

# PROMOTING DEMOCRATIC CHANGE IN CUBA: A RETOOLED U.S. POLICY TO FOSTER MULTILATERAL SUPPORT

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In July of 2006, Fidel Castro “temporarily delegated” power to his brother during a severe health crisis. Raúl had been second-in-command and head of the Armed Forces since the two brothers led the revolutionary forces to power almost five decades earlier. After the designation of Raúl as leader, Fidel remained out of public view. In February 2008, he resigned as Commander-in-Chief, announced that he would not seek reelection as President, and indicated that his sole wish was to continue writing to “fight as a soldier in the battle of ideas.” Raúl, who had been running the country, was promptly named President of the State Council.

In March 2009, a shakedown at the very core of the ruling elite proved Raúl in full and firm command,<sup>2</sup> pointing to a seeming conclusion of the succession with no foreseeable threats to his full authority. Presently, Fidel remains out of public view and writing edi-

torials (“reflections”) in the official media. Because he is still the head (First Secretary) of the Communist Party, his degree of influence and power is the subject of contention among analysts. There is a certain consensus, however, that until his death or complete demise, latent or potential power struggles among the ruling elite will be contained.

In sum, Raúl maintained regime cohesiveness during the retreat of the all-mighty Fidel. With total loyalty secured at the top, the leadership continues to exert undeterred totalitarian domination thanks to its command of the repressive apparatus. In fact, despite minor reforms since Raúl’s rise,<sup>3</sup> control has tightened at all levels and no significant structural reforms are in the making. Rationing of food and all consumer goods and services remains an intrinsic part of the centrally planned socialist economy that bans essentially all pri-

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1. The views expressed herein are the author’s and are not those of any organization she represents or of which she is part.

2. Three of the seven individuals who Fidel named on July 31, 2006 to take over his duties have been purged. Vice President Carlos Lage, arguably Cuba’s second-in-command, Felipe Pérez Roque, Minister of Foreign Relations, and Central Bank President Francisco Soberón, were removed from their posts in disgrace. Twenty other top level officials were shifted, fired, or promoted in what the government called a streamlining effort. Most analysts believe the move further centralized power in Raúl’s hands. Regarding Lage and Pérez Roque, who had been two of his closest lieutenants, Fidel Castro wrote that they had become seduced by “the honey of power” that had “awaken in them ambitions leading to an undignified role,” for which “the external enemy was filled with illusions.” (Will Weissert, “Fidel Castro: 2 Leaders Undone By ‘Honey Of Power,’” Associated Press, Havana March 4, 2009.) Weeks later, a video of Lage and Pérez Roque mocking Fidel and questioning Raúl’s abilities was shown to selected audiences of the government elite. (Wilfredo Cancio Isla, “Video revela detalles de destituciones en Cuba,” *El Nuevo Herald*, 22 de mayo del 2009.)

3. The “reformist” measures passed by Raúl in April of 2008 consisted primarily of: (1) Allowing citizens to own cell phones and enter tourist facilities, although the cost of either a hotel night or a cell phone exceeds the entire annual wage of the average worker (around US \$17 a month); (2) Initiating an island-wide dialogue, that was quickly extinguished when the Communist state’s flaws were overly exposed; and (3) Signing two international covenants on rights, which Cuba has yet to ratify. In addition, restructuring measures have been announced in agriculture, including the leasing of unused lands for more autonomous production and a decentralization of state distribution and commercialization of agricultural products. But, the pace of reforms has been very slow and results yet to be seen. Independent farmers’ cooperatives are illegal and its members persecuted by the state.

vate property and private enterprise. The last years have seen decisive backtracking towards strict socialist planning and centralization. The “fight against corruption” has accelerated within the state apparatus and a harsh crackdown has been ongoing against citizens participating in the informal (illegal) economy. Meanwhile, repression and persecution against human rights defenders and members of Cuba’s outlawed civil society remains extreme; arguably, it has intensified. As a result, Cuba continues to be ranked one of the least free countries in the world.<sup>4</sup>

The level of usurpation by the Communist state of the civil, political, and economic rights of the citizens has few historic precedents—even within the former Soviet bloc. The state controls all means of production and mass media; bans free association and independent labor unions; decides where and whether people can work, study, or live; blocks the internet; and does not allow travel abroad without government permission. Systematic repression includes surveillance, removal from jobs and housing, forced exile, arbitrary detention, death threats, and constant harassment and persecution of dissidents. Even the *propensity* to commit “anti-social” behavior is considered a crime, interpreted loosely, and often punished with jail.<sup>5</sup> Over two hundred political prisoners serve together with tens of

thousands incarcerated for “economic crimes,” as Cubans are forced to resort to the black market for basic sustenance that a collapsed centrally-planned economy fails to provide. Prison conditions are barbaric and scores of prisoners’ deaths are routinely reported. Over 8,000 executions and extrajudicial killings by the Cuban state have been documented, including the murder of defenseless people attempting to flee the island by boat and through embassies or the U.S. Naval Base at Guantánamo.<sup>6</sup>

Meanwhile, soon after Hugo Chávez’s 1999 rise to power, Cuba forged an alliance with Venezuela that has reaped the Cuban regime enormous economic resources as well as international political influence. The relationship is officially expressed in increasingly favorable annual “Integral Cooperation Agreements” that provided Cuba an estimated US\$8 billion in 2008, far exceeding estimates of Soviet support until 1989.<sup>7</sup> This amount includes greatly subsidized oil sales to Cuba with deferred payments and other very generous terms,<sup>8</sup> funding by Venezuela of major investment projects in Cuba,<sup>9</sup> and overpayment by Venezuela for health services that Cuba provides that country and a growing number of developing countries.<sup>10</sup> Chávez’s largesse stems from very high prices

4. See “Freedom in the World” survey and Cuba Country report, by the international human rights organization, Freedom House <<http://freedomhouse.org/template.cfm?page=22&year=2009&country=7592>>.

5. Articles 72–74 of Cuba’s Penal Code.

6. See [www.CubaArchive.org](http://www.CubaArchive.org), particularly section “Research Reports.”

7. Rolando H. Castañeda, “La ayuda económica de Venezuela a Cuba: Situación y Perspectivas, ¿Es sostenible?”, *Cuba in Transition—Volume 19*. Washington: Association for the Study of the Cuban Economy, 2009.

8. In 2008, Venezuela exported 115,000 barrels per day of crude oil to Cuba. Cuba, in turn, resold part of it as refined oil for US\$880 million in world markets. Part of Cuba’s oil imports from Venezuela is payable in 90 days; payment for the rest can be deferred and is financed by Venezuela for 25 years at 1% interest with a 2 year grace period. Financing covers 40% when oil prices are over US\$50 a barrel, 50% when over US\$80 a barrel, and 60% when over US\$100. Cuba’s current 25-year debt with Venezuela for oil imports is estimated at around US\$4.7 billion for the period 2003–2008. (Castañeda, *op.cit.*) Cuba can pay for oil imports with the services of Cuban health professionals, teachers, and sports trainers, tourism, and exchange students that Cuba sends to Venezuela and other countries as part of its partnership with Venezuela in the ALBA (Bolivarian Alliance). Cuba has also received trade financing from Venezuela; at least US\$220 million of trade financing extended in 2006 by Venezuela’s state-run export bank, Banco de Comercio Exterior (Bancoex), for non-oil imports from Venezuelan suppliers, which is still due. Cuba’s total debt with Venezuela for 2000–2005 is estimated at US\$11 billion (*Cuba Facts*, Issue 47, May 2009, University of Miami Cuba Transition Project, Institute of Cuban and Cuban American Studies).

9. In 2008, Venezuela funded 76 projects in Cuba valued at US\$1.355 billion. The 2009 bilateral collaboration agreement calls for an investment of over US\$2 billion and includes 137 projects already in development and 36 new projects. In addition, the 2009 plan calls for the creation of a joint enterprise to develop and expand oil refineries and natural gas facilities in Cuba (Castañeda, *op.cit.*).

10. Cuban officials reported that revenues in 2008 for these services totaled US\$6.46 billion. For 2006 and 2007, economists estimate they totaled US\$4.456 million and US\$5.2 billion respectively (Castañeda, *op.cit.*).

for oil,<sup>11</sup> which are expected to remain relatively high over the next years. Despite a decline in the price of oil from its peak in 2008, oil revenues will continue to pour in for Venezuela. Meanwhile, Chávez shows no signs of decreasing his activism in the world stage or ending his support for Cuba, even as Venezuela has suffered the effects of the worldwide recession. In addition to Chávez, Cuba has received economic assistance, debt forgiveness, and political support from Iran, China, and Russia.

Since the early 1960s, the United States has had a comprehensive embargo against Cuba and no formal diplomatic relations with Cuba. For the embargo to be lifted and diplomatic relations normalized, the U.S. government requires the Cuban dictatorship to embark on a transition to democracy and to compensate U.S. claimants whose properties were confiscated in 1959 and 1960. On the other hand, many capitalist countries that had severed diplomatic ties with Cuba for subverting democratic governments in the 1960s have restored ties; those that had never severed ties, have strengthened them. Beginning in the 1970s, Cuba began a process of re-insertion into world capital markets and after 1989, with the end of Soviet Communism and the demise of its Warsaw Pact trade relations, greatly expanded its trade and investment relations with the West. This triggered intense efforts, particularly by Canada and the European Union, to push Cuba towards economic and political reform. The rationale behind this policy approach is that commercial engagement and active political and diplomat-

ic ties will, in themselves, induce change in Cuba. This approach, soon going on two decades, has not borne fruit. Meanwhile, in what could be labeled as a third policy track, Cuba has close and growing ties with totalitarian or autocratic regimes—North Korea, Venezuela, Iran, China, Russia, Islamic regimes and the countries in Latin America on the path to a “Bolivarian Alternative” (Nicaragua, Bolivia, Ecuador). Most of these regimes share anti-U.S. sentiments and agendas. This third approach presumes ideological affinity and political and economic alliances; it does not seek reform in Cuba, but rather reinforces the totalitarian model. In the last ten years there has been a steady strengthening of third-track relations, both economic and political. It is in this general context that U.S.-Cuba policy is currently inserted.

## THEORETICAL FRAMEWORK

A sensible U.S. foreign policy towards Cuba must rest on prudent premises and a realistic assessment of circumstances that uphold the values and advance the interests of the United States. Following are theoretical pillars of such a policy.

*1. A stable, democratic, and more prosperous Cuba is in the best interests of the United States.* A free Cuba would offer its people reason to stay home—stemming the flow of refugees and providing better trade and business opportunities for the U.S. and the global community—and would, in all likelihood, cease acting against our security and interests worldwide.

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11. Chávez has enjoyed a bonanza since coming to power, as crude oil world prices have risen nine times from 1998 to 2008, with Venezuelan crude oil exports to the U.S. rising from an average price per barrel of US\$9.81 to \$88.06 (FOB costs of Venezuela crude oil, in dollars per barrel, from the U.S. Energy Information Administration). Venezuela is one of the world's top oil producers. Oil contributes about half of the central government's income and is responsible for about one-third of the country's GDP. (Cesar J. Alvarez and Stephanie Hanson, *Venezuela's Oil-Based Economy*, Council on Foreign Relations, Background, Updated: February 9, 2009.) In 2008, estimated revenues from oil exports were around US\$229 billion (calculated using the average price of West Texas Intermediate crude of US\$99.57 per barrel for 2008 and reported Venezuelan oil output of around 2.3 million barrels per day), based on the November report of the Organization of Petroleum Exporting Countries (OPEC), Latin Focus, Venezuela: Economic Briefing December 2008 <<http://latinfocus.com/>> and U.S. Energy Information Administration, *Short term energy outlook*, Updated 9/9/2009 <<http://www.eia.doe.gov>>).

2. *Our foreign policy should remain anchored in the values of democracy, rule of law, and free markets that our nation upholds.* Our ultimate policy goal is to foster the attainment by the Cuban people of all their innate rights, including that of self-determination.<sup>12</sup> Until that occurs, diplomatic and political initiatives should seek to promote change and delegitimize the Cuban dictatorship. Therefore, normalization without conditions is contrary to our interests and is consistent with the underlying commitment permeating U.S. policy to help spread freedom around the world. Pursuant to this objective, selective sanctions, aside from their ethical and symbolic merits, have been regarded as having practical effects.<sup>13</sup> In the case of Cuba, it is argued that they deprive the leadership of resources for internal repression and the continued impoverishment of the people as well as for international military incursions or subversion, in which Cuba has engaged in the past. They may also help prevent further socio-economic distortions that will hinder an eventual transition.<sup>14</sup> In addition, sanctions provide an instrument to use as leverage to promote reform, particularly among regime participants who would be most amenable or prepared to foster a transition.

3. *Policy should not be ideological to the detriment of*

*pragmatism and effectiveness.* Foreign policy must be coherent and premised on an objective evaluation of existing opportunities and circumstances. Neither a policy of unilateral sanctions by the U.S. nor engagement and business-as-usual by the rest of the world have fostered reforms that have empowered Cuba's citizens. An effective alternative, therefore, must be found.

Those who advocate strong pressure and isolation with practically no engagement at all cite the moral imperative of such a stance. Though justified from that standpoint, this has not been conducive to multilateral efforts for a number of complex and historical reasons.<sup>15</sup> Calculated and smart trade-offs are, thus, more desirable than unilateral actions of lesser effectiveness.

At the other end of the spectrum, those seeking normalization should consider the history and nature of Cuban totalitarianism. The Cuban regime has demonstrated and reiterated repeatedly that it will not negotiate liberalization in exchange for a lifting of U.S. sanctions, whether piecemeal or altogether.<sup>16</sup> It is futile to expect a police state bent on regime survival to change as a result of traditional "engagement." Cuba

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12. The Cuba Liberty and Democratic Solidarity (Libertad) Act (H.R. 927), passed by Congress in 1996, states that the policy of the United States is, among a list of related things: (1) To support the self-determination of the Cuban people. (2) In solidarity with the Cuban people, to provide appropriate forms of assistance for a transition to democracy. (3) To pursue trade relations with a free, democratic, and independent Cuba. (The Cuba Liberty and Democratic Solidarity (Libertad) Act <<http://thomas.loc.gov/cgi-bin/query/z?c104:H.R.927.ENR>>)

13. A discussion on sanctions is beyond the scope of this paper, but the theoretical and empirical literature on sanctions is extensive; its examination is recommended. In the Cuban case, the ethical and symbolic justification for sanctions is to object to the regime's extensive and systemic violation of human rights at practically all levels.

14. Because the state owns all resources, only privileged members of the regime are allowed participation in its carefully managed opening to selective capitalism. This creates extreme concentration of capital in their hands, while the population remains disenfranchised and as vassals of the state. This situation distorts the eventual transition process. In Russia, for example, the old Communist *nomenklatura* hijacked the privatization process to create a new and powerful oligarchy, while average citizens had no capital with which to become entrepreneurs and become more successful in the new economy. Arguably, certain proposals to end sanctions altogether or weaken them greatly could well result in hindering reform, as that would provide resources to Cuba's ruling elite that will enhance its resolve and ability to repress. This already occurred after Cuba in the 1990s opened to investment and trade from the capitalist world and made minor reforms forced by the collapse of the Soviet Union. Engagement under the regime's terms allowed for retrenching as soon as economic resources poured in from tourism and investment.

15. For a whole host of reasons, Cuba has not been isolated by the rest of the world, including democracies predicated on Western values. This paper, however, cannot enter into an analysis of this issue.

16. The Cuban leadership has long paid lip service to democracy and has signed numerous international agreements guaranteeing all sorts of rights. For example, at the Ibero American Summit in Chile in 1996, Fidel Castro pledged to a pluralistic democracy by signing, to great fanfare, the Viña del Mar Declaration. This practice has consistently fooled international public opinion and gained space and time for the regime, rather than resulted in any attainment of rights promised for Cuba's citizens.

has been open to tourism, trade, and investment from capitalist countries for almost 20 years since the end of Soviet support and trade relations with the Warsaw Pact. Over two million annual tourists<sup>17</sup> and extensive commercial, diplomatic, and political engagement with capitalist countries have not translated into any empowerment of Cuba's citizens.<sup>18</sup>

*4. For Cuba policy to be coherent and more effective, it must be informed, comprehensive, and sustained on a logic that permeates it throughout.* A solid and thorough understanding of the historical context and the widespread and complex issues involved in Cuba policy is required for a proper policy redesign. Most U.S. government officials dealing with Cuba policy or editorialists and other persons clamoring for policy changes have a superficial understanding of Cuba, of the history and trajectory of its regime, and of the development of U.S.-Cuba policy over time. As a result, calls for changing the existing “embargo” tend to be overly simplistic and formulaic, ignorant of the intricate web of measures that encompass ample and diverse areas—security, trade, migration, human rights, etc. In fact, many ignore that some regulations have long existed in sharp contrast with other aspects of the policy, compromising its overall effectiveness.<sup>19</sup>

*5. Foreign policy should seek the overall and long-term interests of the United States.* The vested, narrow, or short-term interests of any group of stakeholders cannot override or exclude the overall interests of the nation.

*6. Avoid unrealistic expectations in designing and evaluating foreign policy.* Two important caveats must be

noted regarding foreign policy. As basic as they seem, they are frequently overlooked. First, the effect of external factors, such as the foreign policy of another nation or group of nations, should not be regarded as the do-all with respect to the affairs of any given nation, particularly one ruled by a totalitarian government. Although foreign policy may help advance a nation's goals and interests, its reach and influence should not be overestimated.

Second, domestic political forces within the United States—both in and out of government—have not always been aligned when it comes to Cuba policy. Contradictions among different stakeholders have been exacerbated in the last two decades with Cuba's selective opening to capitalism. The likelihood that policy measures proposed herein would attain support of key constituencies cannot be properly assessed, as they fall outside the scope of this paper; however, they should not be counted on. But, even if these proposals were unrealistic from that perspective, they could still add some value to the analysis and debate on Cuba policy.

#### **“PRINCIPLED ENGAGEMENT”: A STRATEGIC AND PRAGMATIC CUBA POLICY**

The economic and political climate in Cuba presents opportunities for external actors to influence democratization. On the political front, the old guard inevitably faces biological destiny and long-contained demands might gain ground unexpectedly. The Cuban economy is hurting badly despite huge support from

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17. Cuba, a country of 11 million, received over 2.3 million tourists in 2008. (“Extiende cadena hotelera española negocios en Cuba,” La Habana, Notimex, 9 de septiembre de 2009.)

18. For a detailed analysis of this issue, see Maria C. Werlau, “Foreign Investment in Cuba: The Limits of Commercial Engagement,” *World Affairs*, Vol. 160, No. 7, Fall 1997.

19. Just to give one example, the Cuban Adjustment Act (in place since 1966) grants special treatment to Cubans based on an historic understanding that they are political exiles fleeing a Communist regime. Yet, more recent regulations, from the 1990s onwards, grant special license from embargo restrictions for travel to Cuba to those same exiles who earlier obtained U.S. residency, under the assumption that they would not suffer political persecution in Cuba. The policy contradictions are obvious.

Venezuela.<sup>20</sup> The population, suffering extreme hardships, is tired, yet asked to shoulder even more sacrifice and deprivation. Although this cannot be expected to undo the regime, it is nonetheless a potential Achilles heel that can lead to unexpected consequences.

In the United States, an underlying theme of Cuba policy is to avoid or prevent situations that could lead the regime to unleash mass migration, as seen in the past—most recently in the summer of 1994.<sup>21</sup> In certain circles, normalization is seen as the best way to guarantee internal stability in Cuba. Yet, a continued deterioration of the economy is a cause of continued, if not growing, incentive to migrate as well as a breeding ground for potential destabilization in a grand scale. In addition, an impoverished Cuba will continue to rob the United States of the potential for growing and profitable business opportunities. No amount of engagement with the West has stopped Cuba from energizing its relations with regimes hostile to the United States.

Instead of wallowing in immobility—waiting for something to change in Cuba—the United States can

alter the status quo unilaterally. A proactive and audacious approach could capitalize on the regime's weaknesses while remaining faithful to our values. Bold unilateral policy changes, in fact, present a win-win proposition. At minimum, they would weaken the Cuban ruling elite in the propaganda front. In addition, they would also erode criticism of the embargo to help foster a multilateral effort on Cuba that would be more effective in pushing for reform. This would extend the responsibility for the democratization of Cuba to other members of the international community and help demonstrate to all that the Cuban dictatorship is not the result of a bilateral dispute with the United States.

The current administration can design with the Congress a realistic, strategic, and proactive policy that deals in specifics and uses quid pro quos. Measures under Executive discretion should be taken simultaneous to calling on Congress to work with the Administration, in a bipartisan effort, to help develop a comprehensive plan that would take into account needed changes to existing legislation.<sup>22</sup>

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20. In 2008, Cuba suffered three major hurricanes, an increase in the price of oil and most imports, and a decline in the price of nickel, one of its main exports, as a result of the global recession. Domestic production continued to decline, a victim of socialist central planning, requiring more imports. The trade deficit was huge (exports at US\$3.8 billion and imports at US\$14.5 billion). Cuba's enormous external debt, one of the highest per capita in the world, is estimated at US\$31.7 billion; most of it has been in default for decades, which keeps Cuba shut off from world financial markets. In 2009, the situation has become critical, with the state experiencing a serious hard currency liquidity crisis. In April 2009 the government issued an order forbidding withdrawal of hard currency holdings in Cuban banks, including by foreign companies doing business on or with the island. (Oscar Espinosa Chepe, "Sin perspectivas," *La Habana*, www.cubaencuentro.com, 21/01/2009; Arnaldo Ramos Lauzarique, "2008 un año de perturbaciones, no sólo ciclónicas," *De la Mesa de Trabajo de Martha Beatriz Roque*, enero 2009; Wilfredo Cancio Isla, "Cuba refuerza control de su sistema bancario," *El Nuevo Herald*, 21 de abril del 2009; Hans del Salas del Valle, *Cuba Facts*, Issue 47–May 2009, Institute for Cuban and Cuban American Studies, University of Miami.

21. In August of 1994, during the height of the economic downturn that followed the dissolution of the Soviet bloc and the demise of Soviet support, a popular uprising took place in Havana's waterfront (known as the "maleconazo") that led to the announcement by the government that people would be allowed to leave. Thousands took to sea in precarious rafts, seeking to reach U.S. shores. The U.S. Coast Guard rescued many and took them to the U.S. Naval Base at Guantanamo, holding them in makeshift camps until they were eventually allowed to enter the United States. The Clinton Administration entered into two migration agreements with Cuba whereby it would interdict and return to the island "balseros" (rafters) who do not make it to U.S. territory or dry land. Cuba agreed not to punish the returnees.

22. The aforementioned Cuba Liberty and Democratic Solidarity (Libertad) Act instructs the President to enforce fully the Cuban Assets Control Regulations and codified the economic embargo of Cuba, including all restrictions under part 515 of title 31, Code of Federal Regulations (Cuban Assets Control Regulations), which were issued by the U.S. Government on July 8, 1963, under the Trading With the Enemy Act in response to certain hostile actions by the Cuban government. The Libertad Act, also known as the Helms-Burton Law, spells out the requirements and factors for terminating the embargo and determining that a transition government is in place in Cuba (including legalization of all political activity; release of all political prisoners; dissolution of the Department of State Security; and organizing free and fair elections for a new government within 18 months). Nonetheless, the Cuban Assets Control Regulations are administered by the Treasury Department's Office of Foreign Assets Control ("OFAC"), under the direction of the President. OFAC has, thus, been responsible for issuing, interpreting and applying the embargo regulations. Historically the regulations have been amended using ample executive discretion.

## GENERAL POLICY PRESCRIPTIONS

1. *Adopt unilateral measures initially independent of the Cuban regime's response, thus making their effects and consequences unavoidable.* Rather than waiting for the Cuban regime to cooperate, policy changes should not be conditioned to reasonable responses by a Cuban leadership that rejects all challenges to its absolute power.

2. *Build flexibility and dynamism into the menu of policy options and conduct ongoing assessment.* Tailor the response to rapidly changing events. Put in place mechanisms for ongoing policy analysis and responses.

3. *Make calculated trade-offs.* The policy goal is to foster democratic change in Cuba. Trade-offs that seek this objective should not be regarded as concessions, but rather as strategic maneuvers. Trade-offs that help empower average Cuban citizens with economic independence, build civil society, foster a free flow of information, alleviate human suffering, and/or expose the regime's ugly aspects warrant their relative cost—actual or imagined. Trade-offs cultivating international agreement for joint action are desirable if they can replace unilateral actions of lesser impact.

4. *Take into account the public relations' effect of any policy change as an inherent measure of its effectiveness.* The demonstration effect of smart measures should be considered a cornerstone of the policy. A retooled policy would always seek to diffuse the propaganda so artfully delivered by Cuba by consistently educating the public on the policy objectives of the United States with respect to the realities of the Cuban dictatorship. It is the Cuban government's refusal to allow its citizens their inherent rights that causes the sanctions and it is in its power to correct that in order to avoid the sanctions.

The Cuban leadership has conveyed a cohesive and targeted message for over five decades, one primarily focused on combating and attacking the United States at all levels and framing U.S. sanctions in a manner that diverts attention from the failures of its economic model, of its systematic and widespread human rights violations, and of its international activities contrary to our interests. It has expended huge amounts of resources—human, financial, and otherwise—to deliver this message coherently, consistently, and contin-

uously, using the huge government apparatus for this purpose, both internally and in the world stage. The U.S., due to the nature of its open and decentralized political system and the workings of its institutions, cannot even begin to compete with that. Therefore, the best it can do is to direct all possible efforts to better communicating the facts about our policy, its causes and objectives, while calling attention to the specific behaviors of the Cuban regime affecting or impacting the different aspects of our policy. For this reason, even conditional measures of a retooled policy can reap significant benefits just in their announcement. When the Cuban government does not meet the stated conditions for the enactment of certain measures, the very fact that it does not do so will expose its flaws and place the burden of proof where it belongs, in Cuba.

Selling the new plan effectively should be a critical aspect of its implementation. The U.S. Administration should embark on a comprehensive and energetic public relations campaign that presents to the Cuban people goodwill and encourages them to attain their right to self-determination while preserving the moral duty of continued pressure on the regime that oppresses them. The message that has been consistently delivered by successive U.S. administrations should be highlighted—that change in Cuba will come from within and that the Cuban people, not the U.S. government, are responsible for a transition to democracy. In addition, the policy should be communicated clearly and in detail to domestic constituencies, especially key stakeholders. The international community should also be actively engaged; the new policy should be presented in terms of the cause-effect nature of the sanctions and an invitation should be made for joint solidarity towards the Cuban people.

Because the traditional way of approaching policy by the different U.S. government branches and offices involved in Cuba policy<sup>23</sup> does not typically incorporate an active communications-public relations strategy, it poses a real challenge for the U.S. to take this on. A Senior Coordinator on Cuba policy could take on this role, whether under the White House or Department of State, to serve as liaison between the different areas of government, to stress the communications compo-

ment of Cuba policy, and to make sure the U.S. is delivering a cohesive and effective message to the people of the United States and Cuba and to the world.

## POLICY MENU

The menu of possible and smart recommended policy changes is vast and should encompass travel, trade, investment, humanitarian aid, migration, assistance to the peaceful opposition. Following are suggestions. Due to space limitations, background information on each section that was part of a larger piece, has been eliminated.

### Travel and People-to-People Exchanges

1. Announce a twelve-month general license under the Cuban Assets Control Regulations for all humanitarian travel and educational exchanges and for all major U.S. carriers who wish to offer flights to Cuba (i.e., not requiring licensed charters). Write into the regulation that this will be reversed within twelve months unless OFAC can certify that Cuba has:

- i. eliminated requirements that academic, humanitarian, and religious exchanges and visits take place under the control or by authorization of the Cuban government;<sup>24</sup>
  - ii. eliminated confiscatory government-imposed fees and restrictions on visitors from the United States, including the 10% tax to exchange dollars for Cuban currency;<sup>25</sup>
  - iii. authorized U.S. companies operating flights to Cuba to hire workers in Cuba and pay them directly;<sup>26</sup>
  - iv. shown reciprocity with respect to humanitarian and family travel by Cubans to the U.S. (eliminating arbitrary and excessive fees and requirements for visitors to the United States).<sup>27</sup>
2. Announce that the President is ready to ask Congress to eliminate restrictions on tourist travel *as soon as* the Cuban government:
- i. allows its own citizens to freely leave and enter their country (subject to the legal entry re-

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23. The White House/National Security Council, Departments of State, Commerce, Treasury, Defense, Justice, Homeland Security, the intelligence services (CIA, FBI, NSA), are among those falling under the Executive Branch that are most directly involved with Cuba policy.

24. The Cuban Liberty Act of 1992, passed under the Clinton Administration, fostered people-to-people exchanges and greatly liberalized the issuance of licenses, general or specific, for travel to Cuba for educational, humanitarian and religious purposes. However, Cuba continued to require, and still does, for academic exchanges and many humanitarian exchanges to be organized through a government office that decides the official agenda, determines which places can be visited, and who the visitors will see. Contacts are systematically geared to activities deliberately presenting an attractive portrait of the Cuban revolution and spreading ideological messages or towards traditional tourism such as salsa dancing or visits to resorts by the beach. Exchanges with members of Cuba's civil society, opposition groups, and human rights defenders are not allowed. Little free time is left for exchanges with the Cuban people or visits to locations not monitored or organized by the Cuban government. (The author has over many years collected many first-hand accounts of persons participating in these exchanges and has extensive literature on the topic.)

25. The Cuban government charges US \$100 to \$133 per passenger for landing rights, baggage claim, and other services. A Miami-Havana ticket, for a 45-minute ride, cost US\$600 in May 2009. (Damien Cave, "Charter Companies Flying to Cuba Thrive," *New York Times*, 5/19/09.) In addition, Cuban-born U.S. citizens who left Cuba after 1971 are required to travel with a Cuban passport that must be obtained at a cost of US\$400. Cuban born U.S. citizens who left before 1971 may travel with a visa, at a cost of US\$199. They must pay steep duties to bring in gifts for relatives and are also subject to the exit tax for all visitors of US\$25. (Telephone interview with a New Jersey agent of Marazul, a travel company specializing in Cuba travel, March 27, 2009.)

26. The Cuban government currently prohibits charter companies serving U.S. travelers from hiring in Cuba (Cave, *op.cit.*).

27. For a Cuban citizen to visit the United States (or any other country), the host must submit a notarized invitation letter to a Cuban consulate abroad together with a fee of US\$195. This is then sent to a state entity in Cuba that must authorize the trip, issuing exit and re-entry permits. If approved, US\$150 must be paid. The exit permit is issued only for one month. If the person has a visa for a longer stay (U.S. visas are typically issued for 6 months) and wishes to stay more than one month, he or she must resubmit an application once in the U.S. to obtain extensions of one month at a time, paying US\$175 for each one month extension is requested. This usually forces the traveler to purchase a new return ticket, as the original ticket is only issued for a certain time period. A Havana-New York City trip typically cost a mother visiting her son over \$1,500 just in air fare and the travel fees paid to Cuba. (From "Odisea del turista cubano," provided to the author in the summer of 2000 and updated September 2009, name of the author withheld on request.)



- quirements of countries they wish to visit or emigrate to);<sup>28</sup>
  - ii. abolishes laws and practices that punish Cubans for engaging with foreigners;<sup>29</sup>
  - iii. authorizes direct employment by foreign joint ventures and eliminates state retention or confiscation of any portion of wages and tips for workers in the tourist sector;<sup>30</sup>
  - iv. complies with international labor standards in businesses serving the tourist sector;<sup>31</sup>
  - v. refrains from reestablishing recently abolished measures that prohibited Cubans from entering hotels and tourist facilities.<sup>32</sup>
- The U.S. could offer to lift travel restrictions incrementally, i.e., if Cuba would allow two of the above, cruise travel would be allowed, then some other incremental steps will follow the adoption of the other items.
- 3. Create and fund a “Cuba Travel Information Bureau” to provide travelers to Cuba an objective understanding of Cuban reality, of the human rights situation, and of the incipient Cuban civil society, as well as to encourage exchanges that promote democratic values and humanitarian concern. This Bureau would work as part of the State Department or other pertinent government agency, working closely with other U.S. government agencies dealing with Cuba such as OFAC and the Commerce Department to:
    - i. offer educational materials, facilitate purposeful travel, and promote people-to-people contacts and exchanges of “purposeful intent”, i.e., contacts and exchanges that assist in the promotion of the goals of U.S. policy of promoting democracy and human rights and that deliver humanitarian assistance without state interference;

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28. Article 216 of the Cuban Penal Code (Ley No. 62 of 29/12/1987) forbids citizens from leaving or entering the country without government permission and punishes attempts to do with one to three years of prison. In this regard, the Helms-Burton Law states (Sec. 112 “Reinstitution of family remittances and travel to Cuba”): “It is the sense of the Congress that the President should ... (2) before considering the reinstatement of general licenses for travel to Cuba by individuals resident in the United States who are family members of Cuban nationals who are resident in Cuba, insist on such actions by the Cuban Government as abrogation of the sanction for departure from Cuba by refugees, release of political prisoners, recognition of the right of association, and other fundamental freedoms.”

29. Special laws govern workers in the foreign sector (tourism, embassies, foreign joint ventures), requiring they be hired only from a state enterprise, that, among other things, selects them based on ideological “integration.” Cuba’s “Regulations Concerning Relations with Foreign Personnel in the Tourism System,” in effect since 1990, govern the behavior of workers in the tourist sector. In addition, Cuba’s Ministry of Tourism Resolution No. 10 of 2005 requires that workers in contact with foreigners restrict contact to that “strictly necessary,” “maintain conduct based on loyalty to the nation, respect for the Constitution of the Republic, socialist legality, and government policy”; reject any remunerations, gifts, contributions, or lodging; and abstain from expressing opinions that might be detrimental to the nation. In addition, it forbids attendance of family members at receptions, meals, or other activities sponsored by foreigners (strictly necessary exceptions require prior approval from the corresponding responsible authorities). Also, tourism workers must declare in writing any gift of money they receive from a foreigner, including tips, and their immediate superior will then decide how to dispose or distribute it.

30. The Cuban Constitution only recognizes property of the socialist state. Thus, essentially all means of production are in state hands and all workers are employees of the state. Cuba’s Foreign Investment Law (No. 77 of 1995) requires that all workers in joint venture enterprises be hired from a Cuban state entity that selects the workers using ideological and political criteria. Payment is made in hard currency to the state entity, which in turn pays the workers in local currency, approximately 5% rate of the payment it receives. The same practice applies to workers in foreign diplomatic missions. This violates international labor standards including ILO (International Labor Organization) Convention 95 on the Protection of Wages and has been widely denounced by human rights defenders in Cuba and by international human rights organizations.

31. Cuba is a member of the ILO (International Labor Organization), which has standards that protect workers with respect to freedom of association, collective bargaining, wages, working time, occupational safety, and others, that could serve as guidelines for an assessment. The U.S. State Department publishes a yearly global human rights report that includes an overview on worker rights; Cuba is one of the countries in the report. The same mechanism used for this evaluation could be used to assess worker rights specifically in the tourism industry. (See: 2008 Human Rights Report: Cuba, U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, February 25, 2009 <<http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119155.htm>>).

32. In April 2008, Raúl Castro’s government lifted a ban on Cuban citizens and authorized them to enter or become paying guests at hotels and other tourist facilities. This was part of a series of measures that also lifted bans on the use or possession of electric appliances, microwaves, computers, and cell phones.

- ii. gather information on the arbitrary denial of entry, detention, or expulsion for ideological or political reasons of U.S.-based visitors and publish quarterly reports of these practices; and
  - iii. gather and centralize data on academic and humanitarian exchanges occurring under general licenses and publish quarterly reports with this information.
4. Declare that the President hopes the Cuban government will cease discriminating visitors on the basis of their place of birth, ideology, political affiliations, or religion.<sup>33</sup>

#### Remittances and Other Humanitarian Assistance

1. Announce the lifting of *all* restrictions on remittances<sup>34</sup> and on the export of humanitarian gift parcels and humanitarian goods to individuals in Cuba not members of the Communist Party and to religious, educational, or charitable organizations not administered or controlled by the Cuban government as long as Cuba foregoes all import levies and any other restrictions on this

humanitarian assistance reaching recipients freely and directly.<sup>35</sup>

2. Publish and circulate quarterly reports (through OFAC, State Department, U.S. Interests Section in Havana) of the assistance being sent to Cuba from the United States via licensed remittance forwarders<sup>36</sup> and gift parcel consolidators/shippers together with levies and any other fees by the Cuban government. Include any instances of assistance seized, interrupted, or confiscated by the Cuban government.
3. Condition the continued loosening of restrictions on gifts and donations announced in April 2009 to a one-year evaluation of arbitrary and high levies by the Cuban government.

#### Trade

4. Announce that the President is ready to ask Congress to lift restrictions on private/commercial financing for all authorized exports to Cuba as long as Cuban citizens are free to form their own businesses and enter into creditor agreements directly for the import, distribution, resale, etc. of these products. As an immediate first step, the Cuban government would have to allow private farmers

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33. Cuba does not grant entry visits to, detains, or expels researchers, journalists, representatives of international human rights organizations and others deemed politically undesirable. The author has many first-hand accounts of these practices and has many news reports from travelers from Europe and Latin America subjected to this treatment. In fact, the author, who traveled to Cuba in 1998, has subsequently been denied entry into Cuba and told by Cuban diplomats in the U.S. that she is not welcome.

34. It should be noted that the Helms-Burton Law states (in Sec. 112 "Reinstitution of family remittances and travel to Cuba"): "It is the sense of the Congress that the President should- (1)(A) before considering the reinstatement of general licenses for family remittances to Cuba, insist that, prior to such reinstatement, the Cuban Government permit the unfettered operation of small businesses fully empowered with the right to hire others to whom they may pay wages and to buy materials necessary in the operation of the businesses, and with such other authority and freedom as are required to foster the operation of small businesses throughout Cuba."

35. Exports/gifts would, however, remain subject to U.S. controls for reasons of national security and non-proliferation of weapons of mass destruction.

36. An updated "List of Authorized Providers of Air, Travel and Remittance Forwarding Services to Cuba" is published by OFAC at [http://www.treas.gov/offices/enforcement/ofac/programs/cuba/cuba\\_tsp.pdf](http://www.treas.gov/offices/enforcement/ofac/programs/cuba/cuba_tsp.pdf).

and independent farming cooperatives<sup>37</sup> to purchase agricultural products from the U.S., as already authorized by the Trade Sanctions Reform Act since 2000.

5. Announce that the President is ready to ask Congress to lift trade sanctions for exports to Cuba of all goods and services *as long as and as soon as* Cubans are allowed to set up their own businesses to import, distribute, and re-sell them, free of government control and inordinate levies and taxes, and with the ability to hire workers directly and without government control or interference plus Cuban citizens would have to be allowed to travel in and out of their country to conduct this business without Cuban government permission. No U.S. public credits, insurance, export or tax incentives, or subsidies, may be authorized, but commercial private financing would be allowed. Sanctions for designated state sponsors, as required by law, will remain.<sup>38</sup>
6. Announce that the President is ready to ask Congress to lift trade sanctions for imports from Cuba of *all* goods and services *as long as and as soon as* Cubans are allowed to set up their own businesses to import, export, distribute, manufacture, grow, and/or re-export their goods and services, free of

government control or inordinate levies, with their property rights legally recognized and with the ability to hire workers directly and without government control or interference. Restrictions would remain on imports from Cuba of products or services produced by Cuban enterprises or foreign joint ventures without regard for fair labor standards (as per ILO conventions to which Cuba is a signatory).<sup>39</sup>

The following restrictions would remain until Cuba is a fully on a path to democracy and off the list of state sponsors of terrorism: (1) Legal limits and regulations on exports and financing to countries designated as state sponsors of international terrorism as well as any other restrictions owing to national security reasons; and (2) A prohibition on all government subsidies as well as export and investment guarantees.

#### Investment

1. Announce that the President is ready to ask Congress to allow for private investment in Cuba if:
  - i. a satisfactory settlement is reached and Cuba actually pays compensation to U.S. claimants for confiscations;
  - ii. investors have the right to hire, pay, and bargain directly with workers;

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37. There are 250,000 small private family plots and 1,100 private cooperatives in Cuba. (Mark Frank, "Decenas de miles de campesinos solicitan tierras ociosas en Cuba," Reuters, La Habana, November 17, 2008.) Their right to own land was guaranteed by the Cuban Agrarian Reform Law of 1959; essentially, this is the only private property that has existed in Cuba since the turn to Marxist socialism. Family plots are no larger than 13.2 hectares. Private farmers belonging to state-controlled Credit and Services Cooperatives (CCS) retain their individual ownership and control of the land while sharing services. All are dependent on the state for inputs and are not allowed to import intermediate goods needed for their production (fertilizers, seeds, etc.). (See Antonio Gayoso, "An Agricultural Transition Policy for Cuba: A Message for Raúl," *Cuba in Transition—Volume 18*. Washington: Association for the Study of the Cuban Economy, 2008), p. 266.) In 1998 approximately 8% of the land was in private hands, yet the sector produced almost 50% of the food and 62% of the meat. (Alfredo Romero, Centro de Estudios de Economía Internacional, Universidad de la Habana, in "Cuba: Transformaciones económicas y el sector agropecuario en los noventa," and remarks delivered at the presentation of this paper at the conference co-sponsored by the University of Florida, "Role of the Agricultural Sector in Cuba's Integration into the Global Economy," Washington, DC, March 31, 1998.) Since the 1990s there has been some liberalization in production and prices as well as joint ventures of the Cuban state with foreign capital in agriculture, but no attempts to put more land in private hands.

38. Cuba has been designated since 1982 by the U.S. State Department as a state sponsor of terrorism. Sanctions resulting from this designation include controls over exports of dual-use items (requiring 30-day Congressional notification for goods or services that could significantly enhance the terrorist-list country's military capability or ability to support terrorism). (State Sponsors of Terrorism, U.S. Department of State, <http://www.state.gov/s/ct/c14151.htm>).

39. Section 515.204 of the Cuban Assets Control Regulations prohibits, unless licensed, the importation of commodities of Cuban origin. It also prohibits, unless licensed, persons subject to the jurisdiction of the United States from purchasing, transporting or otherwise dealing in commodities of Cuban origin which are outside the United States.

- iii. investors adhere to fair business practices and labor standards;<sup>40</sup>
  - iv. investors are not required to enter into and do not enter into partnerships with the Cuban government (in the form of joint ventures).
2. Maintain the prohibition on direct foreign aid and participation in international financial organizations and the OAS (Organization of American States) until the Cuban regime makes substantial progress in human rights, embarks on democratization, and is not on the list of state sponsors of terrorism.<sup>41</sup>

### Migration

U.S. policy seeks to balance humanitarian and security concerns in a way that fosters “safe, legal, and orderly migration” from Cuba. Its goals should be to:

- save lives;
- adequately protect U.S. security;
- make the U.S. Government’s Cuba immigration policy consistent with overall U.S. immigration policy and fair to people of other nationalities seeking to immigrate; and
- encourage Cubans to create internal conditions that will make them want to remain in their country rather than emigrate.

In accordance with the above, the U.S. government should continue to make it clear to the Cuban government, via public statements and diplomatic channels, that it will consider its promotion of a migration wave to the United States not only as a threat to the safety of people who take to sea, but also as an act of aggression. Recommended policy changes include:

1. Suspend, for national security and humanitarian reasons, the Attorney General’s purview to grant parole to Cuban refugees under the Cuban Adjustment Act that allows most undocumented Cubans who arrive in the United States to stay and become permanent residents (under the Cuban Adjustment Act of 1966, as amended). Announce that the President will conduct an executive assessment and, based on its finding and conclusions, ask Congress to review, amend, or abrogate the Cuban Adjustment Act of 1966 to reflect changing circumstances both in the United States, particularly after September 11, 2001, and in Cuba, as well as the loss of life associated with sea exits from Cuba.
2. Temporarily suspend the 20,000 annual immigration quota for Cuba until a full and final review of current migration policy and accords is completed. Explain that this results from Cuba’s failure to comply with certain commitments it made in the 1994–95 Migration Agreements, its imposition of undue financial fees for emigrants, and the vital need to protect U.S. national security.
3. Enhance and speed up logistical and administrative resources to process requests for political asylum by Cubans. Refugee status for persecuted dissidents and human rights activists should remain available for those who show merit and qualify for it.
4. Disseminate frequent warnings over Radio Martí and other venues that reach Cuba to educate Cubans on the high risk of sea journeys and the un-

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40. Investors should apply the ILO Tripartite Declaration on Multinational Enterprises and Social Policy and the OECD (Organization for Economic Cooperation and Development) Guidelines for Multinational Enterprises. See Model International Agreement on Investment for Sustainable Development, [http://www.iisd.org/pdf/2005/investment\\_model\\_int\\_handbook.pdf](http://www.iisd.org/pdf/2005/investment_model_int_handbook.pdf).

41. This is generally in accordance with the Helms-Burton Law and longstanding policies of the United States.

availability of asylum through unofficial migration attempts.

5. Create an Emergency Refugee Task Force on Cuba composed of neighboring states and work with the U.N. High Commissioner for Refugees to consider the international obligations of states towards Cuban refugees and to shift the responsibility for this situation to the world community, where it belongs.<sup>42</sup> This international obligation would include finding shelter and temporary facilities for refugees from Cuba who reach the shores of any neighboring states and have reasonable fear of persecution or harm if returned to Cuba.
6. The agenda for the Emergency Task Force on Cuba should also include specific measures to make Cuba accountable in appropriate international bodies for the impediments to safe migration and family reunification, its refusal to issue exit permits to all qualified migrants and medical professionals, and its imposition of extremely high fees for persons seeking to emigrate legally. A group of experts should also be named to look into the reported extrajudicial killings of Cuban citizens in exit attempts, the political prisoners held for attempting “illegal” exit, and the total cost in lives of the exits by sea.<sup>43</sup>

### U.S. Security Interests

1. The United States should focus persistent public attention on the Cuban leadership’s most egregious practices, such as:
  - i. Crimes against humanity, particularly executions, assassinations and disappearances, and highlight the killing of at least 22 U.S. citizens.<sup>44</sup>
  - ii. Providing safe haven to dozens of fugitives from U.S. justice and international terrorists.<sup>45</sup>
  - iii. Systematically harassing and intimidating our diplomats in Havana.<sup>46</sup>
2. The U.S. government should take additional measures to heighten public emphasis on this matter. It could for example:
  - i. Authorize, assist, and/or pursue all domestic and international legal actions available pertaining to Americans killed or disappeared by the Cuban state.
  - ii. Declassify all documents from U.S. government entities—State Department, Coast Guard and Defense Department—on assassinations related to exit attempts by sea and attempted crossings into the U.S. Guantánamo Naval Base.

### Free Flow of Information

Informational materials, books, CDs, and certain artwork have been exempt from the U.S. embargo and

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42. There are numerous international agreements to protect the rights of refugees. Yet, while humanitarian and legal considerations call for providing haven to refugees fleeing from repression, host countries face legitimate practical problems in accepting refugees. This is particularly true in situations of mass influx, which constitute an “undue burden” in terms of security, welfare resources, and others. For this reason, the preamble of the Refugee Convention recognizes that hosting large refugee populations can pose an unduly heavy burden on certain countries and calls on states to cooperate to assist host countries and seek solutions to refugee situations. For details, see María Werlau, “International Law and Other Considerations on the Repatriation of Cuban Balseros,” *Cuba in Transition—Volume 14*. Washington: Association for the Study of the Cuban Economy, 2004.

43. See “Civilians killed for attempting to flee Cuba,” [http://cubaarchive.org/home/index.php?option=com\\_content&task=view&id=20&Itemid=95](http://cubaarchive.org/home/index.php?option=com_content&task=view&id=20&Itemid=95).

44. See “U.S. citizens victims of the Cuban regime,” [http://cubaarchive.org/home/index.php?option=com\\_content&task=view&id=39&Itemid=95](http://cubaarchive.org/home/index.php?option=com_content&task=view&id=39&Itemid=95).

45. The Helms-Burton Law, Sec. 113, “Expulsion of criminals from Cuba” states: “The President shall instruct all United States Government officials who engage in official contacts with the Cuban Government to raise on a regular basis the extradition of or rendering to the United States all persons residing in Cuba who are sought by the United States Department of Justice for crimes committed in the United States.”

46. See, for example, Jonathan Wright, “U.S. Says Cuba Harasses Diplomats,” Reuters, Washington, February 7, 2003; and Larry Luxner, “Cubans make life miserable for U.S. diplomats in Havana,” *CubaNews*, March 2003. The author has also first-hand testimony from several U.S. diplomats who have served in Cuba at different times as well as copy of a 2003 Internal Memorandum of the U.S. Department of State.

may be freely exported to Cuba or imported from Cuba.<sup>47</sup> Direct mail services have been authorized since the passage of the 1992 Cuban Democracy Act. Likewise, in the area of telecommunications, many services, contracts, related payments, and travel-related transactions have been authorized by general license.

In addition, the 1992 Cuban Democracy Act authorized the establishment of news bureaus, as long as the arrangement was “fully reciprocal” and if the Cuban government did not interfere with the establishment of news bureaus or with the movement in Cuba of journalists of any United States-based news organizations, including Radio Martí and TV Martí, or interfered with the transmission of telecommunications signals of news bureaus or with the distribution within Cuba of publications of any United States-based news organization that has a news bureau in Cuba. Although Associated Press and CNN have long had bureaus in Cuba, many restrictions remain on U.S. journalists covering Cuba and not even journalists on short term assignments are allowed from numerous media outlets including The Miami Herald, The Washington Times, and Radio and TV Martí.<sup>48</sup>

The United States should make all efforts to allow and encourage the free flow of information to Cuba.

1. Allow U.S. telecommunications companies to set up operations in Cuba, including making direct investments, as long as they are not required to enter into partnerships with the Cuban government, are allowed to hire and pay workers directly, and adhere to fair business practices and labor standards.<sup>49</sup>
2. Consistently and publicly call on Cuba to allow U.S. individuals and companies to freely sell, distribute, or donate informational materials (and without prohibitive taxes).

3. Consistently and publicly call on Cuba to permit direct mail services between the two countries.
4. Take immediate actions to seek the full reciprocity required by U.S. law for the establishment and operations of news bureaus.
5. Continue expanding the reach and programming quality of Radio and TV Martí and demand greater accountability on the effectiveness of programming and on their internal administration.

#### **Support for Cuban Civil Society**

Provide information, advice, and technical support to non-governmental organizations (NGOs) to develop and run *effective* Cuba programs and fund and support efforts to record and denounce the human rights violations, both inside and outside Cuba.

#### **Entice Secondary Regime and Military Leaders to Foster Reform.**

Myriad efforts should be undertaken to continue sending the message to the Cuban military and power elite *who have not committed crimes against humanity* that it is in their best interest and that of the Cuban people to initiate the transition.

#### **FOSTERING A MULTILATERAL POLICY**

A novel approach by the U.S. would erode criticism of the embargo and help build international support for a joint policy approach. Multilateral efforts should take into account the sensitivities of other countries, seek to extend the responsibility for the democratization of Cuba to other members of the international community, and help demonstrate to the Cuban people that the dictatorship’s hold on power is not the result of a bilateral dispute with the United States.

In recent years Cuba has greatly increased its influence in international agencies and with foreign governments thanks to the growing influence of the Venezue-

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47. The “Berman Amendment” modified Section 2502(a) of the 1988 Omnibus Trade and Competitiveness Act, P.L. 100–418, to exclude from the President’s powers under Section 1702(a) of the International Emergency Economic Powers Act (“IEEPA”) the authority to regulate or prohibit, directly or indirectly “the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications...” (Memo from Allan Adler (Association of American Publishers) and Marc Brodsky (AAP/Professional and Scholarly Publishers Division), RE: OFAC’s Interpretation of IEEPA’s “Informational Materials” Exemption, January 23, 2004.)

48. In 2000 the Cuban government authorized the Chicago Tribune and the Dallas Morning News to open news bureaus in Havana, joining the Associated Press (AP) and CNN. However, the mentioned bureaus closed in 2004 and only AP and CNN remain.

49. See the earlier discussion on ILO and OECD instruments.

la-Cuba alliance in the developing world, the election of leftist governments in many countries in Latin America, and a politicized and masterfully executed “health diplomacy,” that has secured enormous leverage and influence in developing countries. This partly explains why the Cuban regime has made significant gains in international legitimacy, such as in the United Nations and the Organization of American States, which greatly diminishes the pressure for political and economic reform. For this reason, little can be expected of most Latin American governments and developing countries in terms of pressuring Cuba for reform. Thus, the United States should seek to work with natural allies among the world’s democracies, such as the European Union, Canada, Australia, and New Zealand, to foster and facilitate a transition to democracy in Cuba. An alliance could be sought to implement a joint strategy based on proactive measures such as:

1. Demanding that embassies in Cuba be allowed to hire and pay workers directly instead of having to hire only those selected and offered through the Cuban state enterprise that also retains over 90% of the wages paid in hard currency, paying the Cuban workers in worthless pesos.
2. Cooperating in the support of Cuban civil society through outreach programs and assistance.<sup>50</sup>
3. Agreeing on ethical principles and best business practices for foreign investment and business in Cuba.<sup>51</sup>
4. Promoting purposeful engagement and travel.
5. Exerting international pressure for Cuba to specifically abrogate laws and practices that limit the civil, political, and economic rights of the citizens.<sup>52</sup>
6. Refraining from financial dealings that lack transparency and fail to adhere to guidelines of the Financial Action Task Force (FATF) for combating money laundering and financing of terrorism.
7. Readying assistance—technical and humanitarian—for a transition to democracy on the island.

The alliance should embark on an analysis of incremental multilateral sanctions to be adopted jointly if the Cuban leadership fails to initiate reforms leading to democratization. Measures of escalating severity could include:

1. Creating and publishing a roster of visitors banned or expelled from Cuba for political reasons—journalists, academics, human rights activists, etc.
2. Exploring legal means to make Cuba accountable for human rights violations in international courts and other bodies.
3. Issuing travel advisories noting restrictions on interactions between Cuban citizens and foreigners.
4. Suspending travel of senior government officials to Cuba.
5. Banning top Cuban leadership from entry.
6. Suspending official scientific, cultural & sports exchanges.
7. Contemplating measures and sanctions tailored to ILO recommendations for the violation of worker rights.
8. Suspending commercial credits to Cuba, particularly financing issued with guarantees from enterprises affiliated or suspected to be affiliated with top Cuban leaders.

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50. These could include unrestricted internet access to Cuban citizens at diplomatic missions, hosting gatherings and conferences for dissidents and other independent groups, organizing a program of visits to dissidents in the interior of the island, encouraging NGO groups to work directly with independent Cuban counterparts, and offering scholarships to Cuban university students outside of the purview of the Cuban government.

51. An offer could be made to our allies to jointly resolve the issue of confiscated properties and devise basic best business practices for investing in Cuba. Offered in exchange could be a revision of Title III and IV of the Helms-Burton Law and/or the abrogation of the Cuban Democracy Act’s 6-month prohibition of entry into the United States of foreign ships delivering goods to Cuba, and any other measures considered to have “extraterritorial” reach.

52. To start off, the Castro regime should be called on to unconditionally release all prisoners of conscience and return their belongings to them and to allow the International Red Cross, the Inter-American Commission on Human Rights and international human rights organizations to inspect Cuba’s jails and monitor the delivery of medical care and nutrition to all prisoners. A list of the most egregious laws and regulations that should be changed should also be developed.

9. Freezing financial assets held overseas by Cuban regime officials or their suspected fronts/representatives.
10. Forming an International Task Force to look into foreign hard currency holdings of the Cuban leadership.
11. Recalling Ambassadors for consultations.
12. Downgrading diplomatic relations.
13. Imposing incremental embargoes to ban imports of selected Cuban commodities.