

# CUBA: A New Policy of Critical and Constructive Engagement

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Report of the  
Brookings Project on  
U.S. Policy Toward a  
Cuba in Transition

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APRIL 2009

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Report of the  
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**UNDER THE AUSPICES** of the Brookings Institution's project "U.S. Policy toward a Cuba in Transition," nineteen distinguished academics, opinion leaders, and international diplomats committed themselves to seeking a strong and effective U.S. policy toward Cuba.

Our advisers are well known experts in the field of U.S.-Cuba relations, and come from diverse backgrounds and political orientations. Half of them are also Cuban American. Over the past eighteen months, project advisers and special guests have carried out a series of simulation exercises and discussions that have served to enhance our understanding of the complex political realities

in Cuba and the United States. By testing the responses of several strategic actors and stakeholders—the Cuban hierarchy, independent civil society, and the international and Cuban American communities—to a variety of scenarios, we have identified potential catalysts and constraints to political change on the island.

We arrived at the same conclusion: the United States should adopt a policy of critical and constructive engagement, phased-in unilaterally. To this end, we have created a roadmap of executive actions that would allow President Barack Obama to align our policy with the region and restore normal bilateral relations over time.

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# CUBA: A NEW POLICY OF CRITICAL AND CONSTRUCTIVE ENGAGEMENT

**U.S. POLICY TOWARD CUBA** should advance the democratic aspirations of the Cuban people and strengthen U.S. credibility throughout the hemisphere. Our nearly 50-year old policy toward Cuba has failed on both counts: it has resulted in a downward spiral of U.S. influence on the island and has left the United States isolated in the hemisphere and beyond. Our Cuba policy has become a bellwether, indicating the extent to which the United States will act in partnership with the region or unilaterally—and ineffectually. Inevitably, strategic contact and dialogue with the Cuban government will be necessary if the United States seeks to engage the Cuban people.

This paper proposes a new goal for U.S. policy toward Cuba: to support the emergence of a Cuban state where the Cuban people determine the political and economic future of their country through democratic means. A great lesson of democracy is that it cannot be imposed; it must come from within; the type of government at the helm of the island's future will depend on Cubans. Our policy should therefore encompass the political, economic, and diplomatic tools to enable the Cuban people to engage in and direct the politics of their country. This policy will advance the interests of the United States in seeking stable relationships based on common hemispheric values that promote the well-being of each individual and the growth of civil society. To engage the Cuban government and Cuban people effectively, the United States will need to engage with other governments, the private sector, and non-governmental organizations (NGOs). In so doing, U.S. policy

toward Cuba would reflect the hemisphere's and our own desire to encourage the Cuban government to adopt international standards of democracy, human rights, and transparency.

Engagement does not mean approval of the Cuban government's policies, nor should it indicate a wish to control internal developments in Cuba; legitimate changes in Cuba will only come from the actions of Cubans. If the United States is to play a positive role in Cuba's future, it must not indulge in hostile rhetoric nor obstruct a dialogue on issues that would advance democracy, justice, and human rights as well as our broader national interests. Perversely, the policy of seeking to isolate Cuba, rather than achieving its objective, has contributed to undermining the well-being of the Cuban people and to eroding U.S. influence in Cuba and Latin America. It has reinforced the Cuban government's power over its citizens by increasing their dependence on it for every aspect of their livelihood. By slowing the flow of ideas and information, we have unwittingly helped Cuban state security delay Cuba's political and economic evolution toward a more open and representative government. And, by too tightly embracing Cuba's brave dissidents, we have provided the Cuban authorities with an excuse to denounce their legitimate efforts to build a more open society.

The Cuban Revolution of 1959 is a fact of history that cannot be removed or un-lived, but, over time, Cuba will change. As the Cuban people become inexorably linked to the region and the world, they will themselves come to play a larger

role in the way they are governed. Mortality and time—not U.S. sanctions—have already begun the process of change. A new generation of Cuban leaders will replace the Castro brothers and those who fought in the Sierra Maestra. Although Cuba is already undergoing a process of change, the Bush administration's decision to cling to out-moded tactics of harsh rhetoric and confrontation alienated leaders across the region.

Cuba policy should be a pressing issue for the Obama administration because it offers a unique opportunity for the president to transform our relations with the hemisphere. Even a slight shift away from hostility to engagement will permit the United States to work more closely with the region to effectively advance a common agenda toward Cuba. By announcing a policy of critical and constructive engagement at the April Summit of the Americas in Trinidad and Tobago, the president can prove that he has been listening to the region. He can underline this commitment by removing all restrictions on travel and remittances on Cuban Americans, and engaging in dialogue with the regime, as promised during his campaign. By reciprocally improving our diplomatic relations with Cuba, we will enhance our understanding of the island, its people, and its leaders. However, while these measures will promote understanding, improve the lives of people on the island, and build support for a new relationship between our countries, they are insufficient to ensure the changes needed to result in normal diplomatic relations over time.

If the president is to advance U.S. interests and principles, he will need a new policy and a long-term strategic vision for U.S. relations with Cuba. If he is prepared to discard the failed policy of regime change and adopt one of critical and constructive engagement, he and his administration will lay the foundations for a new approach toward Cuba and the Latin America. Like his predecessors, President Obama has the authority to substantially modify embargo regulations in

order to advance a policy of engagement that would broaden and deepen contacts with the Cuban people and their government. He has the popular support—domestic and international—to engage Cuba, and, by so doing, to staunch our diminishing influence on the island and recapture the high road in our relations with the hemisphere.

Although it will take Cuban cooperation to achieve a real improvement in relations, we should avoid the mistake of predicating our initiatives on the actions of the Cuban government. The United States must evaluate and act in its own interests. We must not tie our every action to those of the Cuban government, because doing so would allow Cuban officials to set U.S. policy, preventing the United States from serving its own interests.

The majority of Cuban Americans now agree with the American public that our half-century-old policy toward Cuba has failed. For the first time since Florida International University (FIU) began polling Cuban American residents in 1991, a December 2008 poll found that a majority of Cuban American voters favor ending current restrictions on travel and remittances to Cuba, and support a bilateral dialogue and normal diplomatic relations with the Cuban regime by substantial margins.

The United States is isolated in its approach to Cuba. In the 2008 United Nations General Assembly, 185 countries voted against the U.S. embargo and only two, Israel and Palau, supported the U.S. position. Although the international community is opposed to the embargo, it remains concerned about Cuba's poor human rights record. At the February 2009 Geneva Human Rights Council, Brazil, Chile, and Mexico asked Cuba to respect the rights of political opponents and give an "effective guarantee" of freedom of expression and the right to travel. The European Union has long maintained a policy of critical and constructive engagement in its Common Position yet continues to engage the Cuban government in an effort

## SURVEY OF CUBAN AMERICAN OPINION: DECEMBER 2008, CUBA/U.S. TRANSITION

### **Ending the U.S. embargo against Cuba:**

- 44 percent of registered voters and 53 percent of those not registered to vote oppose continuing the embargo.
- 72 percent of registered voters and 78 percent of those not registered to vote think the embargo has worked not very well or not at all.

### **Restrictions on travel and remittances:**

- 54 percent of registered voters and 69 percent of those not registered to vote favor eliminating current restrictions on Cuban Americans sending remittances to Cuba.
- 56 percent of registered voters and 63 percent of those not registered to vote favor ending current restrictions on travel to Cuba by Cuban Americans.
- 58 percent of registered voters and 63 percent of those not registered to vote support open travel to Cuba for all Americans.

### **Engagement with Cuba:**

- 56 percent of registered voters and 65 percent of those not registered to vote support reestablishing diplomatic relations with Cuba.
- 72 percent of registered voters and 85 percent of those not registered to vote would like to see direct talks between the U.S. and Cuban governments on issues of bilateral concern.

### **Election results:**

- 38 percent of Cuban Americans voted for Barack Obama.
- 51 percent under 45 years old voted for Barack Obama.

The survey was conducted in Miami-Dade County, Florida with 800 randomly selected Cuban-American respondents. Five hundred interviews were completed over land-line phones and 300 to cell phones. The Institute for Public Opinion Research of Florida International University conducted the survey, funded by the Brookings Institution and the Cuba Study Group. Full results are available at: [http://www.brookings.edu/events/2008/~media/Files/events/2008/1202\\_cuba\\_poll/1202\\_cuba\\_poll.pdf](http://www.brookings.edu/events/2008/~media/Files/events/2008/1202_cuba_poll/1202_cuba_poll.pdf)

to obtain the release of political prisoners and ensure greater freedoms for civil society, including access to the Internet. If the United States were to align its policies with these governments—with the addition of Canada, it would enhance our united ability to forcefully make shared concerns known to the Cuban government.

The prospect of significant revenues from oil, natural gas, and sugarcane ethanol in the next five

years could further integrate Cuba into global and regional markets. While in the short term Cuba will continue to be heavily dependent on Venezuela for subsidized fuel, in five years offshore oil reserves, developed with Brazil, Spain, Norway, and Malaysia, combined with the potential for ethanol production with Brazil, may increase net annual financial flows to Cuba by \$3.8 billion (at \$50 per barrel of oil and \$2.00 gallon of ethanol). If democratic countries increase their economic

stakes in Cuba, they will simultaneously enhance their political influence with its current and future leaders. To be relevant to Cuba, the Obama administration will need to shape its policies now.

The April 17, 2009 Summit of the Americas in Trinidad and Tobago provides President Obama with an opportunity to enhance U.S. credibility and leadership in the region by signaling a new direction in U.S.-Cuba policy. Rather than continuing to demand preconditions for engaging the Cuban government in the multilateral arena, the president should encourage the Organization of American States and international financial institutions to support Cuba's integration into their organizations as long as it meets their membership criteria of human rights, democracy, and financial transparency. If Cuba's leaders know that Cuba can become a full member upon meeting standard requirements, they could have an incentive to carry out difficult reforms that ultimately benefit the Cuban people.

The United States successfully engaged the Soviet Union and China from 1973 onward. With those governments the policy objective was to further U.S. interests by reducing bilateral tension, expanding areas of cooperation, fostering cultural contacts, and enmeshing the Soviet and Chinese economies in international linkages that created incentives for improved relations with the West. We continued to voice our commitment to democracy and human rights, and enhanced that argument by pressing the Soviet Union to live up to international obligations. By working with the region and the international community, we can do much the same in Cuba. But as the cases of the Soviet Union and China demonstrated, this approach can only be effective if we are prepared to engage bilaterally and multilaterally.

#### A NEW U.S. POLICY OF CRITICAL AND CONSTRUCTIVE ENGAGEMENT

The advisory group of the Brookings project on "U.S. Policy toward a Cuba in Transition" came to

the unanimous conclusion that President Barack Obama should commit to a long-term process of critical and constructive engagement at all levels, including with the Cuban government. We believe that only through engagement can the president put into place a strategic vision that would permit the United States to protect its interests and advance the desire we share with the hemisphere to help the Cuban people become agents for peaceful change from within the island. A decision by the president to engage the Cuban government would not reflect acceptance of its human rights abuses or approval of its conduct. Instead, it would prove a realistic evaluation and recognition of the extent to which the Cuban government controls Cuba—essential to the implementation of a new policy that would permit us to work with the region, enhance our influence with the Cuban government, and seek to help Cuba's citizens expand the political space they need to influence their future.

Engagement should serve to enhance personal contacts between Cuban and U.S. citizens and permanent residents, diminish Cuba's attraction as a rallying point for anti-American sentiment, and burnish our standing in the region and the wider international community. If we engage, the Cuban government will no longer be able to use the U.S. threat as a credible excuse for human rights abuses and restrictions on free speech, assembly, travel, and economic opportunity. This in turn would encourage the international community to hold the Cuban government to the same standards of democracy, rights and freedoms that it expects from other governments around the world.

The Cuban hierarchy will not undertake openings or respond to pressure from the international community or the United States if it considers that doing so would jeopardize its continued existence. The key to a new dynamic in our relationship is to embark on a course of a series of strategic actions that aim to establish a bilateral relationship and put the United States on the playing field—to

counter our hitherto self-imposed role of critical observer. Our priority should be to serve U.S. interests and values in the confidence that if we do so wisely and effectively, Cubans in the long run will gain as well.

### THE WAY FORWARD

It should be understood that engagement—while having as a goal evolution to a peaceful and democratic Cuba—does not promise an overnight metamorphosis. Rather, it is a process, a pathway with various detours and obstacles, that over time arrives at its destination.

The roadmap for critical and constructive engagement is a long-term strategic vision made up of baskets of short-, medium-, and long-term initiatives; all are within the authority of the Executive Branch to enact. Each of the initiatives we suggest would advance one or more of the objectives listed in the box below.

The conduct and timing of foreign policy remains the prerogative of the president. In order to create a new dynamic in our bilateral relationship, we prefer that all the initiatives in the short-term basket be carried out this year. We acknowledge that it is likely that prior to moving on to the medium- and long-term baskets, the president and his advisers will assess the impact of the new policy on the United States, Cuba, and the international community. Based on their assessment, they will determine how quickly to proceed with the medium- and long-term baskets of initiatives. If the Cuban response is not encouraging, they might carry out only a few of the suggested initiatives or lengthen the time frame. However, it is important that they continue to move toward a full normalization of relations, because doing so would most effectively create conditions for a democratic evolution in Cuba. Equally important to the process is garnering the support of Cuban Americans and Congressional leaders.

### U.S. POLICY OBJECTIVES

- Facilitate contact and the flow of information between the United States and Cuban governments to enhance the U.S. response to internal developments that directly impact the well-being of the Cuban people and the interests of the United States.
- Promote a constructive working relationship with the Cuban government to build confidence and trust in order to resolve disputes, with the longer-term objective of fostering a better relationship that serves United States interests and values.
- Support the well-being of the Cuban people and civil society by promoting enhanced people-to-people contact and grassroots economic activity.
- Support human rights activists, independent journalists, and the development of Cuban civil society and grass-roots democracy.
- Engage Cuba through multilateral initiatives in a process that will lead to its reinstatement in multilateral and regional organizations if it meets the criteria for reinstatement and/or membership.

Given the strong sentiments and expectations that Cuba engenders, it would be preferable for the Executive Branch to proceed discreetly. The president might first announce the principles he hopes to achieve in Cuba through a policy of engagement that promotes human rights, the well-being of the Cuban people, and the growth of civil society. To carry out the president's vision, the Secretary of the Treasury will then have the responsibility to write and publish the changes to the Cuban Assets Control Regulations by licensing activities designed to achieve these ends. The Secretary of State can quietly accomplish many diplomatic initiatives on a reciprocal basis without any need to publicize them. This quiet diplomacy might be complemented by a refusal to engage in what some refer to as megaphone diplomacy, in which our governments trade insults across the Straits of Florida, and which only contributes to making the United States appear to be a bully.

The president's leadership in carrying out a new Cuba policy is essential because by law and practice it is his responsibility to determine the overall conduct of U.S. foreign policy. In the case of Cuba, he has ample executive authority to put in place a policy of engagement. If he wishes, he can expand bilateral diplomatic relations, remove Cuba from the list of terrorist countries, and rescind the current policy that grants immediate legal residency to Cubans who enter the United States without visas. Should bilateral relations improve, he could choose to negotiate the unresolved expropriated property claims of U.S. citizens and review the status of Guantanamo Bay Naval Base.

Despite the myth that Congress must legislate to change U.S. policy toward Cuba, history has shown that presidents routinely take actions to strengthen or loosen the embargo as they see fit. Thus, like his predecessors, President Obama can

change regulations in order to modify the Cuban embargo without the need for an act of Congress. He will, however, ultimately require Congress to legislate in order to remove the embargo and lift all restrictions on travel.

The Helms-Burton Act (H-B) of 1996 defines conditions Cuba must meet for the United States to end the embargo. The Act codified embargo regulations, including the provision that states that all transactions are prohibited except as specifically authorized by the Secretary of the Treasury. Accordingly, the Secretary of the Treasury may use his licensing authorities to extend, revise, or modify the same regulations. President Clinton did so by instructing Treasury to issue licenses for various categories of travel, regulations that were subsequently codified by the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000. In view of the fact that, unlike Helms-Burton, the TSRA did not provide the Secretary of the Treasury with the authority to modify its content, legislation is required to remove or expand travel beyond the provisions of the TSRA. Nevertheless, the president can significantly expand travel to Cuba by reinstating provisions authorized by law but rescinded under the Bush administration, and interpreting more broadly all categories of travel codified in the TSRA. The Cuban Democracy Act (CDA) of 1992 also legislated certain prohibitions, most notably on U.S. foreign subsidiary trade with Cuba, which, too, can only be revoked by an act of Congress.

In sum, the president does not have the authority to end the embargo or lift the travel ban, but can effectively dismantle the current commercial embargo by using his licensing authority to permit U.S. exports of certain goods and services, two-way trade in a wide variety of goods and services, and/or allow broad categories of travel to Cuba.

## THE ENGAGEMENT ROADMAP

### *Short-Term Initiatives*

During the campaign, President Barack Obama made clear that the Cuban government must release all political prisoners if the United States is to move toward normal relations. The initiatives in this first basket would permit greater interaction between the two governments and their citizens, thereby setting the stage for improved understanding and bilateral relations and the potential for enhanced U.S. influence on the island.

The more open travel and remittance measures put in place by the Clinton administration in 1998 and continued by the Bush administration until 2003 contributed to creating the conditions that brought about a more open political atmosphere. During the period now known as the “Cuban Spring,” Oswaldo Payá, leader of the Varela Project, worked with Cuba’s human rights activists to collect 11,000 signatures on a petition that requested a referendum on the Cuban constitution. Former President Jimmy Carter gave a speech at the University of Havana in Spanish in which he asked Fidel Castro—who was sitting in the front row—to permit the vote; the speech was broadcast live throughout the island. Martha Beatriz Roque, an important dissident leader, held a national assembly to advocate reforms to the Cuban government. Religious groups, with help from their American counterparts, provided equipment, food, and medicines to sister organizations that bolstered outreach to their communities. Students from colleges throughout the United States studying in Cuba were engaged in a lively discussion with students, academics, and people across the island.

The presence of licensed American and Cuban American visitors provided moral support, advice, and assistance to diverse civil society

institutions, allowing them to expand and more effectively assist their membership. And, interventions by U.S. government and private sector personalities with high-level Cuban officials resulted in reducing repression against dissidents, human rights activists, independent journalists, and librarians. This more fluid and open atmosphere was essential to the growth of civil society and to the freedoms and creation of spaces in which human rights activists and dissidents could operate.

President Obama should replicate these conditions through unilateral and unconditional actions that promote enhanced human contact by generously licensing all categories of travel permitted in the TSRA. He should, first, follow his campaign promise to grant Cuban Americans unrestricted rights to family travel and to send remittances to the island, since Cuban American connections to family are our best tool for helping to foster the beginnings of grass-roots democracy on the island. Further, the president should expand travel for all American citizens and permanent residents by instructing the Office of Foreign Assets Control (OFAC) to license people-to-people travel for educational, cultural, and humanitarian purposes.

Cuban citizens should also be permitted to travel to the United States for a variety of purposes—including family, academic and cultural visits—in order to enhance their understanding of our open and democratic society. The Secretary of State should instruct the Department of State and the United States Interests Section (USINT) in Havana to use standard criteria applied around the world for awarding non-immigrant visas to Cubans. This more tolerant approach would strengthen the bonds of family and culture, while helping the Cuban people improve their lives and grow the social organizations necessary for a democratic civil society.

Diplomatic travel and interaction must be reciprocally expanded so that our diplomats in Havana have the knowledge, access, and expertise needed to predict, evaluate, and deal with any eventuality in Cuba. This requires permitting comparable opportunities to Cuban diplomats posted in Washington. There is little the United States has to fear by allowing Cuban diplomats to see for themselves the realities of American life. To reduce illegal migration, enhance our security, and conserve our fisheries, the State Department should resume migration talks at the Deputy Assistant Secretary level and begin a dialogue between the respective heads of the Interests Sections on other issues of mutual concern, including the environment, health, and counter-narcotics.

The devastation caused by hurricanes that struck Cuba in 2008 generated considerable concern among Cubans in the United States and among the broader American public. Unfortunately, disagreements and distrust between our governments prevented the United States from assisting with relief efforts. In order to avoid a recurrence of this impasse, the Department of State should seek an understanding or agreement with the Cuban government that would permit U.S. assistance to Cuba for natural disasters.

Measures are now in place to ensure that public resources that provide support to the Cuban people are well used by USAID grantees. However, large contracts concluded in the final months of the Bush administration with non-profit organizations and private companies that are said to promote or manage a transition in Cuba may not reflect the current administration's objectives. A review should be conducted to determine whether these contracts should be continued, modified, or canceled.

Additionally, although OFAC has always had the authority to license the importation of lifesaving medicines developed in Cuba for testing by

the Food and Drug Administration (FDA), it has made the process cumbersome and lengthy. The sad conclusion is that OFAC has been more concerned with the financial benefits that might accrue to Cuba than with the potential of these medicines to treat children with brain tumors and adults with lung cancer or meningitis. To reduce bureaucratic hurdles and permit the speedy entry of life-saving medications into the United States, OFAC regulations should be modified or reinterpreted so that the only barrier to the entry of Cuban manufactured medicines is that they meet FDA standards—the same criteria that apply to all medical imports.

The president should also seek to promote the free flow of ideas and information, including the creation of music, films, and other works of art as embodied in Representative Howard Berman's 1988 Free Trade in Ideas Act. Despite the prohibition against the U.S. government restricting the importation of all informational materials, successive administrations have narrowly interpreted the Berman Act in order to prohibit Americans from creating music, films, and other artistic works with Cubans. These prohibitions were not intended by the statutes and should be removed.

The aforementioned initiatives are non-controversial and widely supported by the American public. More controversial—although still enjoying widespread public support—would be licensing the sale and donation of all communications equipment, including radios, televisions, and computers. The CDA recognized the importance of expanding access to ideas, knowledge, and information by authorizing the licensing of telecommunications goods and services. U.S. government financing of books and radios that are distributed to Cubans throughout the island demonstrates a belief that breaking down the barriers to the flow of information is critical to promoting change in Cuba. The president should therefore instruct the Department of Commerce and OFAC to internally change their

respective licensing policies with regard to Cuba from a “presumption of denial” to a “presumption of approval” with respect to items deemed to be in the U.S. national interest for Cuba to receive, including laptops, cell phones and other telecommunications equipment, computer peripherals, internet connection equipment, as well as access to satellite and broadband communications networks.

The following initiatives that would provide assistance for civil society and for activities that help the Cuban people become agents for change would require, in some cases, a formal understanding with the Cuban government, and, in others, at least a willingness to permit the activity. We believe that if these activities were permitted by the United States and the Cuban governments, they would help to prepare the Cuban people for assuming a greater role in their governance.

The U.S. government should act to enhance the flow of resources to the Cuban people. It should license U.S. non-governmental organizations and private individuals to transfer funds to individuals and civil society organizations in Cuba that work to foster a more open society. The United States should also encourage the creation of multilateral funds that promote the same objective. Such assistance should not be subject to an ideological test but rather be available to Cuban civic entities in the form of microcredit for small businesses and for salaries of persons engaged by civil society to provide community services, among others.

Although the U.S. government currently manages an assistance program for Cuba, it is limited by

sanctions regulations and is narrowly focused. Much of the assistance—amounting principally to in-kind goods—is difficult to deliver due to the opposition of the Cuban government either to the type of assistance or to the groups or individuals receiving it. In order to better serve the needs of civil society in Cuba, the U.S. government should seek to obtain the approval of the Cuban government for an assistance program that would provide financial and in-kind assistance for activities that advance human rights and the rule of law, encourage microenterprise, and promote educational, and professional exchanges.

The issue of whether Cuba should be classified by the U.S. government as a terrorist state has many supporters and detractors. However, the reasons listed for Cuba’s inclusion on the list appear to be insufficient, thus leading to charges that the list is a political tool for appeasing domestic constituencies. In order to ensure that this important vehicle in U.S. policy is used appropriately, a review of the evidence should be conducted. If Cuba is legitimately found to be a terrorist state based on the evidence over the last five years, it should remain on the list; if not, it should be removed.

Finally, it is in our interest to see Cuba reintegrated into the Organization of American States (OAS) if it meets membership standards of democracy, human rights, and transparency. To this end, and in order to provide incentives for reform, the United States should not object to the OAS Secretary General discussing with Cuba the requirements for reinstatement as a full member. In addition, the United States should not object to Cuba’s participation in OAS specialized and technical agencies.

## SHORT-TERM INITIATIVES

- Remove all restrictions on family and humanitarian travel to Cuba.
- Permit and expand specific licenses for people-to-people travel for educational, cultural and humanitarian purposes.
- Reinstate remittances for individuals and independent civil society in Cuba.
- Allow all Cubans who meet requirements of U.S. immigration law to travel to the United States.
- Promote normal diplomatic activities on a reciprocal basis, including in-country travel, official meetings, exchange of attachés, and sponsorship of cultural and educational exchanges.
- Open a dialogue between the United States and Cuba, particularly on issues of mutual concern, including migration, counter-narcotics, environment, health, and security.
- Develop agreements and assistance with the Cuban government for disaster relief and environmental stewardship.
- Conduct a review of the purpose, content and implementation capacity of the new contracts awarded to private companies and non-governmental organizations during the last months of the Bush administration.
- Modify current licensing regulations so that tradable medicines developed in Cuba are only subject to FDA approval without separate OFAC authorization.
- Permit the free exchange of ideas, including the creation of art, cinema, and music by amending OFAC regulations to allow the “Free Trade in Ideas Act” (“the Berman Act”) to reflect its original intention which forbade any U.S. law from restricting the creation and free flow of informational materials and ideas.
- Modify internal licensing policies at Department of Commerce and OFAC and/or regulations as necessary to permit the donation and sale of communications equipment under a general license, and license the provision of telecommunications services as provided in the Cuban Democracy Act.
- License Cuban state and non-state entities to access satellite and broadband communications networks.
- Establish an assistance program for civil society and license the transfer of funds for activities that focus on human rights, rule of law, micro-enterprise, and professional training.
- Provide licensing for providers of U.S. government and private assistance in order to advance the goals of U.S. policy identified in this paper.
- Do not object to an OAS dialogue with Cuba on the status of its membership. Permit Cuba to participate in OAS specialized and technical agencies and in knowledge-building seminars at multilateral institutions.
- Review the evidence to determine whether Cuba should continue to be listed as a state sponsor of terrorism.

### *Medium-Term Initiatives*

The second basket of initiatives is distinct from the first because it moves beyond enhancing the ability of Cubans to take a more proactive and informed

part in their society and government. The initiatives in the second basket seek to build a foundation for reconciliation by beginning a process of resolving long-standing differences. A number of these initiatives could serve as incentives or

rewards for improved human rights, the release of political prisoners, and greater freedom of assembly, speech and rights for opposition groups and labor unions. Initiatives that fall within this category include allowing Cuba access to normal commercial instruments for the purchase of goods from the United States.

None of the initiatives, however, should be publicly or privately tied to specific Cuban actions. As the Cuban government is on record as rejecting any type of carrot-and-stick tactic, it would be counterproductive to do so. Rather, the United States should decide the actions that it wishes to take and when to carry them out. Doing so will give the president maximum flexibility in determining how and when to engage.

The first two initiatives simply encourage a broadening of U.S. government public and private participation in activities that assist the growth of Cuban civil society and should be carried out regardless of Cuba's conduct. The U.S. government should expand the assistance envisioned in the first basket by encouraging other governments, multilateral institutions, organizations, and individuals to support educational exchanges as well as the improvement of human rights and the growth of civil society. In addition, in order to enhance access to knowledge, the U.S. government should allow private individuals, groups, and the Cuban government access to normal commercial credit for the sale of communications equipment and connections to satellite and broadband networks.

Licensing U.S. companies to provide services for the development of Cuban offshore oil and gas would provide benefits to the United States and Cuba. (At this point it should be noted that the Secretary of Treasury has always had and continues to have the authority—as embodied in OFAC regulations—to license any transaction found to be in the U.S. national interest. This power has

been used over the past fifteen years by various Republican and Democratic administrations to license a variety of commercial transactions between the United States and Cuba). The following are some of the reasons we might wish to become engaged in developing Cuba's offshore oil and gas. First, if U.S. and other reputable companies are involved in Cuba's offshore oil development it would reduce Cuba's dependence on Venezuela for two-thirds of its oil imports. Second, it is preferable that U.S. oil companies with high standards of transparency develop these resources rather than, for example, Russia's notoriously corrupt oligarchy. Third, U.S. influence in Cuba is likely to increase if U.S. companies have an economic relationship on the ground. Fourth, U.S. companies have the technology and expertise to develop Cuba's offshore oil and gas.

As we have pointed out, U.S. actions should not be constrained by linking them to specific Cuban responses. Nevertheless, the following initiatives will depend on a significant change in bilateral and multilateral relations. Membership in regional and multilateral organizations ultimately depends on Cuba meeting membership criteria and gaining approval. Therefore, if Cuba meets the membership criteria of the OAS, it should be reinstated. The same should be the case if Cuba meets the standards of international financial institutions. However, Helms-Burton instructs the U.S. government to oppose Cuba's membership—even if it has complied with institutional standards—if it has not met specific criteria relating to our bilateral relationship. We believe that the authority for the U.S. government to determine how it will vote in international institutions should be returned to the Executive Branch of government. The Helms-Burton language on OAS reinstatement is slightly more permissive than that regarding the international financial institutions—"The president should instruct the United States Permanent Representative to the Organization of American States..."—in contrast to—"The Secretary of the

Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba.” In both cases it would be preferable if Congress would return these prerogatives to the president.

Since this paper deals solely with initiatives within the realm of Executive Authority, lifting the travel ban was beyond its scope. Nevertheless, the majority of the advisers felt that the ban had been counter-productive and should be lifted. In an effort to reach consensus and also maintain our initiatives within the realm of Executive Authority, we have recommended that the president seek to regain the authority to determine what if any travel restrictions should apply to U.S. citizens and permanent residents who wish to visit Cuba. In doing so, the Executive Branch would decide the timing and degree to which to expand licensing for additional categories of travel or to lift the travel ban altogether.

As for bilateral relations, if the conditions are right, we would prefer the exchange of ambassadors and the establishment of embassies. A stronger presence in Cuba would strengthen our capacity to assess political and power relationships, make local contacts, advocate directly with the Cuban government over issues that are in our interest, understand opportunities for Cuban entrepreneurship, and explore areas where the international community can engage to promote reform. However, since we have limited this paper to actions that the Executive Branch can take unilaterally, we have not suggested the exchange of ambassadors because confirmation is required from the Senate. It is our hope that, at the appropriate time, the president and the Senate would agree to move forward in this area. However, should this not be the case or should the president desire a different approach, he can improve and upgrade our relations by sending a more senior envoy to lead the United States Interests Section or by naming a special envoy for Cuban relations.

### MEDIUM-TERM INITIATIVES

- Encourage and fund a wide variety of educational exchanges and scholarships that promote understanding and provide training in diverse fields such as arts, economics, and journalism.
- Permit commercial credit terms without government guarantees for the sale of communications equipment.
- Allow licenses for U.S. companies to participate in the development of Cuban offshore oil, gas, and renewable energy resources.
- Encourage and participate in multilateral organizations that further human rights and the growth of civil society in Cuba.
- Do not object to Cuba’s reinstatement to the Organization of American States if the General Assembly consents.
- Seek to recover Executive Authority to permit Cuba’s participation in international financial institutions.
- Work with Congress to restore Executive Branch authority over travel to Cuba.
- Upgrade United States diplomatic relations with Cuba.
- Open bilateral discussions for the resolution of the claims of United States citizens relating to expropriated property.
- Open bilateral discussions for a framework to satisfy mutual concerns over Guantanamo Bay Naval Base.

Finally, the U.S. cannot ignore indefinitely the issues that have bedeviled U.S.-Cuban relationship. Within this framework, the U.S. should open discussions on the claims of United States citizens for expropriated property. Equally difficult but just as compelling will be to initiate dialogue on the issue of sovereignty and use of the territory currently occupied by the U.S. Guantanamo Bay Naval Base. The administration should begin discussions to provide a broad framework for resolution of these issues.

### ***Long-Term Initiatives***

This last basket of initiatives may be taken by the president but it would be preferable if our bilateral relationship were such that Congress had already taken steps to remove the final barriers to a normal diplomatic relationship. This would include removing Cuba from the Trading with the Enemy Act (TWEA) and rescinding or modifying Helms-Burton, the TSRA, and the CDA. If Congress were receptive to a review of the aforementioned laws but not yet prepared to move forward, the president should continue to deepen our engagement by expanding our diplomatic presence and by permitting the reciprocal opening of consular offices in major cities. Foreign assistance to the Cuban government is restricted by the

Foreign Assistance Act of 1961, with the exception of the provision of assistance to any government for internal disaster relief, rehabilitation, and health. The president could also license further categories of goods and services for export and the importation of certain Cuban goods in addition to medicines approved by the FDA.

President Obama has stated that full normalization of relations will depend on improved human rights and progress toward democracy in Cuba. A truly successful and mutually beneficial relationship between our countries will also be determined by the degree of reconciliation between Cubans in exile and Cubans on the island. Concerns about illegal acts and human rights abuses on both sides must be reviewed and solutions must be found. This is also true in the case of expropriated property, made more complex by Cuban claims of damages for injuries allegedly caused by the embargo. Leaving these issues unresolved would not only stunt trade and investment, it would deprive the Cuban people of fully utilizing their talents and improving their lives. Resolution of claims for expropriated property, as well as the restoration of Cuban sovereignty over the territory of Guantanamo Bay, is essential to a prosperous and democratic Cuba and to the achievement of a healthy and normal relationship between our two countries.

## **LONG-TERM INITIATIVES**

- Open reciprocal consular offices in major cities in the United States and Cuba.
- Provide disaster relief, rehabilitation, and health assistance to the Cuban government.
- Provide general licenses for the exportation of additional categories of goods and services such as products that enhance the environment, conserve energy, and provide improved quality of life.
- Permit the importation of additional categories of Cuban goods.
- Support Cuban and Cuban-American efforts to promote the reconciliation of the Cuban nation.
- Reach a mutually acceptable settlement on claims for expropriated property.
- Reach a mutually acceptable solution for restoring Cuban sovereignty over the territory of Guantanamo Bay.
- Achieve full diplomatic relations between the United States and Cuba.



## MATRIX OF INITIATIVES

*This matrix provides a thematic breakdown of the roadmap of initiatives by framing each initiative within one of the five policy objectives proposed in this paper:*

### U.S. POLICY OBJECTIVES

- Facilitate contact and the flow of information between the United States and Cuban governments to enhance the U.S. response to internal developments that directly impact the well-being of the Cuban people and the interests of the United States.
- Promote a constructive working relationship with the Cuban government to build confidence and trust in order to resolve disputes, with the longer-term objective of fostering a better relationship that serves United States interests and values.
- Support the well-being of the Cuban people and civil society through:
  - Facilitating contact between Cuban and U.S. citizens and permanent residents.
  - Enhancing grassroots economic participation.
  - Enhancing the civic participation of Cuban individuals and civil society through increased access to information and communications equipment.
- Support human rights activists, independent journalists and the development of Cuban civil society and grass-roots democracy.
- Engage Cuba through multilateral initiatives in a process that will lead to its reinstatement in multilateral and regional organizations if it meets the criteria for reinstatement and/or membership.

| POLICY OBJECTIVE  | SHORT-TERM  | MEDIUM-TERM  | LONG-TERM   |
|---|---|--|---|
| <p>Facilitate contact and the flow of information between the United States and Cuban governments to enhance the U.S. response to internal developments that directly impact the well-being of the Cuban people and the interests of the United States.</p> | <p>Promote normal diplomatic activities on a reciprocal basis, including in-country travel, official meetings, exchange of attaches, and sponsorship of cultural and educational exchanges.</p> <p>Open a dialogue between the United States and Cuba, particularly on issues of mutual concern, including migration, counter-narcotics, environment, health, and security.</p> <p>Develop agreements and assistance with the Cuban government for disaster relief and environmental stewardship.</p> | <p>Upgrade United States diplomatic relations with Cuba.</p>   | <p>Open reciprocal consular offices in major cities in the United States and Cuba.</p>  |
| <p>Promote a constructive working relationship with the Cuban government to build confidence and trust in order to resolve disputes, with the long-term objective of fostering a better relationship that serves U.S. interests and values.</p>             | <p>Review the evidence to determine whether Cuba should continue to be listed as a state sponsor of terrorism.</p> <p>Modify current licensing regulations so that tradable medicines developed in Cuba are only subject to FDA approval without separate OFAC authorization.</p>   | <p>Allow licenses for U.S. companies to participate in the development of Cuban offshore oil, gas and renewable energy resources.</p> <p>Open bilateral discussions for the resolution of the claims of United States citizens relating to expropriated property.</p> <p>Open bilateral discussions for a framework to satisfy mutual concerns over Guantanamo Bay Naval Base.</p> | <p>Provide disaster relief, rehabilitation, and health assistance to the Cuban government.</p> <p>Provide general licenses for the exportation of additional categories of goods and services such as products that enhance the environment, conserve energy, and provide improved quality of life.</p> <p>Permit the importation of additional categories of Cuban goods.</p> <p>Support Cuban and Cuban-American efforts to promote the reconciliation of the Cuban nation.</p> <p>Reach a mutually acceptable settlement on claims for expropriated property.</p> <p>Reach a mutually acceptable solution for restoring Cuban sovereignty over the territory of Guantanamo Bay.</p> <p>Achieve full diplomatic relations between the United States and Cuba.</p> |
| <p>Support the well-being of the Cuban people and civil society through:</p> <p>i) Facilitating contact between Cuban and U.S. citizens and permanent residents.</p>  | <p>Remove all restrictions on family and humanitarian travel to Cuba.</p> <p>Permit and expand specific licenses for people-to-people travel for educational, cultural and humanitarian purposes.</p> <p>Allow all Cubans who meet requirements of U.S. immigration law to travel to the United States.</p>   | <p>Encourage and fund a wide variety of educational exchanges and scholarships that promote understanding and provide training in diverse fields such as arts, economics, and journalism.</p> <p>Work with Congress to restore Executive Branch authority over travel to Cuba.</p>   |   |

|   |  |  |  |
|---|--|--|--|
| <p>ii) Enhancing grass-roots economic participation.</p> <p>iii) Enhancing the civic participation of Cuban individuals and civil society through increased access to information and communications equipment.</p> | <p>Reinstate remittances for individuals and independent civil society in Cuba.</p> <p>Modify internal licensing policies at Department of Commerce and OFAC and/or regulations as necessary to permit the donation and sale of communications equipment under a general license, and license the provision of telecommunications services as provided in the Cuban Democracy Act.</p> <p>License Cuban state and non-state entities to access satellite and broadband communications networks.</p> <p>Permit the free exchange of ideas including the creation of art, cinema, and music by amending OFAC regulations to allow the "Free Trade in Ideas Act" ("the Berman Act") to reflect its original intention of which forbade any U.S. law from restricting the creation and free flow of informational materials and ideas.</p> | <p>Permit commercial credit terms without government guarantees for the sale of communications equipment.</p>  |  |
| <p>Support human rights activists, independent journalists, and the development of Cuban civil society and grass-roots democracy.</p>   | <p>Establish an assistance program for civil society and license the transfer of funds for activities that focus on human rights, rule of law, micro-enterprise, and professional training.</p> <p>Conduct a review of the purpose, content and implementation capacity of the new contract awarded to private companies and non-governmental organizations during the last months of the Bush administration.</p> <p>Provide licensing for providers of U.S. government and private assistance in order to advance the goals of U.S. policy identified in this report.</p>  | <p>Encourage and participate in multilateral organizations that further human rights and the growth of civil society in Cuba.</p>  |  |
| <p>Engage Cuba through multilateral initiatives in a process that will lead to its reinstatement in multilateral and regional organizations if it meets the criteria for reinstatement and/or membership.</p>       | <p>Do not object to an OAS dialogue with Cuba on the status of its membership. Permit Cuba to participate in OAS specialized and technical agencies and in knowledge-building seminars at multilateral institutions.</p>   | <p>Do not object to Cuba's reinstatement to the Organization of American States if the General Assembly consents.</p> <p>Seek to recover Executive Authority to permit Cuba's participation in international financial institutions.</p> |  |

