand beyond the socialist countries themselves, which obtained them mostly through barter arrangements (Zimbalist and Sherman 1994, 386).

<sup>3</sup> Authors' translation. Note that the Spanish version reads: "No confío en la política de Estados Unidos," which could be translated as "I do not trust U.S. *politics*."

<sup>4</sup> In January 2016, Deputy National Security Advisor Benjamin Rhodes hinted that the Obama administration might cancel the Cuban Medical Professional Parole Program (Mason and Trotter 2016). On January 12, 2017 the Obama Administration announced the end of the Cuban Medical Professional Parole Program.

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