



Cuba: Issues for the 112th Congress

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Summary

Cuba remains a one-party communist state with a poor record on human rights. The country's political succession in 2006 from the long-ruling Fidel Castro to his brother Raúl was characterized by a remarkable degree of stability. The government of Raúl Castro has implemented limited economic policy changes, including an expansion of self-employment begun in October 2010. A party congress held in April 2011 laid out numerous economic goals that could increase the private sector. Few observers expect the government to ease its tight control over the political system, although it has reduced the number of political prisoners over the past several years, including the release of over 125 since 2010 after talks with the Catholic Church.

Since the early 1960s, U.S. policy has consisted largely of isolating Cuba through economic sanctions. A second policy component has consisted of support measures for the Cuban people, including U.S.-sponsored broadcasting and support for human rights activists. In light of Fidel Castro's departure as head of government, many observers called for a reexamination of policy. Two broad approaches toward Cuba have been at the center of debate. The first is to maintain the dual-track policy of isolating the Cuban government while providing support to the Cuban people. The second is aimed at changing attitudes in the Cuban government and society through increased engagement. Since taking office, the Obama Administration has lifted restrictions on family travel and remittances, moved to reengage Cuba on migration and other bilateral issues, and, in January 2011, announced measures to ease restrictions on purposeful travel and non-family remittances. The Administration has criticized the government's repression of dissidents, but it has welcomed the release of political prisoners as a positive sign. The Administration has continued to call for the release of a U.S. government subcontractor, Alan Gross, detained since late 2009, who was sentenced to 15 years in March 2011.

Strong interest on Cuba is continuing in the 112th Congress. The House Appropriations Committee-approved version of the FY2012 Financial Services Appropriations bill, H.R. 2434, would roll back President Obama's actions easing restrictions on remittances and family travel and continue to clarify the definition of "payment of cash in advance" for U.S. agricultural exports to Cuba during FY2012. (P.L. 112-10, enacted in April 2011, continued the "payment of cash in advance" provision for FY2011.) The House Foreign Affairs Committee ordered reported H.R. 2583, the FY2012 Foreign Relations Authorization Act, with a provision that would require the President to fully enforce all U.S. regulations on travel to Cuba as in effect on January 19, 2009 (under the Bush Administration). H.R. 2771 would increase to five years the period during which a Cuban national must be present in the United States in order to qualify for permanent resident status, and would make Cuban nationals who travel to Cuba ineligible for such status. Several initiatives would ease sanctions: H.R. 255 and H.R. 1887 (overall sanctions); H.R. 833 and H.R. 1888 (agricultural exports); and H.R. 380 and H.R. 1886 (travel). Two initiatives, S. 603 and H.R. 1166, would modify a trademark sanction, while several bills already noted would eliminate that sanction (H.R. 255, H.R. 1887, and H.R. 1888). Three bills would take different approaches toward Cuba's offshore oil development: H.R. 372, S. 405, and H.R. 2047. Two initiatives would discontinue Radio and TV Martí broadcasts to Cuba: S. 476 and H.R. 1317. One resolution would call for the return of U.S. fugitives in Cuba.

For additional information, see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances* and CRS Report R41522, *Cuba's Offshore Oil Development: Background and U.S. Policy Considerations*.

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Recent Developments

On August 18, 2011, more than 40 members of the Ladies in White human rights group in Havana were attacked by a government-orchestrated mob. The group had been attempting to stage a protest to call attention to the recent harassment of their colleagues in the city of Santiago in eastern Cuba. (See “Human Rights” below.)

On August 18, 2011, the State Department issued its 2010 Country Reports on Terrorism. The section on Cuba maintained that the government “maintained a public stance against terrorism and terrorist financing, but there was no evidence that it had severed ties with elements from the Revolutionary Armed Forces of Colombia (FARC) and recent media reports indicate some current and former members of the Basque Fatherland and Liberty (ETA) continue to reside in Cuba.” (See the report, available at <http://www.state.gov/s/ct/rls/crt/2010/170260.htm>. Also see “Terrorism Issues” below.)

On August 5, 2011, Cuba’s Supreme Court rejected the appeal of Alan Gross, the USAID subcontractor imprisoned in Cuba since late 2009. A White House Statement called for his immediate and unconditional release. In March 2011, Gross was convicted with “actions against the independence and territorial integrity of the state” and sentenced to 15 years in prison. He was working for Development Alternatives Inc., a Bethesda-based company that had received a contract from USAID to help support Cuban civil society organizations. (See “December 2009 Detainment of American Subcontractor” below.)

On July 21, 2011, during its markup of H.R. 2583, the FY2012 Foreign Relations Authorization Act, the House Committee on Foreign Affairs approved (36-6) a Rivera amendment that would require the President to fully enforce all U.S. regulations on travel to Cuba as in effect on January 19, 2009, and impose the corresponding penalties against individuals determined to be in violation of such regulations. The intent of the amendment was to reinstate tighter travel restrictions as they existed under the Bush Administration in January 2009. (See “U.S. Restrictions on Travel and Remittances” below.)

On July 13, 2011, the White House’s Statement of Administration Policy on H.R. 2434, the FY2012 Financial Services and General Government Appropriations bill, stated that the Administration opposes Section 901 because it would reverse the President’s policy on family travel and remittances, and that the President’s senior advisors would recommend a veto if the bill contained the provision. (See “U.S. Restrictions on Travel and Remittances” below.)

On July 13, 2011, more than 40 Cuban dissidents issued a document dubbed the “People’s Path,” that advocates for a peaceful transition toward a democratic system and for an assembly to rewrite the constitution.

For additional entries, see **Appendix B**.

Introduction

Political and economic developments in Cuba and U.S. policy toward the island nation, located just 90 miles from the United States, have been significant congressional concerns for many years. Since the end of the Cold War, Congress has played an active role in shaping U.S. policy toward Cuba, first with the enactment of the Cuban Democracy Act of 1992 (P.L. 102-484, Title XVII) and then with the Cuban Liberty and Democratic Solidarity Act of 1996 (P.L. 104-114). Both of these measures strengthened U.S. economic sanctions on Cuba that had first been imposed in the early 1960s, but the measures also provided roadmaps for a normalization of relations dependent upon significant political and economic changes in Cuba. A decade ago, Congress modified its sanctions-based policy toward Cuba somewhat when it enacted the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX) allowing for U.S. agricultural exports to Cuba that led to the United States becoming a major source for Cuba's food imports.

Over the past decade, much of the debate over U.S. policy in Congress has focused on U.S. sanctions, especially over U.S. restrictions on travel to Cuba. The George W. Bush Administration initially liberalized U.S. family travel to Cuba in 2003, but subsequently tightened restrictions on family and other categories of travel in 2004 because of Cuba's crackdown on political dissidents. In 2009, Congress took legislative action in an appropriations measure (P.L. 111-8) to ease restrictions on family travel and travel for the marketing of agricultural exports, marking the first congressional action easing Cuba sanctions in almost a decade. The Obama Administration took further action in April 2009 by lifting all restrictions on family travel and on cash remittances by family members to their relatives in Cuba and restarting semi-annual migration talks that had been curtailed in 2004. In January 2011, the Administration announced the further easing of restrictions on educational and religious travel to Cuba and on non-family remittances, and it also expanded eligible airports in the United States authorized to serve licensed charter flights to and from Cuba.

This report is divided into three major sections analyzing Cuba's political and economic situation, U.S. policy toward Cuba, and selected issues in U.S.-Cuban relations. The first section on the political and economic situation includes a brief historical background, a discussion of the human rights situation and political prisoners, and an examination of economic policy changes that have occurred to date under Raúl Castro. The second section on U.S. policy provides a broad overview of U.S. policy historically through the George W. Bush Administration and then provides a brief discussion of the broad debate on the direction of U.S. policy toward Cuba. Policy under the Obama Administration is then examined in more detail. The third section analyzes many of the key issues in U.S.-Cuban relations that have been at the forefront of the U.S. policy debate on Cuba and have often been the subject of legislative initiatives. These include U.S. restrictions on travel, remittances, and agricultural exports to Cuba; a sanction that denies protection for certain Cuban trademarks; the status of anti-drug cooperation with Cuba; the status of Cuba's offshore development and implications for disaster response preparedness; terrorism issues, especially in consideration of Cuba remaining on the State Department's state sponsors of terrorism list; U.S. funding for democracy and human rights projects; U.S. government-sponsored broadcasting to Cuba (Radio and TV Martí); and migration issues.

Figure I. Map of Cuba



Source: CRS

Cuba's Political and Economic Situation

Brief Historical Background¹

Cuba did not become an independent nation until 1902. From its discovery by Columbus in 1492 until the Spanish-American War in 1898, Cuba was a Spanish colony. In the 19th century, the country became a major sugar producer with slaves from Africa arriving in increasing numbers to work the sugar plantations. The drive for independence from Spain grew stronger in the second half of the 19th century, but it only came about after the United States entered the conflict when the USS *Maine* sank in Havana Harbor after an explosion of undetermined origin. In the aftermath of the Spanish-American War, the United States ruled Cuba for four years until Cuba was granted its independence in 1902. Nevertheless, the United States still retained the right to intervene in Cuba to preserve Cuban independence and maintain stability in accordance with the Platt Amendment² that became part of the Cuban Constitution of 1901. The United States subsequently intervened militarily three times between 1906 and 1921 to restore order, but in 1934, the Platt Amendment was repealed.

Cuba's political system as an independent nation was often dominated by authoritarian figures. Gerardo Machado (1925-1933), who served two terms as president, became increasingly dictatorial until he was ousted by the military. A short-lived reformist government gave way to a series of governments that were dominated behind the scenes by military leader Fulgencio Batista until he was elected president in 1940. Batista was voted out of office in 1944 and was followed by two successive presidents in a democratic era that ultimately became characterized by corruption and increasing political violence. Batista seized power in a bloodless coup in 1952 and his rule progressed into a brutal dictatorship. This fueled popular unrest and set the stage for Fidel Castro's rise to power.

Castro led an unsuccessful attack on military barracks in Santiago, Cuba, on July 26, 1953. He was jailed, but subsequently freed and went into exile in Mexico where he formed the 26th of July Movement. Castro returned to Cuba in 1956 with the goal of overthrowing the Batista dictatorship. His revolutionary movement was based in the Sierra Maestra and joined with other resistance groups seeking Batista's ouster. Batista ultimately fled the country on January 1, 1959, leading to more than 45 years of rule under Fidel Castro until he stepped down from power provisionally in July 2006 because of poor health.

While Castro had promised a return to democratic constitutional rule when he first took power, he instead moved to consolidate his rule, repress dissent, and imprison or execute thousands of opponents. Under the new revolutionary government, Castro's supporters gradually displaced members of less radical groups. Castro moved toward close relations with the Soviet Union while

¹ Portions of this background are drawn from U.S. Department of State, "Background Note: Cuba," April 28, 2011. For further background, see *Cuba, A Country Study*, ed. Rex A. Hudson, Federal Research Division, Library of Congress, (Washington, D.C.: U.S. Government Printing Office, 2002); "Country Profile: Cuba," Federal Research Division, Library of Congress, September 2006, available at <http://lcweb2.loc.gov/frd/cs/profiles/Cuba.pdf>; *Cuba, A Short History*, ed. Leslie Bethell (Cambridge University Press, 1993); and Hugh Thomas, *Cuba: The Pursuit of Freedom*, (New York, Harper & Row, Publishers, 1971).

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

relations with the United States deteriorated rapidly as the Cuban government expropriated U.S. properties (see “Background on U.S.-Cuban Relations” below). In April 1961, Castro declared that the Cuban revolution was socialist, and in December 1961, he proclaimed himself to be a Marxist-Leninist. Over the next 30 years, Cuba was a close ally of the Soviet Union and depended on it for significant assistance until the dissolution of the Soviet Union in 1991.

From 1959 until 1976, Castro ruled by decree. In 1976, however, the Cuban government enacted a new Constitution setting forth the Cuban Communist Party (PCC) as the leading force in state and society, with power centered in a Political Bureau headed by Fidel Castro. Cuba’s Constitution also outlined national, provincial, and local governmental structures. Since then, legislative authority has been vested in a National Assembly of People’s Power that meets twice annually for brief periods. When the Assembly is not in session, a Council of State, elected by the Assembly, acts on its behalf. According to Cuba’s Constitution, the president of the Council of State is the country’s head of state and government. Executive power in Cuba is vested in a Council of Ministers, also headed by the country’s head of state and government, that is, the president of the Council of State.

Fidel Castro served as head of state and government through his position as president of the Council of State from 1976 until February 2008. While he had provisionally stepped down from power in July 2006 because of poor health, Fidel still officially retained his position as head of state and government. National Assembly elections were held on January 20, 2008, and Fidel Castro was once again among the candidates elected to the now 614-member legislative body. (As in the past, voters were only offered a single slate of candidates.) On February 24, 2008, the new Assembly was scheduled to select from among its ranks the members of the Council of State and its president. Many observers had speculated that because of his poor health, Fidel would choose not to be reelected as president of the Council of State, which would confirm his official departure from heading the Cuban government. Statements from Castro himself in December 2007 hinted at his potential retirement. That proved true on February 19, 2008, when Fidel announced that he would not accept the position as president of the Council of State, essentially confirming his departure as titular head of the Cuban government.

Political Conditions

After Fidel stepped down from power, Cuba’s political succession from Fidel to Raúl Castro was characterized by a remarkable degree of stability. After two and one half years of provisionally serving as president, Raúl Castro officially became Cuba’s President on February 24, 2008, when Cuba’s legislature selected him as president of the 31-member Council of State.³

For many years, Raúl, as first vice president of the Council of State and the Council of Ministers, had been the officially designated successor and was slated to become head of state with Fidel’s departure. Raúl also had served as Minister of the Revolutionary Armed Forces (FAR) since the beginning of the Cuban revolution. When Fidel stepped down from power in 2006, he signed a proclamation that ceded political power to Raúl on a provisional basis, including the positions of first secretary of the Cuban Communist Party, commander in chief of the FAR, and president of

³ For more on Cuba’s political succession, see CRS Report RS22742, *Cuba’s Political Succession: From Fidel to Raúl Castro*. For background discussion of potential Cuban political scenarios envisioned in the aftermath of Fidel Castro’s stepping down from power in 2006, see CRS Report RL33622, *Cuba’s Future Political Scenarios and U.S. Policy Approaches*.

the Council of State. Despite the change in government in February 2008, Fidel still officially held the title of first secretary of the PCC, although Raúl as provisional first secretary was leading the party. (It was not until the PCC's sixth party congress held in April 2011 that Raúl officially assumed the title of first secretary.)

While it was not a surprise to observers for Raúl to succeed his brother Fidel officially as head of government, the selection of José Ramón Machado Ventura as the Council of State's first vice president in February 2008 was a surprise. (At the same time, Machado became first vice president of the Council of Ministers, and later in April 2011 became PCC second secretary at the sixth party congress.) Born in 1930, Machado is a physician by training and is part of the older generation of so-called *históricos* of the 1959 Cuban revolution along with the Castro brothers (Fidel Castro was born on August 13, 1926, while Raúl Castro was born on June 3, 1931). He has been described as a hard-line communist party ideologue, and reportedly has been a close friend and confidant of Raúl for many years.⁴ Machado's position is significant because it makes him the official successor to Raúl, according to the Cuban Constitution. Many observers had expected that Carlos Lage, one of five other vice presidents on the Council of State, would have been chosen as first vice president. Born in 1951, Lage was responsible for Cuba's economic reforms in the 1990s and represented a younger generation of Cuban leaders.

Several key military officers and confidants of Raúl also became members of the Council of State, increasing the role of the military in the government. General Julio Casas Regueiro, who already was on the Council, became one of its five vice presidents. Most significantly, Casas, who had been first vice minister in the FAR, was selected by Raúl as the country's new minister of the FAR, officially replacing Raúl in that position. Casas also is chairman of GAESA (Grupo de Administracion Empresarial, S.A.), the Cuban military's holding company for its extensive business operations.⁵

In March 2009, Raúl orchestrated a government shake-up that combined four ministries into two and ousted a dozen high-ranking officials, most notably including Foreign Minister Felipe Pérez Roque, Council of Ministers Secretary Carlos Lage, and Minister of Economy and Planning José Luis Rodríguez García. The streamlining combined the portfolios of food and fishing into one ministry and the foreign investment and trade portfolios into another ministry. Changes in the bureaucracy had been anticipated since February 2008 when Raúl Castro vowed to make the government smaller and more efficient, but the ouster of both Felipe Pérez Roque and Carlos Lage, who lost all their government and party positions, caught many observers by surprise. Pérez Roque was replaced by career diplomat Bruno Rodríguez Parrilla, who served for eight years (1995-2003) as Cuba's U.N. Ambassador and most recently as vice foreign minister. Carlos Lage, who most significantly lost his position as a vice president of the Council of State, was replaced by military General José Amado Guerra, who had worked for Raúl Castro as secretary of the FAR.

What was unexpected about the simultaneous ouster of both Pérez Roque and Lage was that they represented different tendencies within Cuba's communist political system. Pérez Roque, a former private secretary to Fidel, was known as a hardliner, while Carlos Lage, who was responsible for Cuba's limited economic reforms in the 1990s, was viewed as a potential

⁴ Daniel Dombey, Richard Lapper, and Andrew Ward, "A Family Business, Cuban-Americans Look Beyond the Havana Handover," *Financial Times*, February 27, 2008.

⁵ Pablo Bachelet, "New Cuban Leader Adds Military Loyalists to Team," *Miami Herald*, February 25, 2008.

economic reformer. Some observers maintain that the ouster of both Pérez Roque and Lage was a move by Raúl to replace so-called Fidelistas with his own supporters. Fidel, however, wrote in one of his reflections in the Cuban press that both officials had been seduced by ambitions for power, and that a majority of the other officials who were replaced by Raúl had not originally been appointed by Fidel.⁶ Along these lines, a number of observers maintain that the ouster of Pérez Roque and Lage had more to do with removing potential contenders for power in a post-Castro Cuba. What appears clear from the government shake-up is that Raúl Castro began putting his mark on the Cuban government bureaucracy. Some observers contend that Raúl was moving forward with his pledge to make the government more efficient. According to this view, ideology did not play a role in the appointments, and several of those brought in as ministers were relatively unknown technocrats.⁷ The new appointments also continued the trend toward bringing more military officials into the government.

While Raúl began implementing some limited economic reform since 2008 (see “Economic Changes Under Raúl Castro” below), there has been no change to his government’s tight control over the political system and few observers expect there to be, with the government backed up by a strong security apparatus. Some observers point to the significantly reduced number of political prisoners over the past several years as evidence of a lessening of repression, but while human rights activists have welcomed the change, some maintain that the overall situation has not improved, with the government resorting to short-term detentions and other forms of intimidation.

The Cuban Communist Party’s sixth congress was expected to be held at the end of 2009 (the last was held in 1997), but the party postponed it, with Raúl Castro maintaining that additional and extensive preparation was needed for the meeting. Ultimately the party congress was held April 16-19, 2011, concentrating on making changes to Cuba’s economic model, but some political changes also occurred at the party congress. As expected, Fidel was officially replaced by Raúl as first secretary of the PCC, and First Vice President José Ramón Machado became the party’s second secretary. The party’s Political Bureau or Politburo was reduced from 24 to 15 members, with three new members, Marino Murrillo, Minister of Economy Adel Yzquierdo Rodriguez, and the first secretary of the party in Havana, Mercedes Lopez Acea. The party’s Central Committee also was reduced from 125 to 115 members, with 90 of those being new members of the committee.

At the party congress, Raúl Castro also proposed two five-year term limits for top positions in the party and in the government, calling for systematic rejuvenation. A discussion of the proposal will take place at a party meeting to be held in late January 2102, and some observers expect leadership changes to occur at that time. Some analysts maintain that enacting term limits ultimately could pave a way for political succession from one generation to another.⁸ Cuba’s revolutionary leadership has been criticized for remaining in party and government positions far too long, and for not passing leadership opportunities to a younger generation.

⁶ According to Fidel Castro, “The sweetness of power for which they had made no sacrifice awoke in them ambitions that led them to an unworthy role. The external enemy was filled with illusions about them.” See Reflections of Fidel, “Healthy Changes within the Council of Ministers,” from *CubaDebate* as translated by *Granma International*, March 3, 2009.

⁷ Frances Robles, “Cuban Government Undergoes Massive Restructuring,” *Miami Herald*, March 3, 2009.

⁸ Arturo Lopez-Levy, “Change in Post-Fidel Cuba: Political Liberalization, Economic Reform, and Lessons for U.S. Policy,” New America Foundation, May 2011.

Human Rights

Cuba has a poor record on human rights, with the government sharply restricting freedoms of expression, association, assembly, movement, and other basic rights since the early years of the Cuban revolution. It has cracked down on dissent, arrested human rights activists and independent journalists, and staged demonstrations against critics. Some observers anticipated a relaxation of the government's oppressive tactics in the aftermath of the January 1998 visit of Pope John Paul II, but government attacks against human rights activists and other dissidents continued. (See the text box on "Human Rights Reporting on Cuba" below for links to reports from Human Rights Watch, the Inter-American Commission on Human Rights, the State Department, Amnesty International, and the Cuban Commission on Human Rights and National Reconciliation.)

Cuba signed two U.N. human rights treaties in 2008: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. Some considered this a positive step, but others maintain that the Cuban government has not taken any significant action to guarantee civil and political freedoms. In March 2008, the Cuban government did lift the ban on Cubans staying at tourist hotels. Although few Cubans will be able to afford the cost of staying in such hotels, the move was symbolically significant and ended the practices of what critics had dubbed "tourism apartheid."

While Cuban authorities have continued to stifle dissent and repress freedoms, Cuban pro-democracy and human rights activists continue to call attention to the country's poor human rights record and many have been recognized over the years by the international community for their efforts.

A human rights group known as the Ladies in White (*Damas de Blanco*) was formed in April 2003 by the wives, mothers, daughters, sisters, and aunts of the members of the "group of 75" dissidents arrested a month earlier in Cuba's human rights crackdown.⁹ The group conducts peaceful protests calling for the unconditional release of political prisoners. Dressed in white, its members attend Mass each Sunday at St. Rita's Church in Havana and then walk silently through the streets to a nearby park. In April 2008, 10 members of the Ladies in White were physically removed from a park near the Plaza of the Revolution in Havana when they demanded the release of their husbands and the other members of the "group of 75" still imprisoned. The group held protests during the third week of March 2010 to commemorate the March 2003 crackdown. Cuban security forces and government-orchestrated mobs forcefully broke up the protests on March 16 and 17, while protests on other days were subject to verbal abuse by mobs. In April 2010, the Ladies in White were prevented from conducting their weekly protests by government-orchestrated mobs. Through the intercession of Roman Catholic Cardinal Jaime Ortega, the Cuban government ended the harassment in early May 2010 and allowed the Ladies in White to continue with their weekly marches.

In 2011, the Ladies in White group has continued to face harassment and abuse. On March 18, 2011, members of the Ladies in White were subject to "acts of repudiation" by government-orchestrated mobs as they attempted to commemorate the anniversary of the 2003 human rights crackdown. In April 2011, the organization received a human rights defenders award from the U.S. State Department for its "commitment to the release of political prisoners" and for "its

⁹ The website of the Damas de Blanco is available at <http://www.damasdeblanco.com/>.

bravery in defense of human rights.”¹⁰ In August 2011, press reports maintained that pro-government mobs attacked members of the Ladies in White in the city of Santiago when they attempted to march peacefully and that security forces have subsequently prevented members of the group from marching in that city.¹¹ On August 18, 2011, more than 40 members of the Ladies in White in Havana were attacked by a government-orchestrated mob. The group had been attempting to stage a protest to call attention to the recent harassment of their colleagues in Santiago.¹²

Cuban Internet blogger Yoaní Sánchez has received considerable international attention since late 2007 for her website, *Generación Y*, which includes commentary critical of the Cuban government. In May 2008, Sánchez was awarded Spain’s Ortega y Gasset award for digital journalism, but the Cuban government did not provide her with an exit permit allowing her to travel to Spain to accept the award. (Sánchez’s website is available at <http://www.desdecuba.com/generaciony/>). On November 6, 2009, Sánchez and two other bloggers, Orlando Luis Pardo and Claudia Cadelo, were intercepted by state security agents while walking on a Havana street on their way to participate in a march against violence. Sánchez and Pardo were beaten in the assault. The Department of State issued a statement deploring the assault, and expressed its deep concern to the Cuban government for the incident.

On March 30, 2011, former President Jimmy Carter completed a trip to Cuba, where he had meetings with President Castro, Catholic Cardinal Jaime Ortega, and a number of human rights activists. According to human rights activist Elizardo Sánchez, Carter’s visit gave the dissidents “a clear message of recognition and moral support.”¹³

Human Rights Reporting on Cuba

Human Rights Watch, <http://www.hrw.org/en/americas/cuba>. The human rights group maintained in a June 1, 2011, statement that the recent “conviction of six dissidents in summary trials for doing no more than exercising their fundamental freedoms highlights the continuing abuse of the criminal justice system to repress dissent in Cuba.” The human rights group also issued an extensive report in November 2009 criticizing Cuba’s human rights record under the government of Raúl Castro. (“New Castro, Same Cuba: Political Prisoners in the Post-Fidel Era,” Human Rights Watch, November 2009, available at <http://www.hrw.org/en/reports/2009/11/18/new-castro-same-cuba>.)

The Inter-American Commission on Human Rights maintained in its 2010 annual human rights report, issued in March 2011, that “the restrictions on political rights, freedom of expression, and dissemination of thought have over the decades come to constitute permanent and systematic violations of the human rights of the inhabitants of Cuba,” and that “this situation has been particularly aggravated by the lack of judicial independence.” (Annual Report of the Inter-American Commission on Human Rights 2010, Cuba section in Chapter IV, March 7, 2011, available at <http://www.cidh.oas.org/annualrep/2010eng/TOC.htm>.)

According to the **State Department’s human rights report for 2010**, issued in April 2011, the Cuban government continued to commit significant human rights abuses, including harassment, beatings, and threats against political opponents by government-organized mobs and state security officials; harsh and life-threatening prison conditions; arbitrary detention of human rights advocates and members of independent organizations; selective

¹⁰ “Remarks by William J. Burns, Undersecretary of State for Political Affairs, at the Human Rights Awards (as released by the State Department),” *Federal News Service*, April 21, 2011.

¹¹ Juan O. Tamayo, “Cuban Human Rights Activists Report Dissident Injured in Crackdown,” *Miami Herald*, August 8, 2011, and “Cuban Dissidents Say Cops Again Beat Women,” *Miami Herald*, August 16, 2011.

¹² Juan O. Tamayo, “Ladies in White Attacked in Cuba,” *Miami Herald*, August 19, 2011.

¹³ Juan O. Tamayo, “Carter Meets with Fidel Castro and Dissidents in Cuba,” *Miami Herald*, March 30, 2011.

prosecution and denial of fair trial; pervasive monitoring of private conversations; and severe limitations on freedom of speech and press. (See the report, available at <http://www.state.gov/drl/rls/hrrpt/2010/wha/154501.htm>.)

Amnesty International (AI), Human Rights in the Republic of Cuba, <http://www.amnesty.org/en/region/cuba>. AI issued a statement May 19, 2011, expressing serious concern over the death of Juan Wilfredo Soto Garcia, three days after he was reportedly beaten during his arrest by police officers in a public park. In June 2010, AI published a report that concluded the Cuban government “continues to resort to repressive tactics and criminal proceedings to restrict and punish the free expression of opinions.” According to the report, Cuba’s laws severely restrict the legitimate exercise of free expression in violation of international human rights standards while the judiciary, which lacks impartiality and independence, is complicit in the repression of human rights and fundamental freedoms. The report called on Cuba to make changes to its laws and practices restricting freedom of expression, end the harassment of dissidents, ratify the U.N. human rights treaties that it signed in 2008, and allow U.N. and OAS human rights officials access to visit Cuba with unfettered access to all individuals and groups of civil society. (Amnesty International, *Restrictions on Freedom of Expression in Cuba*, June 2010, available at <http://www.amnesty.org/en/library/info/AMR25/005/2010/en>.)

The independent Havana-based **Cuban Commission on Human Rights and National Reconciliation (Comisión Cubana de Derechos Humanos y Reconciliación Nacional, CCDHRN)** maintained in a July 1, 2011, report that there were over 1,700 short-term detentions for political reasons in the first six months of 2011, compared to over 2,000 in all of 2010 and over 1,200 in the previous six months. It noted that the Cuban regime continued to use systematic short-term detentions ranging from several hours to several days. (CCDHRN, “*Algunos Actos de Represión Política Registrados en Cuba Durante Junio de 2011*,” July 1, 2011, available at <http://www.ddcuba.com/sites/default/files/pdf/Informe%20de%20la%20Comisi%C3%B3n%20de%20Derechos%20Humanos.pdf>.)

Political Prisoners

Overview. The Cuban government conducted a severe crackdown in March 2003 (often referred to as the *Primavera Negra*, or Black Spring) and imprisoned 75 democracy activists, including independent journalists and librarians and leaders of independent labor unions and opposition parties. Until mid-2010, a majority of the “group of 75” political prisoners remained incarcerated, but the Cuban Catholic Church held talks with the Cuban government in July 2010 that led to the promise of their release. On March 23, 2011, the government released the last two of the “group of 75.” Overall, more than 125 political prisoners have been released since mid-2010, with most traveling to exile in Spain, while about a dozen have remained in Cuba. There were reportedly some 60 political prisoners remaining as of March 2011—down from just over 200 at the beginning of 2010.¹⁴

Background. The death of imprisoned Cuban dissident Orlando Zapata Tamayo on February 23, 2010, after an 83-day hunger strike focused increased U.S. and world attention on the plight of Cuba’s political prisoners. Zapata, who was 42 years old at the time of his death, was arrested on March 20, 2003, while taking part in a hunger strike to demand the release of political prisoner Oscar Biscet. He was a member of the Alternative Republican Movement and the National Civic Resistance Committee. Zapata was not counted among the “group of 75” political prisoners arrested in 2003, but in January 2004, Amnesty International declared that he was a prisoner of conscience. In May 2004, Zapata was sentenced to three years in prison for “disrespect, public disorder, and resistance,” but he was subsequently tried on further charges and was serving a total sentence of 36 years.¹⁵

¹⁴ “Cuba to Free Last Dissidents in Group of 75: Church,” *Agence France Press*, March 22, 2011.

¹⁵ Amnesty International, “Death of Cuban Prisoner of Conscience on Hunger Strike Must Herald Change,” February 24, 2010, and “Cuba: Newly Declared Prisoners of Conscience,” January 29, 2004.

U.S. officials maintained that Zapata's death highlighted the injustice of Cuba's holding political prisoners and called for their immediate release.¹⁶ President Obama issued a statement on March 24, 2010, expressing deep concern about the human rights situation in Cuba, including the death of Zapata, the repression of the Ladies in White, and increased harassment of those who dare to express support for their fellow Cuban citizens. The President called for the end of repression, the immediate and unconditional release of all political prisoners, and respect for the basic rights of the Cuban people. On March 18, 2010, the Senate approved S.Con.Res. 54 (Nelson, Bill), which recognized Zapata's life and called for a continued focus on the promotion of internationally recognized human rights in Cuba.

Zapata's death also prompted considerable criticism from human rights organizations and other countries. Amnesty International expressed strong criticism of the death of Zapata, which it maintained was an "indictment of the continuing repression of political dissidents in Cuba." It called for Cuba to invite international human rights experts to visit Cuba to verify respect for human rights.¹⁷ The European Parliament condemned the death of Zapata and called for the "immediate and unconditional release of political prisoners," and even Spain, which had been lobbying the European Union for a relaxation of its common policy on Cuba, urged the release of Cuban political prisoners. Chile and Costa Rica also criticized Cuba for Zapata's death, and Mexico expressed concern for the health of Cuban dissidents. President Raúl Castro said that he regretted Zapata's death, but he also maintained that no one has been tortured or murdered in Cuba.¹⁸

Zapata's death prompted protests by other dissidents, and several dissidents vowed to undertake hunger strikes. Cuban dissident Guillermo Fariñas began a hunger strike on February 24, 2010, calling for the release of 26 political prisoners who were reported to be in ill health. Fariñas had undertaken numerous other hunger strikes over the years, but he developed complications and a blood clot that drove him to near death before he ended the strike on July 8, 2010, when the Cuban government, after talks with the Cuban Catholic Church, announced that it would release 52 political prisoners.

The Cuban Catholic Church has played a key role in the release of political prisoners since May 2010. On May 19, 2010, Cardinal Jaime Ortega, Archbishop of Havana, and Archbishop Dionisio Garcia from Santiago met with President Castro, the first such meeting to take place since Raúl officially took over the presidency from his brother. The Church leaders described the meeting as positive, and said that discussion included the status of imprisoned dissidents. By the end of June 2010, the government released seven political prisoners and began transferring a number of other political prisoners to facilities closer to their homes.

On July 7, 2010, Cardinal Ortega met again with President Castro along with visiting Spanish Foreign Minister Miguel Ángel Moratinos and Cuban Foreign Minister Bruno Rodríguez. After the meeting, Cuba's Catholic Church announced that Cuban authorities would free 52 political prisoners within three to four months from those remaining of the "group of 75" imprisoned

¹⁶ U.S. Department of State, Philip J. Crowley, Assistant Secretary, Bureau of Public Affairs, "Death of Cuban Dissident Orlando Zapata Tamayo," February 24, 2010.

¹⁷ Amnesty International, "Death of Cuban Prisoner of Conscience on Hunger Strike Must Herald Change," February 24, 2010.

¹⁸ "Cuba: Raúl Castro 'Regrets' Political Prisoner Death, Blames United States," *CubaDebate*, Havana (Open Source Center) February 24, 2010; Tracy Wilkinson, "Castro 'Lamenting' Dissident's Death," *Los Angeles Times*, February 25, 2010; Juan O. Tamayo, "Raúl Castro: Hunger Striker's Death 'Lamentable,'" *Miami Herald*, February 25, 2010.

during Cuba's Black Spring of March 2003. A press release from the Archdiocese of Havana announcing the release was printed in the Cuban daily *Granma*.¹⁹ As noted above, on March 23, 2011, the government released the last two of the "group of 75." The Cuban government took longer than it promised to release all the "group of 75" because about a dozen of the prisoners wanted to stay in Cuba instead of being exiled to Spain. Beyond the 52 political prisoners of the "group of 75," the government has released additional prisoners since October 2010. As noted above, more than 125 prisoners overall have been released since mid-2010, with the majority going to Spain.

Amnesty International maintained that the release of all of the "group of 75" was a step in the right direction for the Cuban government. The human rights organization said that it wanted the Cuban government to stop forcing activists into exile as a condition for their release, and to ensure that all human rights activists are able to carry out their work without fear of threat, harassment, arrests, or unfair trials.²⁰

Several human right groups maintain that Cuba's human rights situation deteriorated during the first six months of 2011.²¹ The number of short-term detentions reportedly has increased, and several dissidents have been sentenced to prison. The Havana-based Cuban Commission for Human Rights and National Reconciliation reports that there were 1,727 detentions during the first months of 2011, compared to 2,074 detentions in all of 2010 and 1,253 in the last six months of 2010.²² The press rights groups Committee to Protect Journalists issued a report in early July 2011 detailing continued Cuban government persecution of independent journalists through arbitrary arrests, beatings, and intimidation.²³ In May 2011, six dissidents were convicted in summary trials with sentences ranging from two to five years.²⁴ In early May, Cuban dissident Juan Wilfredo Soto Garcia died three days after he reportedly was beaten by police, although Cuban authorities maintain that he died of natural causes.²⁵ In early June 2011, Reina Tamayo, the mother of Cuban hunger Orlando Zapato Tamayo who died in February 2010, emigrated to the United States along with 12 other family members.

Economic Conditions

Cuba's economy is largely state-controlled, with the government owning most means of production and employing about 82% of the labor force. Key sectors of the economy that generate foreign exchange include the export of professional services (largely medical personnel to Venezuela); tourism, which has grown significantly since the mid-1990s, with 2.53 million tourists visiting Cuba in 2010; nickel and cobalt mining, with the Canadian mining company Sherritt International involved in a joint investment project; and a biotechnology and pharmaceutical sector that supplies the domestic healthcare system and has fostered a significant

¹⁹ "Prensa Latina Informó, Arzobispado de La Habana, Nota de Prensa," *Granma*, July 8, 2010.

²⁰ Amnesty International, "Amnesty International Reaction to Release of Activists in Cuba," March 22, 2011.

²¹ Juan O. Tamayo, "Human Rights Group Says Abuses in Cuba Are Growing," July 6, 2011.

²² Comisión Cubana de Derechos Humanos y Reconciliación Nacional, "Algunos Actos de Represión Política Registrados en Cuba Durante Junio de 2011," July 1, 2011.

²³ Karen Phillips, "After the Black Spring, Cuba's New Repression," Committee to Protect Journalists, July 6, 2011, available at <http://www.cpj.org/reports/2011/07/after-the-black-spring-cubas-new-repression.php>.

²⁴ Human Rights Watch, "Cuba: Stop Imprisoning Peaceful Dissidents" June 1, 2011; Juan O. Tamayo, "Cuban Dissidents Sentenced up to 5 Years for Distributing Leaflets Criticizing Fidel, Raúl," *Miami Herald*, June 1, 2011.

²⁵ Juan O. Tamayo, "Cuba Denies Police Beating of Dissident," *Miami Herald*, May 10, 2011.

export industry. Remittances from relatives living abroad, especially from the United States, have also become a significant source of hard currency, with more than \$1 billion sent to Cuba annually in remittances from families living abroad. The once-dominant sugar industry has declined significantly over the past 20 years; in 1990, Cuba produced 8.4 million tons of sugar while in 2010 it produced just 1.5 million tons. The government reportedly has plans to reorganize the industry with the hope of increasing production to 2.5 million tons by 2015.²⁶

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

Economic growth was especially strong in the 2004-2008 period (see **Figure 2**) registering an impressive 11.2% in 2005 (despite widespread damage caused by Hurricanes Dennis and Wilma), 12.1% in 2006, and 7.3% in 2007 before slowing to 4.1% in 2008.²⁷ The economy benefitted from the growth of the tourism, nickel, and oil sectors, and support from Venezuela and China in terms of investment commitments and credit lines. Cuba also benefits from a preferential oil agreement with Venezuela, which provides Cuba with more than 90,000 barrels of oil a day. The market value of Venezuela's oil to Cuba reportedly amounted to over \$2 billion annually in 2006 and 2007, and over \$3 billion in 2008, which Cuba pays for at least in part through medical and other services provided to Venezuela.²⁸

Cuba's economic growth slowed, however, to 1.4% in 2009 and 2.1% in 2010.²⁹ The global financial crisis had a negative effect on the Cuban economy because of lower world prices for nickel and a reduction in tourism from Canada and Europe. Cuba was also still recovering from the devastation wrought by Hurricanes Gustav and Ike in 2008, particularly in the agricultural sector. As a result of the economic downturn, the government announced austerity measures in 2009 that included energy rationing and cutbacks in transportation and some food programs. The economic forecast for 2011 is for 3.5%.³⁰

Over the years, Cuba has expressed pride for the nation's accomplishments in health and education. According to the U.N. Development Program's 2010 *Human Development Report*, life expectancy in Cuba in 2007 was 78.8 years and adult literacy was estimated at almost 100%. Cuba has also boasted a 2010 infant mortality rate of 4.5 per 1,000 live births (compared to 7 per 1,000 in the United States).³¹ In terms of its per capita income level, the World Bank estimates

²⁶ Information and statistics were drawn from several sources: U.S. Department of State, "Background Note: Cuba," April 28, 2011; Economist Intelligence Unit, "Cuba Country Profile," 2008, and "Cuba Country Report," March 2011; Oficina Nacional de Estadísticas, "Anuario Estadístico de Cuba, 2010"; Marc Frank, "Cuba Adopts Measures to Increase Sugar Crop," *Reuters News*, July 14, 2011; and "Factbox: Cubans Get Ready for Private Sector Expansion," *Reuters News*, September 23, 2010.

²⁷ "Cuba Country Report," *Economist Intelligence Unit (EIU)*, January 2011.

²⁸ Jorge R. Piñon, "Cuba – 2008 Petroleum Supply Demand Analysis," Center for Hemispheric Policy, University of Miami, July 6, 2009.

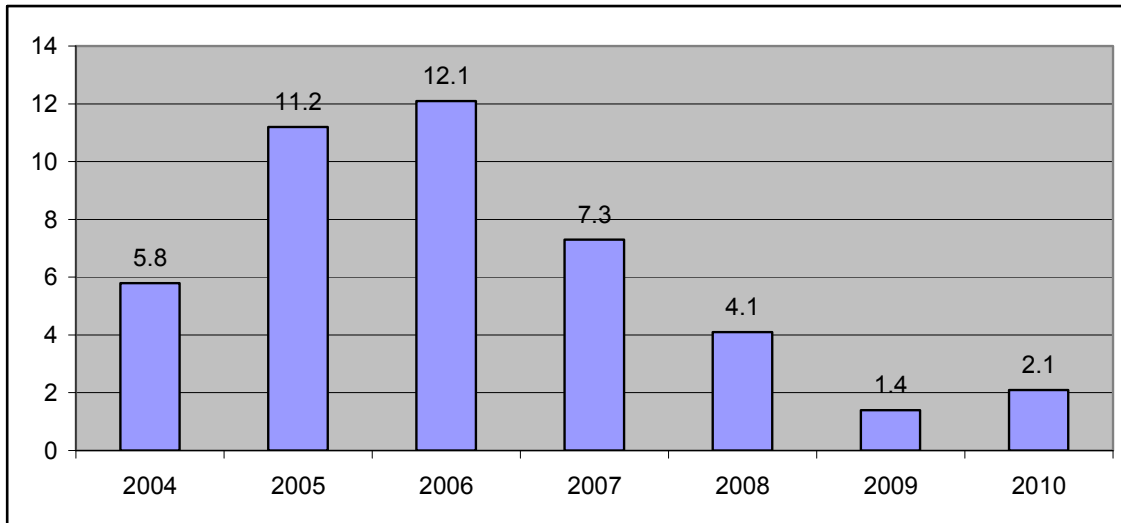
²⁹ "Cuba Country Report," *EIU*, August 2011.

³⁰ "Cuba Country Report," *EIU*, August 2011.

³¹ José A. De la Osa, "Cuba Reduces Infant Mortality Rate to 4.5," *Granma*, January 1, 2011.

that Cuba's per capita income level is in the upper-middle-income range (between \$3,856 and \$11,905), higher than nine other countries in the Americas.³²

Figure 2. Cuba: Real GDP Growth (%), 2004-2010



Source: "Cuba Country Report," *Economist Intelligence Unit*, August 2011.

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

After Cuba began to recover from its economic decline, the government began to backtrack on some of its reform efforts. Regulations and new taxes made it extremely difficult for many of the nation's self-employed. Some home restaurants were forced to close because of the new regulations. In 2004, the Cuban government limited the use of dollars by state companies for any services or products not considered part of their core business. Some analysts viewed the measure as an effort to turn back the clock on economic reform measures.³³ Also in 2004, Fidel Castro

³² World Bank, *World Development Report 2010*, October 2010, p. 377.

³³ Larry Luxner, "New Decree Limits Dollar Transactions as Cuba Tightens Controls Once Again," *CubaNews*, April 2004.

announced that U.S. dollars no longer would be used in entities that at the time accepted dollars (such as stores, restaurants, and hotels). Instead, dollars had to be exchanged for “convertible pesos,” with a 10% surcharge for the exchange. Moreover, in 2005, the Cuban government re-valued the Cuban convertible peso (CUC) from being on par with the U.S. dollar to CUC0.93/U.S.\$1.

Economic Changes Under Raúl Castro

When Raúl Castro assumed provisional power in July 2006, there was some expectation that the government would be more open to economic policy changes, and a debate about potential economic reforms reemerged in Cuba. On July 26, 2007, in a speech commemorating Cuba’s revolutionary anniversary, Raúl Castro acknowledged that Cuban salaries were insufficient to satisfy needs, and maintained that structural changes were necessary in order to increase efficiency and production. In the aftermath of the speech, Cuban public expectations for economic reform increased as thousands of officially sanctioned meetings were held in workplaces and local PCC branches around the country where Cubans were encouraged to air their views and discuss the future direction of the country. Complaints focused on low salaries and housing and transportation problems, and some participants advocated legalization of more private businesses.³⁴

After Raúl Castro officially assumed the presidency in 2008, his government announced a series of economic changes. In his first speech as president in February 2008, Raúl promised to make the government smaller and more efficient, to review the potential revaluation of the Cuban peso, and to eliminate excessive bans and regulations that curb productivity.³⁵ In March, the government announced that it would lift restrictions on the sales of consumer products such as computers, microwaves, and DVD and video players as well as on the use of cell phones.

The government also announced that it would begin revamping the state’s wage system by removing the limit that a state worker can earn. This was an effort to boost productivity and to deal with one of Cuba’s major economic problems: how to raise wages to a level where basic human needs can be satisfied. The promised revamp of the wage system, however, has been delayed. The problem of low wages in Cuba is closely related to another major economic challenge in Cuba: how to unify the two official currencies circulating in the country—the Cuban convertible peso (CUC) and the Cuban peso, which trade at about 24 to 1 CUC. Most people are paid in Cuban pesos, and the minimum monthly wage in Cuba is about 225 pesos (about \$10 U.S. dollars³⁶), but for increasing amounts of consumer goods, convertible pesos are used. Cubans with access to foreign remittances or who work in jobs that give them access to convertible pesos are far better off than those Cubans who do not have such access.

A significant reform effort under Raúl Castro has focused on the agricultural sector, a vital issue because Cuba reportedly imports some two-thirds of its food needs.³⁷ In an effort to boost food production, the government began in 2008 to give farmers more discretion over how to use their land and what supplies to buy. The government also began a program of turning idle land into

³⁴ Frances Robles, “Cubans Urged to Vent Views,” *Miami Herald*, October 2, 2007.

³⁵ “Cuba: Full Text of Raúl Castro’s National Assembly Address,” *Cubavisión*, Havana (as translated by Open Source Center) February 24, 2008.

³⁶ U.S. Department of State, “Country Reports on Human Rights Practices 2010, Cuba,” April 8, 2011.

³⁷ Helen Popper, “Cuban Farm Reforms Sow Seeds of Enterprise,” *Reuters News*, December 17, 2009.

productive use through a land grant program, whereby private farmers and cooperatives can apply for land. Under the program, the government reportedly has granted some 128,000 leases covering 2.9 million acres of land as of mid-2011.³⁸ Despite these efforts, overall food production has been significantly below targets, with the agriculture sector contracting some 2.9% in 2010.³⁹ In the first half of 2011, Cuba reported a 6.1% increase in agricultural production compared to the same period in 2010, but key staples in the Cuba diet declined.⁴⁰ Problems in the agricultural sector focus on an entrenched system whereby farmers depend on the state for fuel, pesticides, fertilizers and other resources in exchange for 70%-80% of what they produce. The government's inability to provide enough resources to farmers has hampered production, and its domination of the distribution process has hampered the delivery of products to market.⁴¹

In March 2011, the government reportedly began granting micro credits to new farmers in an effort to increase lagging food production, and by July 2011, a Cuban banking official maintained that Cuban banks had granted loans to some 15,000 agricultural producers.⁴²

In September 2010, the Cuban government announced a series of potentially significant reforms designed to reduce the public sector and increase private enterprise. On September 13, 2010, the government announced that by the end of March 2011 it would identify half a million state workers who would be laid off, with most expected to find work in the expanding private sector. The layoffs reportedly would affect all public sector employees, including in the public service and state-owned enterprises. Over the next five years, a total of 1.2 million state employees would be cut (out of about 4.3 million state workers).⁴³ On September 24, the government announced an expansion of self-employment, identifying 178 categories of work allowed with 83 of those allowing small businesses to hire non-family members.⁴⁴ The self-employment categories cover a wide range of employment from "carpenters, gardeners, artisans, and animal trainers to small businesses such as home-based bed and breakfasts, rental property, restaurants, pizzerias, and snack shops."⁴⁵ New tax provisions would generate income for the government and include a new sales tax and social security tax.

The Cuban government's implementation of layoffs in the state sector has lagged considerably, so much so that President Castro acknowledged in late February 2011 that more time was needed to implement the layoffs. The government, however, has not given a new timetable and the number of jobs that have been cut to date has not been released.⁴⁶ In terms of increasing self-employment, the government maintained that some 220,000 licenses have been issued since October 2010, and that there are overall there are now some 314,000 peoples licensed to work for themselves.⁴⁷ At

³⁸ Marc Frank, "Cuba Issues Micro Credits to New Farmers," *Reuters News*, March 22, 2011, and "Cuban Agriculture Crisis Persists Despite Reforms," *Reuters News*, June 3, 2011.

³⁹ "Cuba Country Report," *EIU*, August 2011.

⁴⁰ Marc Frank, "Cuba Reports Slight Improvement in Food Output," *Reuters*, August 2, 2011.

⁴¹ Ibid; and Marc Frank, "Havana Food Production Plummets Despite Reforms," *Reuters News*, March 3, 2010.

⁴² Marc Frank, "Cuba Issues Micro Credits to New Farmers," *Reuters News*, March 22, 2011; "Cuban Banks Loan "Millions" to Farmers," *Prensa Latina* (Havana), July 11, 2011.

⁴³ "Cuba Country Report," *EIU*, October 2010.

⁴⁴ Juan O. Tamayo, "Cuba Unveils Plan to Overcome Its Economic Crisis," *Miami Herald*, September 25, 2010.

⁴⁵ Marc Frank, "Raúl Castro's Shock Therapy for Cuban Economy," *ABC News*, November 8, 2010.

⁴⁶ "Castro Says Cuba's Mass Layoffs Delayed," *Reuters News*, February 28, 2011.

⁴⁷ "Cuba Cuts Taxes to Spur Private-Sector Growth," *Reuters*, May 27, 2011.

the end of 2010, there were reportedly just over 157,000 self-employed.⁴⁸ Some economic analysts contended that the new categories of self-employment are too limited and still include considerable restrictions and taxes designed to impede the growth of small businesses.⁴⁹ In late May 2011, however, the government announced new plans to cut taxes and lift other restrictions in order to stimulate the private sector.⁵⁰

On March 14, 2011, Cuba devalued its convertible peso, the CUC, by 8%, putting it on par once again with the U.S. dollar. (In 2005, the government had re-valued its currency to CUC0.93/U.S.\$1.) Cuban and foreign economists welcomed the change. The action was reportedly aimed at attracting more foreign exchange and stimulating exports.⁵¹

In late March 2011, President Castro tasked outgoing Minister of Economy and Planning Marino Murillo (replaced by Vice Minister Adel Yzquierdo Rodriguez) with the job of overseeing the implementation of the country's economic reforms. Some press reports have referred to Murillo as the country's new economic czar. Murillo has been in charge of coordinating the economic policy committee for the party congress, and as vice president of the Council of Ministers, he will continue to oversee the Ministry of Economy and Planning and other economic agencies. Murillo reportedly is a key member of Raúl Castro's inner circle.⁵²

As noted above, Cuba's Communist Party held its sixth congress from April 16-19, 2011, focusing on making changes to Cuba's economic model. Some 1,000 party delegates analyzed and debated the Draft Guidelines for Social and Economic Policy (*Proyecto de Lineamientos de la Política Económica y Social*) that were issued in November 2010.⁵³ The guidelines are an expansive list of economic goals or aspirations, rather than a plan of action. As originally set forth in November, the guidelines numbered 291, but as approved at the party congress, the guidelines consist of 313 goals or objectives.⁵⁴ While the guidelines do not have any reference with regard to sequencing or how the objectives may be implemented, they include some potentially significant economic reforms that, if realized, could significantly alter Cuba's state-dominated economic model. These include the liquidation of state enterprises with sustained financial losses (#17), advancement toward the unification of Cuba's two currencies (#55), the gradual development of a tax system as an efficient means to distribute income (#60), creation of special development

⁴⁸ "Cuba Issues More Than 113,000 Self-Employment Licenses," *EFE News Service*, March 4, 2011.

⁴⁹ See for example: Oscar Espinosa Chepe, *Cambios en Cuba: Pocos, Limitados y Tardios*, Havana Cuba, February 2011, available at <http://reconciliacioncubana.files.wordpress.com/2011/03/cambios-en-cuba.pdf>; and Archibald R.M. Ritter, "Raúl Castro's New Economic Strategy: Context, Viability and Prospects," presentation at the Inter-American Dialogue, Washington, D.C., March 11, 2011, available at <http://www.thedialogue.org/page.cfm?pageID=32&pubID=2603&s>

⁵⁰ "Cuba Cuts Taxes to Spur Private-Sector Growth," *Reuters*, May 27, 2011.

⁵¹ Marc Frank, "Cuba Devalues Convertible Peso by 8 Percent," *Reuters News*, March 14, 2011.

⁵² "Cuba's Murillo Made New Economic Tzar," *LatinNews Daily*, March 28, 2011.

⁵³ A full-text version of the Guidelines in English is available at <http://www.walterlippmann.com/pcc-draft-economic-and-social-policy-guidelines-2010.html>.

⁵⁴ *Lineamientos de la Política Económica y Social Del Partido y la Revolución*, VI Congreso del Partido Comunista de Cuba, approved April 18, 2011, available at <http://thecubaneconomy.com/wp-content/uploads/2011/05/Lineamientos-de-la-Pol%C3%ADtica-econ%C3%B3mica-y-Social-del-Partido-y-la-Revoluci%C3%B3n-Aprobado-el-18-de-abril-de-2011.-VI-Congreso-del-PCC.pdf>. In addition, the Cuban Communist Party published a report comparing the original 291 guidelines to the final 313 guidelines and how they changed. See *Información Sobre el Resultado del Debate de los Lineamientos de la Política Económica y Social Del Partido y la Revolución*, VI Congreso del Partido Comunista de Cuba, May 2011, available at http://www.granma.cubaweb.cu/2011/05/10/nacional/Tabloide_Debate_Lineamientos.pdf.

zones for foreign investment (#102), expansion of the non-state sector as an alternative means of employment (#168), and an orderly and gradual elimination of the ration system (#174). Some economic analysts maintain that the proposed changes set forth in the guidelines are too limited and too late to deal with the severity of Cuba's difficult economic situation.⁵⁵

Cuba's National Assembly approved the guidelines in a legislative session held in early August 2011. Later this year, Cuba reportedly is planning to expand private retail business beyond beauty parlors and barbershops to include additional services such as coffee and snack shops, small cafeterias, appliance repair shops, locksmiths, and watch and shoe repairs.⁵⁶ In a significant move, the government is also reportedly planning to permit the sale of homes by the end of the year.⁵⁷ President Castro also announced in early August that Cuba would revise its own restrictive travel and migratory rules.⁵⁸

Cuba's Foreign Relations

During the Cold War, Cuba had extensive relations with and support from the Soviet Union, with billions of dollars in annual subsidies to sustain the Cuban economy. This subsidy system helped fund an activist foreign policy and support for guerrilla movements and revolutionary governments abroad in Latin America and Africa. With an end to the Cold War, the dissolution of the Soviet Union, and the loss of Soviet financial support, Cuba was forced to abandon its revolutionary activities abroad.

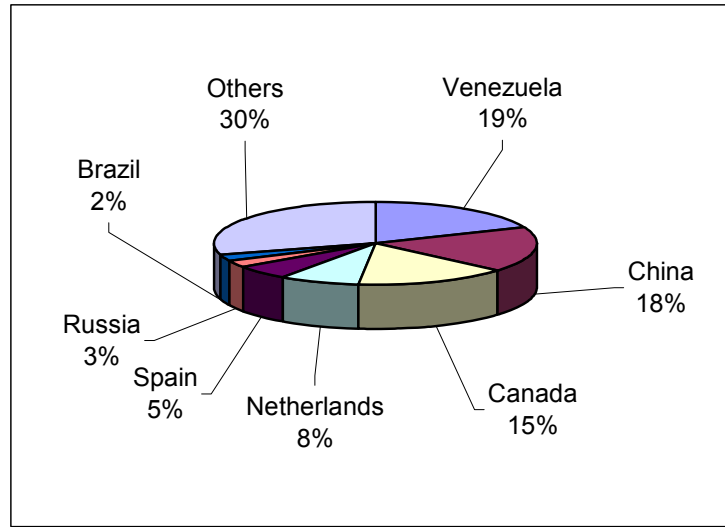
As its economy reeled from the loss of Soviet support, Cuba was forced to open up its economy and economic relations with countries worldwide, and developed significant trade and investment linkages with Canada, Spain, other European countries, and China. In recent years, Venezuela—under populist President Hugo Chávez—has become a significant source of support for subsidized oil imports and investment for Cuba. In 2009, Cuba's main trading partners included Venezuela, China, Spain, Canada, Italy, the Netherlands, Germany, Vietnam, and even the United States (for agricultural exports to Cuba). (See **Figure 3** and **Figure 4** for Cuba's major trading partners in terms of exports and imports.) Relations with Russia also intensified with the November 2008 visit of Russian President Dmitry Medvedev to Havana, the visit of several Russian warships to Cuba in December 2008, and Raúl Castro's visit to Russia in January 2009. Chinese President Hu Jintao also visited Cuba in November 2008, signing a dozen agreements. China recently agreed to invest in upgrading an oil refinery. In Cuba's offshore oil sector, a consortium led by the Spanish oil company Repsol is planning to drill an exploratory well in 2011 and a number of state-owned foreign oil companies have concessions to explore offshore for oil.

⁵⁵ Espinosa Chepe, op. cit.

⁵⁶ Marc Frank, "Cuba Readies New Phase in Retail Sector," *Reuters News*, July 30, 2011.

⁵⁷ Tracy Wilkinson, "Real Estate Is Next Up for Island Nation," *Chicago Tribune*, August 15, 2011.

⁵⁸ Peter Orsi, "Raúl Castro Says Restrictive Travel Rules to Change as Lawmakers Meet on Economic Changes," *Associated Press*, August 2, 2011; and Marc Frank, "Cuba Revising Travel Policies—Raúl Castro," *Reuters News*, August 1, 2011.

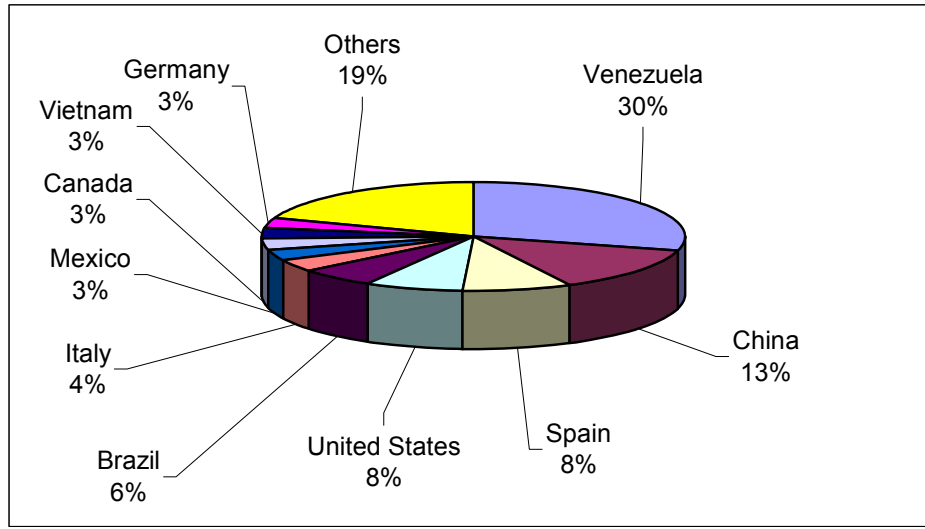
Figure 3. Cuban Exports by Country of Destination, 2009

Source: República de Cuba, Oficina Nacional de Estadísticas, Anuario Estadístico de Cuba 2009.

With El Salvador's restoration of relations with Cuba in June 2009, all Latin American nations now have official diplomatic relations with Cuba. Cuba has increasingly become more engaged in Latin America beyond the already close relations with Venezuela. Brazilian President Luiz Inácio Lula da Silva visited Cuba twice in 2008, and Cuba seems especially interested in expanding relations with Brazil. Cuba became a full member of the 23-member Rio Group of Latin American and Caribbean nations in November 2008. Raúl Castro made his first foreign trip as president in December 2008, when he traveled to Venezuela, and then to Bahia, Brazil, where he attended the Latin American and Caribbean Integration and Development Summit, a regional initiative of President Lula.⁵⁹

Cuba is an active participant in international forums, including the United Nations and the controversial United Nations Human Rights Council. Since 1991, the U.N. General Assembly has approved a resolution each year criticizing the U.S. economic embargo and urging the United States to lift it. Cuba also has received support over the years from the United Nations Development Programme (UNDP) and the United Nations Educational, Scientific, and Cultural Organization (UNESCO), both of which have offices in Havana. Cuba was a founding member of the World Trade Organization, but it is not a member of the International Monetary Fund, the World Bank, or the Inter-American Development Bank. Cuba hosted the 14th summit of the Non-aligned Movement (NAM) in 2006, and held the Secretary Generalship of the NAM until its July 2009 summit in Egypt. Cuba is a member of the Bolivarian Alternative for the Americas, (ALBA), a Venezuelan-led integration and cooperation scheme founded as an alternative to U.S. efforts to negotiate a region-wide Free Trade Area of the Americas (FTAA).

⁵⁹ "Cuba: Bringing Cuba in from the Cold," *Latin American Regional Report, Caribbean & Central America*, December 2008.

Figure 4. Cuban Imports by Country of Origin, 2009

Source: República de Cuba, Oficina Nacional de Estadísticas, Anuario Estadístico de Cuba 2009.

Cuba was excluded from participation in the OAS in 1962 because of its identification with Marxism-Leninism, but in early June 2009, the OAS overturned the 1962 resolution in a move that could eventually lead to Cuba's reentry into the regional organization in accordance with the practices, purposes, and principles of the OAS. While the Cuban government welcomed the OAS vote to overturn the 1962 resolution, it asserted that it would not return to the OAS. (For further background, see a section on "Cuba and the OAS" in CRS Report R40193, *Cuba: Issues for the 111th Congress*, by Mark P. Sullivan.)

U.S. Policy Toward Cuba

Background on U.S.-Cuban Relations⁶⁰

In the early 1960s, U.S.-Cuban relations deteriorated sharply when Fidel Castro began to build a repressive communist dictatorship and moved his country toward close relations with the Soviet Union. The often tense and hostile nature of the U.S.-Cuban relationship is illustrated by such events and actions as U.S. covert operations to overthrow the Castro government culminating in the ill-fated April 1961 Bay of Pigs invasion; the October 1962 missile crisis in which the United States confronted the Soviet Union over its attempt to place offensive nuclear missiles in Cuba; Cuban support for guerrilla insurgencies and military support for revolutionary governments in Africa and the Western Hemisphere; the 1980 exodus of around 125,000 Cubans to the United States in the so-called Mariel boatlift; the 1994 exodus of more than 30,000 Cubans who were interdicted and housed at U.S. facilities in Guantanamo and Panama; and the February 1996 shootdown by Cuban fighter jets of two U.S. civilian planes operated by the Cuban American group Brothers to the Rescue, which resulted in the death of four U.S. crew members.

⁶⁰ For further background on U.S. policy, see some of the archived CRS reports on Cuba listed in **Appendix C** of this report, including CRS Report RL30386, *Cuba-U.S. Relations: Chronology of Key Events 1959-1999*.

Since the early 1960s, U.S. policy toward Cuba has consisted largely of isolating the island nation through comprehensive economic sanctions, including an embargo on trade and financial transactions. The Cuban Assets Control Regulations (CACR), first issued by the Treasury Department in July 1963, lay out a comprehensive set of economic sanctions against Cuba, including a prohibition on most financial transactions with Cuba and a freeze of Cuban government assets in the United States. The CACR have been amended many times over the years to reflect changes in policy, and remain in force today.

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

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

Clinton Administration's Easing of Sanctions

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

In January 1999, President Clinton announced several additional measures to support the Cuban people. These included a broadening of cash remittances to Cuba, so that all U.S. residents (not just those with close relatives in Cuba) could send remittances to Cuba; an expansion of direct

passenger charter flights to Cuba from additional U.S. cities other than Miami (direct flights later in the year began from Los Angeles and New York); and an expansion of people-to-people contact by loosening restrictions on travel to Cuba for certain categories of travelers, such as professional researchers and those involved in a wide range of educational, religious, and sports activities.

Bush Administration's Tightening of Sanctions

The George W. Bush Administration essentially continued the two-track U.S. policy of isolating Cuba through economic sanctions while supporting the Cuban people through a variety of measures. However, within this policy framework, the Administration emphasized stronger enforcement of economic sanctions and further tightened restrictions on travel, remittances, and humanitarian gift parcels to Cuba. The Administration established an interagency Commission for Assistance to a Free Cuba in late 2003 tasked with identifying means to help the Cuban people bring about an expeditious end of the dictatorship” and to consider “the requirements for United States assistance to a post-dictatorship Cuba.”⁶¹ In issuing its first report in May 2004, the Commission made recommendations to tighten restrictions on family visits and other categories of travel and on private humanitarian assistance in the form of remittances and gift parcels.⁶² The Administration subsequently issued these tightened restrictions in June 2004, while in February 2005, it tightened restrictions on payment terms for U.S. agricultural exports to Cuba. The Commission issued a second and final report in July 2006 that made recommendations to hasten political change in Cuba toward a democratic transition and led to a substantial increase in U.S. funding to support democracy and human rights efforts in Cuba.⁶³

The Bush Administration continued to emphasize a continuation of the sanctions-based approach toward Cuba pending political change in Cuba. When Raúl Castro officially became head of state in February 2008, then-Secretary of State Condoleezza Rice issued a statement urging “the Cuban government to begin a process of peaceful, democratic change by releasing all political prisoners, respecting human rights, and creating a clear pathway towards free and fair elections.”⁶⁴ In remarks on Cuba policy in March 2008, President Bush maintained that in order to improve U.S.-Cuban relations, “what needs to change is not the United States; what needs to change is Cuba.” The President asserted that Cuba “must release all political prisoners ... have respect for human rights in word and deed, and pave the way for free and fair elections.”⁶⁵

Debate on the Direction of U.S. Policy

Over the years, although U.S. policymakers have agreed on the overall objectives of U.S. policy toward Cuba—to help bring democracy and respect for human rights to the island—there have been several schools of thought about how to achieve those objectives. Some have advocated a policy of keeping maximum pressure on the Cuban government until reforms are enacted, while continuing efforts to support the Cuban people. Others argue for an approach, sometimes referred

⁶¹ U.S. Department of State, “Commission for Assistance to a Free Cuba,” White House Fact Sheet, December 8, 2003.

⁶² See the Commission’s May 2004 report, available at <http://2005-2009.cafc.gov/rpt/2004/c18166.htm>

⁶³ See the Commission’s July 2006 report, available at <http://www.cafc.gov/documents/organization/68166.pdf>

⁶⁴ U.S. Department of State, Secretary of State Condoleezza Rice, “Statement on Cuba’s Transition,” February 24, 2008.

⁶⁵ White House, “President Bush Delivers Remarks on Cuba,” March 7, 2008.

to as constructive engagement, that would lift some U.S. sanctions that they believe are hurting the Cuban people, and move toward engaging Cuba in dialogue. Still others call for a swift normalization of U.S.-Cuban relations by lifting the U.S. embargo. Legislative initiatives introduced over the past decade have reflected these three policy approaches.

Over the past decade, there have been efforts in Congress to ease U.S. sanctions, with, one or both houses at times approving amendments to appropriations measures that would have eased U.S. sanctions on Cuba. Until 2009, these provisions were stripped out of final enacted measures, in part because of presidential veto threats. In March 2009, as noted above, Congress took action to ease some restrictions on travel to Cuba, marking the first time that Congress has eased Cuba sanctions since the approval of the Trade Sanctions Reform and Export Enhancement Act of 2000.

In light of Fidel Castro's departure as head of government, many observers called for a reexamination of U.S. policy toward Cuba. In this new context, two broad policy approaches have been advanced to contend with political change in Cuba: a status-quo approach that maintains the U.S. dual-track policy of isolating the Cuban government while providing support to the Cuban people; and an approach aimed at influencing the attitudes of the Cuban government and Cuban society through increased contact and engagement.

In general, those who advocate easing U.S. sanctions on Cuba make several policy arguments. They assert that if the United States moderated its policy toward Cuba—through increased travel, trade, and diplomatic dialogue—then the seeds of reform would be planted, which would stimulate and strengthen forces for peaceful change on the island. They stress the importance to the United States of avoiding violent change in Cuba, with the prospect of a mass exodus to the United States and the potential of involving the United States in a civil war scenario. They argue that since the demise of Cuba's communist government does not appear imminent, even without Fidel Castro at the helm, the United States should espouse a more pragmatic approach in trying to bring about change in Cuba. Supporters of changing policy also point to broad international support for lifting the U.S. embargo, to the missed opportunities for U.S. businesses because of the unilateral nature of the embargo, and to the increased suffering of the Cuban people because of the embargo. Proponents of change also argue that the United States should be consistent in its policies with the world's few remaining communist governments, including China and Vietnam, and also maintain that moderating policy will help advance human rights.

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

Obama Administration Policy

Overview. Since taking office, the Obama Administration has lifted restrictions on travel and remittance to Cuba for Cuban Americans, moved to reengage Cuba on migration and other bilateral issues, and in January 2011 announced further steps to ease restrictions on purposeful travel and non-family remittances. At the same time, the Administration has continued other embargo restrictions on trade and financial transactions. The Administration also has continued to express concern about the human rights situation in Cuba, but welcomed the Cuban government's release of political prisoners. Since December 2009, a key impediment to improved relations has been Cuba's detention of U.S. Agency for International Development (USAID) subcontractor Alan Gross, who was ultimately convicted on March 12, 2011, and sentenced to 15 years in prison.

Background. During the 2008 electoral campaign, President Obama had pledged to lift restrictions on family travel to Cuba as well as restrictions on Cuban Americans sending remittances to Cuba. At the same time, he also pledged to maintain the embargo as a source of leverage to bring about change in Cuba. However, Obama also asserted that if the Cuban government takes significant steps toward democracy, beginning with the freeing of all political prisoners, then the United States would take steps to normalize relations and ease the embargo. He also maintained that, after careful preparation, his Administration would pursue direct diplomacy with Cuba without preconditions, but only when there is an opportunity to advance U.S. interests and advance the cause of freedom for the Cuban people.⁶⁶

In April 2009, just before the fifth Summit of the Americas in Trinidad and Tobago, the Obama Administration announced several significant measures to ease U.S. sanctions on Cuba. The President announced that all restrictions on family travel and on remittances to family members in Cuba would be lifted. This superseded the action taken by Congress in March that had essentially reverted family travel restrictions to as they were in 2004 before they were tightened. The Administration also announced that measures would be taken to increase telecommunications links with Cuba and to expand the scope of eligible humanitarian donations through gift parcels.⁶⁷ At the Summit of the Americas, President Obama maintained that "the United States seeks a new beginning with Cuba." While recognizing that it will take time to "overcome decades of mistrust," the President said "there are critical steps we can take toward a new day." He stated that he was prepared to have his Administration "engage with the Cuban government on a wide range of issues—from drugs, migration, and economic issues, to human rights, free speech, and democratic reform."⁶⁸ The President maintained that he was "not interested in talking just for the sake of talking," but said he believed that U.S.-Cuban relations could move in a new direction.

In the aftermath of the Summit, there appeared to be some momentum toward improved relations. In June 2009, the State Department turned off the electronic billboard at the U.S. Interests Section in Havana that had been had been set up in 2006 and had featured news and pro-democracy messages that irked the Cuban government. Earlier in the year, the Cuban government had taken down anti-U.S. billboards around the U.S. mission. In July 2009, Cuba and the United States also restarted the semi-annual migration talks that had been suspended by the United States in 2004.

⁶⁶ "Remarks of Senator Barack Obama, Renewing U.S. Leadership in the Americas," May 23, 2008, and "Renewing U.S. Leadership in the Americas," Factsheet, June 6, 2008, BarackObama.com.

⁶⁷ White House, "Fact Sheet: Reaching Out to the Cuban People," April 13, 2009.

⁶⁸ White House, "Remarks by the President At the Summit of the Americas Opening Ceremony," April 17, 2009.

To date, four rounds of talks have been held and have included issues beyond migration issues (For more details, see “Migration Talks” below.) In September 2009, the United States and Cuba held talks in Havana on resuming direct mail service between the two countries that included discussion on issues related to the transportation, quality, and security of mail service.⁶⁹

In late 2009, relations took a turn for the worse when Alan Gross, an American subcontractor working on USAID-funded Cuba democracy projects in Cuba, was arrested in Havana in December. Members of Congress have raised considerable concern about Mr. Gross’s detention. State Department officials have continued to raise the issue with Cuban government, and the State Department maintains that his continued detention is “a major impediment to advancing the dialogue between our two countries.”⁷⁰ After Gross was convicted and sentenced to 15 years in prison in March 2011, Secretary of State Clinton called for Gross to be released, at the very least, on humanitarian terms, and expressed hope that the Cuban government would do that.⁷¹ (For more details, see “December 2009 Detainment of American Subcontractor.”)

With regard to the overall human rights situation in Cuba, the Obama Administration expressed significant concern in the first half of 2010. In the semi-annual migration talks in February, U.S. officials urged Cuban officials to provide imprisoned hunger striker Orlando Zapata Tamayo with all necessary medical care. After Zapata’s death, U.S. officials called attention to the more than 200 political prisoners held by Cuba and called for their immediate release.⁷² As noted above, President Obama issued a statement on March 24, 2010, expressing deep concern about the human rights situation in Cuba, including the death of Zapata, and the repression of the Ladies in White. He asserted that these events underscore that “Cuban authorities continue to respond to the aspirations of the Cuban people with a clenched fist.” The President called for the end of repression, the immediate and unconditional release of all political prisoners, and respect for the basic rights of the Cuban people. The President noted that he has taken steps during the year to reach out to the Cuban people and to signal his desire to seek a new era in relations with the government of Cuba. He asserted that he remains “committed to supporting the simple desire of the Cuban people to freely determine their future and to enjoy the rights and freedoms that define the Americas, and that should be universal to all human beings.”⁷³

In response to the Cuban Catholic Church’s July 7, 2010, announcement that the remaining 52 political prisoners of the “group of 75” originally arrested in March 2003 would be released, Secretary of State Clinton said that it was “a positive sign” and that the United States welcomed it.⁷⁴ A subsequent State Department statement maintained that “this is a positive development that

⁶⁹ Since the early 1960s, mail to and from Cuba has arrived via third countries, which results in extensive delays in mail between the two countries. The Cuban Democracy Act of 1992 (P.L. 102-484, Title XVII, Section 1705(f)) has a provision requiring the U.S. Postal Service to take necessary actions to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers. Past U.S. attempts to negotiate such service were rejected by Cuba, reportedly because Cuba wanted the issue to be part of a larger normalization of commercial air traffic. Both the Clinton and Bush Administrations had called for negotiations to restore direct mail service.

⁷⁰ U.S. Department of State, “One Year Continued Incarceration of Alan Gross,” Philip J. Crowley, Assistant Secretary Bureau of Public Affairs, December 3, 2010.

⁷¹ U.S. Department of State, Secretary of State Hillary Rodham Clinton, Interview with Jose Diaz-Balart of Telemundo, March 18, 2011.

⁷² U.S. Department of State, Philip J. Crowley, Assistant Secretary, Bureau of Public Affairs, “Death of Cuban Dissident Orlando Zapata Tamayo,” February 24, 2010.

⁷³ White House, “Statement by the President on the Human Rights Situation in Cuba,” March 24, 2010.

⁷⁴ “Secretary of State Clinton Holds Media Availability with Jordan Foreign Minister Nasser Judeh,” *CQ Newsmaker* (continued...)

we hope will represent a step towards increased respect for human rights and fundamental freedoms in Cuba.”⁷⁵ Upon the release of the last of the 52 prisoners in March 2011, the State Department maintained that the release was a “step in the direction,” but also urged “the Cuban government to release all remaining political prisoners and allow them to choose whether to remain in Cuba.”⁷⁶

On January 14, 2011, the White House announced new measures to ease travel restrictions further and allow all Americans to send remittances to Cuba. According to the White House statement, the measures will (1) increase purposeful travel to Cuba related to religious, educational, and journalistic activities; (2) allow any U.S. person to send remittances to non-family members in Cuba and make it easier for religious institutions to send remittances for religious activities; and (3) allow all U.S. international airports to provide services to licensed charter flights to and from Cuba. In most respects, these new measures appear to be similar to policies that were undertaken by the Clinton Administration in 1999, but were subsequently curtailed by the Bush Administration in 2003 and 2004.

According to Secretary of State Clinton in May 2011, the Obama Administration believes “that the best way to advance fundamental rights in Cuba ...is to support exchanges and constructive relationships,” and “that’s why we have eased our restrictions on travel and remittances to Cuba.” The Secretary maintained that more could be done if there were evidence that there was an opportunity to do so from the Cuban side “because we want to foster these deeper connections and we want to work for the time when Cuba will enjoy its own transition to democracy.”⁷⁷

Issues in U.S.-Cuban Relations

U.S. Restrictions on Travel and Remittances

Restrictions on travel to Cuba have been a key and often contentious component of U.S. efforts to isolate the communist government of Fidel Castro for much of the past 40 years. Over time there have been numerous changes to the restrictions and for five years, from 1977 until 1982, there were no restrictions on travel. Restrictions on travel and remittances to Cuba are part of the CACR, the overall embargo regulations administered by the Treasury Department’s Office of Foreign Assets Control (OFAC).

Under the Bush Administration, enforcement of U.S. restrictions on Cuba travel increased, and restrictions on travel and on private remittances to Cuba were tightened. In March 2003, the Administration eliminated travel for people-to-people educational exchanges unrelated to academic course work. In June 2004, the Administration significantly restricted travel, especially

(...continued)

Transcripts, July 8, 2010.

⁷⁵ U.S. Department of State, “Release of Cuban Political Prisoners,” Press Statement, July 13, 2010.

⁷⁶ U.S. Department of State, “Cuba Releases Last Two Political Prisoners from 2003 Black Spring Crackdown,” Press Statement, March 25, 2011.

⁷⁷ U.S. Department of State, Secretary of State Hillary Rodham Clinton, “Remarks at the 41st Washington Conference on the Americas,” May 11, 2011.

family travel, and the provision of private humanitarian assistance to Cuba in the form of remittances and gift parcels.

In March 2009, Congress included two provisions in the FY2009 omnibus appropriations measure (P.L. 111-8) that eased sanctions on travel to Cuba. As implemented by the Treasury Department, family travel was allowed once every 12 months to visit a close relative for an unlimited length of stay, and the limit for daily expenditure allowed by family travelers became the same as for other authorized travelers to Cuba (State Department maximum per diem rate for Havana, currently \$179 day). The definition of “close relative” was expanded to mean any individual related to the traveler by blood, marriage, or adoption who is no more than three generations removed from that person. The omnibus measure also included a provision requiring a general license for travel related to the marketing and sale of agricultural and medical goods to Cuba. (Note: For a general license, there is no need to obtain specific permission from OFAC, while a specific license requires application and review by OFAC on a case by case basis.)

Going even further, the Obama Administration announced several significant measures to ease U.S. sanctions on Cuba in April 2009. Fulfilling a campaign pledge, President Obama announced that all restrictions on family travel and on remittances to family members in Cuba would be lifted. This significantly superseded the action taken by Congress in March 2009 that had essentially reverted family travel restrictions to as they had been before they were tightened in 2004. Under the policy announced by the Administration in April 2009, there are no limitations on the frequency or duration of family visits, and the 44-pound limitation on accompanied baggage was removed. Family travelers are now able spend the same as allowed for other travelers, up to \$179 per day. With regard to family remittances, the previous limitation of no more than \$300 per quarter was removed with no restriction on the amount or frequency of the remittances. Authorized travelers are once again authorized to carry up to \$3,000 in remittances.⁷⁸ Regulations for the above policy changes were issued by the Treasury and Commerce Departments on September 3, 2009.

On January 14, 2011, the Obama Administration announced a series of changes further easing restrictions on travel and remittances to Cuba that had been rumored in the second half of 2010. The White House announced that President Obama had directed the Secretaries of State, Treasury, and Homeland Security to make changes to regulations and policies “in order to continue efforts to reach out to the Cuban people in support of their desire to freely determine their country’s future.”⁷⁹ According to the White House announcement, the policy changes would be enacted through modifications to existing regulations. This occurred on January 28, 2011, when the Departments of Treasury and Homeland Security published changes to regulations in the *Federal Register*.⁸⁰

The measures (1) increase purposeful travel to Cuba related to religious, educational, and journalistic activities (general licenses are now authorized for certain types of educational and religious travel; people-to-people travel exchanges are authorized via a specific license); (2) allow

⁷⁸ White House, “Fact Sheet: Reaching Out to the Cuban People,” April 13, 2009.

⁷⁹ White House, Office of the Press Secretary, “Reaching Out to the Cuban People,” January 14, 2011, available at <http://www.whitehouse.gov/the-press-office/2011/01/14/reaching-out-cuban-people>

⁸⁰ Department of the Treasury, “Cuban Assets Control Regulations,” Vol. 76, No. 19 *Federal Register* 5072-5078, January 28, 2011; Department of Homeland Security, “Airports of Entry or Departure for Flights to and from Cuba,” Vol. 76, No. 19 *Federal Register* 5058-5061, January 28, 2011.

any U.S. person to send remittances to non-family members in Cuba and make it easier for religious institutions to send remittances for religious activities (general licenses are now authorized for both); and (3) allow all U.S. international airports to provide services to licensed charter flights to and from Cuba. In most respects, these new measures appear to be similar to policies that were undertaken by the Clinton Administration in 1999, but were subsequently curtailed by the Bush Administration in 2003 and 2004. An exception is the expansion of airports to service licensed flights to and from Cuba. While the new travel regulations immediately went into effect for those categories of travel falling under a general license category, OFAC delayed processing applications for new travel categories requiring a specific license (such as people-to-people exchanges) until it updated and issued guidelines.⁸¹ These ultimately were issued in April 2011: *Comprehensive Guidelines for License Applications to Engage in Travel-related Transactions Involving Cuba*.⁸²

By early July 2011, OFAC confirmed that it had approved the first licenses for U.S. people-to-people organizations to bring U.S. visitors to Cuba, and the first such trips began in August 2011.⁸³ On July 25, 2011, however, prior to the trips beginning, OFAC issued an advisory maintaining that misstatements in the media had suggested that U.S. policy now allows for virtually unrestricted group travel to Cuba, and reaffirmed that travel conducted by people-to-people travel groups licensed for travel to Cuba must “certify that all participants will have a full-time schedule of educational exchange activities that will result in meaningful interaction between the travelers and individuals in Cuba.” The advisory stated that authorized activities by people-to-people groups are not “tourist activities,” and pointed out that the Trade Sanctions Reform and Export Enhancement Act of 2000 prohibits OFAC from licensing transactions for tourist activities.⁸⁴ As a result of the OFAC advisory, a luxury travel company, Abercrombie & Kent, announced in early August that it was suspending all its Cuba bookings “until it can ensure it is fully compliant” with the OFAC guidance. Abercrombie & Kent does not have an OFAC license, but reportedly had arranged to travel pursuant to the license of a group known as the Foundation for Caribbean Studies.⁸⁵

To date, the Department of Homeland Security, U.S. Customs and Border Protection (CBP), has announced its approval of 12 additional airports to provide passenger air service between the United States and Cuba, bringing the total number of airports approved to 15. The newly authorized airports are Atlanta, Baltimore-Washington (BWI), Chicago O’Hare, Dallas-Fort Worth, Fort Lauderdale-Hollywood, Houston, New Orleans, Oakland (CA), Pittsburgh, Southwest Florida International Airport (Fort Myers), San Juan (Puerto Rico), and Tampa.⁸⁶ It is uncertain how many of these airports actually will end up handling flights to and from Cuba.

⁸¹ CRS correspondence with the Treasury Department, March 17, 2011.

⁸² Available at http://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_tr_app.pdf

⁸³ Peter Orsi, “U.S. Licensing Travel Operators to Start Up Legal Cuba Trips, Treasury Department Says,” *Associated Press*, July 1, 2011; Mimi Whitefield, “People-to-People Tours to Cuba Take Off Thursday,” *Miami Herald*, August 10, 2011; and Jeff Franks, “Purposeful Cuba Trips Resume,” *Chicago Tribune*, August 18, 2011.

⁸⁴ U.S. Department of the Treasury, OFAC, “Cuba Travel Advisory,” July 25, 2011, available at http://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_trav_adv.pdf

⁸⁵ See the Cuba travel website of Abercrombie & Kent at <http://www.abercrombiekent.com/travel-destinations/latin-america-luxury-travel/Cuba/>, and the website of the Foundation for Caribbean Studies at <http://www.caribbeanstudies.org/Home.html>. Also see Juan Tamayo, “U.S. Company Suspends Cuba Tours,” *Miami Herald*, August 7, 2011.

⁸⁶ U.S. Department of Homeland Security, Customs and Border Protection, “Approved U.S. Ports of Entry for Flights to and from Cuba,” June 21, 2011.

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

Legislative Proposals Regarding Travel and Remittances in the 112th Congress

In the 112th Congress, interest on the issue of Cuba travel and remittances is continuing, with legislation introduced to roll back some of the easing of restrictions and some bills introduced to further ease travel restrictions or lift them altogether. During consideration of the FAA reauthorization bill, S. 223, in February 2011, an amendment was submitted, but never considered, S.Amdt. 61 (Rubio), that would have prohibited an expansion of flights to locations in countries that are state sponsors of terrorism (which includes Cuba).

The House Appropriations Committee version of the FY2012 Financial Services and General Government Appropriations bill, H.R. 2434 (Section 901), introduced July 7, 2011, would roll back President Obama's easing of restrictions on remittances and family travel. Specifically, the provision would repeal any amendments to certain sections of the Cuban Assets Control Regulations (CACR)⁸⁷ relating to family travel (31 CFR 515.560(a)(1) and 31 CFR 515.561), carrying remittances to Cuba (31 CFR 515.560(c)(4)(i)), and sending remittances to Cuba (31 CFR 515.570). According to the provision, such regulations would be restored and carried out as in effect on January 19, 2009, "notwithstanding any guidelines, opinions, letters, Presidential directives, or agency practices relating to such regulations issued or carried out after such date." The intent of the provision appears to be to ensure that these specific regulations remain as they were in effect on January 19, 2009.

The provision would roll back President Obama's easing of restrictions on family travel and family remittances in 2009 and his easing of restrictions on remittances for non-family members and religious institutions in 2011. Pursuant to the provision: family travel would be limited to once every three years for a period of up to 14 days to visit immediate family members only, and would require a specific license from OFAC; licensed travelers would be allowed to carry just \$300 in remittances compared to the \$3,000 currently allowed; family remittances would be limited to \$300 per quarter compared to no limits today; non-family remittances restored by the Obama Administration in 2011, up to \$500 per quarter, would not be allowed; and the general license for remittances to religious organizations would be eliminated, although such remittances would be permitted via specific license on a case-by-case basis.⁸⁸

The White House's Statement of Administration Policy on H.R. 2434, issued July 13, 2011, stated that the Administration opposes Section 901 because it would reverse the President's policy on family travel and remittances, and that the President's senior advisors would recommend a veto if the bill contained the provision. According to the statement, Section 901 "would undo the

⁸⁷ The CACR are found at 31 CFR Part 515.

⁸⁸ For activities authorized under a general license, there is no need to obtain special permission from OFAC, while for those activities requiring a specific license, OFAC reviews applications on a case-by-case basis.

President's efforts to increase contact between divided Cuban families, undermine the enhancement of the Cuban people's economic independence and support for private sector activity in Cuba that come from increased remittances from family members, and therefore isolate the Cuban people and make them more dependent on Cuban authorities."⁸⁹

In additional action, on July 21, 2011, the House Committee on Foreign Affairs marked up H.R. 2583, the FY2012 Foreign Relations Authorization Act, with a provision that would require the President to fully enforce all U.S. regulations on travel to Cuba as in effect on January 19, 2009, and impose the corresponding penalties against individuals determined to be in violation of such regulations. The provision was added by a Rivera amendment, approved 36-6, that had the intent of reinstating tighter travel restrictions as they existed under the Bush Administration in January 2009.

Additional legislation introduced on August 1, 2011, H.R. 2771 (Rivera), would amend the Cuban Adjustment Act of 1966 (P.L. 89-732) to increase to five years the period during which a Cuban national must be physically present in the United States in order to qualify for adjustment of status to that of a permanent resident. The legislation would also provide that an alien shall be ineligible for adjustment to permanent resident status if the alien returns to Cuba after admission or parole into the United States. The intent of the initiative is to curb frequent travel to Cuba by Cubans who have recently emigrated to the United States.

In contrast to measures aimed at rolling back the Obama Administration's policy, several initiatives have been introduced in the 112th Congress that would lift travel restrictions. H.R. 1886 would prohibit restrictions on travel to Cuba. H.R. 1888, in addition to removing some restrictions on the export of U.S. agricultural products to Cuba, would also prohibit Cuba travel restrictions. Two initiatives that would lift the overall Cuba embargo, H.R. 255 and H.R. 1887, also would lift restrictions on travel and remittances to Cuba. H.R. 380 would prohibit the Treasury Department from making any funds to implement, administer, or enforce regulations requiring specific licenses for travel-related transactions directly related to educational activities in Cuba.

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

U.S. Agricultural Exports and Sanctions

U.S. commercial agricultural exports to Cuba have been allowed for several years, but with numerous restrictions and licensing requirements. The 106th Congress passed the Trade Sanctions Reform and Export Enhancement Act of 2000 or TSRA (P.L. 106-387, Title IX) that allows for one-year export licenses for selling agricultural commodities to Cuba, although no U.S. government assistance, foreign assistance, export assistance, credits, or credit guarantees are available to finance such exports. TSRA also denies exporters access to U.S. private commercial financing or credit; all transactions must be conducted in cash in advance or with financing from third countries. TSRA reiterates the existing ban on importing goods from Cuba but authorizes travel to Cuba, under a specific license, to conduct business related to the newly allowed agricultural sales.

⁸⁹ Executive Office of the President, Office of Management and Budget, Statement of Administration Policy, H.R. 2434 – Financial Services and General Government Appropriations Act, 2012, July 13, 2011.

Since 2002, the United States has been one of Cuba's largest suppliers of food and agricultural products, although the level of U.S. exports has declined in the past two years. Cuba has purchased over \$3.6 billion in products from the United States since the enactment of TSRA. Overall U.S. exports to Cuba rose from about \$7 million in 2001 to \$404 million in 2004 and to a high of \$712 million in 2008, far higher than in previous years, in part because of the rise in food prices and because of Cuba's increased food needs in the aftermath of several hurricanes and tropical storms that severely damaged the country's agricultural sector. In 2009, however, U.S. exports to Cuba declined to \$533 million, 25% lower than the previous year, and in 2010, they fell again to \$368 million, a 31% drop from 2009. Analysts cite Cuba's shortage of hard currency as the main reason for the decline.⁹⁰ (See **Figure 5**.) In the first half of 2011, U.S. exports to Cuba amounted to about \$174 million, a 20% drop from the same period in 2010.⁹¹

In February 2005, OFAC amended the Cuba embargo regulations to clarify that TSRA's term of "payment of cash in advance" means that the payment must be received by the seller or the seller's agent prior to the shipment of the goods from the port at which they are loaded. U.S. agricultural exporters and some Members of Congress strongly objected that the action constituted a new sanction that violated the intent of TSRA and could jeopardize millions of dollars in U.S. agricultural sales to Cuba. OFAC Director Robert Werner maintained that the clarification "conforms to the common understanding of the term in international trade."⁹² Facing congressional pressure, on July 29, 2005, OFAC clarified that, for "payment of cash in advance" for the commercial sale of U.S. agricultural exports to Cuba, vessels can leave U.S. ports as soon as a foreign bank confirms receipt of payment from Cuba. OFAC's action was aimed at ensuring that the goods would not be vulnerable to seizure for unrelated claims while still at the U.S. port. Supporters of overturning OFAC's February 22, 2005, amendment, such as the American Farm Bureau Federation, reportedly were pleased by the clarification but indicated that they would still work to overturn the February 2005 rule.⁹³

In December 2009, Congress took action in the FY2010 omnibus appropriations measure (P.L. 111-117) to define, during FY2010, "payment of cash in advance" as payment before the transfer of title to, and control of, the exported items to the Cuban purchaser. This overturned OFAC's February 2005 clarification that payment had to be received before vessels could leave U.S. ports. The Administration issued regulations implementing this provision in early March 2010. The regulations maintained that the definition applied to items delivered by September 30, 2010, or delivered pursuant to a contract entered into by September 30, 2010, and shipped within 12 months of the signing of the contract.⁹⁴

While the 111th Congress did not complete action on the FY2011 Financial Services and General Government Appropriations measure, it approved a series of short-term continuing resolutions and then in April 2011 ultimately approved a full-year measure (P.L. 112-10) under conditions provided in enacted FY2010 appropriations measures. This continued the "payment of cash in advance" provision through FY2011. Several additional legislative initiatives introduced in the

⁹⁰ Juan Tamayo, "Big Drop in U.S. Agricultural Sales to Cuba," *Miami Herald*, July 29, 2010.

⁹¹ Department of Commerce statistics, as presented by Global Trade Atlas.

⁹² U.S. Department of the Treasury, Testimony of Robert Werner, Director, OFAC, before the House Committee on Agriculture, March 16, 2005.

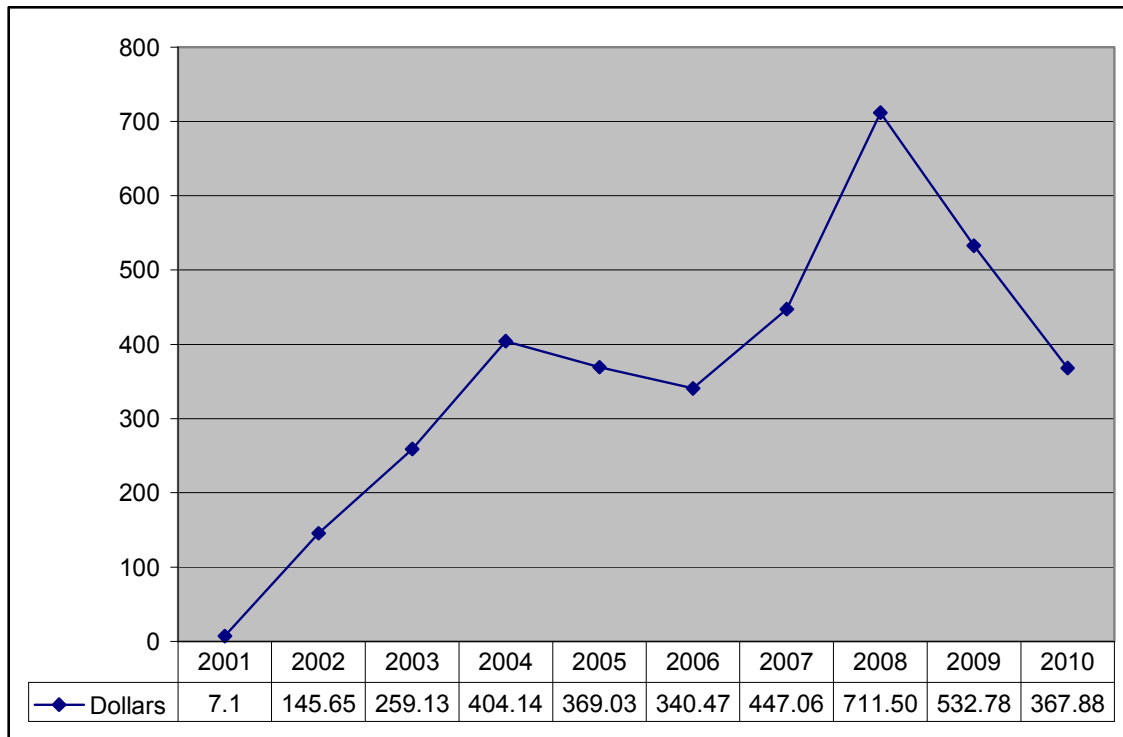
⁹³ Christopher S. Rugaber, "Treasury Clarifies Cuba Farm Export Rule, and Baucus Relents on Nominees," *International Trade Reporter*, August 4, 2005.

⁹⁴ *Federal Register*, March 10, 2010, pp. 10996-10997.

111th Congress would have permanently made this change, but no action was completed on these measures. H.R. 4645 (Peterson), reported out of the House Agriculture Committee in June 2010, in addition to addressing travel restrictions, would have permanently changed the definition of “payment of cash in advance” and would have allowed direct transfers between U.S. and Cuban financial institutions for payment for products sold to Cuba under TSRA.

Figure 5. U.S. Exports to Cuba, 2001-2010

U.S. \$ millions



Source: Adapted by CRS from the Global Trade Atlas, which uses Department of Commerce Statistics.

In the 112th Congress, the House Appropriations Committee-approved version of the FY2012 Financial Services and General Government Appropriations bill, H.R. 2434, again has a provision, Section 618, that would continue to clarify the definition of “payment of cash in advance” during FY2012 to be interpreted as payment before the transfer of title to, and control of, the exported items to the Cuban purchaser. Two other introduced bills, H.R. 833 (Conaway) and H.R. 1888 (Rangel), would permanently change the definition of “payment of cash in advance” for export sales to Cuba under TSRA and would also allow direct transfers between Cuban and U.S. financial institutions for payment for products sold to Cuba under TSRA.

Some groups favor further easing restrictions on agricultural exports to Cuba. U.S. agribusiness companies that support the removal of restrictions on agricultural exports to Cuba believe that U.S. farmers are missing out on a market so close to the United States. Some exporters want to change U.S. restrictions so that they can sell agriculture and farm equipment to Cuba.⁹⁵ Agricultural exporters who support the lifting of the prohibition on financing contend that

⁹⁵ “Ag Groups Split Over Trade With Cuba,” *Congress Daily AM*, National Journal, February 11, 2003.

allowing such financing would help smaller U.S. companies increase their exports to Cuba more rapidly.⁹⁶ On July 19, 2007, the U.S. International Trade Commission issued a report, requested by the Senate Committee on Finance, concluding that the U.S. share of Cuba's agricultural, fish, and forest imports would rise from one-third to between one-half and two-thirds if trade restrictions were lifted. (See the full report available at http://www.usitc.gov/ext_relations/news_release/2007/er0719ee1.htm.)

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

Trademark Sanction⁹⁷

For over a decade, the United States has imposed a sanction that denies protection for trademarks connected with businesses confiscated from their owners by the Cuban government. A provision in the FY1999 omnibus appropriations measure (Section 211 of Division A, Title II, P.L. 105-277, signed into law October 21, 1998) prevents the United States from accepting payment for trademark registrations and renewals from Cuban or foreign nationals that were used in connection with a business or assets in Cuba that were confiscated, unless the original owner of the trademark has consented. The provision prohibits U.S. courts from recognizing such trademarks without the consent of the original owner. The measure was enacted because of a dispute between the French spirits company, Pernod Ricard, and the Bermuda-based Bacardi Ltd. Pernod Ricard entered into a joint venture in 1993 with the Cuban government to produce and export Havana Club rum. Bacardi maintains that it holds the right to the Havana Club name because in 1995 it entered into an agreement for the Havana Club trademark with the Arechabala family, who had originally produced the rum until its assets and property were confiscated by the Cuban government in 1960. Although Pernod Ricard cannot market Havana Club in the United States because of the trade embargo, it wants to protect its future distribution rights should the embargo be lifted.

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

⁹⁶ "Farm Equipment Exports Likely to Face Tough Opposition from White House, Congress," *Cuba Trader*, Vol. III, No. 7, February 17, 2003.

⁹⁷ For background information, see archived CRS Report RS21764, *Restricting Trademark Rights of Cubans: WTO Decision and Congressional Response*, by Margaret Mikyung Lee, March 9, 2004.

On March 28, 2002, the United States agreed that it would come into compliance with the WTO ruling through legislative action by January 3, 2003.⁹⁸ That deadline was extended several times since no legislative action had been taken to bring Section 211 into compliance with the WTO ruling. On July 1, 2005, however, in an EU-U.S. bilateral agreement, the EU agreed that it would not request authorization to retaliate at that time, but reserved the right to do so at a future date, and the United States agreed not to block a future EU request.⁹⁹ On August 3, 2006, the U.S. Patent and Trademark Office announced that Cuba's Havana Club trademark registration was "cancelled/expired," a week after OFAC had denied a Cuban government company the license that it needed to renew the registration of the trademark.¹⁰⁰ On March 29, 2011, the U.S. Court of Appeals of the District of Columbia upheld the decision to deny the renewal of the trademark, but Pernod Ricard has vowed to seek a rehearing on the issue by the full Court of Appeals.¹⁰¹

Bacardi began marketing Havana Club rum in the United States in 2006 in limited quantities in Florida, and Pernod Ricard filed suit that the representation of the origin of the rum was misleading. In April 2010, a U.S. District Court in Delaware ruled in Bacardi's favor that the labeling was not misleading, and this was reaffirmed by a U.S. Court of Appeals on August 4, 2011.¹⁰²

Two different approaches have been advocated to bring Section 211 into compliance with the WTO ruling. Some want a narrow fix in which Section 211 would be amended so that it also applies to U.S. companies instead of being limited to foreign companies. Advocates of this approach argue that it would affirm that the United States "will not give effect to a claim or right to U.S. property if that claim is based on a foreign compensation."¹⁰³ Others want Section 211 repealed altogether. They argue that the law endangers over 5,000 trademarks of over 500 U.S. companies registered in Cuba.¹⁰⁴

The House Committee on the Judiciary held a March 3, 2010, hearing on the "Domestic and International Trademark Implications of HAVANA CLUB and Section 211 of the Omnibus Appropriations Act of 2009." (See http://judiciary.house.gov/hearings/hear_100303.html.)

Several legislative initiatives were introduced during the 111th Congress reflecting these two approaches to bring Section 211 into compliance with the WTO ruling, but no action was taken on these measures. In the 112th Congress, two bills have been introduced, S. 603 (Nelson, Bill) and H.R. 1166 (Issa), that would apply the narrow fix so that the sanction applies to all nationals,

⁹⁸ "U.S., EU Agree on Deadline for Complying with Section 211 WTO Finding," *Inside U.S. Trade*, April 12, 2002.

⁹⁹ World Trade Organization (WTO), "United States – Section 211 Omnibus Appropriations Act of 1998, Understanding between the European Communities and the United States," WT/DC176/16, July 1, 2005; WTO, Dispute Settlement Body, "Minutes of Meeting, Held in the Centre William Rappard on 20 July 2005," WT/DSB/M/194, August 26, 2005; and "Japan, EU Suspend WTO Retaliation Against U.S. in Two Cases," *Inside U.S. Trade*, July 15, 2005;

¹⁰⁰ "PTO Cancels Cuban 'Havana Club' Mark; Bacardi Set to Sell Rum Under Same Mark," *International Trade Daily*, August 10, 2006.

¹⁰¹ "Pernod Ricard: Havana Club International Encouraged by Dissenting Opinion of Judge Silberman Will Seek Rehearing by Full Court of Appeals," *Business Wire*, March 29, 2011.

¹⁰² Anandashankar Mazumdar, "Court Rejects Claim that 'Havana Club' Ruling Erred in Discounting Survey Evidence," *International Trade Reporter*, August 18, 2011.

¹⁰³ Brian Lehman, testimony before the Senate Committee on the Judiciary, hearing on "An Examination of Section 211 of the Omnibus Appropriations Act of 1998," July 13, 2004.

¹⁰⁴ "USA-Engage Joins Cuba Fight," *Cuba Trader*, April 1, 2002.

while three broader bills that would lift U.S. sanctions on Cuba—H.R. 255 (Serrano), H.R. 1887 (Rangel), and H.R. 1888 (Rangel)—each includes a provision repealing Section 211. The July 2005 EU-U.S. bilateral agreement, in which the EU agreed not to retaliate against the United States, but reserved the right to do so at a later date, has reduced pressure on Congress to take action to comply with the WTO ruling.

Anti-Drug Cooperation

Cuba is not a major producer or consumer of illicit drugs, but its extensive shoreline and geographic location make it susceptible to narcotics smuggling operations. Drugs that enter the Cuban market are largely the result of onshore wash-ups from smuggling by high-speed boats moving drugs from Jamaica to the Bahamas, Haiti, and the United States or by small aircraft from clandestine airfields in Jamaica. For a number of years, Cuban officials have expressed concerns over the use of their waters and airspace for drug transit and about increased domestic drug use. The Cuban government has taken a number of measures to deal with the drug problem, including legislation to stiffen penalties for traffickers, increased training for counternarcotics personnel, and cooperation with a number of countries on anti-drug efforts. According to the State Department's 2011 *International Narcotics Control Strategy Report (INCSR)*, issued March 3, 2011, Cuba has a number of anti-drug-related agreements in place with other countries, including 39 judicial agreements regarding judicial proceedings and extradition, 32 bilateral counterdrug agreements, and two memoranda of understanding. Since 1999, Cuba's Operation Hatchet has focused on maritime and air interdiction and the recovery of narcotics washed up on Cuban shores. As reported in the *INCSR*, Cuba interdicted 1.9 metric tons of illegal narcotics in 2010, compared to 3.19 metric tons in 2009, and 1.8 metric tons in 2008, with marijuana the lion's share. Since 2003, Cuba has aggressively pursued an internal enforcement and investigation program against its incipient drug market with an effective nationwide drug prevention and awareness campaign, Operation Popular Shield.

Over the years, there have been varying levels of U.S.-Cuban cooperation on anti-drug efforts. In 1996, Cuban authorities cooperated with the United States in the seizure of 6.6 tons of cocaine aboard the Miami-bound *Limerick*, a Honduran-flag ship. Cuba turned over the cocaine to the United States and cooperated fully in the investigation and subsequent prosecution of two defendants in the case in the United States. Cooperation has increased since 1999 when U.S. and Cuban officials met in Havana to discuss ways of improving anti-drug cooperation. Cuba accepted an upgrading of the communications link between the Cuban Border Guard and the U.S. Coast Guard as well as the stationing of a U.S. Coast Guard Drug Interdiction Specialist (DIS) at the U.S. Interests Section in Havana. The Coast Guard official was posted to the U.S. Interests Section in September 2000, and since that time, coordination has increased.

In the 2011 *INCSR*, the State Department reported that Cuba has maintained the same level of anti-drug cooperation with the United States over the past several years. The Coast Guard shares tactical information related to narcotics trafficking and responds to Cuban information on vessels transiting through Cuban territorial seas suspected of smuggling. In 2010, the Cuban government reported 36 real-time reports of "go-fast" boats that led to multiple vessel interdictions and 1 metric ton of marijuana being seized. In November 2010, U.S. Coast Guard officials met with Cuban officials in Havana to discuss technical level counter smuggling tactics and procedures.

Cuba maintains that it wants to cooperate with the United States to combat drug trafficking, and on various occasions has called for a bilateral anti-drug cooperation agreement with the United States.¹⁰⁵ In the 2011 *INCSR*, the State Department acknowledged that Cuba has presented the U.S. government with a draft bilateral accord for counternarcotics cooperation that is still under review. According to the State Department in the *INCSR*: “Structured appropriately, such an accord could advance the counternarcotics efforts undertaken by both countries.” The report maintained that greater cooperation among the United States, Cuba, and its international partners—especially in the area of real-time tactical information-sharing and improved tactics, techniques, and procedures—would likely lead to increased interdictions and disruptions of illegal trafficking.

Cuba’s Offshore Oil Development¹⁰⁶

Cuba is moving toward development of its offshore oil resources. While the country has proven oil reserves of just 0.1 billion barrels, the U.S. Geological Survey estimates that offshore reserves in the North Cuba Basin could contain an additional 4.6 billion barrels of undiscovered technically recoverable crude oil. The Spanish oil company Repsol, in a consortium with Norway’s Statoil and India’s Oil and Natural Gas Corporation, is expected to begin offshore exploratory drilling in late 2011, and a number of other companies are considering exploratory drilling. At present, Cuba has six offshore projects with foreign oil companies. If oil is found, some experts estimate that it would take at least three to five years before production would begin. While it is unclear whether offshore oil production could result in Cuba becoming a net oil exporter, it could reduce Cuba’s current dependence on Venezuela for oil supplies.

In the aftermath of the Deepwater Horizon oil spill in the Gulf of Mexico, some Members of Congress and others have expressed concern about Cuba’s development of its deepwater petroleum reserves so close to the United States. They are concerned about oil spill risks and about the status of disaster preparedness and coordination with the United States in the event of an oil spill. Dealing with these challenges is made more difficult because of the longstanding poor state of relations between Cuba and the United States. If an oil spill did occur in the waters northwest of Cuba, currents in the Florida Straits could carry the oil to U.S. waters and coastal areas in Florida, although a number of factors would determine the potential environmental impact. If significant amounts of oil did reach U.S. waters, marine and coastal resources in southern Florida could be at risk.

With regard to disaster response coordination, the United States and Cuba are not parties to a bilateral agreement on oil spills. While U.S. oil spill mitigation companies can be licensed by the Treasury and Commerce Departments to provide support and equipment in the event of an oil spill, some energy and policy analysts have called for the Administration to ease regulatory restrictions on the transfer of U.S. equipment and personnel to Cuba that would be needed to combat a spill. Some have also called for more formal U.S.-Cuban government cooperation and

¹⁰⁵ On March 12, 2002, Cuba’s Ministry of Foreign Affairs and the Cuban Interests Section in Washington delivered three diplomatic notes to the U.S. Interests Section in Havana and the State Department in Washington proposing agreements on drug interdiction, terrorism, and migration issues. See “Statement from the Ministry of Foreign Affairs: Prominent Drug Trafficker Arrested in our Country,” Information Office, Cuban Interests Section, March 17, 2002; “Cuba Offers to Sign Anti-Drug Pact,” *Miami Herald*, April 8, 2006.

¹⁰⁶ For further information, see CRS Report R41522, *Cuba’s Offshore Oil Development: Background and U.S. Policy Considerations*, by Neelesh Nerurkar and Mark P. Sullivan.

planning to minimize potential damage from an oil spill. Similar U.S. cooperation with Mexico could be a potential model for U.S.-Cuban cooperation, while two multilateral agreements on oil spills under the auspices of the International Maritime Organization also could provide a mechanism for some U.S.-Cuban engagement on oil pollution preparedness and response.

The final report of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, issued in January 2011, maintained that since Mexico already drills in the Gulf of Mexico and Cuba has expressed an interest in deepwater drilling in the Gulf of Mexico, that it is in the U.S. national interest to negotiate with these countries to agree on a common, rigorous set of standards, a system of regulatory oversight, and operator adherence to an effective safety culture, along with protocols to cooperate on containment and response strategies in case of a spill.¹⁰⁷

Interest in Cuba's offshore oil development is continuing in the 112th Congress, with interest focused on a potential oil spill, and attempts to sanction foreign companies investing in or supporting Cuba's oil development. To date, three legislative initiatives have been introduced that take different approaches:

- H.R. 372 (Buchanan) would amend the Outer Continental Shelf Lands Act to authorize the Secretary of the Interior to deny leases and permits to persons who engage in activities with the government of any foreign country that is subject to any U.S. government sanction or embargo. The intent of the legislation is to sanction companies involved in Cuba's oil development, although the scope of the legislation is much broader and could effect other oil companies, including U.S. companies, not involved in Cuba.
- S. 405 (Nelson, Bill) would require a company that is conducting oil or gas operations off the coasts of Cuba to submit an oil response plan for their Cuba operations and demonstrate sufficient resources to respond to a worst case scenario oil spill if the company wanted to lease drilling rights in the United States. The bill would also require the Secretary of the Interior to carry out an oil spill risk analysis and planning process for the development and implementation of oil spill response plans for nondomestic oil spills in the Gulf of Mexico. The Secretary of the Interior would be required, among other things, to include recommendations for Congress on a joint contingency plan with the countries of Mexico, Cuba, and the Bahamas to ensure an adequate response to oil spills located in the eastern Gulf of Mexico.
- H.R. 2047 (Ros-Lehtinen) would impose visa restrictions on foreign nationals and economic sanctions on companies that help facilitate the development of Cuba's offshore petroleum resources. The bill would exclude from the United States aliens who invest \$1 million or more that contributes to the enhancement of the ability of Cuba to develop its offshore oil resources. It would also require the imposition of sanctions (two or more from a menu of listed sanctions) if the President determined that a person had made an investment of \$1 million on or after January 10, 2005, that contributed to Cuba's offshore oil development.

¹⁰⁷ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, *Deepwater, The Gulf Oil Disaster and the Future of Offshore Drilling*, Report to the President, p. 254 and p. 300. See the full text of the report at http://www.oilspillcommission.gov/sites/default/files/documents/DEEPWATER_ReporttothePresident_FINAL.pdf

Terrorism Issues¹⁰⁸

Cuba was added to the State Department's list of states sponsoring international terrorism in 1982 (pursuant to section 6(j) of the Export Administration Act of 1979) because of its alleged ties to international terrorism and support for terrorist groups in Latin America, and it has remained on the list since that time. Cuba had a long history of supporting revolutionary movements and governments in Latin America and Africa, but in 1992, Fidel Castro said that his country's support for insurgents abroad was a thing of the past. Cuba's change in policy was in large part due to the breakup of the Soviet Union, which resulted in the loss of billions of dollars in annual subsidies to Cuba, and led to substantial Cuban economic decline.

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

The State Department's *Country Reports on Terrorism 2010* report (issued August 18, 2011) maintained that the Cuban government "maintained a public stance against terrorism and terrorist financing, but there was no evidence that it had severed ties with elements from the Revolutionary Armed Forces of Colombia (FARC) and recent media reports indicate some current and former members of the Basque Fatherland and Liberty (ETA) continue to reside in Cuba." The report further stated that "available information suggested that the Cuban government maintained limited contact with FARC members, but there was no evidence of direct financial or ongoing material support." It maintained that Cuba allowed Spanish police to travel to Cuba to confirm the presence of suspected ETA members. As in previous years, the report maintained that Cuba continued to denounce U.S. counterterrorism efforts worldwide.

The 2010 terrorism report also maintained that Cuba has been used as a transit point by third-country nationals to enter the United States illegally, and that Cuba was aware of the concerns posed by such threats and took action to investigate third country migrant smuggling and related criminal activities. The report noted that the Cuban government allowed representatives of the U.S. Transportation Security Administration to conduct a series of airport security visits throughout the country in November 2010.

Both the President and Congress have powers to take a country off the state sponsors of terrorism list. As set forth in Section 6(j) of the Export Administration Act, a country's retention on the list may be rescinded in two ways. The first option is for the President to submit a report to Congress certifying that there has been a fundamental change in the leadership and policies of the government and that the government is not supporting acts of international terrorism and is providing assurances that it will not support such acts in the future. The second option is for the President to submit a report to Congress, at least 45 days in advance justifying the rescission and certifying that the government has not provided any support for international terrorism during the preceding six-months, and has provided assurances that it will not support such acts in the future.

¹⁰⁸ For background information, see CRS Report RL32251, *Cuba and the State Sponsors of Terrorism List*, by Mark P. Sullivan.

If Congress disagrees with the President's decision to remove a country from the list, it could seek to block the rescission through legislation.

Congress also has the power on its own to remove a country from the terrorism list. For example, legislation introduced on Cuba in the 111th Congress, H.R. 2272 (Rush), included a provision that would have rescinded the Secretary of State's determination that Cuba "has repeatedly provided support for acts of international terrorism."

Cuba has been the target of various terrorist incidents over the years. In 1976, a Cuban plane was bombed, killing 73 people. In 1997, there were almost a dozen bombings in the tourist sector in Havana in which an Italian businessman was killed and several others were injured. Two Salvadorans were convicted and sentenced to death for the bombings in March 1999 (although the sentences were commuted in 2010 to 30 years in prison), and three Guatemalans were sentenced to prison terms ranging from 10 to 15 years in January 2002 for plans to conduct bombings in 1998. Cuban officials maintain that Cuban exiles funded the bombings.

In November 2000, four anti-Castro activists were arrested in Panama for a plot to kill Fidel Castro. One of the accused, Luis Posada Carriles, is also alleged to be involved in the 1976 Cuban airline bombing and the series of bombings in Havana in 1997 noted above.¹⁰⁹ The four stood trial in March 2004 and were sentenced on weapons charges to prison terms ranging from seven to eight years. In late August 2004, Panamanian President Mireya Moscoso pardoned the four men before the end of her presidential term. Three of the men are U.S. citizens and traveled to Florida, where they received strong support from some in the Cuban American community, while Posada reportedly traveled to another country.

Posada entered the United States illegally in 2005. In subsequent removal proceedings, an immigration judge found that Posada could not be removed to Cuba or Venezuela because of concerns that he would face torture, and he was thereafter permitted to remain in the United States pending such time as he could be transferred to a different country. Posada subsequently applied for naturalization to become a U.S. citizen. This application was denied, and criminal charges were brought against him for allegedly false statements made in his naturalization application and interview. Although a federal district court dismissed the indictment in 2007, its ruling was reversed by an appellate court in 2008. In April 2009, the United States filed a superseding indictment, which included additional criminal charges based on allegedly false statements made by Posada in immigration removal proceedings concerning his involvement in the 1997 Havana bombings. His trial originally was set to begin in August 2009, but was rescheduled three times until it finally began in January 2011.¹¹⁰ Ultimately, Posada was acquitted of the perjury charges in April 2011, an action that was strongly criticized by Cuban officials.

On July 7, 2010, Venezuelan authorities extradited to Cuba an alleged Posada associate, Salvadoran citizen Francisco Chávez Abarca, who was charged with involvement in one of the 1997 bombings in Havana.¹¹¹ Chávez Abarca had been imprisoned from 2005 to 2007 in El Salvador for running a car theft ring, but charges ultimately were dropped, reportedly because of

¹⁰⁹ Frances Robles, "An Old Foe of Castro Looks Back on His Fight," *Miami Herald*, September 4, 2003.

¹¹⁰ For additional information, see "Background on Luis Posada Carriles," CRS Congressional Distribution Memorandum, December 8, 2010, prepared by Mark P. Sullivan, Specialist in Latin American Affairs, and Michael John Garcia, Legislative Attorney. Available from the authors.

¹¹¹ Christopher Toothaker, "Venezuela Extradites Suspected Terrorist to Cuba to Face Bombing Charges," *AP NewsWire*, July 7, 2010.

a botched investigation, and he was set free. On July 1, 2010, he was arrested in Venezuela upon entering the county and allegedly confessed to plans to organize protests in Venezuela around the time of the country's legislative elections in September 2010.¹¹² In late September 2010, the Cuban government released Chávez Abarca's video confessions and reenactment of the bombings, as well as his alleged association with Luis Posada, in a public information campaign featured in the Cuban media as well as abroad. According to Chávez Abarca, Posada recruited him in El Salvador for the Cuba bombings, and paid him \$2,000 for each bomb that went off. Only one of the bombs that Chávez Abarca planted actually detonated, on April 12, 2007, in the bathroom of a disco at the Melia Cohiba hotel in Havana. In late December 2010, Chávez Abarca was sentenced to 30 years in prison for his role in the bombings.

U.S. Funding to Support Democracy and Human Rights

Since 1996, the United States has provided assistance—primarily through the U.S. Agency for International Development (USAID), but also through the State Department and the National Endowment for Democracy (NED)—to increase the flow of information on democracy, human rights, and free enterprise to Cuba. USAID's Cuba program has supported a variety of U.S.-based non-governmental organizations with the goals of promoting a rapid, peaceful transition to democracy, helping develop civil society, and building solidarity with Cuba's human rights activists.¹¹³

These efforts are largely funded through Economic Support Funds (ESF) in the annual foreign operations appropriations bill. From FY2001-FY2011, Congress appropriated almost \$177 million in funding for Cuba democracy efforts. This included \$45.3 million for FY2008, and \$20 million in each fiscal year from FY2009 through FY2011. The Administration again requested \$20 million for FY2012.

For FY2009, Congress fully funded the Administration's \$20 million request in ESF to continue to implement the program recommendations of the Commission for Assistance to a Free Cuba. According to the request, the funding was aimed at assisting human rights activists, independent journalists, Afro-Cubans, and women, youth, and student activists. The report to the Senate Appropriations Committee version of the FY2009 State Department, Foreign Operations, and Related Agencies Appropriations Act, S. 3288 (S.Rept. 110-425), recommended fully funding the Administration's request for Cuba, but also called for the State Department and USAID to conduct regular evaluations to ensure the cost effectiveness of the programs. No final action on the appropriations measure was taken in the 110th Congress, but in the 111th Congress, the FY2009 Omnibus Appropriations Act (P.L. 111-8) funded overall foreign operations funding, including the \$20 million for Cuba democracy funding. Two Members of Congress placed a hold on the assistance until the Administration provided more information on the proposed funding, but in early June 2010, the hold was lifted and \$15 million of the \$20 million was released.¹¹⁴ Subsequently in August 2010, USAID notified Congress that it would be obligating \$620,000 more in FY2009 ESF for Cuba, bringing total FY2009 Cuba funding to \$15.620 million. At the

¹¹² Frances Robles, "Mystery Man in Terror Plots Points at Miami Exiles," *Miami Herald*, October 18, 2010.

¹¹³ See USAID's Cuba program website: http://www.usaid.gov/locations/latin_america_caribbean/country/cuba/.

¹¹⁴ Juan O. Tamayo, "U.S. Funds for Democracy Programs in Cuba Get Green Light," *Miami Herald*, June 8, 2010; Ana Radelat, "Lawmakers Pressure State Department to 'Decontaminate' USAID Cuba Program," *CubaNews*, June 2010.

same time, the USAID shifted the remaining \$4.380 million originally notified for Cuba to a humanitarian assistance program for Guatemala.

For FY2010, Congress once again fully funded the Administration's \$20 million ESF request for Cuba democracy programs in the conference report (H.Rept. 111-366) to the Consolidated Appropriations Act, 2010 (H.R. 3288/P.L. 111-117). According to the State Department's *FY2010 Congressional Budget Justification for Foreign Operations*, U.S. assistance programs focus on providing humanitarian assistance to victims of repression, strengthening civil society, weakening the information blockade, and helping Cubans to create space for dialogue about democratic change and reconciliation. Both House-passed H.R. 3081 and Senate Appropriations Committee-reported S. 1434, the FY2010 State Department, Foreign Operations, and Related Programs Appropriations Act, recommended full funding of the Administration's \$20 million request. In April 2011, Senate Foreign Relations Committee Chairman John Kerry placed a hold on the funding. He maintained that he would oppose the spending until a full review of the programs was complete and contended that there was no evidence that programs are helping the Cuban people.¹¹⁵ Senator Patrick Leahy, Chairman of the Senate Appropriations Committee's Subcommittee on the Department of State, Foreign Operations, and Related Programs, also reportedly placed a hold on the assistance. By early August 2011, both holds had been lifted.¹¹⁶

For FY2011, the Administration again requested \$20 million in ESF to support democracy and human rights projects. According to the Administration's request, the assistance focuses on providing humanitarian assistance to prisoners of conscience and their families, strengthening civil society, supporting issue-based civic action movements and coalitions, and promoting fundamental freedoms, especially freedom of expression and freedom of the press. The Senate version of the State Department and Foreign Operations appropriations measure, S. 3676, reported by the Senate Appropriations Committee on July 29, 2010 (S.Rept. 111-237), would have provided that \$2 million of the ESF appropriated for Cuba be transferred and merged with funds for the National Endowment for Democracy for democracy programs in Cuba. Congress did not complete action on FY2011 appropriations until April 2011 when it approved a full-year appropriations measure (P.L. 112-10). In August 2011, the Administration made known its FY2011 foreign aid allocations by country, which included the full \$20 million for Cuba democracy assistance that had been requested.

For FY2012, the Administration once again requested \$20 million in ESF with the promotion of democratic principles the core goal of assistance. According to the budget request, there is an increased effort to manage programs more transparently, focus efforts on Cuba, and widen the scope of the civic groups receiving supports. According to the Administration's request, U.S. assistance aims to strengthen a range of independent elements of Cuban civil society, including associations and labor groups, marginalized groups, youth, legal associations, and women's networks. The programs are designed to increase the capacity for community involvement of civil society organizations and networking among the groups. The program also supports Cuban efforts to document human rights violations, provides humanitarian assistance to political prisoners and their families, and builds leadership skills of civil society leaders. Finally, the budget request

¹¹⁵ Senate Foreign Relations Committee, Press Room, Chairman's Press, "Chairman Kerry Delays Additional Spending on "Democracy Promotion" Programs in Cuba," April 1, 2011.

¹¹⁶ Juan O. Tamayo, "Leahy Lifts Hold on Democracy Funds for Cuba," *Miami Herald*, August 3, 2011; Donna Cassata, "Democratic Lawmaker, State Department End Impasse Over Money for Cuba Democracy Program," *Associated Press*, August 2, 2011.

maintains that U.S. assistance also supports the dissemination of information regarding market economies and economic rights.

Until FY2008, NED's democratization assistance for Cuba had been funded largely through the annual Commerce, Justice, and State (CJS) appropriations measure, but is now funded through the State Department, Foreign Operations and Related Agencies appropriations measure. NED funding for Cuba has steadily increased over the past several years: \$765,000 in FY2001; \$841,000 in FY2002; \$1.14 million in FY2003; and \$1.15 million in FY2004. For FY2005, NED funded 17 Cuba projects with \$2.4 million. For FY2006, NED funded 13 projects with almost \$1.5 million, including \$0.4 million from State Department ESF. For FY2007, NED funded 12 projects with almost \$1.5 million, which included almost \$1.4 million funded by the State Department. For FY2008, NED funded 11 projects with over \$1.4 million. In FY2009, NED funded 10 Cuba projects with about \$1.5 million from the State Department.

Oversight of U.S. Democracy Assistance to Cuba

In November 2006, the Government Accountability Office (GAO) issued a report examining U.S. democracy assistance for Cuba from 1996 to 2005, and concluded that the U.S. program had significant problems and needed better management and oversight. According to GAO, internal controls, for both the awarding of Cuba program grants and oversight of grantees, "do not provide adequate assurance that the funds are being used properly and that grantees are in compliance with applicable law and regulations."¹¹⁷ Investigative news reports on the program maintained that high shipping costs and lax oversight had diminished its effectiveness.¹¹⁸

GAO issued a second report examining USAID's Cuba democracy program in November 2008.¹¹⁹ The report lauded the steps that USAID had taken since 2006 to address problems with its Cuba program and improve oversight of the assistance. These included awarding all grants competitively since 2006, hiring more staff for the program office since January 2008, and contracting for financial services in April 2008 to enhance oversight of grantees. The GAO report also noted that USAID had worked to strengthen program oversight through pre-award and follow-up reviews, improving grantee internal controls and implementation plans, and providing guidance and monitoring about permitted types of assistance and cost sharing.

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

¹¹⁷ U.S. Government Accountability Office, U.S. Democracy Assistance for Cuba Needs Better Management and Oversight, GAO-07-147, November 2006.

¹¹⁸ Oscar Corral, "Federal Program to Help Democracy in Cuba Falls Short of Mark," *Miami Herald*, November 14, 2006, and "Is U.S. Aid Reaching Castro Foes?" *Miami Herald*, November 15, 2006.

¹¹⁹ U.S. Government Accountability Office, *Foreign Assistance: Continued Efforts Needed to Strengthen USAID's Oversight of U.S. Democracy Assistance for Cuba*, GAO-09-165, November 2008.

In April 2011, Senate Foreign Relations Committee Chairman John Kerry said that he had asked GAO to undertake another investigation of the Cuba program regarding its legal basis and effectiveness.¹²⁰

December 2009 Detainment of American Subcontractor

On December 4, 2009, Cuban authorities arrested an American subcontractor, Alan Gross, working for Development Alternatives Inc. (DAI), a Bethesda-based company that had received a contract from USAID to help support Cuban civil society organizations. Gross was arrested at Jose Martí International Airport in Havana when he was planning to leave the country. He reportedly was distributing communications equipment (including satellite phone equipment) to Jewish organizations in Cuba.

The head of Cuba's National Assembly, Ricardo Alarcon, asserted in January 2010, that the contractor was working for American intelligence, but U.S. officials strongly denied the accusation.¹²¹ A State Department spokesman maintained that the contractor "is not associated with our intelligence services" and noted that "Cuba has a history of mischaracterizing what Americans and NGOs in Cuba are doing."¹²² According to a statement by DAI, "the detained subcontractor was not working for any intelligence service ... he was working with a peaceful, non-dissident civic group—a religious and cultural group recognized by the Cuban government—to improve its ability to communicate with its members across the island and overseas."¹²³

Numerous U.S. officials have raised the issue of Alan Gross's detention with the Cuban government, including at the semi-annual bilateral migration talks, and have called for his release. In March 2010, some 40 House Members called for Mr. Gross's release in a letter to the Cuban government, warning that improved relations between the United States and Cuba would not be possible until he is released.¹²⁴ The letter maintained that Mr. Gross's work in Cuba with the Jewish community "emanated from his desire to make a positive impact for others of faith on the island." A number of other Members and Senators have also called for Mr. Gross's immediate release. In June 2010, Secretary of State Clinton met with family members of Mr. Gross, and issued a statement expressing deep concern about his welfare. The Secretary maintained that Gross's continued detention "is harming U.S.-Cuba relations," and that his release would be viewed favorably.¹²⁵ In September 2010, Assistant Secretary of State for Western Hemisphere Affairs Arturo Valenzuela met with Cuban Foreign Minister Bruno Rodriguez in New York to encourage the release of Mr. Gross.¹²⁶

¹²⁰ Senate Foreign Relations Committee, Press Room, Chairman's Press, "Chairman Kerry Delays Additional Spending on "Democracy Promotion" Programs in Cuba," April 1, 2011.

¹²¹ William Booth, "Contractor is U.S. Secret Agent, Cuban Legislator Says," *Washington Post*, January 7, 2010.

¹²² "State Department Holds Regular News Briefing," *CQ Newsmaker Transcripts*, January 7, 2010.

¹²³ Frances Robles, "U.S. Says Contractor Arrested in Cuba is No Spy," *Miami Herald*, January 8, 2010; and Development Alternatives Inc. "Updated Statement from DAI President and CEO Dr. James Boomgard Regarding Detainee in Cuba," January 7, 2010.

¹²⁴ "Congressmen urge Cuba to Release Jailed U.S. Aid Worker Who Helped Jewish Community," *States News Service*, March 24, 2010.

¹²⁵ U.S. Department of State, Secretary of State Hillary Rodham Clinton, "Continued Incarceration of Alan Gross," June 17, 2010.

¹²⁶ U.S. Department of State, Daily Press Briefing, October 18, 2010; and Juan O. Tamayo, "Cuba, U.S. Talk on Jailed American," *Miami Herald*, October 19, 2010.

In early December 2010, on the one-year anniversary of Mr. Gross's detention, the State Department again issued a statement calling for his release, and maintaining that "the continued detention of Alan Gross is a major impediment to advancing the dialogue between our two countries."¹²⁷ At the fourth round of migration talks held on January 12, 2011, in Havana, the U.S. delegation again raised the issue and called for Mr. Gross's immediate release. The head of the U.S. team at the talks, Principal Deputy Assistant Secretary of State for Western Hemisphere Roberta Jacobson, subsequently met with Gross on January 13. Subsequent press reports maintained that a senior State Department official was "cautiously optimistic" that Gross would be released.¹²⁸

On February 4, 2011, a Cuban court in Havana officially charged Gross with "actions against the independence and territorial integrity of the state" pursuant to Article 91 of Cuba's Penal Code, and the prosecution asked for a 20-year sentence. The two-day trial began on March 4, and on March 12, Gross was convicted and sentenced to 15 years in prison. Gross's lawyer had asked for the Cuban government to release Gross as a humanitarian gesture, maintaining that his health continues to deteriorate and noting that his elderly mother was recently diagnosed with lung cancer, and his daughter was recovering from cancer treatment.¹²⁹

The State Department issued a statement deploring the ruling, and calling on the Cuban government to immediately and unconditionally release him.¹³⁰ Secretary of State Clinton maintained that Gross should be released, at the very least, on humanitarian terms, and expressed hope that the Cuban government would do that.¹³¹ In March 2011, former U.S. President Jimmy Carter visited with Gross during a visit to Cuba. A private U.S. delegation visiting Cuba met with Gross in early June 2011, reporting that Gross had lost some 95 pounds according to his own estimation and that while he was in good spirits he is anxious to come home and does not want to be forgotten.¹³²

Cuba's Supreme Court heard arguments for Gross's appeal on July 22, 2011, but the court rejected the appeal on August 5, 2011. An Administration statement called on the Cuban government to release Gross "immediately and unconditionally to allow him to return to his family and bring an end the long ordeal that began well over a year ago."¹³³

Radio and TV Martí

U.S.-government sponsored radio and television broadcasting to Cuba—Radio and TV Martí—began in 1985 and 1990 respectively. According to the *Broadcasting Board of Governors FY2012 Budget Request*, Radio and TV Martí are dedicated to providing a reliable source of news and information that is accurate, objective, and credible. The request maintains that the two programs

¹²⁷ U.S. Department of State, "One Year Continued Incarceration of Alan Gross," Philip J. Crowley, Assistant Secretary Bureau of Public Affairs, December 3, 2010.

¹²⁸ Esteban Israel, "U.S. Hopeful Citizen Held in Cuba to be Tried, Freed," *Reuters News*, January 13, 2011.

¹²⁹ Juan Tamayo, "Gross Trial Opens in Cuba with 'Vigorous' Defense," *Miami Herald*, March 4, 2011.

¹³⁰ U.S. Department of State, "Statement on Sentencing of Alan Gross," March 12, 2011.

¹³¹ U.S. Department of State, Secretary of State Hillary Rodham Clinton, Interview with Jose Diaz-Balart of Telemundo, March 18, 2011.

¹³² Peter Orsi, "U.S. Delegation Meets with American Jailed in Cuba," *Associated Press*, June 9, 2011.

¹³³ White House, Office of the Press Secretary, "Statement from National Security Council Spokesman Tommy Vietor on Alan Gross," August 5, 2011.

support the right of the Cuban people to seek, receive, and impart information and ideas through any media, regardless of frontiers.¹³⁴

Until October 1999, U.S.-government funded international broadcasting programs had been a primary function of the United States Information Agency (USIA). When USIA was abolished and its functions were merged into the Department of State at the beginning of FY2000, the Broadcasting Board of Governors (BBG) became an independent agency that included such entities as the Voice of America (VOA), Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia, and the Office of Cuba Broadcasting (OCB), which manages Radio and TV Martí. OCB is headquartered in Miami, FL, and operates under the BBG's International Broadcasting Bureau (IBB). Legislation in the 104th Congress (P.L. 104-134) required the relocation of OCB from Washington, DC, to south Florida. The move began in 1996 and was completed in 1998.

Radio Martí broadcasts on short and medium wave (AM) channels for 24 hours six days per week, and for 18 hours one day per week utilizing transmission facilities in Marathon, FL, and Greenville, NC, according to the BBG. It also transmits to Cuba 24 hours daily through Hispasat satellite television and the internet.

TV Martí programming has been broadcast through multiple transmission methods over the years. From its beginning in 1990 until July 2005, it was broadcast via an aerostat (blimp) from facilities in Cudjoe Key, Florida for four and one-half hours daily, but the aerostat was destroyed by Hurricane Dennis. From mid-2004 until 2006, TV Martí programming was transmitted for several hours once a week via an airborne platform known as Commando Solo operated by the Department of Defense utilizing a C-130 aircraft. In August 2006, OCB began to use contracted private aircraft to transmit pre-recorded TV Martí broadcasts six days weekly, and by late October 2006 the OCB inaugurated an aircraft-broadcasting platform known as AeroMartí with the capability of transmitting live broadcasts. OCB currently uses two privately contracted airplanes for AeroMartí to transmit broadcasts two and one-half hours for five days weekly. Broadcasts are also transmitted via the internet and satellite television.

Funding for Cuba Broadcasting

From FY1984 through FY2010, about \$660 million was spent for broadcasting to Cuba. In recent years, Congress appropriated \$33.4 million in FY2008, an estimated \$34.8 million in FY2009, and an estimated \$30.5 million in FY2010.

For FY2011, the BBG requested \$29.179 million for Cuba broadcasting, about \$1 million less than that appropriated in FY2010. The Senate version of the State Department and Foreign Operations appropriations measure, S. 3676, reported by the Senate Appropriations Committee on July 29, 2010 (S.Rept. 111-237), recommended \$28.789 million for broadcasting to Cuba (\$390,000 less than the request of \$29.179 million). In the report to the bill, the committee also stated that it did not support closing the Greenville Station in North Carolina that transmits the Cuba broadcasts, expanding TV Martí's transmission on DirecTV, or expanding and renovating the TV Martí studio until the Broadcasting Board of Governors submits a multi-year strategic plan for broadcasting to Cuba. Congress did not complete final action on FY2011 appropriations until April 2011 when it approved a full-year appropriations measure (P.L. 112-10). While no

¹³⁴ See the full text of the Broadcasting Board of Governors FY2012 budget request, available at http://media.voanews.com/documents/FY_2012_BBG_Congressional_Budget_Final_Web_Version.pdf

specific funding level for Cuba broadcasting was specified in the measure, funding International Broadcasting Operations (which includes Cuba broadcasting) received \$731.5 million compared to a \$755.1 million request.

For FY2012, the Administration has requested \$28.475 million for Cuba broadcasting, about \$2 million less than that appropriated in FY2010.

In the 112th Congress, two bills have been introduced, S. 476 (Pryor) and H.R. 1317 (McCollum), that would discontinue Radio and TV Martí broadcasts to Cuba by repealing the original authorization legislation for both programs, the Radio Broadcasting to Cuba Act and the Television Broadcasting to Cuba Act. During House consideration of H.R. 1, the FY2011 Full-Year Continuing Appropriations Act, two Cuba-related amendments were submitted—Amendment No. 51 (McCollum) and Amendment No. 369 (Flake), both printed in the *Congressional Record* on February 14, 2011—that would have eliminated funding for Radio and TV Martí, but the amendments were never considered.

Controversies

Both Radio and TV Martí have at times been the focus of controversies, including questions about adherence to broadcast standards. There have been various attempts over the years to cut funding for the programs, especially for TV Martí, which has not had much of an audience because of Cuban jamming efforts. In December 2006, press reports alleged significant problems in the OCB's operations, with claims of cronyism, patronage, and bias in its coverage.¹³⁵ In February 2007, the former director of TV Martí programming pled guilty in U.S. federal court to receiving more than \$100,000 in kickbacks over a three-year period from a vendor receiving OCB contracts.¹³⁶

Over the years, there have been various government studies and audits of the OCB, including investigations by the GAO, by a 1994 congressionally established Advisory Panel on Radio and TV Martí, by the State Department Office Inspector General (OIG) in 1999, and by the combined State Department/BBG Office Inspector General in 2003 and 2007.¹³⁷

In July 2008, GAO issued a report that criticized the IBB's and OCB's practices in awarding two contracts to Radio Mambi and TV Azteca as lacking discipline required to ensure transparency

¹³⁵ Oscar Corral, "Radio, TV Martí Face Another Government Audit," *Miami Herald*, December 18, 2006, and "Problems Dog Broadcaster," *Miami Herald*, December 19, 2006.

¹³⁶ Jay Weaver, "TV Martí Executive Admits Taking Kickbacks," *Miami Herald*, February 14, 2007.

¹³⁷ See the following reports and audits: U.S. General Accounting Office (GAO), *Broadcasts to Cuba, TV Martí Surveys are Flawed*, GAO/NSIAD-90-252, August 1990; U.S. GAO, *TV Martí, Costs and Compliance with Broadcast Standards and International Agreements*, GAO/NSIAD-92-199, May 1992; U.S. GAO, Letter to Hon. Howard L. Berman and Hon. John F. Kerry regarding Radio Martí broadcast standards, GAO/NSIAD-93-126R, February 17, 1993; Advisory Panel on Radio and TV Martí, *Report of the Advisory Panel on Radio and TV Martí*, Three Volumes, March 1994; U.S. GAO, *Radio Martí, Program Review Processes Need Strengthening*, GAO/NSIAD-94-265, September 1994; U.S. GAO, *U.S. Information Agency, Issues Related to Reinvention Planning in the Office of Cuba Broadcasting*, GAO/NSIAD-96-110, May 1996; U.S. Department of State, Office of the Inspector General, *Review of Policies and Procedures for Ensuring that Radio Martí Broadcasts Adhere to Applicable Requirements*, 99-IB-010, June 1999; U.S. Department of State and the Broadcasting Board of Governors, Office of Inspector General, *Review of the Effectiveness and Implementation of Office of Cuba Broadcasting's New Program Initiatives*, Report No. IBO-A-03-01, January 2003, and *Report of Inspection, Office of Cuba Broadcasting*, Report No. ISP-IB 07-35, June 2007.

and accountability. According to GAO, the approach for awarding the Radio Mambí and TV Azteca contracts did not reflect sound business practices.¹³⁸

In January 2009, GAO issued a report asserting that the best available research suggests that Radio and TV Martí's audience is small, and cited telephone surveys since 2003 showing that less than 2% of respondents reported tuning in to Radio or TV Martí during the past week. With regard to TV Martí viewership, according to the report, all of the IBB's telephone surveys since 2003 show that less than 1% of respondents said that they had watched TV Martí during the past week. According to the GAO report, the IBB surveys show that there was no increase in reported TV Martí viewership following the beginning of AeroMartí and DirecTV satellite broadcasting in 2006. The GAO report also cited concerns with adherence to relevant domestic laws and international standards, including the domestic dissemination of OCB programming, inappropriate advertisements during OCB programming, and TV Martí's interference with Cuban broadcasts.¹³⁹ GAO testified on its report in a hearing held by the House Subcommittee on International Organizations, Human Rights, and Oversight of the Committee on Foreign Affairs on June 17, 2009.

In April 2010, the Senate Foreign Relations Committee majority issued a staff report that concluded that Radio and TV Martí "continue to fail in their efforts to influence Cuban society, politics, and policy." The report cited problems with adherence to broadcast standards, audience size, and Cuban government jamming. Among its recommendations, the report called for the IBB to move the Office of Cuba Broadcasting back to Washington and integrate it fully into the Voice of America.¹⁴⁰

Migration Issues

1994 and 1995 Migration Accords

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

¹³⁸ U.S. Government Accountability Office, "Broadcasting to Cuba, Weaknesses in Contracting Practices Reduced Visibility into Selected Award Decisions," GAO-08-764, July 2008.

¹³⁹ U.S. Government Accountability Office, *Broadcasting to Cuba, Actions Are Needed to Improve Strategy and Operations*, GAO-09-127, January 2009.

¹⁴⁰ U.S. Congress, Senate Committee on Foreign Relations, *Cuba: Immediate Action Is Needed To Ensure the Survivability of Radio and TV Marti*, committee print, 111th Cong., 2nd sess., April 29, 2010, S.Prt. 111-46 (Washington: GPO, 2010).

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

In May 1995, the United States reached another accord with Cuba under which the United States would parole the more than 30,000 Cubans housed at Guantanamo into the United States, but would intercept future Cuban migrants attempting to enter the United States by sea and would return them to Cuba. The two countries would cooperate jointly in the effort. Both countries also pledged to ensure that no action would be taken against those migrants returned to Cuba as a consequence of their attempt to immigrate illegally. On January 31, 1996, the Department of Defense announced that the last of some 32,000 Cubans intercepted at sea and housed at Guantanamo had left the U.S. Naval Station, most having been paroled into the United States.

Coast Guard Interdictions

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

In recent years, the number of Cubans interdicted at sea by the U.S. Coast Guard rose from 666 in FY2002 to a high of 2,868 in FY2007. In subsequent years, maritime interdictions declined significantly to 422 by FY2010 (see **Figure 6**), although to date in FY2011, the number has increased to 731 as of August 16, 2011.¹⁴¹ Major reasons for the decline in migrant interdictions from Cuba in FY2009 and FY2010 are reported to include the U.S. economic downturn, more efficient coastal patrolling, and more aggressive prosecution of migrant smugglers.¹⁴² In October 2008, Mexico and Cuba negotiated a migration accord in an attempt to curb the irregular flow of migrants through Mexico.¹⁴³

U.S. prosecution against migrant smugglers in Florida has increased in recent years with numerous convictions. There have been several violent incidents in which Cuban migrants have

¹⁴¹ U.S. Coast Guard, Alien Migrant Interdiction, Coast Guard Office of Law Enforcement, “Total Interdictions, Fiscal Year 1982 to Present,” August 16, 2011.

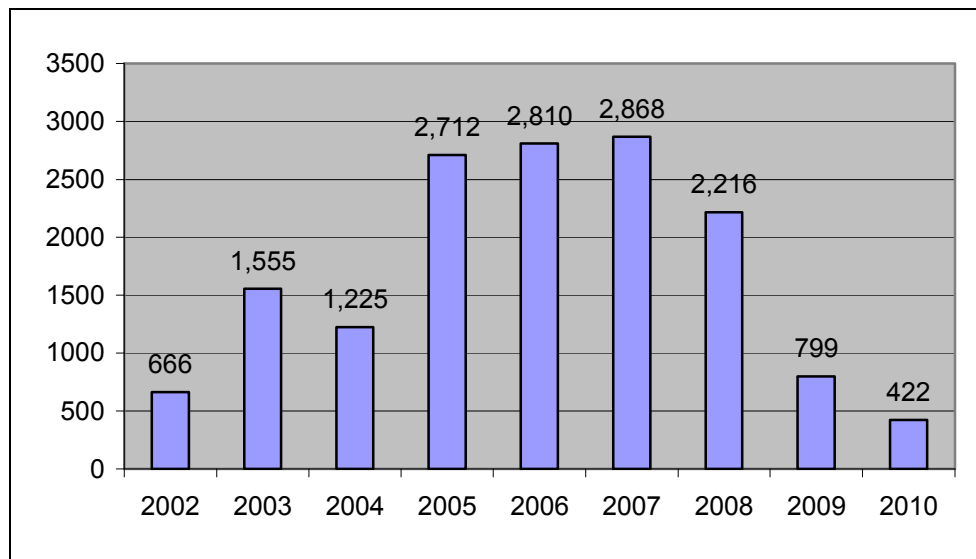
¹⁴² Alfonso Chardy and Juan Tamayo, “Exodus of Cubans Sharing,” *Miami Herald*, October 6, 2010.

¹⁴³ Diego Cevallos, “Migration: More and More Cubans Entering U.S. Through Mexico,” *Inter Press Service News Agency*, June 17, 2008.

brandished weapons or in which Coast Guard officials have used force to prevent Cubans from reaching shore. In late December 2007, a Coast Guard official in Florida called on the local Cuban American community to denounce the smuggling and stop financing the trips that are leading to more deaths at sea.¹⁴⁴ In July 2010, three Cuban nationals (two living in Florida and one in Mexico) were charged in a U.S. federal court in Tampa with conspiracy, kidnapping, and extortion involving the abduction of Cuban migrants in Mexico.¹⁴⁵ The Cuban government also has taken forceful action, including prison sentences of up to three years against those engaging in alien smuggling.

In the 112th Congress, legislation has been introduced, H.R. 2771 (Rivera), that would amend the Cuban Adjustment Act of 1966 to increase to five years the period during which a Cuban national must be physically present in the United States in order to qualify for adjustment of status to that of a permanent resident. The legislation would also provide that an alien shall be ineligible for adjustment to permanent resident status if the alien returns to Cuba after admission or parole into the United States. As noted above (“Legislative Proposals Regarding Travel and Remittances in the 112th Congress”), the legislation is intended to curb frequent travel to Cuba by Cubans who have recently emigrated to the United States.

Figure 6. Maritime Interdiction of Cubans, FY2002-FY2010



Source: CRS presentation of United States Coast Guard data. United States Coast Guard, Alien Migrant Interdiction, “Coast Guard Migrant Interdictions—Fiscal Year 1982-Present,” July 11, 2011; current statistics available at <http://www.uscg.mil/hq/cg5/cg531/AMIO/FlowStats/FY.asp>.

Migration Talks

Semi-annual U.S.-Cuban talks alternating between Cuba and the United States had been held regularly on the implementation of the 1994 and 1995 migration accords until they were suspended after the State Department cancelled the 20th round of talks scheduled for January 2004. At the time, the State Department maintained that Cuba refused to discuss five issues

¹⁴⁴ Laura Morales, “Exiles Urged to Stem Tide of Cubans,” *Miami Herald*, December 29, 2007.

¹⁴⁵ Alfonso Chardy, “Cubans from Miami Charged in Migrant-Abduction Case,” *Miami Herald*, July 10, 2010.

identified by the United States: (1) Cuba's issuance of exit permits for all qualified migrants; (2) Cuba's cooperation in holding a new registration for an immigrant lottery; (3) the need for a deeper Cuban port used by the U.S. Coast Guard for the repatriation of Cubans interdicted at sea; (4) Cuba's responsibility to permit U.S. diplomats to travel to monitor returned migrants; and (5) Cuba's obligation to accept the return of Cuban nationals determined to be inadmissible to the United States.¹⁴⁶ In response to the cancellation of the talks, Cuban officials maintained that the U.S. decision was irresponsible and that Cuba was prepared to discuss all of the issues raised by the United States.¹⁴⁷

Under the Obama Administration, Cuba and the United States agreed to restart the biannual migration talks (in addition to talks on direct mail service), and since mid-2009, there have been four rounds of talks. For the first three rounds, Principal Deputy Assistant Secretary of State for Western Hemisphere Affairs Craig Kelly headed the U.S. team while Deputy Foreign Minister Dagoberto Rodriguez led the Cuba team. The first round was held on July 14, 2009, in New York City. The State Department outlined its four objectives in the talks: ensuring that the U.S. Interests Section in Havana is able to operate effectively; gaining access to a deep-water port for the safe return of Cuban migrants picked up at sea; ensuring that U.S. diplomats are able to monitor the welfare of those Cubans who are sent back to the island; and gaining Cuban government acceptance of Cubans who are excluded from the United States because they have committed crimes.¹⁴⁸ Cuba reportedly proposed a new immigration agreement and more effective cooperation to combat alien smuggling, and also made known its opposition to the so-called "wet foot/dry foot policy."¹⁴⁹

The second round of talks was held on February 19, 2010, in Havana. According to the Department of State, "engaging in these talks underscores our interest in pursuing constructive discussions with the government of Cuba to advance U.S. interests of mutual concern." It maintained that the United States views the talks "as an avenue to achieve practical, positive results that contribute to the full implementation of the [Migration] Accords and to the safety of citizens of both countries."¹⁵⁰ Cuba's Ministry of Foreign Affairs maintained that the meeting took place in an atmosphere of respect and included discussion of some aspects of a new draft migration accord proposed by Cuba at the in the July 2009 round of talks.¹⁵¹ Cuba also reportedly raised the issue of improving and expanding the Cuban Interests Section in Washington. During the talks, U.S. officials urged Cuban officials to provide political prisoner Orlando Zapata Tamayo all necessary medical care, and also raised the case of USAID subcontractor Alan Gross detained in Cuba since early December 2009 and called for his release.

The third round of talks was held on June 18, 2010, in Washington, DC. In addition to migration issues, the U.S. team separately raised the case of Alan Gross and called for his immediate release. A day before the meeting, Secretary of State Clinton met with family members of Alan

¹⁴⁶ U.S. Department of State. State Department Regular Briefing, Richard Boucher. January 7, 2004.

¹⁴⁷ "Migration Talks Cancelled," *Miami Herald*, January 8, 2004.

¹⁴⁸ William Gibson, "U.S. to Cuba: Take Back Criminals," *South Florida Sun-Sentinel*, July 15, 2009. Pursuant to a 1984 agreement, Cuba agreed to accept 2,746 convicted Cuban criminals. Many have been deported since then, but there are reportedly more than 600 remaining to be deported. See Alfonso Chardy, "Some Non-Mariel Cubans Can Be Deported," *Miami Herald*, June 29, 2011.

¹⁴⁹ "Migration Talks with Cuba Put Off to February," *Washington Post*, December 4, 2009.

¹⁵⁰ U.S. Department of State, "Cuba Migration Talks," February 19, 2010.

¹⁵¹ "Statement by the Cuban Ministry of Foreign Affairs," *IPR Strategic Information Database*, February 22, 2010.

Gross and issued a statement expressing deep concern about his welfare and poor health and maintaining that his “continued detention ... is harming U.S.-Cuba relations.”¹⁵²

A fourth round of migration talks took place in Havana on January 12, 2011, with the U.S. side led by Principal Deputy Assistant Secretary of State for Western Hemisphere Roberta Jacobson and the Cuban side again led by Deputy Foreign Minister Dagoberto Rodríguez. The State Department maintained that the talks were productive, covering a broad range of topics of mutual interest, including the importance of continued U.S. commitment to promote safe, legal, and orderly migration.¹⁵³ The Cuban delegation maintained the meeting recognized the significant reduction in risky illegal departures from Cuba because of efforts by both countries to deal with migrant smuggling and illegal migration. Dagoberto Rodríguez maintained that “it was a fruitful exchange aimed at moving on to the establishment of more effective mechanisms of cooperation to combat illegal migrant smuggling.”¹⁵⁴ The U.S. delegation again raised the issue of the continued detention of Alan Gross and called for his immediate release. Roberta Jacobson subsequently met with Gross on January 13. As noted above, subsequent press reports maintained that a senior State Department official was “cautiously optimistic” that Gross would be released.

For additional information on migration issues, see CRS Report R40566, *Cuban Migration to the United States: Policy and Trends*, by Ruth Ellen Wasem.

¹⁵² U.S. Department of State, Secretary of State Hillary Rodham Clinton, “Continued Incarceration of Alan Gross,” June 17, 2010.

¹⁵³ U.S. Department of State, “Cuba Migration Talks,” Press Statement, January 12, 2011, and “Daily Press Briefing,” January 13, 2011.

¹⁵⁴ Cuban Interest Section, “Press Release Issued by the Cuban Delegation to the Round of Migration Talks Between Cuba and the United States,” Havana, January 12, 2011.

Legislative Initiatives in the 112th Congress

P.L. 112-10 (H.R. 1473). Department of Defense and Full-Year Continuing Appropriations Act, 2011. Continues funding in FY2011 for Cuba broadcasting (Radio and TV Martí) and Cuba democracy programs. Both Senate and House passed the bill on April 14, 2011; President signed into law April 15, 2011.

H.R. 1 (Rogers). Full-Year Continuing Appropriations Act, 2011. House passed February 19, 2011. Two Cuba-related amendments submitted—Amendment No. 51 (McCollum) and Amendment No. 369 (Flake), both printed in the *Congressional Record* on February 14, 2011—would have eliminated funding for Radio and TV Martí, but were never considered.

H.R. 255 (Serrano). Cuba Reconciliation Act. Would lift the trade embargo on Cuba. Introduced January 7, 2011; referred to Committees on Foreign Affairs, Ways and Means, Energy and Commerce, Financial Services, Judiciary, Oversight and Government Reform, and Agriculture.

H.R. 256 (Serrano). Baseball Diplomacy Act. Would waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball. Introduced January 7, 2011; referred to Committees on Foreign Affairs and Judiciary.

H.R. 372 (Buchanan). Would amend the Outer Continental Shelf Act to authorize the Secretary of the Interior to deny leases and permits to persons who engage in activities with the government of any foreign country that is subject to any sanction or an embargo established by the U.S. government. Introduced January 20, 2011; referred to the Committee on Natural Resources.

H.R. 380 (Lee). Pursuit of International Education (PIE) Act of 2011. Would provide that no funds made available to the Department of the Treasury may be used to implement, administer, or enforce regulations to require specific licenses for travel-related transactions directly related to educational activities in Cuba. Introduced January 20, 2011; referred to the Committee on Foreign Affairs.

H.R. 833 (Conaway). Agricultural Export Enhancement Act of 2011. Would remove obstacles to legal sales of U.S. agricultural commodities to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000. Section 2 would define the term “payment of cash in advance” under TSRA as “the payment by the purchaser of an agricultural commodity or product and the receipt of such payment by the seller” prior to the transfer of title and the release of control of such commodity or product to the purchaser. Section 3 would authorize direct transfers between Cuban and U.S. financial institutions for product sales under TSRA. Introduced February 28, 2011; referred to the Committees on Financial Services, Foreign Affairs, and Agriculture.

H.R. 1317 (McCollum). Stop Wasting Taxpayer Money on Cuba Broadcasting Act. Would repeal the Radio Broadcasting to Cuba Act (22 USC 1465 et seq.) and the Television Broadcasting to Cuba Act (22 USC 1465aa et seq.). Introduced April 1, 2011; referred to the Committee on Foreign Affairs.

H.R. 1886 (Rangel). Export Freedom to Cuba Act. Would prohibit restrictions on travel to Cuba. Introduced May 12, 2011; referred to the House Foreign Affairs Committee.

H.R. 1887 (Rangel). Free Trade with Cuba Act. Would lift the trade embargo by repealing and amending certain laws. Introduced May 12, 2011; referred to the Committee on Foreign Affairs, and in addition to the Committees on Ways and Means, Energy and Commerce, the Judiciary, Financial Services, Oversight and Government Reform, and Agriculture.

H.R. 1888 (Rangel). Promoting American Agricultural and Medical Exports to Cuba Act of 2011. Would facilitate the export of U.S. agricultural products to Cuba, remove impediments to the export of medical devices and medicines to Cuba, and prohibit restrictions on travel to Cuba. Introduced May 12, 2011; referred to Committee on Foreign Affairs, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, and Financial Services.

H.R. 2047 (Ros-Lehtinen). Caribbean Coral Reef Protection Act of 2011. Amends the Cuban Liberty and Democratic Solidarity Act to exclude from the United States aliens who invest \$1 million or more that contributes to the enhancement of the ability of Cuba to develop petroleum resources located off its coast. Would also require the imposition of sanctions if the President determined that a person had invested \$1 million or more in any 12-month period since January 10, 2005, that contributes to the enhancement of the ability of Cuba to develop petroleum resources off its coast. Introduced May 26, 2011; referred to Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, Financial Services, and Oversight and Government Reform.

H.R. 2434 (Emerson). FY2012 Financial Services and General Government Appropriations. The bill contains two Cuba provisions. Section 618 would continue to clarify the definition of “payment of cash in advance” for U.S. agricultural and medical sales to Cuba to “be interpreted as payment before the transfer of title to, and control of, the exported items to the Cuban purchaser.” Section 901 of the bill would repeal any amendments to certain sections of the Cuban Assets Control Regulations relating to family travel (31 CFR 515.560(a)(1) and 31 CFR 515.561), carrying remittances to Cuba (31 CFR 515.560(c)(4)(i)), and sending remittances to Cuba (31 CFR 515.570) made since January 2009. The provision would roll back President Obama’s easing of restrictions on family travel and remittances in 2009 and the President’s easing of restrictions on remittances for non-family members and religious institutions in 2011. Introduced July 7, 2011, and reported by the House Appropriations Committee (H.Rept. 112-136).

H.R. 2583 (Ros-Lehtinen). FY2012 Foreign Relations Authorization Act. Introduced July 19, 2011; House Committee on Foreign Affairs ordered reported (23-20) July 21, 2011. During the committee’s markup of the bill on July 21, 2011, the committee approved (36-6) a Rivera amendment that would require the President to fully enforce all U.S. regulations as in effect on January 19, 2009, on travel to Cuba, and impose the corresponding penalties against individuals determined to be in violation of such regulations. The Rivera amendment was a second degree amendment to an amendment offered by Representative Meeks that was subsequently was approved by voice vote. The intent of the Rivera amendment was to reinstate travel restrictions as they existed under the Bush Administration in January 2009.

H.R. 2771 (Rivera). Would amend the Cuban Adjustment Act of 1966 (P.L. 89-732) to increase to five years the period during which a Cuban national must be physically present in the United States in order to qualify for adjustment of status to that of a permanent resident. Would also provide that an alien shall be ineligible for adjustment to permanent resident status if the alien returns to Cuba after admission or parole into the United States. Introduced August 1, 2011; referred to House Committee on the Judiciary.

H.Res. 226 (King). Would call for the immediate extradition or rendering to the United States of convicted felon William Morales and all other fugitives from justice who are receiving safe harbor in Cuba in order to escape prosecution or confinement for criminal offenses committed in the United States. Introduced April 14, 2011; referred to Committee on Foreign Affairs.

S. 223 (Rockefeller). FAA Air Transportation Modernization and Safety Improvement Act. Senate approved February 17, 2011. S.Amdt. 61 (**Rubio**), submitted February 10, 2011, but never considered, would have prohibited an expansion of flights to locations in countries that are state sponsors of terrorism.

S. 405 (Nelson, Bill). Gulf Stream Protection Act of 2011. Section 2 of the bill would require that if a company that is conducting oil or gas operations off the coasts of Cuba wants to lease drilling rights in the United States, then the company would have to submit an oil response plan for their Cuba operations and would have to demonstrate sufficient financial and other resources to respond to a worst case scenario oil spill in Cuban waters that would affect the waters of the United States. Section 3 of the bill would require the Secretary of the Interior, within 180 days of the enactment of the bill, to carry out an oil spill risk analysis and planning process for the development and implementation of oil spill response plans for nondomestic oil spills in the Gulf of Mexico. The Secretary of the Interior would be required, among other things, to consult with the Secretary of State and, to the maximum extent practicable, include recommendations for Congress on a joint contingency plan with the countries of Mexico, Cuba, and the Bahamas to ensure an adequate response to oil spills located in the eastern Gulf of Mexico. Introduced February 17, 2011; referred to the Committee on Energy and Natural Resources.

S. 476 (Pryor). Broadcast Savings Act. Would discontinue Radio and TV Martí broadcasts to Cuba by repealing the Radio Broadcasting to Cuba Act and the Television Broadcasting to Cuba Act. Introduced March 3, 2011; referred to the Committee on Foreign Relations.

S. 603 (Nelson, FL)/H.R. 1166 (Issa). Similar, but not identical bills, would modify the prohibition by U.S. courts of certain rights relating to certain marks, trade names, or commercial names. S. 603 introduced March 16, 2011; referred to the Committee on the Judiciary. H.R. 1166 introduced March 17, 2011; referred to the Committee on the Judiciary.

S.Res. 140 (Rubio). Would commemorate the 50th anniversary of the Bay of Pigs operation and commend members of Assault Brigade 2506. Introduced April 12, 2011; referred to Committee on Foreign Relations.

Legislation in the 111th Congress

Approved Measures

P.L. 111-8 (H.R. 1105). Omnibus Appropriations Act, 2009. Introduced February 23, 2009; House passed (245-178) February 25, 2009; Senate passed (voice vote) March 10, 2009; signed into law March 11, 2009. Division D, Financial Services and General Government Appropriations Act, 2009, has three provisions intended to ease U.S. sanctions on Cuba. These three provisions, explained below, were identical to provisions in the S. 3260, the Senate version of the Financial Services and General Government Appropriations Act, 2009, in the 110th Congress. In addition, the Joint Explanatory Statement to the bill requires the Department of the Treasury to prepare a

report within 90 days on the steps that it is taking to assess OFAC's allocation of resources for investigating and penalizing violations of the Cuba embargo with respect to the numerous other sanctions programs it administers. As part of the report, the Treasury Department is directed to provide detailed information on OFAC's Cuba-related licensing on its enforcement of the Cuba embargo.

Section 620 of Division D amends the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) to require the Secretary of the Treasury to issue regulations for travel to, from, or within Cuba under a general license for the marketing and sale of agricultural and medical goods, meaning that there would be no requirement to obtain special permission from OFAC. Such travel currently requires a specific license from OFAC, issued on a case by case basis.

Section 621 of Division D prohibits funds from being used to administer, implement, or enforce family travel restrictions that were imposed by the Bush Administration in June 2004. Those 2004 restrictions allowed family travel only to visit immediate family (grandparents, grandchildren, parents, siblings, spouses, and children) once every three years for a period not to exceed 14 days. Under the 2004 restrictions, a specific license was required from OFAC for such travel, and the authorized amount that family travelers could spend while in Cuba was limited to \$50 a day.

Section 622 of Division D prohibits funds in the act from being used to administer, implement, or enforce an amendment to the Cuban embargo regulations on February 25, 2005, requiring that U.S. agricultural exporters using the "payment of cash in advance" payment mechanism for selling their goods to Cuba must be paid in cash for their goods before the goods leave U.S. ports. Prior to the February 2005 change, the practice was for U.S. agricultural exporters to be paid in cash for their goods (as required under the TSRA), but before the actual delivery of the goods to Cuba.

Division H (Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009) has two provisions related to Cuba. Section 7005 prohibits foreign assistance to the government of Cuba. Section 7015(f) provides that no funds appropriated for foreign assistance shall be obligated or expended for Cuba except as provided through the regular notification procedures of the Committees on Appropriations.

P.L. 111-117 (H.R. 3288). Consolidated Appropriations Act, 2010. Introduced July 22, 2009, as the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2010. House passed July 23, 2009. Senate passed with an amendment September 17, 2009. The conference report to the measure, H.Rept. 111-366 filed December 8, 2009, became the vehicle for the Consolidated Appropriations Act, 2010, which consisted of six appropriations bills. The House agreed to the conference on December 10, 2009, while the Senate agreed on December 13, 2009. The President signed the measure into law on December 16, 2009.

As signed into law, the measure has several Cuba provisions. Division C, Financial Services and General Government Appropriations Act, 2010, has a clarifying provision in section 619 relating to the issue of "payment of cash in advance" for U.S. exports to Cuba during FY2010 under the Trade Sanctions Reform and Export Enhancement Act of 2000. The provision defines the term to mean "payment before the transfer of title to, and control of, the exported items to the Cuban purchaser."

Division F, Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, has several Cuba provisions. Section 7007 continues the general prohibition against foreign

assistance to the government of Cuba. Section 7015(f) continues the requirement that no funds for foreign assistance shall be obligated or expended for Cuba except as provided through the regular notification procedures of the Committees on Appropriations. With regard to Cuba broadcasting, the conference report provides \$30.474 million for Radio and TV Martí (almost \$2 million less than the Administration's request) with not more than \$5.5 million for non-salary and benefits expenses for TV Martí. The conference report also has two reporting requirements on Cuba broadcasting: the first from the BBG within 90 days providing a multi-year strategic plan for broadcasting to Cuba; and the second, from the GAO within 90 days of the submission of the BBG report, providing an assessment of the strategic plan. With regard to Cuba democracy programs, the conference report fully funds the Administration's request for \$20 million in ESF.

S.Res. 149 (Martinez). Expresses solidarity with the writers, journalists, and librarians of Cuba on World Press Freedom Day and calling for the immediate release of citizens of Cuba imprisoned for exercising rights associated with freedom of the press. Introduced and approved by Unanimous Consent on May 14, 2009.

S.Con.Res. 54 (Nelson, Bill). Recognizes the life of Orlando Zapata Tamayo, who died on February 23, 2010, in the custody of the Cuban government, and calls for a continued focus on the promotion of internationally recognized human rights in Cuba. Introduced March 10, 2010. S.Amdt. 3552 (Nelson, Bill), which noted that the Department of State reports that the Cuban government has not granted prison visits to the International Committee of the Red Cross, Amnesty International, or Human Rights Watch since 1988, was agreed to by Unanimous Consent on March 18, 2010. S.Con.Res. 54 subsequently agreed to by Unanimous Consent on March 18, 2010.

Additional Considered Measures with Cuba Provisions

The following measures that received consideration, but were not enacted, contained various provisions on Cuba. For a complete listing of legislative initiatives on Cuba in the 111th Congress, see CRS Report R40193, *Cuba: Issues for the 111th Congress*, by Mark P. Sullivan.

H.R. 2410 (Berman). Foreign Relations Authorization Act, FY2010 and FY2011. Introduced May 14, 2009. Reported by House Committee on Foreign Affairs June 4, 2009 (H.Rept. 111-136). House passed (235-187) June 10, 2009. Authorizes funding for radio and television broadcasting to Cuba within the International Broadcasting Operations account. During June 10, 2009, floor consideration, the House defeated H.Amdt. 182 (Ros-Lehtinen) by a vote of 205-224 that would have required the Secretary of State to withhold funds from the U.S. contribution to the International Atomic Energy Agency (IAEA) an amount equal to nuclear technical cooperation provided by the IAEA in 2007 to Iran, Syria, Sudan, and Cuba.

H.R. 2647 (Skelton)/S. 1390 (Levin). National Defense Authorization Act for FY2010. House passed June 25, 2009. Senate passed July 23, 2009, with an amendment substituting the language of S. 1390. During July 22, 2009, consideration of S. 1390, the Senate approved S.Amdt. 1535 (Martinez), which required a report from the Director of National Intelligence on potential Cuban activities related to drug trafficking, clandestine activities in the United States, research and development for biological weapons production, and Cuba's relations with Iran, North Korea, Venezuela and several other countries. That provision became Section 1222 of the Senate version of H.R. 2647. The House version of the bill did not include a similar provision, and the provision was not included in the conference report (H.Rept. 111-288) filed on October 7, 2009.

H.R. 3081 (Lowey)/S. 1434 (Leahy). FY2010 State Department, Foreign Operations, and Related Programs Appropriations. H.R. 3081 introduced and reported (H.Rept. 111-187) June 26, 2009. House approved July 9, 2009, by a vote of 318-106. S. 1434 introduced and reported (S.Rept. 111-44) July 9, 2009. In both bills, section 7007 would continue the prohibition against direct funding for the government of Cuba, and section 7015(f) would continue the requirement that no assistance shall be obligated or expended for assistance for Cuba except as provided through the regular notification procedures of the Committees on Appropriations. The reports to both bills would also fully fund the Administration's request of \$20 million in ESF for Cuba democracy programs.

With regard to Cuba broadcasting, H.R. 3081 would fully fund the Administration's request for \$32.474 million, while S. 1434 would prohibit funding for TV Martí broadcasts to Cuba and provide just \$17.474 million for Cuba broadcasting, \$15 million less than the request. The Senate bill, in section 7092(c), would require a report from the Secretary of State within 90 days on various aspects of Cuba broadcasting.

With regard to anti-drug cooperation with Cuba, S. 1434 would, in section 7092, provide \$1 million in International Narcotics Control and Law Enforcement (INCLE) assistance for preliminary work by the State Department or other entity designated by the Secretary of State to establish cooperation with appropriate agencies of the government of Cuba on counternarcotics matters, including matters relating to cooperation, coordination, and mutual assistance in the interdiction of illicit drugs being transported through Cuban airspace or over Cuba waters. The amount shall not be available if the Secretary of State certifies that Cuba does not have in place appropriate procedures to protect against the loss of innocent life in the air and on the ground in connection with the interdiction of illegal drugs, and there is credible evidence of involvement of the government of Cuba in drug trafficking during the preceding 10 years. H.R. 3081 does not have a similar provision.

For final action, see Division F of P.L. 111-117, the Consolidated Appropriations Act, 2010, described above, which included provisions on foreign aid, Cuba broadcasting, and Cuba democracy funding. The omnibus measure did not include any language on drug cooperation with Cuba.

H.R. 3170 (Serrano)/S. 1432 (Durbin). FY2010 Financial Services and General Government Appropriations. H.R. 3170 introduced and reported (H.Rept. 111-202) July 10, 2009. House approved (219-208) July 16, 2009. S. 1432 introduced and reported (S.Rept. 111-43) July 9, 2009. Both bills have a provision (section 618 in the House bill and section 617 in the Senate bill) that provides that the term "payment of cash in advance" as used in the Trade Sanctions Reform and Export Enhancement Act of 2000 shall be interpreted as payment before the transfer of title to, and control of, the exported items to the Cuban purchaser.

For final action, see Division C of P.L. 111-117, the Consolidated Appropriations Act, 2010, described above, which included the "payment of cash in advance" provision in section 619.

H.R. 4645 (Peterson)/S. 3112 (Klobuchar). Travel Restriction Reform and Export Enhancement Act. Removes obstacles to legal sales of U.S. agricultural commodities to Cuba and ends travel restrictions on all Americans to Cuba. Section 2 would lift all restrictions on travel to Cuba and prohibit the President from regulating or prohibiting such travel except under certain circumstances. Section 3 would define the term "payment of cash in advance" for U.S. agricultural sales to Cuba under the Trade Sanctions Reform and Export Enhancement Act of

2000 (TSRA) as the payment by the purchaser and the receipt of such payment by the seller prior to transfer of title of such commodity or product to the purchaser and the release of control of such commodity or product to the purchaser. Section 4 would authorize direct transfers between Cuban and U.S. financial institutions executed in payment for a product authorized for sale under TSRA. H.R. 4645 introduced February 23, 2010; referred to Committee on Foreign Affairs, and in addition to the Committees on Agriculture and Financial Services. House Agriculture Committee ordered reported (25-20) June 30, 2010; reported September 29, 2010 (H.Rept. 111-653, Part I). S. 3112 introduced March 15, 2010; referred to the Committee on Foreign Relations.

S. 3454 (Levin). National Defense Authorization Act for FY2011. Introduced and reported by the Senate Committee on Armed Services on June 4, 2010 (S.Rept. 111-201). Section 1236 would require a report (in unclassified form, but may include a classified annex) within 180 days from the Secretary of Defense, in consultation with the Director of National Intelligence and the Secretary of State, on: a description of any connections between the government of Cuba and drug trafficking organizations in the Western Hemisphere; a description of any economic, intelligence or other support provided to Cuba by the governments of Bolivia, Ecuador, or Venezuela; a description of any agreements or other arrangements between Cuba and the governments currently on the U.S. list of state sponsors of terrorism; and a description of any activities by Cuba to develop any biological or cyber warfare capabilities, including any collaboration with other countries in the Western Hemisphere. The Senate did not complete action on the bill. The House-passed version of the defense authorization bill, H.R. 5136 (Skelton), did not include a similar provision.

S. 3676 (Leahy). FY2011 Department of State, Foreign Operations, and Related Programs Appropriations Act. Introduced and reported by the Senate Committee on Appropriations on July 29, 2010 (S.Rept. 111-237). Section 7007 would continue a general prohibition against direct assistance for Cuba. Section 7015(f) would continue the requirement that no funds for foreign assistance shall be obligated or expended for assistance to Cuba except as provided through the regular notification procedures of the Committees on Appropriations. Section 7034(g)(6) provides that of the ESF appropriated for several countries including Cuba, \$12.5 million shall be transferred and merged with funds for the National Endowment for Democracy to be allocated for democracy programs. The committee report clarifies that \$2 million in ESF appropriated for Cuba would be transferred to the National Endowment for Democracy. In the report to the bill, the committee also recommends \$28.789 million for broadcasting to Cuba (\$390,000 less than the request of \$29.179 million). In the report, the committee also states that it does not support closing the Greenville Station, expanding TV Martí's transmission on DirecTV, or the request to expand and renovate the TV Martí studio until the Broadcasting Board of Governors submits a multi-year strategic plan for broadcasting to Cuba. The Senate did not complete action on the measure, but the 111th Congress approved a series of short-term continuing resolutions (P.L. 111-242, as amended), the last of which provided funding for federal agencies through March 4, 2011, generally at FY2010 levels and under conditions provided in enacted FY2010 appropriations measures.

S. 3677 (Durbin). FY2011 Financial Services and General Government Appropriations Act. Introduced and reported by the Senate Committee on Appropriations on July 29, 2010 (S.Rept. 111-238). Section 621 would continue to define during fiscal year 2011 "payment of cash in advance" under the Trade Sanctions Reform and Export Enhancement Act of 2000 as payment before the transfer of title to, and control of, the exported items to the Cuban purchaser. This would extend a similar provision for fiscal year 2010 that appeared in the FY2010 Consolidated Appropriations Act (P.L. 111-117, Division C, Section 619). The Senate did not complete action

on the measure, but the 111th Congress approved a series of short-term continuing resolutions (P.L. 111-242, as amended), the last of which provided funding for federal agencies through March 4, 2011, generally at FY2010 levels and under conditions provided in enacted FY2010 appropriations measures.

Appendix A. Selected Executive Branch Reports and WebPages

Background Note, Cuba, State Department

Date: April 28, 2011

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

Congressional Budget Justification for Foreign Operations FY2012, Annex: Regional Perspectives (pp. 751-752 of pdf), State Department

Date: March 2011

Full Text: <http://www.state.gov/documents/organization/158268.pdf>

Country Reports on Human Rights Practices 2010, Cuba, State Department

Date: April 8, 2011

Full Text: <http://www.state.gov/g/drl/rls/hrrpt/2010/wha/154501.htm>

Country Reports on Terrorism 2009 (State Sponsors of Terrorism chapter), State Department

Date: August 18, 2011

Full Text: <http://www.state.gov/s/ct/rls/crt/2010/170260.htm>

Cuba Country Page, State Department

Full Text: <http://www.state.gov/p/wha/ci/cu/>

Cuba Country Page, U.S. Agency for International Development

Full Text: http://www.usaid.gov/locations/latin_america_caribbean/country/cuba/

Cuba Sanctions, Treasury Department

Full Text: <http://www.treasury.gov/resource-center/sanctions/Programs/pages/cuba.aspx>

Cuba: What You Need to Know About U.S. Sanctions Against Cuba, Treasury Department, Office of Foreign Assets Control

Date: September 3, 2009

Full Text: <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba.pdf>.

International Religious Freedom Report 2010, Cuba, State Department

Date: November 17, 2010

Full Text: <http://www.state.gov/g/drl/rls/irf/2010/148748.htm>

International Narcotics Control Strategy Report 2011, Vol. I, Cuba, State Department

Date: March 3, 2011

Full Text: <http://www.state.gov/p/inl/rls/nrcrpt/2011/vol1/156360.htm#cuba>

Trafficking in Persons Report 2011 (Cuba, pp. 78-79 of pdf), State Department

Date: June 2011

Full Text: <http://www.state.gov/documents/organization/164453.pdf>

Appendix B. Earlier Developments in 2011

On June 24, 2011, during markup of the House FY2012 Financial Services and General Government Appropriations bill (subsequently introduced as H.R. 2434), the House Appropriations Committee approved an amendment by voice vote that would repeal amendments to the Cuba embargo regulations made since January 19, 2009, regarding family travel, carrying remittances to Cuba, and sending remittances to Cuba. The provision, which became Section 901 of the bill, would roll back President Obama's easing of restrictions on family travel and remittances in 2009 and his easing of restrictions on remittances for non-family members and religious institutions in 2011.

From April 16-19, 2011, the Cuban Communist Party held its sixth party congress, focusing on making changes to Cuba's economic model.

On April 8, 2011, the State Department issued its 2010 human rights reports on countries worldwide. The report documented continued significant human rights abuses, including harassment, beatings, and threats against political opponents by government-organized mobs and state security officials; harsh and life-threatening prison conditions; arbitrary detention of human rights advocates and members of independent organizations; selective prosecution and denial of fair trial; pervasive monitoring of private conversations; and severe limitations on freedom of speech and press. (See the full State Department human rights report on Cuba, available at <http://www.state.gov/g/drl/rls/hrrpt/2010/wha/154501.htm>.)

On March 30, 2011, former President Jimmy Carter completed a three-day trip to Cuba, where he had meetings with President Castro, Catholic Cardinal Jaime Ortega, and several human rights activists. He also visited imprisoned U.S. government subcontractor Alan Gross.

On March 23, 2011, the Cuban government released the last two of the "group of 75" political prisoners who were incarcerated in March 2003 in a severe crackdown on political dissidents. Overall, more than 125 political prisoners have been released since mid-2010.

On March 12, 2011, a Cuban court convicted and sentenced USAID subcontractor Alan Gross to 15 years in prison for "actions against the independence and territorial integrity of the state." Gross has been imprisoned since December 2009 when he was arrested after distributing communications equipment to Jewish organizations in Cuba.

On March 3, 2011, the State Department issued its 2011 *International Narcotics Control Strategy Report* (INCSR), which maintained that the United States was reviewing a draft bilateral accord for counternarcotics cooperation that Cuba had presented. The report maintained that such an accord, if structured appropriately, "could advance the counternarcotics efforts undertaken by both countries." (See the full text of the INCSR, available at <http://www.state.gov/p/inl/rls/nrcrpt/2011/vol1/156360.htm#cuba>.)

On January 28, 2011, the Departments of Homeland Security and Treasury published changes to their Cuba regulations in the *Federal Register* (pp. 5058-5061 and pp. 5072-5078) designed to increase purposeful travel to Cuba (including people-to-people exchanges), allow any U.S. person to send remittances to non-family members in Cuba, and allow all U.S. international airports to apply to provide licensed charter flights to and from Cuba. The Treasury Department has not yet finalized guidelines for the new regulations so that applications for travel requiring specific licenses are not yet being processed.

Appendix C. CRS and GAO Reports

Active CRS Reports Discussing Cuba

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

CRS Report R40566, *Cuban Migration to the United States: Policy and Trends*, by Ruth Ellen Wasem.

CRS Report R41522, *Cuba's Offshore Oil Development: Background and U.S. Policy Considerations*, by Neelesh Nerurkar and Mark P. Sullivan.

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

CRS Report R40754, *Guantanamo Detention Center: Legislative Activity in the 111th Congress*, by Michael John Garcia.

CRS Report R41340, *Financial Services and General Government (FSGG): FY2011 Appropriations*, coordinated by Garrett Hatch.

CRS Report R40801, *Financial Services and General Government (FSGG): FY2010 Appropriations*, coordinated by Garrett Hatch.

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

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

CRS Report RL33200, *Trafficking in Persons in Latin America and the Caribbean*, by Clare Ribando Seelke.

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

Archived CRS Reports

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

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

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

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

CRS Report R40193, *Cuba: Issues for the 111th Congress*, by Mark P. Sullivan.

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

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

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

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

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

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

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

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

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

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

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

Selected GAO Reports

Broadcasting to Cuba: Actions are Needed to Improve Strategy and Operations, U.S. Government Accountability Office, January 2009, <http://www.gao.gov/new.items/d09127.pdf>.

Broadcasting to Cuba: Observations Regarding TV Marti's Strategy and Operations, Statement of Jess T. Ford, Director International Affairs and Trade before the Subcommittee on International Organizations, Human Rights, and Oversight, House Committee on Foreign Affairs, U.S. Government Accountability Office, June 17, 2009, <http://www.gao.gov/new.items/d09758t.pdf>.

Foreign Assistance: Continued Efforts Needed to Strengthen USAID's Oversight of U.S. Democracy Assistance for Cuba, U.S. Government Accountability Office, November 2008, <http://www.gao.gov/new.items/d09165.pdf>.

Foreign Assistance: U.S. Democracy Assistance for Cuba Needs Better Management and Oversight, U.S. Government Accountability Office, November 2006, <http://www.gao.gov/new.items/d07147.pdf>.

U.S. Embargo on Cuba: Recent Regulatory Changes and Potential Presidential or Congressional Actions, U.S. Government Accountability Office, September 17, 2009, <http://www.gao.gov/new.items/d09951r.pdf>.

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