

CUBA: US SANCTIONS POLICY AFTER THE EMBARGO

By Peter E. Harrell

NOVEMBER 2016



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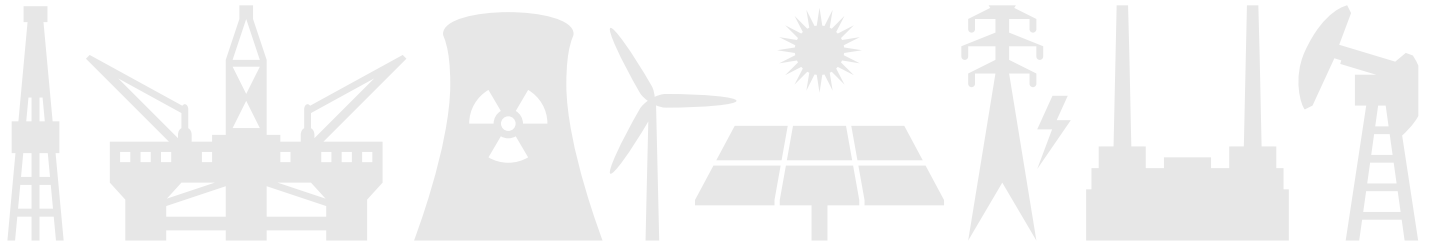
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EXECUTIVE SUMMARY

Since US President Barack Obama and Cuban leader Raul Castro announced a historic thaw in US-Cuban relations in December 2014, both the US and Cuban governments have undertaken a series of steps to normalize diplomatic relations and to expand economic ties that had been curtailed since the early 1960s. Changes in US sanctions regulations enacted in 2015 and 2016 have allowed some trade with Cuba's nascent private sector, allow direct flights and cruise ship travel for Americans visiting Cuba, and have permitted Cuban banks to begin connecting with the US financial system for the first time in decades. The Obama administration has also authorized other business in Cuba on a case-by-case basis; for example, authorizing the Starwood hotel group to become the first American company in more than fifty years to operate a hotel in Cuba.¹ At a diplomatic level, the United States and Cuba have reopened embassies and begun regular diplomatic discussions on areas of mutual interest. And in March 2016, President Obama became the first American president to visit Havana in nearly ninety years.²

Further reforms to US sanctions on Cuba have the potential to enable additional positive social and economic changes in Cuba while providing greater economic benefits to both countries. However, ongoing US interests in obtaining a fair settlement for US citizens who had property expropriated after the Cuban Revolution and who have been injured or killed by the Cuban government, and ongoing important US interests in promoting respect for human rights and political liberalization in Cuba mean that the United States should not simply terminate all remaining US sanctions on the island. Instead, President-Elect Donald Trump and the next US Congress should collaborate to repeal the existing US sanctions framework and replace it with a focused, targeted sanctions regime that would provide continued economic and financial leverage in support of specific US interests, while enabling most US business and civil society activity in Cuba. Specifically, Trump and Congress should enact new legislation that would:

- Authorize the president to suspend all elements of the existing US sanctions on Cuba after certifying to Congress that the United States was making substantial progress in resolving US citizen claims against the Cuban government, and authorize the president to terminate the existing US sanctions

upon the United States and Cuba entering into a final agreement to settle US claims.

- Establish a new, targeted sanctions regime that would levy targeted sanctions against specific Cuban officials and government agencies and instrumentalities involved in repression and human rights abuses.
- Continue to bar sales of US goods to the Cuban military and security services and restrict US companies from investing in or doing business with the Cuban military or security services, including companies that the military and security services control, absent specific authorization from the US government. The United States should grant specific authorizations for projects that serve specific US interests.
- Establish a new, straightforward "reporting requirement" requiring that US companies engaging in large-scale investments in Cuba provide a public annual report about their corporate social responsibility policies in Cuba.
- Authorize the president to terminate the embargo if a new democratic government comes to power in Cuba and also include a five-year sunset provision on all US sanctions on Cuba so that the US government would have to revisit Cuba sanctions policy after five years to ensure that the policy continues to be aligned with US interests.

Practically speaking, this approach would authorize virtually all trade and investment with the Cuban private sector and with Cuban government agencies and state-owned companies, aside from those controlled by the Cuban military and security services. It would modernize US sanctions on Cuba to bring them into better alignment with current US interests, and it would harmonize the US sanctions on Cuba with the sanctions the United States imposes on most other countries subject to US sanctions. Finally, by including a sunset of US sanctions after five years, this approach would ensure that US sanctions remain dynamic and tuned to evolving US interests in the future.

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INTRODUCTION

President Obama's December 2014 announcement that the United States would normalize diplomatic relations with Cuba and open trade and commercial ties that had been severed for more than five decades marked a radical change in US policy toward the island. Where US presidents since Dwight Eisenhower had sought to encourage political and economic change in Cuba through a policy of diplomatic and economic isolation, Obama's policy seeks to change Cuba through greater engagement. As Obama said in announcing the opening, "Through these changes, we intend to create more opportunities for the American and Cuban people, and begin a new chapter among the nations of the Americas."³ The new policy followed nearly two years of secret negotiations between the United States and Cuba and included the release of Alan Gross, an American political prisoner held in Cuba, and the release by both the United States and Cuba of individuals who had been imprisoned on espionage charges.⁴

Obama's new policy has included both diplomatic and economic engagement with Cuba. On the diplomatic front, the United States and Cuba pledged to restore diplomatic relations that had been severed in 1961, including reopening the US embassy in Havana and the Cuban embassy in Washington, D.C.⁵ In March 2016, President Obama became the first American president to visit Havana in nearly ninety years.⁶ The United States launched diplomatic dialogues with Cuba on a range of regional issues, and in 2015 the United States acceded to Cuba attending the Summit of the Americas, the periodic meeting of leaders in the Western Hemisphere, for the first time.⁷

On the economic front, since early 2015 the US government has implemented a series of regulatory reforms that have authorized trade with Cuba's nascent private sector, allowed direct flights and cruise ship travel for Americans visiting Cuba, and allowed Cuban banks to reconnect with the US financial system. These changes have expanded Americans' ability to travel to Cuba; provided Cuban entrepreneurs and small businesses with access to American goods, know-how, and markets; and slowly expanded access to the Internet and other communications technology in Cuba.⁸

The changes in US policy implemented over the past two years have provided clear benefits to both the United States and Cuba, including fostering private-sector development in Cuba, increasingly allowing US citizens to travel to Cuba, promoting greater communications technology in Cuba, and enabling the US and Cuban governments to begin negotiations over the settlement of US citizens who have legal claims against the Cuban government, such as US citizens who had property expropriated by the Cuban government after the Cuban Revolution.

The changes have not yet, however, resulted in Cuba fully addressing key US interests. Notably, while claims settlement discussions have begun, there is little evidence that the United States and Cuba are close to actually settling US citizen claims. NGOs, meanwhile, report that there has been little decline in domestic repression inside Cuba since late 2014; for example, the Cuban Commission for Human Rights and National Reconciliation, a Cuba-focused NGO, reported that in 2015 there were more than 8,600 political arrests and detentions.⁹ Meanwhile, from a US business perspective, the continued existence of a complex web of US sanctions has hindered implementation of the sanctions reforms announced to date.

Against this background, the next US president, Donald Trump, and Congress should work together to repeal the existing US sanctions regime against Cuba and replace the existing sanctions regime with a targeted sanctions program that is more narrowly focused on advancing discrete US interests: promoting political and economic liberalization in Cuba, reaching a settlement for US claimants, and providing access to a market for socially responsible US businesses. This approach would align US sanctions on Cuba with the sanctions that the United States imposes against other countries, where, as with Cuba, human rights and political repression are a major underpinning for those sanctions. More importantly, this approach has the potential to more effectively advance US interests than the current legacy sanctions regime that was originally established in the 1960s.

SUMMARY OF SANCTIONS AND ECONOMIC DEVELOPMENTS TO DATE

US economic sanctions on Cuba date to 1960, when President Eisenhower announced a partial US embargo on Cuba in response to Cuba's nationalization of US-owned property in the country and deepening Cuban ties with the Soviet Union. President Kennedy banned most remaining US trade with Cuba in 1962 and effectively prohibited most American citizens from traveling to Cuba in 1963, in the wake of the failed Bay of Pigs invasion and the Cuban Missile Crisis.¹⁰ Following the collapse of the Soviet Union and amid hopes that economic pressure could end the Castro regime, in 1992 Congress passed the Cuban Democracy Act, which wrote the then-existing prohibitions on most US trade with Cuba into statute and further expanded US sanctions on Cuba by adding provisions such as a prohibition on the overseas subsidiaries of US companies from doing most business with Cuba. Then, in 1996, shortly after the Cuban government shot down two small airplanes flown by Brothers to the Rescue, an anti-Castro organization based in Florida, Congress passed the "Helms-Burton" Act, which further tightened US sanctions, though then-President Bill Clinton waived some of the most controversial provisions, including provisions designed to discourage European companies and other non-American businesses from investing in Cuba. In 2000, facing pressure from US agricultural and pharmaceutical interests and in response to concerns about the humanitarian impact of the US embargo, Congress passed the Trade Sanction Reform and Export Enhancement Act (TSRA), which authorized food and medicine sales to Cuba (and other countries subject to US sanctions, such as Iran), though TSRA imposes strict conditions on those sales, such as requiring that agricultural sales to Cuba be made on a cash-on-delivery basis rather than be subject to normal trade financing terms.

Prior to 2015, the practical impact of the US embargo was to prohibit most nonhumanitarian US trade with Cuba, though in 2009 President Obama eased restrictions to let Cuban Americans more easily visit family on the island and began to authorize more direct telephone and other telecommunications contacts between the United

States and Cuba.¹¹ In 2014, US goods exports to Cuba amounted to just under \$300 million, the vast majority of which were food and medicine, and there were no measurable US imports of goods of Cuban origin.¹²

Beginning in early 2015 and continuing through this year, the State Department, the Treasury Department's Office of Foreign Assets Control (OFAC), and the Commerce Department's Bureau of Industry Security have taken several major steps to implement the new policy, including easing multiple rounds of sanctions in 2015 and 2016. Key elements of the sanctions easing implemented by the Obama administration include:

- **Enabling greater numbers of Americans to travel to Cuba:** The Obama administration has authorized American citizens to travel to Cuba for twelve specific reasons, including study, people-to-people visits and other cultural tourism, attending professional conferences and meetings, humanitarian work, and visiting relatives living in Cuba. Current US regulations allow US citizens to travel to Cuba after "self-certifying" that they are traveling for an authorized purpose and promising that they will maintain a full-time schedule while in Cuba (and are not simply going for recreational tourism). While the practical reality may be that a US citizen traveling to Cuba for tourism or another disallowed purpose faces little risk of prosecution or fines, US statutes do not currently authorize the US Executive Branch to simply allow US citizens to travel to Cuba for reasons other than the twelve authorized categories.
- **Authorizing scheduled flights and ferry service to Cuba:** The Obama administration has authorized US air carriers and ferry companies to offer direct, scheduled service to Cuba, and in June 2016 the Department of Transportation authorized eight US airlines to fly to Cuba.¹³ The Obama administration has also authorized US cruise ships to dock in Cuba.¹⁴
- **Allowing the importation of many Cuban goods made by the Cuban private sector:** The Obama

administration has authorized the import of many kinds of goods made by independent, private Cuban entrepreneurs and companies. Examples of authorized products include agricultural products, cultural and artistic goods, and numerous other products. US importers are required to obtain documentary evidence showing that the goods were made by the private sector in Cuba.¹⁵ Imports of goods made by Cuban state-run companies are generally not allowed.

- **Allowing US travelers to Cuba to bring back unlimited quantities of cigars and rum for personal use:** In October 2016 the Obama administration authorized US visitors to Cuba to bring back unlimited quantities of Cuban rum (or other alcohol) and Cuban cigars to the United States. However, US citizens can only bring in rum and cigars for personal use, and the commercial sale of Cuban rum and cigars in the United States remains prohibited.¹⁶
- **Allowing some US companies to hire Cubans:** US companies are now authorized to hire Cubans for certain purposes, including software development, sports, and entertainment. US companies can also hire Cubans to work for them in Cuba in cases where a US company is engaging in authorized business in Cuba.
- **Authorizing US telecommunications business with Cuba:** The Obama administration has authorized a wide range of business with the telecommunications sector in Cuba, including telecommunications infrastructure projects and the sale of telecommunications devices, apps, and services.
- **Authorizing the sale of many US-origin goods for use by the Cuban private sector and to benefit the people of Cuba:** The Obama administration has authorized the sale of many kinds of US-origin goods to Cuba for use by the private sector in Cuba. The US government has also begun to authorize on a case-by-case basis numerous exports to Cuba that benefit the Cuban people, even where the goods are exported to a Cuban government-owned company.

- **Restoring Cuba's ability to access US financial services:** The US government has also authorized numerous kinds of US financial services for Cuba, including allowing US banks to provide correspondent services in Cuba and allowing US banks to maintain bank accounts for Cubans in the United States and in third countries, though such accounts remain subject to a number of legal limitations.

Despite the sanctions easing with respect to these specific types of trade, however, a complex US sanctions regime remains in place that continues to restrict many commercial ties between the United States and Cuba. Key remaining US sanctions include the following:

- **Travel restrictions:** As discussed above, the Obama administration has sought to enable US travel to Cuba. However, US travelers to the island must still self-certify that their travel falls within one of the twelve authorized categories of travel and that they will maintain a “full-time” schedule of authorized activities while in Cuba. In particular, US law continues to prohibit US citizens from traveling to Cuba for purely touristic purposes, even though tourism is among the most important economic sectors on the island. Legally speaking, the US government cannot further liberalize travel to Cuba without congressional action.
- **Limitations on trade with the Cuban government:** US law continues to prohibit most trade with the Cuban government, including Cuban state-owned enterprises. For example, US companies cannot generally import into the United States goods made by Cuban state-owned enterprises, even civilian-run state-owned enterprises. US investments in joint ventures with Cuban state-owned enterprises also generally still require the US government to grant a specific license, which can be a time-consuming and uncertain process for US companies.
- **Purchase or lease of property or other investments:** Many US companies remain generally prohibited from purchasing or leasing property in Cuba, absent authorization from the US government, or from making other types of investments in Cuba, absent a specific authorization from the US government. (Cuban law also appears to impose restrictions on foreign ownership of certain asset types.)

In addition to these major remaining sanctions, numerous more technical sanctions provisions remain in force. These technical provisions, individually and in aggregate, continue to have a major impact on American companies' ability to do business in Cuba and as a result have limited the impact of the policy changes first announced in December 2014. Examples of continuing technical sanctions provisions include the following:

- **Remaining banking restrictions:** Although the United States has sought to allow many kinds of US financial transactions with Cuba, many other types of financial transactions remain off-limits, often as result of statutory provisions. For example, exporters of food and medicine to Cuba continue to be limited to making sales on a “cash on delivery” basis or using third-country banks for financing. Although US banks are authorized to open correspondent accounts for Cuban banks in Cuba, Cuban banks are not authorized to open correspondent accounts in the United States. A US bank can open an account for a Cuban national lawfully in the United States, such as a Cuban athlete who takes a job in the United States, but has to restrict that customer's access to the account when the customer returns to Cuba—for example, to visit family.
- **Limitations on US companies establishing a physical presence in Cuba:** Under existing regulations, only certain types of US companies and institutions are authorized to open a physical presence, such as a representative office or warehouse, in Cuba.
- **Restrictions that impact the ability of US companies to manufacture things in Cuba:** Technical regulations continue to impact the ability of US companies to actually manufacture products in Cuba. For example, even companies that are authorized to assemble US-origin products in Cuba are not allowed to incorporate Cuban-origin parts into those products.¹⁷

The examples given above are just an illustrative list of the numerous technical restrictions that remain in place. The practical reality is that hundreds of pages of regulations and sanctions implementation guidance continue to impose limits on US business in Cuba.

The sanctions-easing steps announced to date have resulted in a number of high-profile US deals announced in Cuba. Examples of US deals include the US airlines that are authorized to provide scheduled service to Cuba; visits to Havana by US cruise ships; a deal by the Starwood hotel chain to manage a hotel in Cuba; US telecommunications roaming agreements with Cuba; an announcement by Airbnb that it would allow Cubans to rent out rooms to travelers through its platform; and a deal by Western Union to allow remittance payments to Cuba, among others. From a macroeconomic perspective, however, US trade with Cuba has been slow to increase as a result of the policy changes and economic opening; for example, US goods exports to Cuba in 2015 were actually nearly \$120 million lower than they had been in 2014, and US goods exports to Cuba over the first six months of 2016 are running a further \$18.6 million lower than they were during the same period in 2015.¹⁸ US trade statistics for 2015 and for the first six months of 2016 also continue to show no meaningful volumes of imports from Cuba.¹⁹

This decline in trade volumes is likely due in large part to the economic headwinds that Cuba is facing due to the economic collapse of its long-time regional economic ally, Venezuela,²⁰ and trade in goods statistics do not capture the economic impact of services such as cruise ship visits to Cuba or investments that US companies are making in Cuba. Nonetheless, the trade statistics illustrate the practical reality of the limited commercial activity that has occurred to date, despite the United States and Cuba normalizing relations and the United States beginning to ease sanctions on Cuba.

Broadly speaking, further liberalization of US sanctions on Cuba will require Congress to enact new legislation repealing large portions of the existing US sanctions. As President Obama said when he visited Havana in March 2016, “the list of things that [the United States] can do administratively is growing shorter, and the bulk of changes that have to be made with respect to the embargo are now going to rely on Congress making changes.”²¹ Absent congressional action, the US government cannot further liberalize US travel to Cuba, liberalize payment terms for US agricultural exports to Cuba, or take numerous other steps to further allow US trade and investment with the island.

IDENTIFYING KEY US INTERESTS IN CUBA

Against this backdrop, President-Elect Donald Trump and the next US Congress should enact new legislation to fundamentally overhaul US sanctions against Cuba to align them with current US interests. The content of an overhauled US sanctions regime should be shaped by a clear understanding of current US interests with respect to Cuba.

During the Cold War, Cuba posed a significant set of strategic challenges to the United States. This was primarily due to the fact that Cuba offered the Soviet Union an outpost less than one hundred miles from US territory and to Cuba's support for armed leftist insurgencies in Latin America and elsewhere that the United States opposed throughout the Cold War. These strategic challenges to core US interests justified the type of broad sanctions that the United States enacted on Cuba starting in the 1960s. Since the collapse of the Soviet Union in 1991, however, US interests toward the island have been more limited. This is not to say that Cuba is unimportant to the United States—as a neighbor, a longtime regional antagonist, and as the ancestral homeland of two million Americans, many of whom have legal claims against the Cuban government,²² Cuba is clearly important to the United States. But current US sanctions should be tailored to the set of specific, contemporary interests that the United States has toward Cuba rather than reflecting past concerns, such as Cuba's alliance with the Soviet Union, that are no longer relevant.

Broadly speaking, contemporary US interests with respect to Cuba fall into four major categories.

First, the United States has an interest in obtaining a fair settlement for US citizen claimants against Cuba, including both US citizens whose property was expropriated after the Cuban Revolution and US judgment-holders. There are two categories of US citizens who have legal claims against the Cuban government. The first category of legal claims against Cuba is held by US citizens and companies who owned property in Cuba prior to the Cuban revolution and whose property was nationalized in the 1960s. The total value of these claims is approximately \$1.9 billion, excluding interest, and approximately \$8 billion, including interest.²³ The second category of legal claims is held by US citizens who were victims of terrorism or other violence sponsored or

directed by the Cuban government, such as individuals flying the small civilian aircraft that Cuba shot down in 1996. This second category of claims amounts to about \$2.2 billion in compensatory damages, plus punitive damages.²⁴ In addition, the US government has several hundred million dollars of its own outstanding claims against Cuba.²⁵

The United States has historically viewed the settlement of claims by US victims as a significant US interest toward foreign governments when normalizing diplomatic and economic relations. For example, the US government obtained a \$1.5 billion settlement from Libya in 2008,²⁶ a \$400 million settlement from Iraq in 2011,²⁷ and settled property claims with Vietnam in 1995 when normalizing relations with that country,²⁸ among other cases. While the diplomatic opening and sanctions-easing announced in late 2014 have facilitated US-Cuban negotiations over claims, it does not appear that a settlement of US claims is near, and the United States continues to have a strong interest in obtaining a fair settlement for US claimants.²⁹

Second, the United States has an interest in empowering the Cuban people, including by promoting democratic reforms and respect for human rights. Cuba is currently the only country in the Western Hemisphere that the NGO Freedom House rates as “Not Free,” and Cuba's repressive government stands in clear contrast to the many vibrant democracies in the Western Hemisphere.³⁰ NGOs report that there has been little change in Cuba's level of political repression since Obama announced the normalization of relations in 2014. As the NGO Human Rights Watch wrote in its most recent annual report on Cuba, “The Cuban government continues to repress dissent and discourage public criticism. It now relies less on long-term prison sentences to punish its critics, but short-term arbitrary arrests of human rights defenders, independent journalists, and others have increased dramatically in recent years. Other repressive tactics employed by the government include beatings, public acts of shaming, and the termination of employment.”³¹ The Cuban Commission for Human Rights and National Reconciliation, a Cuba-focused NGO, reported that in 2015 there were more than 8,600 political arrests and detentions.³²

The United States has a general interest in empowering citizens and promoting human rights, as reflected in the United States' National Security Strategy.³³ These interests are even higher in Cuba than in many other countries, given the number of Cuban Americans with relatives living on the island, Cuba's proximity to the United States, and the general trend toward political openness in the Western Hemisphere. From a sanctions perspective, empowering the Cuban people has two parts: it means maintaining economic pressure on the Cuban government to respect human rights and fundamental freedoms, but it also means also enabling business and economic opportunities that actively support Cubans' ability to improve their lives.

Comprehensive sanctions regimes like the US sanctions on Cuba between the 1960s and 2014 have rarely been able to bring about regime change; as one well-known statistical study of sanctions found, those intended to promote regime change are successful less than a third of the time.³⁴ In the case of Cuba, there is little evidence that comprehensive American sanctions are likely to succeed in toppling the current government after more than fifty years of failing to achieve that objective. A more practical approach is to develop a balanced sanctions regime that maintains pressure on the Cuban government, particularly instrumentalities engaged in political repression and human rights, but which also facilitates economic opportunities for everyday Cubans and facilitates the expansion of communications networks and other tools that let Cuban citizens communicate, organize, and express themselves.

Third, the United States has an interest in cooperating with Cuba on specific regional issues. For example, the United States and Cuba share an interest in stemming the flow of narcotics through the Caribbean into the United States. The United States also has an interest in ensuring that there is no disorderly migration of Cubans to the United States—migration is an issue both of US immigration law and policy and also a humanitarian issue, given that disorderly migration, which often takes place via homemade rafts or other substandard boats, can pose serious life and safety threats to Cubans seeking to make the open-water crossing from Cuba to Florida.

Fourth, the United States has an interest in fostering inclusive economic growth in Cuba and enabling US companies to take advantage of market opportunities in the country. Cuba's overall economy remains small, with a GDP of approximately

\$80 billion at official exchange rates.³⁵ The World Bank classifies Cuba as an "upper middle income" country,³⁶ but in fact many Cubans remain quite poor. The United States has an interest in fostering inclusive economic growth that benefits the people of Cuba while opening commercial opportunities for US companies. While Cuba's small economic size means that the country will never be a major market for most US companies, Cuba does offer an attractive market for certain sectors, such as tourism and consumer goods.

COMPARISON: PUTTING CURRENT US SANCTIONS ON CUBA IN PERSPECTIVE

US sanctions on Cuba are far more comprehensive than US sanctions imposed on other countries where the United States has concerns about human abuses, political repression, or specific US citizen issues comparable to the US citizen claims against Cuba. A brief analysis of US sanctions against several other countries where the United States has human rights and political interests in some respects comparable to US interests with respect to Cuba offers context for US officials considering how to overhaul US sanctions on Cuba.

The US government office responsible for implementing most US economic sanctions, the Treasury Department's Office of Foreign Assets Control (OFAC), currently maintains twenty different economic sanctions programs targeting countries that include Iran, North Korea, Venezuela, Sudan, Syria, and Russia.³⁷ OFAC also maintains several programs targeting nonstate actors such as terrorist organizations, international drug cartels, and online hackers.³⁸

Of US sanctions regimes targeting countries, Cuba currently ranks as the fifth most comprehensive program. Even in the wake of the Obama administration's easing of sanctions toward Cuba, the United States maintains more comprehensive trade and financial sanctions against only Iran, North Korea, Syria, and Sudan—all countries where the United States continues to prohibit virtually all US business. In addition, Cuba is the only country to which the United States continues to restrict travel by American citizens.

Cuba is a clear outlier in this list of the most restrictive US sanctions programs. Of the four countries subject to more comprehensive US sanctions than Cuba, the United States currently designates three, Iran, Sudan, and Syria, as state sponsors of terrorism,³⁹ a designation that the United States removed from Cuba in 2015,⁴⁰ while the fourth country, North Korea, maintains the world's most active illicit nuclear weapons and ballistic missile programs.

More than fifteen current US sanctions programs are designed principally to address mass atrocities,

civil conflict, human rights abuses, and/or political repression.⁴¹ In each of these cases, the United States has taken a targeted approach to sanctions that restricts only limited types of business and/or blacklists only specific individuals and companies. With Cuba, however, the United States effectively takes the opposite approach, restricting essentially all business except business that is specifically allowed by the US government.

For example, US sanctions against countries like Venezuela and Zimbabwe, countries where the United States has significant concerns about human rights abuses and political repression, generally target a mix of individual officials involved in violence or political repression; state security organizations; specific state-owned enterprises that are directly linked to state security organizations or which provide significant revenues to key government officials; and outside supporters, such as business sector supporters, of a regime's repressive activities.

Four specific examples illustrate the sanctions approach the United States typically takes in programs designed to promote human rights and political liberalization.

Venezuela: The United States first began imposing sanctions on Venezuela in response to growing political repression and violence in late 2014, when the US Commerce Department restricted exports of US goods to the Venezuelan military or for military uses in Venezuela.⁴² Congress moved to legislate targeted financial sanctions in December 2014 when it passed the Venezuela Defense of Human Rights and Civil Society Act of 2014.⁴³ Then, in March 2015, the Obama administration implemented the 2014 statute by issuing Executive Order 13692⁴⁴ and sanctioning several individual Venezuelan officials for their role in political repression and violence in Venezuela.

In addition to the restrictions on exporting US goods to the Venezuelan military, the sanctions regime authorizes the US government to impose targeted financial sanctions on individuals involved in (a) "actions or policies that undermine democratic processes or institutions;" (b)

significant acts of violence against the Venezuelan people; (c) actions that restrict freedom of expression or peaceful assembly; (d) Venezuelan officials involved in public corruption; and (e) any current or former Venezuelan government official.⁴⁵ To date, the US government has sanctioned seven individuals under the Venezuela sanctions program, principally officials in the Venezuelan military and intelligence services.⁴⁶ (Several other Venezuelan officials have also been sanctioned for providing weapons and other support to the FARC, a Colombian terrorist group, under a separate sanctions program.)

Myanmar: President Obama terminated US sanctions on Myanmar effective October 7, 2016, following the democratic transition that brought longtime dissident and activist Aung San Suu Kyi to power in early 2016. However, a brief review of the history of US sanctions on Myanmar, which were unwound in stages between 2012 and 2016 in response to Myanmar's ongoing transition, can provide informative context to a discussion of sanctions on Cuba.

US economic sanctions on Myanmar date to 1997, when the US government prohibited new US investments in Myanmar in response to rising political repression and human rights abuses. In 2003, following further human rights abuses, the US Congress passed the Burmese Freedom and Democracy Act and then-President George W. Bush issued Executive Order 13310, which banned most imports of Burmese products into the United States, prohibited most US financial ties with Myanmar, and imposed financial sanctions on a number of Myanmar-owned enterprises. In 2007 and 2008, President Bush issued additional Executive Orders creating a framework to impose sanctions on individuals involved in repression and human rights abuses, as well as government officials and business sector "cronies" of the government. In total, the US government ultimately sanctioned more than one hundred officials and businessmen, including most of the country's largest state- and privately-owned companies.

Beginning in 2012, in response to political reforms then underway in Myanmar, the Obama administration began to ease sanctions on the country, ultimately allowing most US trade with and investment in the country, authorizing the resumption of US financial ties with Myanmar, and delisting some officials and businessmen.

By 2014, the United States retained only a prohibition on most business with the Myanmar military; continuing sanctions against a number of large Myanmar state-owned enterprises; sanctions against a number of prominent businessmen (and the US government made clear that sanctioned businessmen could petition individually to have the sanctions against them removed); and a ban on US business with Myanmar's gem sector, which was believed to be dominated by the Myanmar military. In addition, US companies that invested more than \$500,000 in Myanmar were required to file an annual report describing a variety of corporate social responsibility policies, payments to the Myanmar government, and dealings with the Myanmar military.⁴⁷ Following Aung San Suu Kyi's victory in parliamentary elections in late 2015 and appointment as foreign minister and state counsellor in early 2016 (Myanmar's constitution bars Suu Kyi from the presidency because her children hold UK citizenship), President Obama announced plans to terminate US sanctions on Myanmar and implemented that decision in October 2016.

Belarus: Concerned by growing human rights abuses in political repression, the United States and European allies began imposing visa bans on Belarusian officials in late 2004.⁴⁸ Then, in 2006, following deeply flawed presidential elections, the United States imposed targeted financial sanctions freezing the assets of designated senior Belarusian officials, including Belarusian President Alexander Lukashenko.⁴⁹ In 2007, the United States froze the assets of and prohibited US companies from dealing with Belneftekhim, one of Belarus's largest state-owned companies, then responsible for more than a third of Belarus's exports, as well as companies owned or controlled by Belneftekhim.⁵⁰ These sanctions remained in place until October 2015, when, in response to some positive political movements in Belarus, the United States suspended its sanctions against Belneftekhim and its subsidiaries.⁵¹ Today, the United States continues to sanction a number of individual Belarusian officials and retains the authority to impose sanctions on Belarusian officials who are responsible for human rights abuses or are complicit in undermining democratic processes or institutions in Belarus.⁵² There are currently sixteen individuals sanctioned under the Belarusian sanctions program, not including Belneftekhim or its subsidiaries.

Zimbabwe: The United States imposed sanctions on Zimbabwe in the early 2000s with congressional

enactment of the Zimbabwe Democracy and Recovery Act of 2001, which, among other provisions, called on the US president to impose sanctions on individuals “responsible for the deliberate breakdown of the rule of law, politically motivated violence, and intimidation in Zimbabwe.”⁵³ Between 2003 and 2008, the United States issued three Executive Orders establishing a framework to sanction Zimbabwean officials involved in undermining democratic processes and institutions; those responsible for human rights abuses; officials involved in public corruption, and to sanction Zimbabwe state-owned enterprises as a mechanism of putting economic pressure on the government as a whole.⁵⁴

The United States has sanctioned more than 150 individuals and state-owned companies under the Zimbabwe sanctions program. These include several of the largest state-owned companies that play key roles in Zimbabwe’s economy, such as the Zimbabwe Mining Development Corporation and several state-owned banks, though between 2013 and 2016 the United States has lifted the sanctions on several banks in response to political developments on the ground in Zimbabwe and in response to petitions brought by several Zimbabwe individuals seeking to have the sanctions against them removed.⁵⁵

Though each of these sanctions regimes is distinct and tailored to each country’s individual circumstances, these examples illustrate clear differences between the targeted sanctions approach the United States takes to most countries where it seeks to use sanctions to promote political openness and respect for human rights and the approach taken by the current US sanctions regime on Cuba, which continues to restrict the majority of US business with the island.

RECOMMENDATIONS FOR OVERHAULING US SANCTIONS ON CUBA

Moving forward, US policymakers should repeal the existing US sanctions on Cuba and fundamentally replace the existing sanctions regime with a more narrowly targeted sanctions regime that draws on the lessons of other US sanctions programs that advance human rights and political liberalization. Doing so would provide an opportunity to better promote current US policy objectives such as fostering Cuban progress on democracy and human rights concerns and inclusive growth that empowers ordinary Cuban citizens and provides commercial opportunities for US companies, while retaining economic pressure to achieve a favorable settlement of US citizen claims toward Cuba. It would also better align US sanctions on Cuba with US sanctions on other countries.

Because statutes such as the Cuban Democracy Act and Helms-Burton effectively preclude further executive branch action to significantly liberalize US sanctions on Cuba, President-Elect Donald Trump and the next US Congress should pursue new Cuba sanctions legislation to repeal the existing US sanctions framework while directing the US executive branch to establish a targeted sanctions program on Cuba. Such a legislative sanctions package should have five major elements:

First, new sanctions legislation should authorize the president to suspend all existing US sanctions on Cuba upon certifying to Congress that Cuba and the United States are making meaningful progress toward resolving US citizen claims with respect to the island. The president should be authorized to terminate the existing sanctions regime upon certifying to Congress that Cuba has agreed to a satisfactory resolution of the US claims and that Cuba has made an initial payment toward satisfying American claims. This step would enable the United States to overhaul most day-to-day sanctions on Cuba while maintaining background pressure to ensure that Cuba does, in fact, settle American claims.

Second, new Cuba sanctions legislation should direct the president to design and implement a new, targeted sanctions regime that would impose sanctions on specific

Cuban officials and institutions responsible for and directly complicit in political repression and human rights abuses. For example, the sanctions regime should direct the president to impose sanctions on Cuban officials and government agencies involved in undermining democratic processes or institutions; human rights abuses, including restricting freedom of speech and freedom of assembly; and officials engaged in public corruption in Cuba. The president should ensure that the program actually imposes sanctions on key leaders of the Cuban military and security services and on key parts of the Cuban military and security apparatus. These sanctions provisions would maintain both economic and signaling pressure on those elements of the Cuban government involved in political repression and human rights abuses, consistent with US interests.

Third, although the United States should allow most US business dealings with the Cuban private sector and with civilian-controlled Cuban state-owned enterprises, the new Cuba sanctions legislation should continue to restrict exports of goods to the Cuban military and security services in Cuba or for military end uses in Cuba absent specific authorization by the US executive branch. The president should have the discretion to provide such authorization on a case-by-case basis where doing so serves specific US national security interests such as enabling cooperation to counter regional drug violence. Similarly, the law should generally restrict US investments or business partnerships with the Cuban military and security services, including Cuban companies owned by the military and security services without specific authorization by the US executive branch—though here too the president should have the discretion to authorize such projects on a case-by-case basis where the administration determines that a specific project serves US interests.

These sanctions provisions would ensure that US companies are largely free to engage with both private entrepreneurs in Cuba and with civilian-controlled state-owned enterprises in Cuba, enabling business that has the potential to benefit the Cuban people and provide

opportunities for US businesses while retaining economic pressure against the Cuban military and security apparatus. Over time, the provisions could help create incentives for the Cuban government to shift state-owned assets from military to civilian control and provide the Cuban private sector with a competitive advantage—greater access to US business partners—than companies controlled by the Cuban security-apparatus.

Fourth, new Cuba sanctions legislation should direct the Executive Branch to require that US companies making significant investments in Cuba file annual public reports regarding their business activities in Cuba. As discussed earlier, US businesses making investments of more than \$500,000 in Myanmar were required to file an annual report detailing corporate social responsibility policies in Myanmar as well as information about corporate dealings with Myanmar security services and other information. Most of the information in these reports was released publicly, and the reports have proven valuable to both US government officials and NGOs as they seek to promote democratic accountability and respect for human rights in Myanmar. The reporting requirement also had the practical effect of placing some pressure on corporations to ensure that they put in place high-standard corporate social responsibility (CSR) practices in Myanmar, though the reporting requirement did not require that a company implement any specific CSR programs, only that companies reported on whatever CSR programs that they did put in place.

The reporting requirement in Myanmar was not controversy-free, with a number of US companies arguing that the reporting requirements were unduly burdensome and deter legally allowed investments in Myanmar. In January 2016, for example, the US Chamber of Commerce submitted formal comments on the reporting requirements arguing that “We do not believe that the reporting requirements improve human rights, advance worker protections, or promote higher standards of corporate social responsibility in Myanmar” and that “In some cases, very significant resources, in terms of both time and money, have been directed toward preparing these reports.”⁵⁶ Numerous American NGOs, however, strongly supported the reporting requirement on the grounds that the information disclosed is valuable and that the requirements encourage high-standard business practices.⁵⁷

In the case of Cuba, a reporting requirement would encourage US businesses to ensure that they put in place high-standard CSR and other ethical business practices before engaging in business on the island. In order to avoid discouraging allowed business, however, the US government should ensure that the reporting requirement be streamlined, allow companies to draw on their globally applicable CSR policies to the greatest extent possible, and establish a high monetary threshold so that companies engaged in low-dollar investment are exempt, in order not to deter small investments in Cuba.

Finally, new Cuba sanctions legislation should have two independent termination provisions to ensure that US sanctions remain dynamic and appropriately tailored to changing circumstances. First, the president should have the authority to suspend all remaining sanctions upon certifying that Cuba is in the process of transitioning to a democratic government and to terminate them if a new democratic government comes into power. This would enable the president to remove all the remaining sanctions in the event of a democratic transition in Havana. Second, the new sanctions legislation should provide that the sanctions regime would automatically sunset after five years, absent congressional action to renew the legislation. An automatic sunset would provide a “decision-forcing event” that would require the Congress and the Executive Branch to again consider whether the sanctions are appropriate to the circumstances in place five years in the future.

This type of sanctions regime would serve US interests much more effectively than existing US sanctions, which remain rooted in their Cold War-era origins. Allowing most US trade with the Cuban private sector and civilian-run state-owned companies would provide clear economic benefits to the Cuban people, while barring the Cuban military and security services from such trade should help to isolate those parts of the Cuban government engaged in repression. It will also provide a competitive advantage to the Cuban private sector and civilian state-run companies relative to companies owned by the Cuban security services. The approach recommended in this paper would also make it significantly easier for US companies to do business in Cuba, creating a more level playing field relative to their foreign competitors, while the reporting requirement would encourage high-standard corporate investment that benefits both US

firms and ordinary Cubans. Finally, requiring that the president certify that the United States and Cuba are making meaningful progress toward settling US claims before waiving most existing US sanctions, and making full termination of existing sanctions contingent on settling such claims, would ensure that the United States is able to win a satisfactory settlement for US claimants.

Some policy experts and US companies have recommended that the United States go even further in reducing US sanctions and completely terminate those sanctions against Cuba. This would give the United States and Cuba a clean slate in our economic relationship and maximize the ability of US companies to do business in Cuba. It would also make our treatment of Cuba comparable to the large number of countries where the United States has ongoing concerns about political repression and human rights but does not apply economic sanctions—countries ranging from Saudi Arabia to Thailand. However, there are several reasons why it is not yet appropriate to fully terminate all sanctions on Cuba.

First, the United States has a unique history with Cuba, which is reflected in the fact that US citizens have billions of dollars of outstanding legal claims against the Cuban government and in the fact that there are nearly two million Cuban Americans, many with family still living on the island. Second, Cuba remains the least democratic country in the Western Hemisphere, a region where the United States has long sought to promote democratic values and norms, as reflected in the Organization of American States and the Inter-American Democratic Charter, which the United States has long championed. Third, as noted above, there is little evidence that Cuba has taken significant steps to reduce domestic political repression since President Obama announced the change in US policy toward Cuba in December 2014—demonstrating that some pressure is still needed to promote greater Cuban respect for political openness and human rights. Moving to a targeted sanctions regime, rather than simply terminating all sanctions outright, is appropriate given these unique circumstances.

CONCLUSIONS

The US embargo on Cuba has lasted for more than fifty years. While President Obama has taken important steps over the past two years to begin modernizing the embargo to bring it into line with current US interests, the fact remains that neither President Obama nor his successor can fundamentally realign US sanctions on Cuba to match them with US interests without Congress repealing the existing sanctions framework and replacing it with a targeted regime. As President Obama himself said speaking in Havana in March 2016, “the list of things we can do administratively is growing shorter, and the bulk of changes that have to be made with respect to the embargo are now going to rely on Congress making changes.”⁵⁸

The politics of legislation to overhaul US sanctions on Cuba will not be simple; while a growing bipartisan group in Congress has supported efforts to end the ban on US travel to Cuba⁵⁹ and to open the door to much greater private sector trade with Cuba,⁶⁰ other leading politicians, including prominent senators such as Republican Marco Rubio and Democrat Bob Menendez, have sharply criticized the sanctions reforms that President Obama has directed to date and appear to be skeptical of any further reforms. By addressing the full range of US interests with respect to Cuba, the approach outlined in this paper—repealing existing US sanctions but replacing them with a targeted sanctions regime tailored to advance specific current US interests—may offer an approach that proves acceptable to all sides of the issue.

NOTES

- 1 Victoria Burnett, “American Firm, Starwood, Signs Deal to Manage Hotels in Cuba,” *The New York Times*, March 19, 2016, <http://www.nytimes.com/2016/03/20/world/americas/american-firm-starwood-signs-deal-to-manage-hotels-in-cuba.html>.
- 2 Dan Roberts, “Obama Lands in Cuba as First US President to Visit in Nearly a Century,” *The Guardian*, March 21, 2016, <https://www.theguardian.com/world/2016/mar/20/barack-obama-cuba-visit-us-politics-shift-public-opinion-diplomacy>.
- 3 The White House, “Statement by the President on Cuba Policy Changes,” December 17, 2014, <https://www.whitehouse.gov/the-press-office/2014/12/17/statement-president-cuba-policy-changes>.
- 4 Carol Morello and Karen DeYoung, “Secret US-Cuba diplomacy ended in landmark deal on prisoners, future ties,” *The Washington Post*, December 17, 2014, https://www.washingtonpost.com/world/national-security/secret-diplomacy-with-cuba-ended-in-breakthrough-deal/2014/12/17/c51b3ed8-8614-11e4-a702-fa31ff4ae98e_story.html.
- 5 The White House, “Statement by the President on Cuba,” December 17, 2014, press release, <https://www.whitehouse.gov/the-press-office/2014/12/17/statement-president-cuba-policy-changes>.
- 6 Dan Roberts, “Obama Lands in Cuba as First US President to Visit in Nearly a Century,” *The Guardian*, March 21, 2016, <https://www.theguardian.com/world/2016/mar/20/barack-obama-cuba-visit-us-politics-shift-public-opinion-diplomacy>.
- 7 US Department of State, “Fact Sheet: US Relations with Cuba,” September 7, 2016, <http://www.state.gov/r/pa/ei/bgn/2886.htm>.
- 8 See, e.g., Voice of America, “Facebook for All! Cuba to Roll Out Internet to More Homes,” October 25, 2016, <http://www.voanews.com/a/cuba-to-bring-internet-to-more-homes/3566480.html>.
- 9 Amnesty International, “Cuba: 2015/2016,” <https://www.amnesty.org/en/countries/americas/cuba/report-cuba/>.
- 10 US Department of the Treasury, “Chronology of the Cuba Travel Licensing Program,” <https://www.treasury.gov/resource-center/sanctions/Documents/tab2.pdf>.
- 11 Sheryl Gay Stolberg and Damien Cave, “Obama Opens Door to Cuba, but Only a Crack,” *The New York Times*, April 13, 2009, <http://www.nytimes.com/2009/04/14/world/americas/14cuba.html>.
- 12 US Census Bureau, “Trade in Goods with Cuba,” <https://www.census.gov/foreign-trade/balance/c2390.html#2014>. US exports to Cuba reached a high of \$711 million in 2008, prior to the world economic recession that began late that year.
- 13 Annalyn Kurtz, “Eight US Airlines Win Tentative Approval to Fly to Havana,” *The New York Times*, July 7, 2016, <http://www.nytimes.com/2016/07/08/business/eight-us-airlines-win-tentative-approval-to-fly-to-cuba.html>.
- 14 “First US Cruise Ship in Decades Arrives in Cuba,” BBC.com, May 2, 2016, <http://www.bbc.com/news/world-latin-america-36183192>.
- 15 US Department of State, “The State Department’s Section 515.582 List,” updated April 2, 2016, <http://www.state.gov/e/eb/tfs/spi/cuba/515582/237471.htm>.
- 16 US Department of Treasury Office of Foreign Assets Control, “Frequently Asked Questions Related to Cuba,” updated October 14, 2016, 9, https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_faqs_new.pdf.
- 17 US Treasury Office of Foreign Assets Control, “Frequently Asked Questions Related to Cuba,” updated July 25, 2016, FAQ Question Number 68, https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_faqs_new.pdf.
- 18 US Census Bureau, “Trade in Goods with Cuba,” <https://www.census.gov/foreign-trade/balance/c2390.html#2014>.
- 19 Ibid.
- 20 See, e.g., Economist Intelligence Unit, “Cuba,” <http://country.eiu.com/cuba>.

- 21 The White House, “Remarks by President Obama and President Raul Castro of Cuba in a Joint Press Conference,” March 21, 2016, <https://www.whitehouse.gov/the-press-office/2016/03/21/remarks-president-obama-and-president-raul-castro-cuba-joint-press>.
- 22 US Census Bureau, “2014 Table B03001: Hispanic or Latino Origin by Specific Origin Country,” http://factfinder.census.gov/bkmk/table/1.0/en/ACS/14_5YR/B03001.
- 23 US Department of State, “Senior State Department Official on Cuba Claims Discussions,” July 29, 2016, press release, <http://www.state.gov/r/pa/prs/ps/2016/07/260666.htm>.
- 24 Ibid.
- 25 Ibid.
- 26 “Libya Pays \$1.5 Billion to Settle Terrorism Claims,” *CNN.com*, November 21, 2008, <http://www.cnn.com/2008/WORLD/africa/10/31/libya.payment/index.html?iref=topnews>.
- 27 Jane Arraf, “Iraq to Pay \$400 Million for Saddam’s Mistreatment of Americans,” *The Christian Science Monitor*, September 9, 2010, <http://www.csmonitor.com/World/Middle-East/2010/0909/Iraq-to-pay-400-million-for-Saddam-s-mistreatment-of-Americans>.
- 28 Mark E. Manyin, “CRS Issue Brief for Congress: The Vietnam-US Normalization Process,” *Congressional Research Service*, June 17, 2005, 4, <https://www.fas.org/sgp/crs/row/IB98033.pdf>.
- 29 A full discussion of the contours of what a fair settlement would look like are beyond the scope of this paper but have been the subject of a significant academic and public policy discussion. Many of the largest US claim holders are large US companies that either had operations in Cuba prior to the Cuban revolution or which acquired companies that had such operations. Some examples of the largest US claimants include Office Depot, ExxonMobil, and the Coca-Cola company, among others. (See Nick Miroff, “The 20 Largest US Property Claims in Cuba,” *The Washington Post*, December 8, 2015, <https://www.washingtonpost.com/news/worldviews/wp/2015/12/08/the-20-largest-u-s-property-claims-in-cuba/>.) Given that the cash-strapped Cuban government is likely to face constraints in its ability to pay cash to US claimants, the US government should consider ways to seek trade and business concessions for corporate claimants as partial settlement of the claims.
- Prominent recent work providing more detailed analysis of potential settlement options includes Richard E. Feinberg, “Reconciling US Property Claims in Cuba,” *The Brookings Institution*, December 2015, <https://www.brookings.edu/wp-content/uploads/2016/07/Reconciling-US-Property-Claims-in-Cuba-Feinberg.pdf>.
- 30 Freedom House, “Freedom in the World 2016,” 16, https://freedomhouse.org/sites/default/files/FH_FITW_Report_2016.pdf.
- 31 Human Rights Watch, “Cuba: Events of 2015,” <https://www.hrw.org/world-report/2016/country-chapters/cuba>.
- 32 Amnesty International, “Cuba: 2015/2016,” <https://www.amnesty.org/en/countries/americas/cuba/report-cuba/>.
- 33 The White House, “2015 National Security Strategy of the United States,” February 2015, 19, https://www.whitehouse.gov/sites/default/files/docs/2015_national_security_strategy.pdf.
- 34 Gary Hufbauer, Jeffrey Schott, Kimberly Ann Elliot, and Barbara Oegg, *Economic Sanctions Reconsidered*, Third Edition, Peterson Institute for International Economics; third edition (June 15, 2009), 67–68.
- 35 The Central Intelligence Agency, “CIA World Factbook: Cuba,” <https://www.cia.gov/library/publications/the-world-factbook/geos/cu.html>. By way of comparison, Cuba’s entire economy is smaller than the GDP of the New Orleans metropolitan area.
- 36 The World Bank, “Cuba,” <http://data.worldbank.org/country/cuba>.
- 37 US Treasury Office of Foreign Assets Control, “Sanctions Programs and Country Information,” <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>.
- 38 Ibid.
- 39 US Department of State, “State Sponsors of Terrorism,” <http://www.state.gov/j/ct/list/c14151.htm>.
- 40 Julie Hirschfeld Davis, “U.S. Removes Cuba From State-Sponsored Terrorism List,” *The New York Times*, May 29, 2015, <http://www.nytimes.com/2015/05/30/us/us-removes-cuba-from-state-terrorism-list.html>.

- 41 These include Balkans-related sanctions, Belarus, Myanmar, Burundi, the Central African Republic, the Ivory Coast, Cuba, the Democratic Republic of Congo, remaining Iraq-related sanctions, Lebanon-related sanctions, Libya, Somalia, South Sudan, Venezuela, Yemen, and Zimbabwe.
- 42 Christine Minarich and Robert Nichols, “Commerce and State Departments Implement a Number of Changes to US Export Controls Regulations,” *Inside Government Contracts*, Nov. 14, 2014, <https://www.insidegovernmentcontracts.com/2014/11/commerce-and-state-departments-implement-a-number-of-changes-to-u-s-export-controls-regulations/>.
- 43 Public Law No. 113-278, “Venezuela Defense of Human Rights and Civil Society Act of 2014,” <https://www.congress.gov/bill/113th-congress/senate-bill/2142>.
- 44 Executive Order 13692, “Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela,” March 8, 2015, https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_eo.pdf
- 45 Ibid. The final provision, authorizing sanctions against any current or former Venezuelan official, gives the US government broad latitude to target Venezuelan officials even if the government cannot conclusively demonstrate that an official was specifically involved in a particular wrongdoing.
- 46 Office of Foreign Assets Control, “Issuance of a new Venezuela-related Executive Order; Venezuela-Related Designations,” March 9, 2015, press release, <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20150309.aspx>.
- 47 US Embassy Rangoon-Burma, “Reporting Requirements,” <http://burma.usembassy.gov/reporting-requirements.html>. This dollar threshold was slated to be increased to \$5 million in 2016, but the reporting requirement was terminated, along with other US sanctions, before the new threshold went into effect.
- 48 Steven Woehrel, “Belarus: Background and US Policy Concerns,” *Congressional Research Service*, February 1, 2011, 9, <http://fpc.state.gov/documents/organization/156507.pdf>.
- 49 Ibid, 10.
- 50 Ibid.
- 51 Robin Emmott, “EU, US temporarily ease some sanctions on Belarus,” *Reuters*, October 29, 2015, <http://www.reuters.com/article/us-belarus-eu-sanctions-idUSKCN0SN0Y820151029>.
- 52 Executive Order 13405, “Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus,” June 16, 2006, <https://www.treasury.gov/resource-center/sanctions/Documents/13405.pdf>.
- 53 Public Law 107-99, “Zimbabwe Democracy and Economic Recovery Act of 2001,” Section 6, <https://www.congress.gov/107/plaws/publ99/PLAW-107publ99.pdf>.
- 54 Executive Order 13469, “Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe,” July 25, 2008, <https://www.treasury.gov/resource-center/sanctions/Documents/13469.pdf>; Executive Order 13391, “Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe,” November 22, 2005, <https://www.treasury.gov/resource-center/sanctions/Documents/13391.pdf>; and Executive Order 13288 “Blocking Property of Persons Undermining Democratic Processes or Institutions in Zimbabwe,” March 6, 2003, <https://www.treasury.gov/resource-center/sanctions/Documents/13288.pdf>.
- 55 Samuel Rubinfeld, “U.S. Revokes License, Lifts Sanctions On Zimbabwean Banks,” *The Wall Street Journal*, February 3, 2016, <http://blogs.wsj.com/riskandcompliance/2016/02/03/u-s-revokes-license-lifts-sanctions-on-zimbabwean-banks/>.
- 56 US Chamber of Commerce, “Comments Concerning Reporting Requirements for Responsible Investment in Burma,” January 25, 2016, 1, https://www.uschamber.com/sites/default/files/documents/files/myanmar_reporting_requirements_final_statement.pdf.
- 57 For example, NYU’s Stern Center for Business and Human Rights strongly endorsed the reporting requirements in January 2016. See Sarah Labowitz and Michael Posner, “NYU Stern Center for Business and Human Rights Comments on the Extension of the Reporting Requirements for Responsible Investment in Burma,” January 25, 2016, <http://bhr.stern.nyu.edu/statement/2016/1/27/nyu-stern-center-for-business-and-human-rights-comments-on-the-extension-of-the-reporting-requirements-for-responsible-investment-in-burma>.

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- 58 President Barack Obama, “Transcript of a Press Conference in Havana,” March 21, 2016, *available at* <http://time.com/4266772/barack-obama-raul-castro-press-conference-transcript/>.
- 59 *See, e.g.*, S. 299, The Freedom to Travel to Cuba Act of 2015, which has bipartisan backing of fifty-one US Senators. <https://www.congress.gov/bill/114th-congress/senate-bill/299/all-info#cosponsors>.
- 60 *See, e.g.*, H.R.3238—Cuba Trade Act of 2015, which was introduced by Republican Rep. Tom Emmer of Minnesota and has twenty-five bipartisan cosponsors. <https://www.congress.gov/bill/114th-congress/house-bill/3238/cosponsors>.



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