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Cuba and the United States - how close can they get?

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Summary

In December 2014, after 18 months of secret negotiations, US President Barack Obama and Cuban President Raúl Castro made simultaneous announcements in Washington and Havana on a 'new course' for US-Cuban relations. Conditions for the new relationship included the release of Cuban and US prisoners.

President Castro also called for the return of the US base at Guantánamo Bay, an end to the US trade embargo on Cuba and compensation for economic damages caused by the embargo, before the two countries could re-establish normal relations.

Despite recent progress President Obama cannot lift the embargo without the approval of the US Congress. There have been some signs of a shift in opinions across Congress but how far the new US Cuba policy can go if it doesn't command majority support remains to be seen.

The UK Government supports an end to the US embargo, but continues to press the Cuban Government to improve respect for human rights in the country.

The EU lifted sanctions against Cuba in 2008 and the EU Council later resumed a political dialogue with Cuba, which included discussion of "issues of mutual interest including the respect and promotion of human rights". Representatives from the EU and Cuba met in March 2015 for a third round of negotiations. The two sides aim to finalise the framework for their dialogue and agreement by the end of 2015.

In the first round of direct US-Cuba talks in January 2015 migration was discussed, but the two sides agreed to disagree on other issues.

President Obama used executive powers in January 2015 to ease restrictions on travel, commerce and financial dealings between the US and Cuba.

In April 2015 Presidents Obama and Castro held historic talks in the margins of the Summit of the Americas. This was the first time the leaders of the two countries had met in over 50 years.

In May 2015 the US officially lifted its designation of Cuba as a state sponsor of terrorism. Embassies were opened in both countries in July 2015.

1. Introduction

In December 2014, after 18 months of secret negotiations, US President Obama and Cuban President Raúl Castro made simultaneous announcements in Washington and Havana of a “new course” for US-Cuban relations. The US and Cuba would re-establish diplomatic relations and begin to dismantle the last pillar of the Cold War.

The announcement followed the release in 2013 and 2014 of the so-called ‘Cuban Five’ (also called the ‘Miami Five’), five Cuban intelligence officers arrested in the US in September 1998 and later convicted in Miami of conspiracy to commit espionage, conspiracy to commit murder, acting as agents of a foreign government, and other illegal activities in the US. It also coincided with Cuba’s release in December 2014 of the detained US aid contractor Alan Gross and an un-named US intelligence source who had been in prison in Cuba for over 20 years.

In December 2014 President Obama announced a loosening of travel and economic restrictions on Cuba, and after preliminary discussions on normalising diplomatic relations embassies were opened in both countries in July 2015. The US news broadcaster CNN reported that although the more liberal travel arrangements will “not allow for tourism, they will permit greater American travel to the island”.¹

Bloomberg described the agreement as “a deal brokered by Pope Francis and aided by the generational shift in Florida’s Cuban-American community”.² Indeed, the December announcement was not completely out of the blue. Since Raúl Castro succeeded his brother Fidel as President in February 2008, the Cuban Government has introduced a number of economic reforms. Cubans have been allowed to own small businesses and to buy and sell cars and properties. Official talks between the US and Cuba on pursuing a closer relationship had been ongoing since June 2013, facilitated by the Canadian government and the Vatican. In December 2013 President Castro called for “civilised relations” with the US,³ saying the two countries should respect their differences. Cuba was on the agenda of a meeting in March 2014 between President Obama and Pope Francis at the Vatican. In May 2014 a delegation from the American Chamber of Commerce visited Cuba for the first time in 15 years.

In April 2015 President Obama and President Castro shook hands and held historic talks in a side-room at the Summit of the Americas in Panama City. This was the first time the leaders of the two countries had met in over 50 years. Although the meeting was mainly symbolic, it preceded the removal of Cuba from the US Administration’s list of state sponsors of terrorism in May and paved the way for embassies to be opened in both countries in July.

¹ [CNN News, 17 December 2014.](#)

² [Bloomberg, 17 December 2014.](#)

³ [BBC News, 22 December 2013.](#)

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There is still much the two countries disagree on but these events represent another step towards normalising relations.

Pressure for change is also coming from the American people. Public opinion is increasingly in favour of lifting the trade embargo and a Pew Research Centre poll showed that in July 2015 72% of Americans supported lifting the embargo, up from 66% in January.⁴ There are also signs that opinion within Congress is changing; the Republican controlled Senate Appropriations Committee voted in favour of a measure to ease travel limitations⁵ and bills to ease the trade embargo have been introduced to both Houses with the support of Republican, Democrat and Independent Congressmen. But there is still major opposition to the changes and criticism that Cuba is not doing enough to improve the human rights situation to justify the new measures. How far can the new US Cuba policy go if it doesn't command enough support in Congress to repeal US laws implementing the economic and trade embargo against Cuba? Foreign policy is largely a Presidential responsibility but Congress passes and repeals primary legislation, which is an important part of the restrictions.

This note looks at the effects of the embargo and prospects for a new relationship.

⁴ [New York Times, 3 August 2015.](#)

⁵ [Reuters, 23 July 2015.](#)

2. The US trade embargo

2.1 US enforcement

A US economic and trade embargo against Cuba has been in place since 1960, when the US banned all exports to Cuba, except for food and medicine. Imports were soon added to the ban. The embargo has been added to and modified several times since then, and now rests on six statutes:

- Trading with the Enemy Act of 1917
- Foreign Assistance Act of 1961
- Cuba Assets Control Regulations of 1963
- Cuban Democracy Act of 1992
- Helms–Burton Act of 1996 and
- Trade Sanctions Reform and Export Enhancement Act of 2000.

Another significant impediment to trade has been Cuba's designation by the US as a state sponsor of terrorism. The designation imposed:

- restrictions on US foreign assistance
- a ban on defence exports and sales plus certain controls over exports of dual use items
- miscellaneous financial and other restrictions.⁶

The terrorism designation has been highly significant for the Cuban economy because it required the US to oppose loans for Cuba from the World Bank and other international financial institutions and allowed the US administration to prohibit any US citizen from engaging in a financial transaction with the Cuban government without a Treasury Department licence.⁷

Despite the embargo, the US does trade with Cuba and Cuba is not banned from trading with other countries, although the *Helms Burton Act* did stop foreign subsidiaries of US companies from trading with Cuba, raising concerns that the legislation had an unjustified extraterritorial effect.⁸

2.2 Has the embargo achieved its aim?

Many human rights groups and governments have argued that the US embargo has not achieved its aim of bringing about democracy and better human rights protection in Cuba. After the December announcement, these views gained new currency. *Time* reported in December 2014:

For decades, U.S. authorities stubbornly held that the embargo was necessary to promote human rights and democratic change

⁶ US Department of State, [State sponsors of terrorism](#).

⁷ US State Department, *State sponsors of terrorism overview*, [Chapter 6](#).

⁸ For more on this see the House of Commons Library Research Paper [Cuba and the Helms-Burton Act](#), 14 December 1998.

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in the island. In fact, though, the embargo did nothing to improve human rights in Cuba. Instead, it imposed indiscriminate hardship on the Cuban population as a whole, and provided the Cuban government with an excuse for its problems and a pretext for its abuses.⁹

The *Financial Times* commented in February 2014, “The intellectual case for relaxing and eventually removing the embargo is certainly strong”.¹⁰ The “new approach” the report suggested acknowledged the failure of the sanctions regime:

The more restrictions there are on the island, the less Cubans have and the more subservient they become to whoever dispenses it – currently the state. Creating economic space therefore creates freedom. At the same time, engagement does not mean ending support for human rights or political liberalisation. Rather it provides a more credible context for criticism.

President Obama has always had a policy of easing relations with Cuba and in 2011 relaxed some travel restrictions. In November 2013, Obama admitted that the sanctions policy had not worked, and that the US had to “be creative ... thoughtful. And we have to continue to update our policies”.¹¹

In a poll conducted in October 2014, 56% of Americans approved of re-establishing diplomatic and trade relations with Cuba, while 29% opposed it and 15% were unsure. These figures had not changed much since the 1970s¹² and Democrat voters continue to be more likely to support the changes than Republicans. However in recent months there has been a significant increase in support of a new approach from the American public in both political camps which could lend legitimacy to Obamas plans.

2.3 Economic effects of the embargo

The United States

The US Chamber of Commerce estimated in 2009 that the embargo had cost the US economy \$1.2 billion per year in lost sales and exports.¹³ Other estimates put the loss at \$3.6 billion.

In a 2010 report the US Chamber of Commerce called for more economic engagement with Cuba:

Prior to the embargo, the United States accounted for nearly 70 percent of Cuba's international trade. Cuba was the seventh-largest market for U.S. exporters, particularly U.S. farmers and ranchers. The U.S. International Trade Commission (USITC) estimated in 2001 that the Cuba embargo costs American exporters up to \$1.2 billion annually in lost sales, and this sum has likely grown over the past nine years. Facilitating agricultural

⁹ “[Lifting the Embargo Means Cuba Can No Longer Play Victim](#)”, Jose Miguel Vivanco (Americas director at Human Rights Watch), 19 December 2014.

¹⁰ [Financial Times, 21 February 2014.](#)

¹¹ [White House press release](#), 8 November 2013.

¹² ‘[New York Times Poll Finds Public Support for Re-establishing Relations with Cuba](#)’, *New York Times*, 17 December 2014.

¹³ Dollars&Sense, 9 March 2009, [The Costs of the Embargo: The 47-year-old blockade now costs the United States far more than it costs Cuba](#), Margot Pepper.

exports to Cuba would restore the natural competitive advantage of U.S. agricultural products in Cuba.¹⁴

A *Forbes* report in January 2013, outlined some of the administrative costs:

... the U.S. spends massive amounts of money trying to keep illicit Cuban goods out of the United States. At least 10 different agencies are responsible for enforcing different provisions of the embargo, and according to the Government Accountability Office, the U.S. government devotes hundreds of millions of dollars and tens of thousands of man hours to administering the embargo each year.¹⁵

The authors looked at other significant costs:

Restrictions on trade disproportionately affect U.S. small businesses who lack the transportation and financial infrastructure to skirt the embargo. These restrictions translate into real reductions in income and employment for Americans in states like Florida, where the unemployment rate currently stands at 8.1 percent.

Cuba

In its regular report to the United Nations on the "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba",¹⁶ the Cuban Government estimated the economic costs of the embargo:

The economic damage to the Cuban people as a result of the United States economic, commercial and financial embargo, taking into account the depreciation of the dollar against the price of gold on the international market, amounts to US\$ 1,112,534,000,000, despite the decline in the value of gold compared to the previous period. At current prices, over all these years, the embargo has inflicted damages worth more than US\$ 116,888 million.¹⁷

The Cuban report also outlined the social and humanitarian costs of the embargo.¹⁸

2.4 Effects of lifting the embargo?

Not surprisingly, estimates of the effects of lifting the embargo vary widely. Edward Gresser of Progressive Economy¹⁹ set out three possible

¹⁴ [Letter Supporting H.R. 4645](#), the "Travel Restriction Reform and Export Enhancement Act", 22/23 February 2010.

¹⁵ ["It's Time For The U.S. To End Its Senseless Embargo Of Cuba"](#), Daniel Hanson, Dayne Batten & Harrison Ealey, *Forbes online*, 16 January 2013.

¹⁶ The latest such resolution, [A/RES/69/5](#), was adopted on 28 October 2014. The UN has adopted the resolution for 22 consecutive years with the US and Israel voting against.

¹⁷ UN General Assembly, Report of the Secretary-General, [A/69/98](#), 26 June 2014.

¹⁸ See full Cuban report at http://www.un.org/ga/search/view_doc.asp?symbol=A/69/98.

¹⁹ 'Progressive Economy develops ideas and practical public policy solutions for trade and globalization, to promote widely shared prosperity and opportunity, strengthen peace and security, establish and enhance the rule of law, encourage scientific and technological progress, and reduce global poverty', <http://progressive-economy.org/about-us/>.

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scenarios, concluding that US exports to Cuba could range from \$6 billion to \$100 billion annually if the embargo were lifted.²⁰

In an article in December 2014, Austin Tymins commented:

Studies on the subject believe that ending the embargo could create 6,000 American jobs, predominantly in agriculture and telecommunications.

Additionally, trade with Cuba could be lucrative to the United States for developmental reasons. Cuba has the 3rd largest nickel reserves in the world that could be used in various technology products. The country is also estimated to have expansive oil deposits in its territorial waters that are just beginning to be explored.²¹

Some observers argue that opening up US-Cuba trade will only strengthen the Cuban Government because industry is state-controlled, and that President Obama “has rewarded and bestowed legitimacy on an intransigent regime, and worse, has thrown it a lifeline at a time when Venezuela’s growing economic crisis makes it an increasingly unreliable source of patronage”.²² Tymins disagreed with this argument but conceded “the Cuban government may not actually have a vested interest in ending the embargo like it claims, as doing so could affect the government’s stranglehold on power”.²³ He cites Ian Vasquez, director of the Cato Institute’s Center for Global Liberty and Prosperity, who has pointed out that in the past, whenever the US has talked about liberalising aspects of the embargo, “Cuba does something provocative to make that political move by the United States impossible”.²⁴ Writing on 26 December 2014, Vasquez thinks that this time things might be different and that “Castro’s willingness to re-engage with the United States represents a significant change”.²⁵ But he also says of the Cuban Government:

But we should be under no illusion about Castro’s goal to maintain control over the Cuban population and to do as little reform as possible to achieve that end. With or without sanctions, that’s the regime’s goal. Fully ending the embargo is a strategy more likely to increase freedom and to discourage the delusion that the United States can determine Cuba’s fate.

The Cuban dissident blogger, Yoani Sanchez, described the December 2014 agreement as a “political defeat” for the Cuban Government:

... despite the absence of public commitments on the part of Cuba, today was a political defeat. Under the leadership of Fidel Castro we would have never even reached an outline of an agreement of this nature. Because the Cuban system is supported by -- as one of its main pillars -- the existence of a permanent

²⁰ “[The U.S. embargo on Cuba has been in place for half of Cuba’s independent history](#)”, 7 January 2015.

²¹ Austin Tymins, [Re-examining the Cuban Embargo](#), *Harvard Political Review*, 15 December 2014.

²² Ian Vasquez, summarising the views of critics of Obama’s move, in [Now Let’s End the Embargo on Cuba](#), CATO Institute, 26 December 2014.

²³ Tymins, *ibid*.

²⁴ Cited in Tymins, “Re-examining the Cuban Embargo”.

²⁵ Vasquez, [Now Let’s End the Embargo on Cuba](#), 26 December 2014.

rival. David can't live without Goliath and the ideological apparatus has depended too long on this dispute.²⁶

Further reading

- *Amnesty International USA*, [The US Embargo against Cuba: its impact on economic and social rights](#), 2009
- *Congressional Research Service*, [Cuba: U.S. Policy and Issues for the 113th Congress](#), Mark P. Sullivan, Specialist in Latin American Affairs, 31 July 2014

²⁶ Has D-Day arrived for Cuba? Yoani Sánchez, [14ymedio, English edition, 17 December 2014](#).

3. Lifting the restrictions

3.1 US Presidential powers

The US President has two major sources of power, broadly speaking. The US Constitution makes the President the head of the armed forces and the chief diplomat, giving the President a leading role in defence and foreign relations.

It also sets out that the President must “take care that the laws be faithfully implemented”,²⁷ meaning that laws passed by Congress must be implemented by the President, who heads the federal executive agencies charged with doing that. The President appoints senior people to the executive agencies, with Senate approval.

In 2014’s mid-term elections, the Democratic Party lost its majority in the Senate (it was already in a minority in the House of Representatives) and with it much of its remaining power to pass legislation through the legislature. Since then there has been much discussion about Obama’s plans to use executive powers to bring about change in the last two years of his presidency.

3.2 Legislation

The executive does not have the power alone to repeal the legislation passed by Congress imposing trade and other restrictions on Cuba and, as the Democratic Party does not command a majority in either House, the President cannot get his allies in Congress to do it for him. But the President does control the day-to-day running of government departments and agencies, and the legislation relating to Cuba provides for the President to impose sanctions by regulation. This means that the executive can change the way the legislation works, effectively removing much of the content, although the framework is likely to remain for the foreseeable future.

3.3 Executive orders

Executive orders are legally-binding instructions given by the President to Federal Administrative Agencies. They are not mentioned in the US Constitution and the powers that can be exercised using them are not clearly delimited. According to one broadly-accepted definition they may only have the force of law where the authority is set out in primary legislation or the Constitution:

Executive orders and proclamations are directives or actions by the President. When they are founded on the authority of the President derived from the Constitution or statute, they may have the force and effect of law....²⁸

²⁷ [The Take Care Clause and Executive Discretion in the Enforcement of Law](#), US Congressional Research Service, 14 September 2014.

²⁸ Staff of House Committee on Government Operations, 85th Cong., 1st Sess., *Executive Orders and Proclamations: A Study of a Use of Presidential Powers* (Comm. Print 1957), cited in [Executive Orders: Issuance, Modification, and Revocation](#), US Congressional Research Service, 16 April 2014.

Although these may seem similar conditions as might apply to the issuing of Statutory Instruments in UK law, their relationship to primary legislation is less clear. In practice executive orders are often controversial, with the President sometimes being accused of exceeding presidential authority, particularly since executive orders have often been used in controversial policy areas.

Arguments about the limits of executive power have gone as far as the courts in high-profile cases. Orders are commonly challenged on the grounds that they deviate from Congressional intent or that they exceed the President's constitutional powers.²⁹ The Obama Administration has faced great controversy over its healthcare and immigration policies with challenges in the Supreme Court over aspects of Obamacare and a federal judge in Pennsylvania recently giving an opinion that the 2014 immigration reforms are unconstitutional.³⁰ Court challenges to the proposed Cuba regulations are possible.

3.4 Opposition in Congress?

There was hostility in Congress to the administration's announcement and not just from Florida's Republican-leaning Cuban émigré community. Some members from both parties indicated that they intended to challenge the moves. Senator Robert Menendez (Democrat), Senator Marco Rubio (Republican) and Senator Lindsay Graham (R) spoke out, with Senator Graham vowing to block the funds necessary for opening a new embassy in Havana. However, their attempts ultimately failed.

The Senate must approve diplomatic appointments, including a new ambassador to Cuba, so initially the embassy was opened without an ambassador in place. Congress has often used its appropriation powers to prevent executive orders from being implemented by denying the necessary funds for part or all of the functions set out in the order.³¹

Congressional revocation of executive orders

Congress has the power to revoke executive orders that have been issued by the President pursuant to powers granted by Congress. Where they stem from the President's exclusive powers as granted by the Constitution, Congress has no such power.

Congress can pass legislation directly revoking the executive order, enacting legislation that directs that the executive order 'shall not have any effect'. Alternatively, it can amend the legislation that gave the President executive power over certain programmes, taking away that discretion.

The President can veto such legislation unless it was agreed by a two-thirds majority in both Houses. Even after the mid-term elections, the

²⁹ [What is an Executive Order?](#) This Nation.com.

³⁰ [Memorandum opinion and order of court re: Applicability of President Obama's November 20 2014 executive action on immigration to this defendant](#), 16 December 2014.

³¹ [Executive Orders: Issuance, Modification, and Revocation](#), US Congressional Research Service, 16 April 2014.

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Republicans do not have that majority in either House, meaning that legislation coming through Congress is still likely to be subject to presidential veto.

In practice, the two-thirds majority requirement means that few executive orders are revoked or modified by Congress -- less than 4%, according to one study.³²

3.5 Congressional support?

There are signs that the powerful opposition to Obama's plans might be starting to crack. In July 2015 the Republican-controlled Senate Appropriations Committee voted 18-12 in support of measures to ease travel limits. Although just a small step, this is the first legislation to facilitate the normalising of relations that has passed a congressional committee.³³

Bills have been introduced to both Houses with Republican support to ease trade sanctions on Cuba. The *Cuba Trade Act* of 2015 was introduced to the Senate by Republican Jerry Moran on 10 June, cosponsored by Independent Angus S King Jr and Republican John Boozman. The Bill aims to repeal or amend current laws restricting trade and eliminate the prohibition on assistance to Cuba, as well as ending the President's authority for the embargo, under the *Foreign Assistance Act 1961*.³⁴ The Bill has been read twice in the Senate and has been referred to the Committee on Banking, Housing and Urban Affairs for further scrutiny.

Republican Tom Emmer introduced *The Cuba Trade Act 2015* to the House of Representatives in July 2015.³⁵ Together these measures show there is support for Obama's policies from across the House, but he is yet to achieve the level of support he needs to get all his proposals through Congress.

³² [Executive Orders: Issuance, Modification, and Revocation](#), US Congressional Research Service, 16 April 2014.

³³ [Reuters, 23 July 2015](#).

³⁴ [S.1543 - 114th Congress \(2015-2016\): Cuba Trade Act of 2015](#).

³⁵ [Emmer, Castor Introduce Legislation to Lift Cuba Embargo | Congressman Tom Emmer](#), 28 July 2015.

4. The process of normalisation

4.1 Terms and conditions

There is no treaty or written agreement defining the new relationship, and no formal list of conditions. The lack of any treaty-based guarantees on either side has been of concern to Cuban American and human rights groups. Part of the December agreement was the release of 53 political prisoners in Cuban gaols. Francisco Hernandez, co-founder and president of the Cuban American National Foundation, thought the December deal was a victory for the Cuban government and was cynical about the promise of prisoner release. He believed Cuba would “renege on its promise or alter the terms, and potentially release common criminals rather than legitimate political prisoners Cuba has behind bars”.³⁶ However, on 12 January 2015 there were reports that the 53 political prisoners had been released.³⁷

The former Cuban leader, Fidel Castro, cautiously approved the political rapprochement. He told Cuba’s state-run newspaper *Granma* on 27 January 2015: “We will always defend co-operation and friendship with all the people of the world, including with our political adversaries”. Although he did not trust US policy, he did not reject a “peaceful solution to conflicts”.³⁸

The Cuban government broadened its understanding of what normalising relations will require from the US. Ending US support for Cuban dissidents and Cuba’s removal from the US list of state sponsors of terrorism are two of Cuba’s main demands after ending the trade embargo. The main US goal of reforming Cuba’s single-party political system and centrally planned economy has been met with Cuban insistence that it has no intention of changing its system. President Castro made clear his demands of the US in a speech to the third summit of the *Community of Latin American and Caribbean States* (CELAC) in Costa Rica on 28 January 2015:

The reestablishment of diplomatic relations is the beginning of a process which can progress toward normalization of bilateral relations, but this will not be possible as long as the blockade exists, or as long as the territory illegally occupied by the Guantánamo Naval Base is not returned (Applause), or radio and television broadcasts which violate international norms continue, or just compensation is not provided our people for the human and economic damage they have suffered.

It would not be ethical, just, or acceptable that something were requested of Cuba in return. If these problems are not resolved, this diplomatic rapprochement between Cuba and the United States makes no sense.

³⁶ [Fox News, 6 January 2015](#).

³⁷ Other reports maintained that only 41 had been released, with 12 remaining in gaol, [BBC News, 12 January 2015](#). Yet another maintained 39 had been released, [14ymedio, 12 January 2015](#). A [US press statement on 29 January 2015](#) referred to “the release of 50 or 55 political prisoners that were being held in Cuba”.

³⁸ [BBC News, 28 January 2015](#).

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Neither can it be expected that Cuba would agree to negotiate aspects mentioned with respect to our absolutely sovereign, internal affairs. Progress was made in these recent negotiations because we treated each other respectfully, as equals.

To continue advancing, this is how it must be. We have carefully followed the U.S. President's announcement of some executive decisions to modify certain aspects of the blockade's application. The measures announced are very limited.

Prohibitions on credit and the use of the dollar in international financial transactions remain in place; individual travel by U.S. citizens is hampered under the system of licenses for so-called people-to-people exchanges; these are conditioned by subversive goals; and maritime travel is not allowed.

Prohibitions remain on the acquisition in other markets of equipment and technology with more than 10% U.S. components, and on imports by the United States of goods containing Cuban raw materials, among many, many others. President Barack Obama could decisively use his broad executive powers to substantially modify the application of the blockade, that which is in his hands, even without a decision by Congress.

He could permit, in other sectors of the economy, all that he has authorized in the arena of telecommunications, with evident objectives of political influence in Cuba.

His decision to hold a discussion with Congress on eliminating the blockade is significant. U.S. government spokespeople have been very clear in specifying that they are now changing their methods, but not their policy objectives, and insist on continuing to intervene in our internal affairs, which we are not going to accept. Our U.S. counterparts should not plan on developing relations with Cuban society as if there were no sovereign government in Cuba. (Applause).

No one should dream that the new policy announced means acceptance of the existence of a socialist revolution 90 miles from Florida.³⁹

4.2 Diplomatic relations

In December 2014 the US Administration set out its intentions as follows, highlighting the notion that cooperation would be good for US interests in the region:

- The President has instructed the Secretary of State to immediately initiate discussions with Cuba on the re-establishment of diplomatic relations with Cuba, which were severed in January 1961.
- In the coming months, we will re-establish an embassy in Havana and carry out high-level exchanges and visits between our two governments as part of the normalization process. As an initial step, the Assistant Secretary of State for Western Hemisphere Affairs will lead the U.S. Delegation to the next round of U.S.-Cuba Migration Talks in January 2015, in Havana.

³⁹ [Granma, English language version, 29 January 2015.](#)

- U.S. engagement will be critical when appropriate and will include continued strong support for improved human rights conditions and democratic reforms in Cuba and other measures aimed at fostering improved conditions for the Cuban people.
- The United States will work with Cuba on matters of mutual concern and that advance U.S. national interests, such as migration, counternarcotics, environmental protection, and trafficking in persons, among other issues.⁴⁰

The Assistant Secretary of State for the Western Hemisphere is Roberta Jacobson.⁴¹

4.3 US measures in January 2015

President Obama used executive powers in January 2015 to ease restrictions on travel, commerce and financial dealings.⁴² These were not, as Tom Malinowski, US Assistant Secretary of State for Democracy, Human Rights and Labor, explained, “things the Cuban government asked for. They are steps we wanted to take to empower the Cuban people”.⁴³ On 16 January new US Treasury and Commerce Department regulations were introduced, which included the following:

- US citizens will be allowed to use credit and debit cards in Cuba and there will be no more limits on how much money US citizens can spend in Cuba each day.
- New Treasury Department regulations will ease agricultural exports and establish banking relations. US investments in some small businesses and agricultural operations will be allowed.
- New Department of Commerce regulations authorise the export of certain items to the Cuban private sector and improve the free flow of information to, from, and among the Cuban people. This involved changes to the Cuban Asset Control Regulations, effective as of 16 January.
- The Commerce Department moved to allow US companies to export some technologies, construction and telecommunications equipment, among other things, for sale in Cuba.⁴⁴ The easing of telecommunications and internet-related trade will facilitate communication between Cuba, the US and the rest of the world.
- It was possible to bring goods to the value of \$400 back to the US and US citizens will be able to send up to \$8,000 a year to Cubans without the need for a licence, up from \$2,000.⁴⁵

⁴⁰ [‘Fact sheet: Charting a new course on Cuba’](#), White House press release, 17 December 2014.

⁴¹ US Department of State, [Assistant Secretary, Bureau of Western Hemisphere Affairs](#).

⁴² See White House [press statement](#) on the ‘Publication of Regulatory Changes regarding Cuba’, 15 January 2015.

⁴³ Interview for [14ymedio, 21 December 2014](#).

⁴⁴ [‘Obama intends to lift several restrictions against Cuba on his own’](#), *New York Times*, 18 December 2014.

⁴⁵ [‘Fact sheet: Charting a new course on Cuba’](#), White House press release, 17 December 2014.

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Americans will be able to bring back up to \$100 (£66) in alcohol and tobacco from Cuba;

- Travel restrictions will not be lifted but it will be easier to travel to Cuba.⁴⁶ Travel agents and airlines can fly to Cuba without a special license. United Airlines has said it will begin flying to Cuba from its terminals in Houston and Newark;
- Insurance companies will be able to provide coverage for health, life and travel insurance policies for individuals residing in or visiting Cuba;
- The Office for Foreign Assets Control (OFAC) issued general licences for travel in 12 categories, including family visits, education, research, journalism, professional meetings, religious activity and athletic competitions, meaning that no individual application for a licence was now necessary. "Purely touristic travel will still be against the law unless Congress acts to lift the embargo".⁴⁷ However, questions have been raised as to how the remaining limitations on travel will be policed by the US authorities once travellers have arrived in Cuba.

Further reading

- *US Department of the Treasury*, [Frequently Asked Questions Related to Cuba](#), 15 January 2015
- *US Department of the Treasury*, Office of Foreign Assets Control (OFAC), [What you need to know about U.S. sanctions against Cuba](#), updated 24 January 2012
- *Congressional Research Service*, [Cuba: U.S. Policy and Issues for the 113th Congress](#), Mark P. Sullivan, 31 July 2014

4.4 First round of US-Cuba talks

Migration

The two sides held their first round of talks in Havana on 22 January 2015. They were led by US Assistant Secretary of State Roberta Jacobson and Josefina Vidal, head of US relations at Cuba's Foreign Ministry. In reports after the meeting both sides said that it had been productive but that big differences remained.

Migration issues were a key area of discussion.⁴⁸ Cuba wants the US to end the 1966 *Cuban Adjustment Act*⁴⁹ and its 'wet foot/dry foot policy', whereby Cubans are granted "virtually automatic legal residency" if they manage to land on US soil.⁵⁰ The number of Cubans attempting to

⁴⁶ '[Can Obama lift Cuba embargo alone?](#)', *The Hill*, 17 December 2014.

⁴⁷ [Bloomberg News](#), 17 December 2014.

⁴⁸ The US and Cuba hold migration talks twice a year, which alternate between Washington and Havana, but this 28th round of talk was special in view of the prospects for rapprochement.

⁴⁹ See also <http://www.uscis.gov/green-card/other-ways-get-green-card/green-card-cuban-native-or-citizen>.

⁵⁰ [New York Times, 21 January 2015](#). Under the 'wet foot/dry foot' policy, which is not a law, but an interpretation of a court ruling, Cubans who arrive on US soil may stay

cross the 90-mile stretch of water separating Cuba from the US spiked after the December 2014 announcements.⁵¹ US Coast Guard officials blame Cuban boat builders and others who profit from Cuban migrants to the US for spreading the rumour that the 'wet foot, dry foot' policy is about to end, in order to increase their profit margins.⁵²

The US government has agreed to send additional Coast Guard cutters to the Florida Straits to prevent Cuban rafters from landing, but has rejected Cuban demands for wider changes to US migration rules. The Adjustment Act can only be amended by Congress, and under the 1996 [Illegal Immigration Reform and Immigrant Responsibility Act](#) can only be repealed when the President certifies under provisions in the [Cuban Liberty and Democratic Solidarity \(LIBERTAD\) Act](#) of 1996 (known as the Helms-Burton Act), that a democratically elected government is in power in Cuba.

US officials have asked Cuba to take back tens of thousands of Cuban nationals whom the US wants to deport because they have been convicted of crimes in the US. Reports note that no progress was made on this issue.

Both sides agreed to disagree on certain topics but that they would continue discussing the complicated issues at future talks.

Further reading

- Migration Policy Institute, [Normalization of Relations with Cuba May Portend Changes to U.S. Immigration Policy](#), 13 January 2015, Marc R. Rosenblum and Faye Hipsman
- *Congressional Research Service*, [Cuban Migration Policy and Issues](#), Ruth Ellen Wasem, Specialist in Immigration Policy, Domestic Social Policy Division, Updated 22 January 2007
- *Congressional Research Service*, [Cuban Migration to the United States: Policy and Trends](#), Ruth Ellen Wasem, Specialist in Immigration Policy, 2 June 2009

4.5 Guantánamo Bay

The US territory at Guantánamo Bay raises particular issues.

The US took territorial control over the southern part of Guantánamo Bay under the 1903 *Cuban–American Treaty*.⁵³ The US exercises complete jurisdiction and control over the territory, while recognising that Cuba retains ultimate sovereignty. The Cuban government regards the US presence in Guantánamo Bay as illegal and insists the 1903 Treaty was obtained by threat of force and is in violation of international law. US Naval Station Guantánamo Bay (NAVSTA GTMO) is the oldest

in the US by arguing that they are suffering political persecution at home, but those intercepted at sea are generally returned to Cuba.

⁵¹ See [Coast Guard News, 5 January 2015](#).

⁵² [Huffington Post, 14 January 2015](#).

⁵³ Two documents finalised in [February 1903](#) and [July 1903](#).

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US Navy base located outside the US. The Guantánamo Bay detention camp is also based there.

In his State of the Union address in January 2015, President Obama repeated his call for the closure of the detention camp,⁵⁴ a policy aspiration since the beginning of his presidency. But the White House did not indicate in December 2014 that the status of Guantánamo would be affected by the new policy on Cuba. Army Lt. Col. Myles Caggins, a spokesman for the US Department of Defense's Western Hemisphere policies, said "Currently, there are no policy changes for personnel at Naval Station Guantánamo".⁵⁵ President Obama's position on Guantánamo was [set out by the White House Press Secretary, Josh Earnest](#), on 29 January 2015. There is currently no US intention to return the territory to Cuba, even if the Guantanamo facility is closed down.

The President does believe that the prison at Guantanamo Bay should be closed down. And the reason for that is, is that only -- that serving -- that continuing to operate that prison there only serves as a recruiting tool for al Qaeda and other extremist organizations around the world. And it's in the view of the President and the previous administration clearly in the best interests of American national security to close the prison. [...] But the naval base is not something that we believe should be closed. [...] I was able to obtain additional information that allows me to conclusively rule out any discussion about returning the military base in Guantanamo Bay to the Cubans.

Raúl Castro told CELAC on 28 January that Guantánamo was "occupied" and called for its return:

The reestablishment of diplomatic relations is the start of a process of normalising bilateral relations but this will not be possible while the blockade still exists, while they don't give back the territory illegally occupied by the Guantánamo naval base.⁵⁶

Further reading

- [BBC News](#), 28 January 2015, "[Castro demands Guantanamo Bay in return for US-Cuba diplomatic deal](#)"
- [CNN Library](#), 9 September 2013, up-dated 2 February 2015, [Guantanamo Bay Naval Station Fast Facts](#)
- 14ymedio reports at <http://www.14ymedio.com/englishedition>

4.6 Developments May-July 2015

In May 2015 the US officially lifted its designation of Cuba as a state sponsor of terrorism. President Obama had recommended to Congress

⁵⁴ '[President Barack Obama's State of the Union Address](#)', White House, 20 January 2015.

⁵⁵ [US News](#), 18 December 2014.

⁵⁶ '[Castro demands Guantanamo Bay in return for US-Cuba diplomatic deal](#)', [BBC News Online](#), 28 January 2015.

in April that Cuba be removed from the list, which triggered a 45-day congressional notification period in which Congressmen could have challenged the decision. In spite of some congressional opposition to Obama's Cuba policy, there was no attempt to challenge Cuba's removal from the list.

The State Department reported that it had received assurances from the Cuban government they would not support terrorist activity, and officials cited President Castro's condemnation of the Charlie Hebdo attacks in Paris as an example of the Cuban Government's stand against terrorism.⁵⁷

The US and Cuba re-opened embassies in Havana and Washington on 20 July 2015. A US ambassador has not yet been appointed because the appointment needs Congressional approval and funding. In the meantime diplomat Jeffrey DeLaurentis has been named as Chargé d'Affaires and the "senior most official" at the embassy.⁵⁸

The Cuban Ambassador to the US is José Ramón Cabañas, who has been the Chief of the Cuban Interests Section in the US.

⁵⁷ [Wall Street Journal, 29 May 2015](#). See also US Department of State [Background Briefing on the Report Required To Rescind Cuba's State Sponsor of Terrorism Status](#), 14 April 2015, and State Department [press statement](#), 29 May 2015.

⁵⁸ [The Washington Post, 6 July 2015](#).

5. UK – Cuba relations

Both Labour and Conservative UK governments have opposed the US embargo against Cuba, but have also expressed concerns about the human rights situation in Cuba.

The UK and Cuba launched the 'Cuba Initiative' in 1995 in response to a request from the two governments for an independent, bi-lateral, non-governmental body to support and develop programmes that enhance the UK-Cuban relationship. The Cuba Initiative complements official bilateral UK-Cuban relations. Its main focus is trade and investment. The UK side of the Initiative is chaired by Lord Hutton of Furness (former Secretary of State for Business and later for Defence). The Cuban body is chaired by Rodrigo Malmierca, Minister for Trade and Investment.

The Cuba Initiative facilitates regular meetings between UK and Cuban ministers and officials, the exchange of delegations between ministries, governments and parliaments, the organisation of seminars and conferences, the dissemination of information and the provision of services. It aims to foster closer economic, trade and investment relations, the priority sectors being tourism, energy and mining, biotechnology and pharmaceutical industry, IT and communications, agriculture and finance. Cuba Initiative members receive a subscription to Cuba Briefing as part of their membership package.

Lord Hutton wrote in a letter to the *Financial Times* on 22 December 2014 that "At a time when the US is finally normalising its policy towards Cuba, it is vital that UK companies as well as banks rapidly engage so that the UK develops a strong position in Cuba and Britain's economic interests in the region are upheld".

The Foreign Office minister Hugo Swire visited Havana in October 2014 and signed three memorandums of understanding to promote bilateral relations, and Lord Hutton led a major trade and investment mission of UK companies in Cuba in spring 2015. Hugo Swire said in a [parliamentary exchange on 20 January 2015](#) that the UK Government continued to "encourage progress on economic reforms and human rights, and support a closer EU-Cuba dialogue". He was encouraged by the recent release of political prisoners, adding that on his visit in October 2014, he had discussed human rights with Cardinal Jaime Ortega, the Archbishop of Havana. The UK Government continued to stress the need to release prisoners of conscience and for Cuba to ratify the UN covenants on political and economic rights.

Further reading

- *Gov.uk*, UK and Cuba at <https://www.gov.uk/government/world/cuba>.
- *The Guardian*, 8 August 2011, [Time to get closer to Cuba](#)

6. EU-Cuba relations

EU Member States [adopted a 'Common Position'](#) on Cuba on 2 December 1996, which expressed the EU's objective of encouraging a process of transition to pluralist democracy and respect for human rights and fundamental freedoms, via intensified dialogue with the Cuban authorities and all sectors of Cuban society. Progress towards these objectives was the key to improved EU-Cuba relations. Over half of EU Member States, including the UK, have bilateral agreements with Cuba.

Cuba rejected the Common Position, arguing that it constituted an interference in its internal affairs.

EU-Cuban relations were suspended in 2003 when Havana gaoled 75 dissidents in response to calls for liberalisation and greater respect for human rights.

The EU evaluated the Common Position every twelve months. For many years the review concluded there had been no substantive political or economic reform in Cuba, while recognising some of Cuba's achievements on social and economic rights (e.g. the right to education). In February 2008 EU Development and Humanitarian Aid Commissioner Louis Michel expressed his willingness to engage in a constructive political dialogue with the future successor to President Castro. He was satisfied with a Cuban Government decision to release a number of political prisoners on humanitarian grounds, and he viewed this, together with the Cuban decision to sign the two UN human rights covenants, "positive steps that deserve being acknowledged".⁵⁹ The Commissioner visited Cuba in March 2008 with a view to contributing to "the normalisation of our relationship by improving the dialogue process between the EU and Cuba".⁶⁰

The EU lifted sanctions against Cuba in 2008 and in 2009 the EU Council resumed a political dialogue with Cuba, which included an open discussion of "issues of mutual interest including the respect and promotion of human rights".⁶¹ The Council insisted that "during high-level visits, human rights issues should always be addressed" and that "when appropriate, meetings with the peaceful pro-democracy opposition will be part of high level visits".

In February 2014 the European Commission agreed to start negotiations with Cuba with a view to restoring full bilateral relations and increasing trade and investment. The EU Foreign Affairs Council [adopted a decision](#) to this effect on 10 February 2014. Negotiations for an EU-Cuba Political Dialogue and Cooperation Agreement began in April 2014 and included a dialogue on human rights.⁶² The Agreement could be agreed by the end of 2015.

⁵⁹ [IP/08/262](#), Brussels, 19 February 2008.

⁶⁰ [IP/08/391](#), Brussels, 6 March 2008.

⁶¹ Council press release, 15 June 2009, "[Council conclusions on Evaluation of the EU Common Position on Cuba](#)".

⁶² [BBC News 11 February 2014](#).

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In a [report in May 2014](#) the EU's External Action Service summarised recent EU-Cuban relations as follows:

Since 2008, the Commission has committed around €60 million for cooperation on post-hurricane reconstruction and rehabilitation, food security, climate change and renewable energy, culture, and education. Cuba also takes part in several EU-funded regional programmes. The first Country Strategy Paper/National Indicative Programme for Cuba was adopted on 12 May 2010 making available € 20 million between 2011 and 2013 for food security, climate change adaptation, and expertise exchanges. The EU has adopted decisions allocating € 4 million to support the population affected by Hurricane Sandy in November 2012.

The EU is Cuba's second most important trading partner (accounting for 20% of total Cuban trade). The EU is the second biggest source of Cuban imports (20%) and was the third most important destination for Cuban exports (21%). The EU is Cuba's biggest external investor. Approximately one third of all tourists visiting the island every year come from the EU.

The EU High Representative and Commission Vice President, Federica Mogherini, welcomed the US-Cuba announcement in December 2014, calling it "an historical turning point". In a [statement on 17 December 2014](#), she said the Cuban reaction to the US initiatives was positive and encouraging, and that the EU hoped and expected "that it will open the path to a full re-launch of US-Cuba relations, in the interest of the Cuban people and their many friends in the United States". She described the prisoner releases as "a victory of dialogue over confrontation" and thanked "the wisdom and the great inspiration" of the Pope. The EU shared this approach, she said:

It is in this spirit that earlier this year we opened negotiations on a Political Dialogue and Cooperation Agreement which would serve as an enabling framework for closer engagement in support of the on-going reform and modernisation process in Cuba. Human rights remain at the heart of EU policy towards Cuba. The EU seeks to expand relations with all parts of Cuban society, promoting economic and social progress, dynamic dialogue and strengthened respect for fundamental rights.

Representatives from the EU and Cuba met in March 2015 for a third round of negotiations but Federica Mogherini described the pace of negotiations as "slow". The two sides have agreed to speed up negotiations and aim to finalise the framework for their dialogue and agreement by the end of the year.⁶³

Further reading

- *European Parliament Research Service, [A new phase in EU-Cuba relations](#), 25 June 2014*
- *EU External Action website at http://eeas.europa.eu/cuba/index_en.htm*

⁶³ [Reuters, 24 March 2015](#).

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