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The Dynamic of The United States Decision-Making Process of Foreign Policy to
Cuba: An Analysis of the Normalization of 2014

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Orientador: Luis Fernando Ayerbe.

Co-orientador: Harry Edwin Vanden

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RESUMO

O anúncio da normalização de relações com Cuba feito pelo Presidente Obama quebrou o caráter de austeridade que a política externa dos Estados Unidos tinha desde a Revolução cubana de 1959. Este estudo tem como objetivo analisar as dinâmicas que influenciam o processo decisório da política externa dos Estados Unidos observando o fenômeno da normalização de relações diplomáticas com Cuba iniciado pelo presidente Barack Obama em 17 de dezembro de 2014. Por mais de cinquenta anos Cuba e Estados Unidos se mantiveram sem relações diplomáticas oficiais devido ao antagonismo dos Estados Unidos frente o caráter do regime de governo da Revolução cubana. Ao longo das décadas a tradição de políticas austeras para a Ilha foi construída, abrangendo diversos setores e instituições do governo dos Estados Unidos e se enraizando em interesses políticos. Mesmo com o fim da Guerra Fria as práticas de antagonismo com Cuba foram mantidas e o embargo econômico à Ilha, iniciado durante o conflito bipolar, foi intensificado e transformado em Lei. A manutenção de práticas de enftretamento originadas de um contexto já ultrapassado leva ao questionamento acerca de quais são os elementos que justificam a continuidade de uma política externa para Cuba que pode ser considerada anacrônica. Assim, este estudo se propõe a compreender a complexidade do processo decisório que levou à quebra dessa tradição e a iniciativa de normalizar as relações entre Estados Unidos e Cuba. Utilizando o caso da normalização, apresentamos uma discussão conceitual acerca do mapeamento de processos decisórios e a aplicação da mesma na análise das decisões que levaram ao anúncio de Obama em dezembro de 2014.

Palavras-chave: Cuba. Estados Unidos. Normalização. Processo Decisório.

ABSTRACT

The announcement of normalization of relations with Cuba made by President Obama broke with the austerity aspect that the United States Cuban Foreign Policy had since the Cuba Revolution of 1959. This study aims to analyze the dynamics that influence the United States foreign policy decision making process, observing the normalization of diplomatic relations with Cuba initiated by Barack Obama on December 17 of 2014. For more than fifty years Cuba and the United States remained without official diplomatic relations due the United States antagonism to the government regime originated from the Cuban Revolution. Through the decades a tradition of austere policies to the Island was built, including several sectors and institutions of the United States government rooting political interests in it. Even with the end of the Cold Wars, the antagonist practices to Cuba were kept and the economic embargo to the Island that was initiated during the bipolar conflict was intensified and turned into law. The maintenance of those practices originated from an outdated context leads to questioning which are the elements that justify the continuity of a foreign policy to Cuba that can be considered anachronical. Thus, this study seeks to understand the complexity of the decision-making process that led to the break in such tradition and to the initiative of normalizing relations between the United States and Cuba. Using the normalization case, we present a conceptual discussion about mapping decision-making processes and the application of that discussion in the analyzes of the decisions that lead to Obama's announcement at December of 2014.

Keywords: Cuba. United States. Normalization. Decision-Making Process.

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LIST OF ABBREVIATIONS

ALBA	Alianza Bolivariana para los Pueblos de Nuestra America
CANF	Cuban American National Foundation
CARICOM	Caribbean Community
CELAC	Comunidad de Estados Latino-Americanos y Caribeños
CIA	Central Intelligence Agency
D17	December 17 of 2014 (The normalization announcement)
FBI	Federal Bureau of Investigation
NSC	National Security Council.
OAS	Organization of American States
OFAC	Office Of Foreign Assets Control
U.N.	United Nations
U.S.	United States of America
UNASUR	Union de Naciones Sudamericanas
USSR	Union of Soviet Socialist Republics

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1 INTRODUCTION

In December 17th 2014 a historic announcement was televised in the United States of America and Cuba, with both their Presidents, Barack Obama and Raúl Castro, telling their country and the world that they would reestablish diplomatic relations and move forward normalizing relations as the result of a series of backchannel dialogues and negotiations. On the Cuban side, this meant that the United States (U.S.) was willing to change its historical antagonist perception of the Island and therefore possibly ease the half a century-long attempts to undermine the Revolution of the 1959 government. But on the U.S. side, this meant a unilateral effort of the Executive branch to change a *status quo* strategy of foreign policy to Cuba that had been maintained by several different administrations through world-changing contexts such as the end of the Cold War (1945-1991) - that originated that strategy in the first place.

The Obama administration initiative was the most significant policy change attempt toward Cuba since the break of diplomatic relations and beginning of the economic sanctions to the Island in the early years of the 1960s. The harsh U.S. response to the Cuban Revolution started by the government of Dwight D. Eisenhower (1953-1961) came at the peak of the nuclear-armed race between the U.S. and Soviet Union, the war between capitalist and communist ideologies. The Cuban Revolution led by Fidel Castro was a nationalist movement of insurgency against the oppression of the dictatorship of Fulgencio Batista¹ (1955-1959), which if not directly supported by the U.S. was at least tolerated (AYERBE, 2004; SCHOULTZ, 2009; SMITH, 1986).

Considering that the U.S. half a century-long *status quo* foreign policy originated with the initial disruption of U.S. interests in the Caribbean Island because of the Cuban Revolution (1959), the main goal of this research is understanding the decision-making process that made it possible for the Obama administration (2009-2017) to engage in a significant disruptive policy change in what came to be known in Cuba as the 17D (short for December 17, of 2014). In this study we will explore the normalization event as the result of a series of integrated backchannel games and

¹ His first presidency (1940-1944) is considered a relatively democratic period.

situational context changes through time, analyzing closely how the U.S. foreign policy is built within non-linear institutional dynamics of organized and conflicting interests.

The study of Cuba and U.S. relations always had a privileged place in American studies on Latin America, especially since the Cuban Revolution of 1959. Relations between the Island and the North-American neighbor date back to the colonial history of Cuba when the country came to be the main exporter of sugar to the United States. Beyond the economic tie and geographical position, those two aspects combined placed Cuba as a possible territory to acquire during the United States's expansion phase in the nineteenth century, given that the type of economy (slave based agriculture) on the Island was similar to that of the Southern states in the U.S., making the annexation of Cuba of interest to some U.S. political actors, such as John Quincy Adams, secretary of state in 1823. Adams came up with the "theory of the ripped fruit", characterizing Cuba as the fruit, Spain as the tree, and the ground as the United States and making a comparison with the laws of gravity, which he called "laws of political gravitation" where by after being ripped by Spain, Cuba would naturally and unavoidably gravitate towards the United States (ground). This discussion of annexation was also within a context of territorial expansion in the early history of the U.S. This movement towards annexation however was not a unilateral discussion so to say, given that some of the Creole elites in Cuba also considered annexation as an option because of the troubled relations of the Island with Spain during the 19th century, especially on issues that affected those elites directly, like trade taxations and slavery (PÉREZ JR., 2003; SCHOULTZ, 2009; VANDEN; PREVOST, 2018).

After the American Civil War (1861-1865), the alignment between the Cuban type of economy and the U.S. lost its similarity, and the interests in direct absorption of Cuba decreased at some level, but the economic and geographical ties remained. In fact, the Cuban migration to the U.S. dates back to that period, with an intense exchange of labor between the American state of Florida and Cuba due to the cigar business and expertise. The opposite migratory movement was also meaningful given a wide array of U.S. citizens investment in several sectors of the Cuban economy, such as agriculture, food imports, infrastructure, and transportation. After the American Civil War, there was an increase in the influx of American Citizens to Cuba from southern landowners and even some from northern states that were interested in

keeping slave-based plantations. Some of those migrants even brought their own enslaved labor to Cuba.

After the independence movements on continental Latin America during the beginning of the 19th century, Cuba remained one of the last colonies of Spain, which led to a concentration of the metropolis focus and interests on the Island. This dynamic dually helped boost the sugar production and investments on the island, but also increase to a certain degree the vulnerability of Cuba to Spain interests. During the first half of that century the Cuban economy and autonomy suffered a mixed movement of tightening of Spanish control and taxation, but also some moments of increased autonomy for the colony, especially after the Haitian revolution and the pivotal role of Cuba in sugar exportation (PÉREZ JR. 2003; 2008; VANDEN; PREVOST, 2018). Combining this importance of the Island to Spain with the growing economic ties with the U.S., Cuba became a geographical objective to obtain or keep under close hegemony.

Internally, the Caribbean colony engaged in military wars in the second half of the 19th century to achieve independence from Spain. There were many variables which influenced the decision of the elites to pursue independence, and the two major external influences (U.S. and Spain), played a large role in it. Among the independence movements, there were even sections interested in annexation to the U.S., although the Republican aim is seen today by Cuban official history² as the most consensual among the ranks of the independence movements. There was a total of three independence wars in Cuba, the last being more notorious (the “Hispanic-American War”), which ended in 1898 with the direct interference of the United States. But there were two wars before that, the first one was from 1868 to 1878, called the “Ten Years War”, which it is worth mentioning, saw the most famous initiatives of freeing slaves, fostered by Carlos Manuel de Céspedes, who was one of the main leaders of the independence movement, and was eventually captured and killed by the Spaniards. The second attempt of independence was called “*Guerra Chiquita*” (small war) and lasted from 1879 to 1880. As expected, given the first two failures in achieve independence, all wars were heavily and violently repressed by

² It is important to notice that the Revolution of 1959 reclaimed the heroism and nostalgic idea of the independence struggles of the 19th century to boost its own moral and symbolism, aiming for a truly independent Cuba in the twentieth century. Considering that the Revolution government not only emerged victorious but also reshaped the course of Cuban history up to the current days, the official governmental speech has created a quite solid image of association between the “republicanism spirit” of the independence wars and the spirit of the Cuban Revolution.

the Spaniard army leading to an even greater increase in Spain's tight grip over the Island.

The third and victorious attempt at independence marks a pivotal point in history not only for Cuba but also for Cuba-U.S. relations. After 3 years of combat between the Cuban rebel army and the Spaniard army (1895-1898), the United States made a military intervention on the island and quickly drove away the already weakened forces of Spain, hence the name "Spanish-American War". Cuba was not the only affected area by this strife between the U.S. and Spain, given that in that same event the Philippines, Puerto Rico and Guam were taken out of Spanish control.

The intervention of the U.S. in the Cuban independence led to four years of U.S. military occupation (1898-1902) in the Island until a local government and Constitution could be formed. Yet, the new Cuban Republic was born when an amendment created in the U.S. by New York Senator Thomas C. Platt was aggregated to the Cuban Constitution, guaranteeing the U.S.'s right and "responsibility" to intervene in Cuba's political and economic life to preserve "freedom and democratic values". Thus, the new-born Republic of Cuba (1902) began its independent life "dependent" on the U.S.'s approval to follow its own political path. Cuban history expert Louis A. Pérez Jr discusses in his books "Cuba and the United States: Ties of Singular Intimacy" (2003) and "Cuba in the American Imagination: Metaphor of the Imperial Ethos" (2008), the nature of U.S. interest in Cuba in the pre-Revolution history, in which he observes a mix of pragmatic political and economic intentions with a moral evaluation from the spirit of "American exceptionalism" in which U.S. politicians pursue the best interests of modern civilization (in their own territory and abroad).

That same mix of origins for actors' interest in the Island can be seen in the practice in very explicit documented dialogues compiled by Larz Schoultz in the book "That Infernal Little Cuban Republic" (2009), titled after a statement made by President Theodore Roosevelt³ in 1906, found in the book's epigraphy:

I am so angry with that infernal little Cuban republic that I would like to wipe its people off the face of the earth. All we have wanted from them was that they would behave themselves and be prosperous and happy so that we would not have to interfere. And now, lo and behold, they have started an utterly unjustifiable revolution. – President Theodore Roosevelt, 1906 (SCHOULTZ, 2009, np)

³ Theodore Roosevelt led a U.S. military attachment during the Spanish-American War in Cuba, and emerged as war hero and leader, making the Cuban campaign an important step in his ascension climb to the Presidency, which took place from 1901 to 1909.

Roosevelt was only reproducing a general example of U.S. politician's rationale regarding Cuba during the first half of the twentieth century. If in the past the U.S. had considered the annexation of the Island, after its independence (steered by the U.S. tutelage) the Island had to have a historical gratefulness for the U.S.'s help and guidance, to which, in return, it would respond by accepting its "Big Brother" leadership and attend to its economic interests (now free of Spanish interference).

Despite Roosevelt's disgust with Cuban events, until 1959 the U.S. had its "constitutional right" to move the levers of Cuba's political life untouched, having in the Caribbean Island a territory compliant with its interests. Combined with the Cold War context, the loss of the Island to a nationalist movement that would not accept willingly that the U.S. "knew best" which direction Cuba should follow, was an annoying inconvenience for U.S.'s foreign policy interests. And later, when Cuba was the stage for the country's greatest Nuclear threat, that "infernal little Cuban Republic" under the Revolution government became effectively a U.S. enemy. Even when the Soviet Union was dismantled and the Cuban government became an isolated country due to U.S.'s sanctions, despite not representing any longer that threat it was in the Cold War, the U.S. kept the same hard-line strategy toward the Island, at least until 17D.

Noam Chomsky (2016) believes that the U.S. strategy toward Cuba after the Revolution could be called "screw tightening", given that through several administrations and congresses the same policies of "passive" pressure via sanctions were sustained and even revigorated in the 1990s. Therefore, it becomes relevant to understand how if multiple decisive actors didn't change the "screw tightening" strategy, Obama could take such a decision? We believe that this answer involves several variables aligned in a very specific structure, and that to observe those variables it is beneficial to build a conceptual model that allows a clear mapping of events, actors and how they operate within their social structures to achieve political decisions and actions. This research is not a historical work, but rather an analytical study over the historic decision of 17D.

2 THEORETICAL APPROACH AND BIBLIOGRAPHICAL REVISION

To organize the conceptual prerogatives that will help build a toolset for mapping the main variables that affected the decision-making process of the normalization of U.S.-Cuba relations, in this section we will discuss and articulate the theoretic approach that will be used to analyze this research's object. Thus, firstly it will review the possible and existing explanations for the normalization process need to be done, and an assessment of how far and deep they address the subject of this research.

This was presented in a brief summary at the previous introduction of this study, of the historical development of U.S. interest in Cuba, in which it is possible to observe that the context of the Cuban Revolution set in motion what could be called a foreign policy "paradigm" towards Cuba, or as it will be used through this research, the U.S. *status quo* strategy to the Island. We opted for this name given that even with the end of the initial context that originated the history of antagonism between the U.S. and Cuba, through the following years, as Cuba's infrastructure remained in the past, so did U.S. foreign policy. Not by chance, the normalization initiative of the Obama administration was often called by the media the "Obama thaw" in the sense of defrosting the old paradigm.

The normalization itself received wide press coverage, and given the importance of the change, it promoted and catalyzed several scientific studies about it. Considering the frozen state in which U.S.-Cuba relations remained for over 50 years, and the severe consequences for the Island itself that was economically isolated from the world as a result of such relations, most of the academic studies about the normalization focus on the possibilities and constraints that the new U.S.-Cuba relations represent for the future of the Island. For instance, "A New Chapter in US-Cuba Relations: Social, Political, and Economic Implications" edited by Erich Hershberger and William M. LeoGrande (2016), compiles chapters on a variety of subjects by several specialists and explores the consequences and opportunities for the future of Cuba post-normalization. Another similar study is "Cuba Foreign Policy. Transformation under Raúl Castro" edited by H. Michael Erisman and John M. Kirk (2018), which explores Cuba's foreign agenda under the modern context post 17D. That study focus on the future of Cuba and is more than appropriated given the negative toll the Island had to pay for the conflictual relations with the U.S. and the urgent

need for developing a positive economic and political future beyond Cold War foreign constraints. However, Obama's successor in the U.S. presidency, Donald J. Trump, elected as the Republican Party candidate in 2016, has already set back a few of the improvements achieved by the normalization initiative, and even if all the Obama changes haven't been reversed so far, the thaw was contained and U.S.-Cuba relations were frozen again.

This negative aftermath of the normalization caused by a presidential transition shows the complexity of breaking a fifty-year long *status quo* foreign policy strategy. Yet, only because the normalization has not been completely achieved and become permanent, the attempt and what it accomplished must be given credit. Disruptive processes, by definition, tend to have conflicted effects between the old and the new. Hence, the same way that it is necessary to study the future of Cuba-U.S. policy under improved relations, it is also important to understand how the normalization attempt was achieved in detail, understanding what went right, what went wrong and how it could be improved. It is in this second area of study that is the focus of this research.

Segrera (2017), in "The United States and Cuba: From Closest Enemies to Distant Friends", explores the normalization in a historical perspective and narrates some details of the trail to get to 17D. However, in the spirit of understanding the organization of decision variables within the structure of U.S.-Cuba relations, this research is focused on exploring how the important actors that influenced the decision process of U.S. foreign policy to Cuba behaved and were motivated to make the choices they did. To contribute to the studies of modern U.S.-Cuba relations, our proposal is a bit more technical than historical, since we believe that is necessary to map the U.S. foreign policy decision process to understand the possibilities of what can result in actions to change the *status quo* strategy. Therefore, to achieve our goal, in this chapter we will build our analytical model so we can later apply it to the case of the U.S.-Cuba normalization.

The introduction also presented a brief summary of the first important phase of U.S.-Cuba relations. The construction of those relations formed a perception and kindled the evolution of economic and political interests of U.S. foreign policy to Cuba. Although superficially it can be foggy to perceive, the relation between that remote past with the modern-day normalization debate between Cuba and the U.S, is the political actions of that time that set-in motion a historic institutional process of

transformations and politics that through time came to be the pillar of the present scenario.

Yet, considering the number of studies that already comprehensively cover U.S.-Cuba history, to further understand the normalization, after discussing our analytical model, in the following sections we will discuss the core formation of the *status quo* strategy and then investigate how the Obama administration dealt with that traditional foreign policy and acted to change it. But first, for this discussion to advance further than the already existing historical works about Cuba and U.S. relations, this study proposes to look at these issues through theoretical lenses that allow one to pinpoint and map the stream of events, their main actors, motivations, perceptions and how those variables intertwine chronologically and shape both past and present. Hence, this chapter will be divided in the following way: a conceptual discussion on how to locate and map the important variables to understand decisions, followed by its application to the subject of the normalization, clarifying the actors and the relevant structures in which they play a role in deciding U.S. foreign policy to Cuba.

2.1 Focus on Decision

In the international relations field, it is common to adopt different concepts for actors, which leads to different kinds of analysis of international phenomena. Theories like classic realism and its neo-realism version, for instance, are known for considering the international actor as “States”, attributing a monolithic characteristic to them and considering their decisions as single source output. This approach can be used to simplify the unit of analysis and to specify research on the “international level” only. Other theories like neo-liberalism and constructivism have a more pluralistic approach in terms of actors, which serves to explain “countries decisions” as outputs of specific bargaining games within specific institutional constraints. That kind of analysis allows for a deeper understanding of the specificities within States, and how those dynamics affect the “international level” decisions of their countries (MOR-GENTHAU 1960; WALTZ 1979; BULL 1977; AXELROD; KEOHANE 1985; WENDT 1992).

The problem with international relations studies comes from the same source that causes the need and presents the possibility to take such different kinds of approaches, which is the almost infinite number of human variables. To organize a logical analysis within the vast array of hidden and clear variables, the different theories offer different ways of trying to dig into the more relevant variables and cut out the unnecessary ones. Whether the theories consider that those variables are human or State products, the phenomena of international politics it is ultimately the fruit of human decisions. Those decisions can be individual or just a result of a clash and chain of different decisions within artificial social constructs such as institutions.

The main object of this thesis is not different: the normalization of diplomatic relations with Cuba during the Obama administration was based on the President's supposedly unilateral decision (without support from Congress) to change the strategy of foreign policy towards the Island through the normalization process. This did not happen without some opposition within the U.S., and such opposition was actually directly linked with the prior strategy: non-normalization. Considering that the practical immediate importance of the normalization was the reversal of more than 50 years of a diplomatic tract, the non-normalization means that during the same period a decision to not have official diplomatic relations with Cuba was not only made but maintained from 1961 to 2014. Therefore, it is not possible to fully comprehend the "new" decision without understanding the old one.

All of this helps to establish important concepts for the thesis and to better highlight a conceptual framing cut. The normalization process is the outcome of a decision of President Obama, which he made after secret negotiations with the government of Raúl Castro (2008-2018), therefore starting a phenomenon which was made by internal actors that, through coordinated action on an international level, ended up affecting both the international and domestic environment of their respective countries. Therefore analyzing in depth the processes that lead to and made possible such a decision is key to better grasping how U.S. foreign policy towards Cuba is made. The choice of this particular event to obtain that understanding is not random, rather it is justified by a break in a 50 years old strategy that itself represented a break when it was adopted. Hence it is important to not only understanding the normalization on a contemporary framework but also digging deep in its past history and how present outcomes are not only affected but ultimately generated (purposely or not) by what one could consider outdated decisions and events.

1.1.1 What influences decisions

The assumption of decisions as the main explanatory aspect for international studies is justified by the human aspect of this study, the normalization is the fruit of presidential decisions. As stated before, issues that don't involve direct human action in international relations could be presented as a factor that argues against the focus on decisions, such as natural climate and environmental events. But in the area of politics and social studies the analysis tend to be concentrated on how human society deals with issues, whether they originate within it or not. Therefore, by considering outcomes as consequences of decisions, one must understand several aspects of decisions, such as what are their consequences, how they were taken, and what they affect and are affected by.

To cover all those variables that ultimately affect the decisions, several analytical narrowings have been made in order to facilitate this task. In classical political science the theories of rational choice – derived from economic science – and behaviorism – linked to psychology and sociology – are frequently employed to better understand politics and the decisions that involve society and politicians alike. Most notably, those approaches had several works born within the United States, and there is a vast literature dedicated to understanding specifically political issues that flourish inside U.S. institutions and the political regime. Although criticism can be made that classical methods were built in the specific context of U.S. politics, for the purposes of this research that same characteristic actually fits well, since the goal is achieving a broad explanation for the variables affecting the decisions of a U.S. president.

However, this does not mean that those theories can or should be employed in this study with no adaptations or attempts at improvement. Since the beginning of international studies this area of knowledge has been drinking directly from political science (among other disciplines) to develop new theories and explanations, yet this happens with the intention of transferring useful preconceived knowledge into a new environment, as a tool and pillar for building and improving the field of international relations studies. That same intent will be employed in the discussion ahead on how decisions work. But first a few preconceptions should be noted: considering that it was already established that the decisions made by actors are affected by a vast array of variables The first necessary task to understand them is tracking those varia-

bles and mapping them, so that the ones that matter and how they relate to each other and to the actors can be pinpointed.

2.1.2 Rational Choice and key concepts

The tradition of explaining decisions from the economies is called Rational Choice Theory and it is widely used among different areas of Social Sciences. Political Science particularly has developed a wide array of studies using the Rational Choice approach to explain political action and decisions. The premise of this approach is often treated as purely mathematical. In that sense, individuals would take decisions by constantly calculating their present situation, comparing it to their goals and finally making the decision. This does not necessarily mean that decisions are flawless results of math, but rather the optimal result given the available choices to the individual.

Although this approach may seem to be missing a human factor, in political science its use is justifiable by considering that the decisions that affect that phenomena are constrained by the set of rules of the institutions studied. It should also be noted that this tradition comes mainly from U.S. authors who are situated in the context of modern Democracies, that follow a Euro/Anglo-centric logic and tradition. Fortunately, this aspect of that literature is aligned with the subject of this thesis, hence the explanatory potential of rational choice theory will be explored and subsequently compared with different approaches to obtain an optimal analytical model to explain U.S. foreign policy decisions towards Cuba.

The first step necessary is to explore what drives actors and clarify which concept can summarize it, in that sense, Downs (1999), using economic theory roots, will stipulate that actors “pursue profit” although such profit can be understood as achieving their interests. Hence, within rational choice’s framework, decisions are often considered to be motivated by the search certain interests. Specifically, in the case of politicians, in order to sustain their function within government capacities and pursue their goals, their interest will ultimately be seen as the maintenance of their position, which in the case of U.S. democracy can be obtained by elections. Here we can establish that an actor most likely will have multiple interests but some of them are

more primordial than others. In the case of (re)election, this does not mean that this interest is qualitative more important than others, but within rational choice, without his or her election a politician will not be able to pursue their other interests. With that in mind, Arnold's (1990) and Mayhew's (1974) works on congressional decisions explore and define the "reelection imperative" concept, which acknowledges that interest as a pillar for politician actors. That concept is specifically important for this work subject, since it highlights a very important aspect of U.S. politician's behavior, the prioritization of local electoral bases interests. This will change depending on which government position a politician occupies or aspires for, whether it is House Representative, Senator or President. Each of those positions have different rules for elections and scale of electoral Base, which should be taken into account when trying to understand how exactly candidates are pursuing (re)election.

On that premise and coming from the same logic as Downs (1999), in the book "Interests, Institutions and Information", Milner (1997), will work with a useful conceptual distinction between interest and preference. Assuming that U.S. politicians, for example, have the same "common" interest, what will distinguish two candidates for the same position will be their preferences for political management. Thus, an interest can be understood as something more general while the preferences as the specifics characteristic behind that interest. In that sense, decisions can be understood as preferences put into practice which were orientated by interests.

Within that same spectrum of analyzing political interests and behavior, Tsebelis (1990) makes an effort to elucidate the working of rational choice through the comparative analysis of different parliaments. His work tries to pinpoint how rational choice plays a main role in politicians voting patterns within their respective collegiate institutions of decision. In that logic, the author says that:

I do not claim that rational choice can explain every phenomenon and that there is no room for other explanations, but I do claim that rational choice is a better approach to situations in which the actors' identity and goals are established and the rules of interaction are precise and known to the interacting agents. (TSEBELIS, 1990, p. 32).

With such a statement the author establishes clear limits to his use of Rational Choice in understanding political decisions. Those limits are used to simplify the quantification of actor's possibilities within their environment, and narrow down their possible decisions In order to obtain the "maximization of their interests", or as dis-

cussed previously, which preferences political actors will enforce inside their bargaining games to achieve their goals.

If we were to apply Tsebelis's limits to the study of the normalization process, considering that this case involves domestic and international actors from different social and political spheres, this reduction of Rational Choice would be insufficient given the unclear set of rules outside institutional environment. Yet, considering Tsebelis congressional focus those limits are set to specifically address his research focus which does not mean that rational choice explanations cannot go beyond that "controlled" environment. With this in mind, before committing with Rational Choice as a useful tool of analysis to this study, it is worth exploring some of the traditional concepts that question the limits of that theory.

Contesting the boundaries of Rational Choice logic, the behavioral tradition in political sciences seeks to understand and bring forward the subjective variables that affect decisions, the ones that are not necessarily quantifiable but are assumed to play a large role in individuals actions. In the book "The Civic Culture", Almond and Verba (1963), aim to explain how different democracies work in regard of their societies and cultures. In this book, the decision to participate in politics and vote is explained by a various number of factors like ideology beliefs, unconscious affinity, traditionalism, party loyalty and family association among others. Those different variables led the authors to state that although rational choice plays a part in the decision to engage in political participation, it is balanced by passive behavior, tradition, and engagement rooted in parochial values.

In that sense, some behaviorism attempts to go further than the "logical calculus" of actors decisions and explores internal individual abstract aspects and how they affect on actor's logic and actions. The variables that Almond and Verba bring forward are particularly useful if we consider the complex environment in which the normalization came about. Not only was the decision of reestablishing diplomatic relations taken secretly and unitarily by the Executive branch (knowing that there would be strong opposition in the Legislative branch) but it also raised controversies within the Democratic Party, and within the Cuban-American community, stirring those affecting variables indicated by the authors. Another interesting fact is that Obama initiated normalization discussions after his reelection, and he never mentioned this possibility openly to his electoral base. If we consider the imperative of the reelection concept, in this case the same would be null since Obama was out of any possible

dispute to be President in the next electoral period, this blurs election interests as an influential factor in making the decision to reach out to Cuba.

Therefore, it becomes important to clarify if Rational Choice logic could comprehend some of the more subjective aspects that might potentially influence the decisions that surrounded normalization. For that, despite the limits set by Tsebelis (1990) in his work "Nested Games", the conceptual model that he employs, that goes by the same name as the book title, hints of a path beyond Rational Choice as it will be discussed below.

2.2.1 Nested Games and Mapping variables

The nested games theory was created to frame what seem to be suboptimal decisions, which could be interpreted as irrational actions, within the rationale of rational choice. Tsebelis's approach seeks to prove that those apparent bad decisions that did not have a direct correlation with the actor's interests, where indeed the fruit of a multilayer calculation which lead to the least worse possible decision. In his book, the author works with legislative politicians's voting patterns aligned with their immediate interests, pointing out that some of those patterns at first look were not explained directly by rational choice.

It is within this context that he introduced the nested games approach. To summarize why this model is useful, the idea of nested games is that actors participate in a series of games, or arenas, in which they try to maximize their interests, but those arenas are not always directly connected to one another. Sometimes they are not related at all, but nonetheless they will ultimately affect each another. This happens because, besides having multiple interests in multiple issues, actors also have a priority order for those interests that are scattered across multiple arenas, and they would forfeit gaining success in one arena to maximize the results of a more important one, hence the name "nested games".

On Tsebelis specific analysis within legislature environment, the most often used concept to explain exactly how actors make this choice of one interest over the other is bargaining. This is particularly useful in the case of the U.S. Congress for instance, where politicians have very different and narrow electoral bases, which fa-

vors very local preferences. This dynamic allows an exchange of “favor”, or rather votes, specifically in the arenas with subjects and issues that concern their specific electoral district or area. A Florida member from the House, for instance, could bargain his vote in a subject that is of high preference to a representative from Ohio, since that local issue won't directly affect his electoral base in return for a vote in favor of his preferences on an issue that affects Florida.

The author makes the observation that there is a difference in the nested games scenario seen by the final observer who is scientifically analyzing a past event, and the nested games within the actor's rationality. In the case of the observer, Tsebelis points out that an actor's decisions seem irrational or do not have a logical cause, then the observer is missing important arenas within the nested games, which leads to an incomplete map of choices. This statement helps the observer look for a more comprehensive analysis seeking the missing important elements in other games that affect the main arena issue. In the case of the actor, one must consider his position within the nested games scheme, his multiple interests and their preference hierarchy, the other contesting actors that play in those arenas, and the information that the actor has about the network of games. Such information is key to determine important factors that affect rational calculation to make decisions. It is assumed that the actors will have incomplete information almost always, especially considering that interests and preference come from individual actors, and the exchange of that information is one of the main elements of bargaining with one-another.

Other authors like Milner (1997), Arnold (1990), Mayhew (1974), Przeworsky (1991) and Fishkin (1997) highlight the importance of information and its asymmetry on actors' decisions. Arnold and Mayhew focus on the politicians's necessity to know what are their public preferences and to transmit how their proposals represent and benefit those preferences. This allow us to understand the communication characteristics of information. Przeworsky stated that interests are not anachronical, they can change according to new conjunctures or according to Fishkin, new information. In that sense, if interests change, consequently preferences will change as well. Those complementary notions help understand long-term phenomena where decisions change fundamentally, as is the case of the U.S. normalizing relations with Cuba after more than 50 years despite their traditional demands on Cuba regime change not

being met. Also, in this particular case, the non-change also gains relevance with that notion of information affecting decisions.

The chronological notion of information affecting and changing interests and preferences through time, although not explicit in Tsebelis's work of nested games, adds explanatory capacity to understand actors' rationale within their environment, constraints, capacities and goals when information that they possess is considered. In the original work of nested games those intrinsic aspects on how actors deal with information is applied to understand their rational calculation to vote, yet in a broader environment actor information also rules how people behave and decide according to what they know from continuous experience. Also, the logic of the nested game can be thought of in a larger scope, with actors continuously having different preferences with a hierarchal logic among them and playing in different arenas of issues to achieve those goals. The difference is that those arenas are not necessarily ruled by a single institution (such as a parliament), which expands the complexity of different possibilities for decisions to be produced.

Thinking specifically about the international relations phenomena such as foreign policy strategy as a whole, taking the U.S. as a case, decisions are taken inter-institutional, between the Executive and Legislative branches, sometimes with a certain consensus in the output decisions of both, and sometimes in apparent contradiction, as it is the case of normalizing relations with Cuba, since Congress never voted to repeal the embargo against the Island. Hence, using nested games logic to explain the normalization necessarily implies the need of understanding a network of arenas bigger than the original one. This doesn't mean that the Tsebelis approach would be inadequate to understand the case, but rather highlights the potential to expand nested games reach and comprehensive capacity.

In that sense, since calculations for decisions become unavoidably more complicated due to the increase in complexity of the arenas, rational choice should be also revised to understand this larger scope, once the conditions for actors playing the nested games change fundamentally. Tsebelis rational choice was based on the actors' knowledge of the clear set of rules of the games in which they participated. In international relations, issues often present outcomes that come from different countries which have different institutions with different sets of rules. There is some consensus among international relations mainstream theories that the international environment is, in essence, anarchical (MORGENTHAU, 1960; WALTZ, 1979; BULL,

1977; AXELROD; KEOHANE, 1985; WENDT, 1992; MILNER, 1997), therefore the relations between countries are not subject to a clear set of rules. Yet, even with an anarchic environment, international relations are still the product of decisions, therefore subject to decision explanations.

Coming from a different perspective than rational choice, Jervis (1976) states that the functioning of bureaucracies (and this can be conceived in a nested games logic) can determine a policy. Such shortcomings may be products of the perception of individual decision making. Individuals, as well as organizations, are unable to coordinate their actions and develop a consensual output structure. The fact that people must take decisions in face of the burden of multiple goals, short time frames and highly ambiguous information means that policies are often contradictory and inconsistent with the information. Interests, images, perceptions, worldviews and ideological biases that help determine key influences on actors behavior. They also influence the importance of selected data and patterns. In fact, the actors in the decision-making process do not respond to objective reality (as seen by the observer), but to their individual subjective perception of reality

All of this does not contradict rational choice, but adds conceptual key points to expand its understanding of decision making. If with the nested games model Tsebelis sought to frame what seemed as suboptimal decisions in the rational logic, considering subjective variables that influence behavior such as the ones suggested by Jervis (1976) or by Almond and Verba (1963), in a wider scope of study, from the point of view of the observer those variables could be quantifiable to better understand the behavior of decision-making actors.

Even if subjective aspects of actors' individuality do not fit in a traditional rational choice approach for political studies, one can assume those presumed to be "unquantifiable" variables as incognitos that are not known but can potentially alter the final result: the decisions at hand in each arena. This adaptation is necessary if we want to increase the scope of nested games logic and make use of the rational choice approach to help explain it.

Another useful concept that Tsebelis brings forwards is a distinction in the kind of game that actors participate in. For the author, there are two main kind of games: the ones in which actors play to obtain results that match their preferences, and the one that actors play to potentially change the rules of the game. This distinction is important because it helps understand the nature of the game itself and consequently

the interest of the actor in participating in such a game. Thinking outside the scope of Tsebelis work, in the very un-institutionalized arena of international relations, the maneuver by President Obama to reopen the embassies and approach Cuba could be interpreted as participation in a game to change the rules by reestablishing a new political approach to a foreign country, which consequently opened new games for results with the possibilities of negotiating diplomatically with Cuba. At the same time, internally, Obama did manifest his interest and preference that the embargo should be lifted, but because of the domestic constraints from U.S. institutions, Congress held full power over that issue (that in turn would be another game for rule change).

Hence, we can see that although that distinction in the types of games is easily done in a collective Legislative environment, it can still be used with a broader scope. Also, the difference established between interests and preferences, helps to understand how these two kinds of games relate in the same way in regards to actors' goals. If the game is for changing the rules, then its results ultimately affect future games, in which interests will clash to produce preferred results.

Also, regarding nested games logic, its important to clarify that it is actually expected that the results produced will be suboptimal for all actors involved. This happens because of the scale of the logic since with multiple actors participating in multiple games at the same time, it is logical to assume that even if one of them manages to maximize all his preferences without forfeiting any, at least the opposition faced by itself represents a suboptimal result. Therefore, nested games complexity implies a lack of perfect consensus among actors, especially if we consider the role of the asymmetry of information.

Finally, by tracing how actors are positioned in the many games, what and how organized their preferences are, what kind of information they possess about the network of games, which are the variables that influence their behavior and interests, and how game results influence other games, the final result of a well structured nested game analysis will be a more complete map of the decision process observed. If the chronological dimension of that analysis is added it will be possible to trace back a chain of events and decisions that ultimately led to the phenomenon observed. Such is the intention of this work.

2.2.2 Beyond Rational Choice and Domestic Politics

Considering that the main object of this study is to better understand the normalization process between Cuba and the U.S., which was announced on the same day by Barack Obama and Raúl Castro, as fruit of secret bilateral negotiations among their administrations, the decision process of this political maneuver should be looked from an international relations perspective, and not just from a domestic point of view. Hence, the application of nested games theory in order to map and understand this phenomenon must also contemplate games that are both on an international and domestic level.

For this purpose, we suggest adding the two-level game logic of Putnam (1998) to the conceptual model that it is being built in this study. In summary, the two-level game logic recognizes that decisions and outputs that happen in the international environment affect the domestic level and vice-versa. This happens because both levels are not only intertwined in consequences, but also among their actors. States are represented in the of international level by their government, which is composed by domestic institutions and actors. Also, factors like international trade and commerce affect domestic economies, which affect individuals within each country's societies. The same applies to all sort of international related phenomena, like war, regional integration, diplomatic cooperation, international immigration and basically all of the international events.

That connection between what is perceived as domestic and the international sphere is due to the fact that international relations can be simply put as the sum of all human relations on a global scale. With that in mind, it is possible to say that not only state actors influence the international environment. In fact, Putnam's argument is that there is a plurality of actors that are non-governmental that not only are influenced by the international level but also influence it. It could be said that this influence can happen directly through participation in international issues or indirectly by affecting the domestic politics within their country in order to produce "indirect" international effects.

To put this in an example that relates to the subject of the normalization, the first case of a non-state actor actively participating in this issue can be represented

by the mediation of the Vatican⁴ in the secret negotiations between the U.S. and Cuba. The second case of a domestic actor indirectly affecting the international issue can be seen as the U.S. Congress – which is composed by representatives of local interests – is the institution that withholds the capacity to maintain or lifting the embargo on Cuba within the domestic scope.

In the previously cited book by Milner (1997) she also works with the two-level logic from Putnam as a way of understanding how private individuals and groups can participate in an arena that is often associated exclusively with state actors. Her studies show how interest groups can organize to influence decisions that are taken in international institutions and negotiations. She assumes three different kinds of actors, which are legislative politicians, executive politicians, and interest groups.

In the case of the normalization, those actors can be identified as the U. S. Congress, U.S. and Cuba presidencies, and several interests' groups besides the electoral bases of politicians that are interested in what kind of foreign policy is practiced towards Cuba. Some of the oldest groups formed to specifically deal with Cuba related issues are Cuban-American organizations dedicated to anti-Castro activities and pressuring the U.S. Congress. Also, as will be discussed later, with the normalization the economic interests of actors non-directly related to Cuba emerged because they were interested in prospective investments on the Island. As for the electoral bases, considering that within the U.S. Congress there is already a tradition of Cuban-American politicians running for office with the support of the local Cuban-American community, how aligned those local communities are with preferences of foreign policy to Cuba becomes important, at least and starting with the imperative of (re)election concept.

The task of merging nested games with the two-level logic of Putnam will result in a multi-level map of a network of games, which combines interests and preferences that directly or indirectly will affect and transpose both domestic and international barriers. This differentiation not only allows a better organization for the up-scale of nested games in International Relations but also helps to trace back the origin of decisions and actions in a wider variety of games that occur in different institutions with players that will act domestically, internationally or even both.

⁴ It could be argued that the Vatican is in fact a State in the traditional sense of territory, but as a Religious Institution the Vatican has members that are not circumscribed in its sovereign territory, so in the case of the example used, the actor Vatican is a Religious institution and as a State.

Also, it is important to highlight that Putnam's work on Two-level games logic is based on a transversal analysis, that is, it observes a specific event and does not contemplate time continuity. Yet, his study on domestic and international mutual interaction works well if one analyses the evolution of contexts and conjunctures in comparison with their previous states using the nested games logic to trace decisions that end up in a cause and effect chain through time. This adaptation is relevant considering that through this work we will be exploring the history of non-normalization to understand how interests and preferences evolved up to the 2014 reestablishment of diplomatic relations between the U.S. and Cuba. Overviewing the international phenomena as double end events helps to increase understanding of the influence flow and origins of the actors' perspectives and decisions, especially in a nested games scheme within the scope of international relations

2.2.3 Bonding Concepts

Up to this point the conceptual model of analysis being build up to map and understand the depths of the normalization decision process has establish a method to organize actors and their decisions in an interconnected network of arenas along the international and the domestic level that within the nested games logic allows one to trace back the preferences that drove actors' decisions. The next step to make this a practical model is to highlight concepts that allow us to understand actors' options within games, and how exactly different arenas interconnect to each other influencing their decision process.

Considering that multiple institutions with different set of rules and capacities influence each other on issues and manners that transsend domestic border, we find it relevant to explore concepts that explain bureaucracies' interactions. Coming from a book that curiously explores a related subject to Cuba and U.S. relations, Alisson's and Zelikow (1999) work, entitled "The Essence of Decision: Explaining the Cuba Missile Crisis", suggests three different conceptual models to approach case studies focused on decisions, by analyzing the Missile Crisis of 1962. All three conceptual models presented by this work speak directly to a nested games approach, since the authors suggest that Model I is a model related exclusively to rational choice parameters of the leaders; Model II seeks to explain decisions attributing them as outputs of

organizational relations, and therefore results of institutional processes; and Model III could be roughly considered as a mix of the previous two Models and explains foreign policy as the suboptimal result of a series of bargains between individual actors within pre-established organizations.

Considering the complexity of the already preestablished conceptual approach on a nested games logic, it is sufficient to say that the multivariable engagement of Model III explanations for decisions is the one that is best suited to add to this work's analytical model. The authors called the third suggested model the Bureaucratic Model or "Model III: Governmental Politics", since it explores the complexities of decisions that are actually the output of institutional process, that can contemplate more than one organization.

Here it is relevant to make a distinction between decision outputs and decision outcomes because the first considers the consequences of an individual decision as an output when there is a linear understanding that the decision was the sole cause of the consequential effect. Given the scale of the phenomenon being studied and the scope of a nested games logic, it is necessary to understand that the resulting final decisions of games with multiple actors and preferences, rather than an output is an outcome, especially if the result comes from suboptimal choices. Thus, outcomes can be understood as non-individual and non-linear results from a decision-making process.

This differentiation is also useful if we consider that Alisson (1969) indicates from his very first work on the conceptual Model III that outputs can be considered as a calculated result of a decision, and an outcome would be the result of many conflicting interests and decisions which will hardly generate an ideal expected result for any of the parts involved in the process. This logic can be simplified by the explanation of the suboptimal decision of Tsebelis (1990), in that sense, the outputs of suboptimal decisions would be a suboptimal result, and therefore, they are actually outcomes of arena bargain processes and clashes of preferences. With that distinction clarified, the general organizing concepts that Alisson (1969, p. 708-710) suggests and later develops in the book with Zelikow, could be of help to understand the type of connections between arenas in the model this study proposes. It is worth mentioning that the basic unit of analysis for Model III considers Policy as a Political Outcome, which later Alisson and Zelikow will adapt and call "Governmental Action as Political Result" which they explain as "(...) *resultants* in the sense that what hap-

pens is not chosen as a solution to a problem but rather results from compromise, conflict, and confusion of officials with diverse interests and unequal influence; (....)” (ALISSON; ZELIKOW, 1999, p.294-295).

2.2.3.1 Organizing Concepts of Model III within Nested Games logic

The main contribution of the Model III paradigm to this study is what its authors called the *Organizing concepts*, which, as the name suggests, help to organize exactly how different variables affect actors’ behavior in the games they play and the decisions they affect. These concepts will guide and answer questions like which actors are playing the games, what influences their capabilities, how each game influences the other. This kind of posing questions will help to draw out the important variables in the mapping of nested games.

- **Actors and Information**

“Who plays?” is the first question that will bring light to the relevant actors and their position in the nested games. The answer for this leads to the first organizing concept, which is the notion of “Players in Position”, that in summary is the task of not only pinpointing the participant players in the games that affect the decision process but also evaluating in which positions they are within their deciding structures, organization or institutions; what their constraints are; what kind of role is demanded of them, which leads to what their preferences are and what are those preferences origins; and finally what are the games in which players are participating and how do those games relate to each other. To simplify, in Alisson’s and Zelikow’s work, since they work with the U.S. decision process, they consider that there are two kinds of players, “Chiefs” and “Indians”. This distinction is to facilitate identifying the difference among high posts in the hierarchy of the decision chain, and lower posts that somehow participate in that process.

The differentiation of this category will help to recognize the different perspectives and capacities of players for influencing the final outcomes. Considering this concept from the nested games logic, the players who are on the lower parts of the decision chain will have a different perspective about the network of arenas than

players on the top, since they will recognize the difference in their role and their capacities to actually enforce their preferred choices. This difference in perspective can be translated as the information asymmetry, which will alter the logic rationale on how different player play different games or even the same game from different positions, but all will affect the “same” outcome, always taking in consideration that information and capacities are different things but information can be instrumentalized as a capacity if it can be used as valid currency for playing the game.

Still on the different perspectives between “Indians” and “Chiefs”, the latter kind of players (like a President for example) has the tendency of having to worry with a broader network of issues, in a more general point of view; yet the *Indians*, (that could be staffers in this example), are assigned to deal with more focused and technical issues, dealing with smaller games that will have to produce results more or less aligned somehow with their “Chiefs” preferences.

- **What factors shape a player’s perceptions, preferences, and stands on the issue at hand?**

The second question leads to more specific organizing concepts that help understand the rationale of actors’ interests and preferences. The first concept has been discussed previously when we talked about where interests and preferences derive from, going deep into the rationality of the actors’ issue. “Parochial Priorities and Perceptions” can be explained by clarifying what is the actors’ role, that is, is the player a politician? A voter? An organization? Depending on what role the player has, his or her interest and preferences can be not only identified but also begin to be analyzed in depth.

This will lead to analyzing the concept “Goals and Interest”, which can be translated after the previous extensive discussion of Interests, Preferences and Information of the actors according to the games they play. Thus, we propose joining those concepts with the following “Stakes and Stands” organizing concept, in which the authors assess how information and perception ultimately affect preferences, in conformity with our previous discussion on this subject.

A more specific notion that the authors bring and was not discussed in detail before is the “Deadlines and Faces of Issues” concept that on their work on the Missile Crisis is clearer given the critical context in which the world then was. Deadlines affect directly the decision process since they constrain the timeframe for acquiring

information and obtaining the best optimal choice possible. And the faces of an issue refer directly to individual perception of the issues at hand to be addressed, and how that perception is formed according to actors' individual experience and rationale. Conversing with the preestablish notion of chronology in our approach, those two concepts combined affect outcomes with a notion of time that analyzes present in the face of past since they consider perception as a variable that is influenced by experience.

- **What determines each player's impact on results?**

This question leads to the necessity of keen observation of what players capacities are to enforce their preferences in the game of governmental decisions process. Here the authors not only talked about player capacities given their function or position in the hierarchy of the decision chain, although this is also considered, but some more personal traits are also influential in game results. They summarize the notion of power in a "(...) blend of three elements: bargaining advantages, skill and will in using bargaining advantages, and other players perceptions of the first two ingredients" (ALISSON; ZELIKOW, 1999, p.300). Said bargaining advantages can be formal authority positions, information control, estimated feasibility for preferred options, among several other circumstantial possible advantages and capacities. Again, each player perception on the others position and capacities will also affect individual rationales within the game.

- **What is the game?**

A lot has been discussed through this theoretical model about games and how their results affect each other. Yet, it's necessary to clarify what exactly are the games being analyzed since we are transposing the nested games model outside its original environment of parliamentary vote sessions. To better grasp the notion of what are the games that impact the normalization case, we recur to Alisson's and Zelikow organizing concepts of "Action-Channels, Rules of the Game and Action as political Resultant".

The first, "Action-Channels", is "a regularized means of taking governmental action on a specific kind of issue" (ALISSON; ZELIKOW, 1999, p.300), thus they can be thought of as the chain of organized environments in which decisions are made. In the sense, action channels are the games in which players have to participate to

decide about issues and produce results. Different institutions will have different action-channels for different decision processes. For instance, to approve a Law in the U.S. Congress, a Bill must be written and submitted for the evaluation of the committee assigned to evaluate that specific category of issue; if the committee concludes that the bill proposal is pertinent, it will pass it to the floor for a vote at the Senate or the House (depending if the Bill was submitted by a Senator or a Representative); later if the Bill is approved by the entire body, then the same is forwarded to the other chamber of Congress, for a similar process to occur again, and finally, after approval by both Chambers of Congress, the Bill is submitted to the President to be signed or vetoed by the Executive branch in the final steps of becoming a Public Law. All that process contemplates different steps that are one chain of action-channels. Each of the steps can be interpreted as a game that is played by specific actors enabled to participate in it and will produce an effect on the subsequent games. Hence, Action-Channels can also be understood as the ways in which players can access the decision process on several layers of the nested games.

However, that access will depend on the next organizing concept, which is the "Rules of the Game". As the name bluntly suggests, this concept leads to analyzing and tracing clearly what are the specific set of rules that determine the boundaries and possibilities inside a game. In nested games logic, it must be observed that although affecting directly each other, the games may have a completely different set of rules that must be taken into account when trying to understand how they affect each other. Besides, rules of a game also help determine the positions and paths to achieve those positions for players to participate in each dynamic of individual arena's decisions processes. Indeed, the rules will not always be institutionalized, well determined, stable and unchanging. As seen in the nested games approach, there are specific arenas that are played to change the rules of the game, and with the transposing of nested games to a broader scope, it will be possible to find games with unclear sets of rules, like the secret negotiations between Obama's and Raúl Castro's administrations. That example also illustrates how information and positioning within the games is key to participate in decisions that produce political outcomes.

With that in mind, the next organizing concept discusses about "Action as Political Resultant", which brings back the discussion of outcomes and outputs. This concept clarifies that results themselves are not linear consequences of individual

decisions within political analysis, but rather are the final product of a political decision process within different bureaucracies' structures that are populated by different actors in a chain of action channels trying to obtain the best suboptimal outputs, which in reality is the final outcome. That outcome is what observers will see as "Action", which in this thesis could be considered the normalization process put into practice.

2.2.3.2 Bounding propositions in a Two-Level Nested Games Logic

To finish the analysis model proposed for this thesis, putting into practice all the concepts discussed before demands the establishment of some final propositions on how political decisions will be affected. We assume that those propositions may not be exhaustive but will be sufficient. However, within Nested Games logic, the analysis can always find new propositions and factors that add explanatory capacity to the model due to the fact that this logic does assume that the network of games can always be expanded in the light of new discoveries and facts. This is especially true if the nested games logic is brought to a chronological spectrum, in which cause and effect relations will establish a time continuum of decisions that led to actions, that led to new decisions and so on.

To review and summarize how sufficient the conceptual propositions established so far, it's worth analyzing Alisson's and Zelikow (1999) general propositions for their Model III and comparing them with our discussion on the Two-Level Nested Games Logic. The authors begin restating the importance of "Political Resultants" as non-individual and linear decisions, thus deconstructing the notion that politics can be understood as simple decisions from the highest-ranking politician within a governmental institution. This will lead to the acknowledgment that the different action-channels and games lead to everchanging dynamics of players capacities. Even though Model III focuses on Case Studies and uses an "anachronical event" from a critical context as the object of study, this propositions actually reaffirms the importance of continuity analysis in decision processes to understand how a political phenomenon came to be. That changeable characteristic of games, their rules, play-

ers, preferences, and information, creates a need for a chronological understanding of decisions and events.

Alisson and Zelikow second general proposition, “Action and Intention”, is in fact just a summary of how the model proposed here works in nested games political decisions, considering their statements that rarely do the actual optimal preference of players become the end result, and that actions are a various “(...) number of pieces that have emerged from a number of games (plus foul-ups) do not reflect coordinated government strategy and thus are difficult to read as conscious signals.” (ALISSON; ZELIKOW, 1999, p.306).

The following proposition “Problems and Solutions” actually adds a good guide point to our analysis, given that the authors highlight that what is perceived by one actor on a determined game as the main issue, it will not be perceived in the same way by actors participating on other games that directly or indirectly affect that supposedly main issue. This is especially important considering that this thesis aims to analyze the normalization process as a whole new foreign policy strategy. While Executive administration adopts the normalization as a strategic issue, smaller games that indirectly are part of the Nested Games network of this strategy are operating in a much narrower scale, with different issues, preferences and interests as their main variables. This leads to an important pulverized diffusion on how problems and solutions are addressed.

Other propositions like “Where You Stand Depends on Where You Sit, Chiefs and Indians, The 51-49 Principle, and The Face of the Issue Differs from Seat to Seat” are a recapitulation on the information and perception dynamics of actors. These propositions are summarized by the extensive and detailed discussion developed previously about the asymmetry of information, the positions, and capacities of players regarding their preferences and interests and their timeframes to decide and act.

Regarding the general propositions “Missexpectations, Misscommunication, Reticence and Styles of Play”, all of those explain some expected individual issues and behaviors that players have when playing nested games logic. As consequence of diverse games players do not, and even cannot, put maximum effort in their preferences scattered throughout the games, thus the necessity of prioritization and the hierarchy of preferences suggested by Tsebelis (1990). The asymmetry of information will as well not only contribute to the suboptimal choices and results, but also

to the difficulty of coordinating consensual and not conflicting actions and decisions. A lot of this phenomenon will be seen in the analysis of attempts at dialogue and normalization between the U.S. and Cuba previous to the process initiated in 2014 during the Obama administration.

Although Alisson and Zelikow's proposal treats international events as the result of decisions that come from intra-national games, and therefore the domestic environment, their case study on the Cuban missile crisis can be interpreted in Putnam's (1998) logic of two-level games, since it can be seen in their book that outcomes that originated from outside of the domestic context (the international) had an effect on the decisions taken in the national level, both from the United States and Soviet Union perspective's. The book itself recognizes the value of the two-level logic but opts to dismiss it due to its own goal of narrowing down the analysis (Alisson and Zelikow, 1999, 260-261). Yet on their list of general propositions they include "International and Intranational Relations", which they explain as:

The actions of one nation affect those of another to the degree that they result in advantages and disadvantages for players in the second nation. Thus players in one nation aim to achieve some international objective that, from the perspective of the first nation, seems complementary. (ALISSON; ZELIKOW, 1999, p.309).

This statement can be translated in the suggested Two-Level Nested Games Model when we are analyzing games that involve bilateral negotiations or tensions, as we will extensively do throughout this thesis when exploring the conflicts between U.S. and Cuba up to the point of the Normalization.

With the aggregation of organizing concepts and general propositions of Model III as a way to understand the nuances on the important variables of the Two-Level Nested Games approach, the main guidelines for explaining how decisions work on this intricate network of arenas will shed light on mapping such variables in the object of this study. Hence, the next section of this chapter will be a summarized application of this model to highlight the important actors, games, interests, preferences, institutions, and influences on the decision-making process through which the Normalization was enacted.

2.3 Mapping Variables

Applying the built conceptual model starts by identifying the important variables previously highlighted. Thus, considering the nature of the normalization process as a result of a decision, the first deciding actors that directly engaged with it are President Obama and President Raúl Castro, both representing the Executive branch of their respective countries. Since this work focuses mainly on the U.S. aspect of normalization, the Executive preferences of the Obama administration that led to this new approach towards Cuba are the first ones to be analyzed. To do so it is important to understand the position and capacities of the U.S. Executive as an actor and as an Institution, given that Obama can be considered as occupying the role of Chief in this particular policy decision.

In that sense, the Executive Institution has its own hierarchy of processes that led to not only enabling the presidential decisions to become acts but also assessing the president through different sources on what his options are, what is the executive cost of them and with which third-party actors he must bargain. Hence, although in a macroscopic lens the Executive can play as an actor when engaging in secret negotiations with its Cuban counterpart, within the U.S. Executive there is chain of action-channels where micro nested games must align to enable “Presidential” decisions.

On the domestic level, the initiative to normalize relations with Cuba could only be partially performed by the Executive branch, since the other main issue with the Island, the embargo, could only be revisited by congressional decision. This fact reveals another key actor to this case, Congress as an institution that produces important decisions, and its members who must collectively build those decisions by voting and other technical processes. From 2014 to 2017, Congress did not review the Embargo and even exerted its authority to check on Executive power to never officially approve the nomination of the U.S. Ambassador in Havana. This leads to the necessity of understanding congressional politicians’ preferences and interests, which, as suggested by the concepts discussed previously, are directly tied with their electoral bases.

The next logical step is to consider electoral bases as another influential actor. The difference here, is that this actor does not participate directly at an institutional level in the decision-making process on foreign policy to Cuba or on the normaliza-

tion itself, yet as Sartori (1994) indicates: states' political decisions that are translated into political actions are decisions that 1) have a collective effect; 2) are somewhat sovereign since they are above other forces; 3) are inescapable, since they affect the whole territory oversee by their government institutions and 4) coming from the State institutions can be enforced by force. This means that the normalization affects civil society as a whole, and thus is susceptible to society's reception. Since society is a collective actor, that is, involves a large number of individuals with different preferences, the parts of that actor that are relevant to this mapping effort are the ones that face the effect produced by the manifestation of intensive preferences about that issue caused by the normalization.

Those intensive preferences can be traced by looking at the individuals that seek indirect ways to somehow influence the political decisions they are interested in, in this case, the normalization process. One way to pinpoint those individuals is analyzing how their affected preferences on this issue affect the congressional politicians that answer for their demands. Hence, it is important to state that on the Legislative institutional design there are formal methods of indirect social participation, such as lobbying by interests groups and campaign financing. Although the correlation between a politician's work it is not normatively related to those activities, authors like Grossman and Helpman (2001) established a convincing connection between politicians preferences and those kinds of social influences.

Coincidentally, the mentioned actors so far are the same triad that Milner (1997) used on her work on interest, preferences, and information, which indicates a known pattern to guide this research. However, still on the subject of society actors, it is important to highlight that as plural actors, civic groups can compete for influence with opposing preferences. In the normalization case, the importance of these aspects becomes evident when analyzing the mixed reactions of Cuban-American society towards the Obama initiative. While conservative anti-Castro groups strongly disapproved of the normalization process, some Cuban-American think tanks, and opinion polls indicated the process as being well received by a good portion of the Cuban-American community and the United States society overall. Conceptually speaking, as congressional politicians are classified as one class of actor but are in fact individual actors that compete or cooperate to obtain their preferences, the same can be considered for social actors.

Chart 1- Actors, Capacities Constraints, Games and Influence

Actors	Capacities	Constraints	Games in which they can participate	Type of Influence
Executive (President, Department of State, Diplomats and Military council)	Autonomy on diplomatic decisions; autonomy on bilateral relations; executive orders; Federal Electoral Base; Limited reelection	Can not directly write laws or overwrite; Executive Orders are somewhat limited by political tradition; Limited Reelection; Electoral College; Depends on Congress for effective and consensual policy making	Direct: Foreign Policy/ Direct: Domestic Policy/ Direct: International Affairs	Immediate access into producing executive prerogative on foreign Policy
Legislative (House of Representative and Senators)	Collectively writing, approving and repealing Public Laws; Can keep in check Executive branch; Regional Electoral base; Parochial Interests	Can not directly take decisions without finding consensus on collective voting. Regional Electoral Base; Parochial Interests	Indirect: Foreign Policy / Direct: Domestic Policy / Indirect: International Affairs	Somewhat direct access to foreign policy decisions through legislative prerogatives
Interest Groups (Civil Organizations, Lobby groups, electors among others)	Represent interests that must be met by politicians/ Are not directly bound by institution rules/ Capacities vary from group to group	Do not participate directly in the chain of the Institutional Decision-making process. Lack of consensus on preferences and interests.	Indirect: Foreign Policy/ Indirect: Domestic Policy/ Indirect: International Affairs	Electoral representative; Interest Groups pressure; Lobbying
Central Intelligence Agency	High concentration of information management as bargaining advantage	Are hierarchically subordinated to the Executive branch; Do not produce guidelines decisions	Direct and Indirect: Foreign Policy/ Direct and Indirect: Domestic Policy/ Direct and Indirect: International Affairs	Through Information, the institution can change the perception of Key players regarding the games

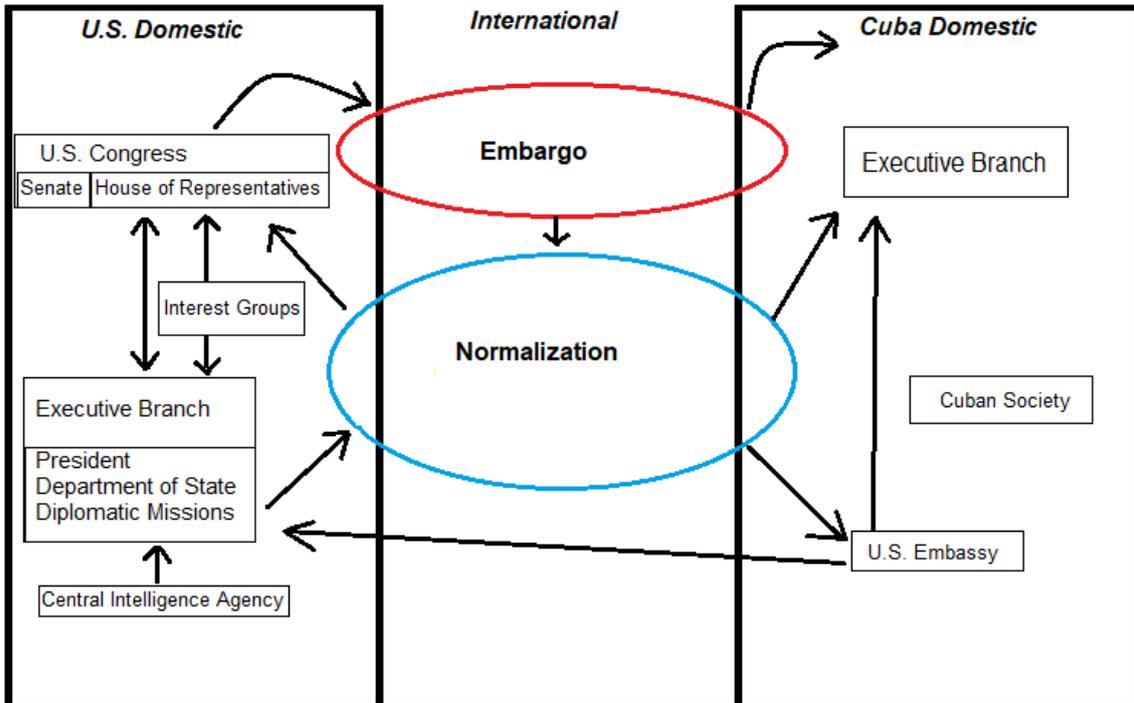
Source: Author, 2019.

With those actors and information about their positions, preferences and games in which they participate, Chart 1. represents a summary of the discussed key elements which analyzes the Actors, their Capacities, their Constraints, A simplified categorization of the type of Games in which they participate can be divided in Foreign Policy decisions, Domestic policy decisions, and International Affairs decisions, and the type of Influence that they can potentially exercised according to their different positions on the Nested Games logic. Two important notes should be explained: The first is that the chart includes the Central Intelligence Agency (CIA) as a separate actor, this was done due to the role as an important information emissary to the Executive branch that the CIA has, the function of actually putting into action some Ex-

ecutive decisions and the “independent institution” characteristic of the Agency despite the fact that it responds to Executive guidelines. Since this work recognizes the history of non-normalization as important to understand as the normalization itself, the CIA acting as both “Indian” and “Chief”, played a significant ambiguous role in the beginning of the tensions between Cuba and the U.S in 1959, during the Invasion the Bay of Pigs in 1961 and during the Missile Crisis of 1962 (LEOGRANDE; KORNBLUH, 2015). The second note is that on the games category, the distinction between International Affairs and Foreign Policy was made taking into account how the two-level logic of Putnam works. Although Foreign Policy has international impact, the same is the outcome of domestic decisions, and International Affairs are games that happen exclusively on the International level but have both domestic and international effects, like the negotiations that led to the normalization.

Once established the relevant actors and their respective positions regarding games that have effect or are somehow linked to the normalization decision, the next step is to identify how those actors relate to each other. That is, what kind of influence they have on different games, and what effects their own games, thus affecting their preferences and interests. Figure 1. is the preliminary schematics of the Two-Level Nested Games Model for the normalization case based on Chart 1. information. In it's possible to see how some actors are in fact environment for micro-games that posses several smaller actors and reproduce on various dynamics of “Chiefs” and “Indians”. Also, it's possible to observe that the normalization agreements is a game that happened in the international environment and affected the domestic environment of both the U.S. and Cuba. Besides, it's important to observe how the Embargo is highlighted as directly affecting the full normalization and depends solely on U.S. Congress decisions and action. It's worth clarifying that “Interest Groups” within the U.S. Domestic, and “Cuban society” within Cuba's Domestic sphere represent the same category of actors, but since the focus of this thesis relies mainly on the U.S. domestic implications of the normalization decision, only “U.S. society” was translated into interest groups, since those are the main civil actors that were pinpointed as potential influencers on the issue of the reestablishment within this research of the U.S.-Cuba diplomatic ties.

Figure 1 - Two-Level Nested Games Preliminary Schematics for the U.S.–Cuba normalization context



Source: Elaborated by the author, 2019

This is the preliminary mapping of the normalization context as a new strategy of U.S. foreign policy towards Cuba. That Mapping is meant to be explored and expanded not only on the level of detail of each influence variable but also on a chronological basis that allows seeing how exactly those variables ended up aligned in their positions during the normalization context. That horizontal analysis is important because of the break in strategy that this process represented for U.S. – Cuba relations. Only through understanding the non-normalization period is it possible to actually grasp what the reestablishment of relations means to the history between both countries.

This mapping will be used as a guideline for the following chapters, in which all of the important variables identified as key to the U.S. foreign policy toward Cuba and the decisions that determine that strategy will be investigated in depth. To achieve this goal, this mapping will be analyzed by both historic and exploratory methods in the following section.

3 THE *STATUS QUO* CUBAN FOREIGN POLICY (1959-2008)

In this section, we will begin to discuss the change in the strategy of foreign policy towards Cuba attempted by the Obama administration. The main aspect of this new strategy is the diplomatic normalization initiative that was announced in December of 2014. Although the new strategy became evident and public at the normalization announcement, the initiative was the fruit of groundwork done since 2008 which culminated in secret negotiations between the U.S. Executive branch and the Cuban government.

However, to understand the *status quo* foreign policy to Cuba that Obama was met in 2008 and engaged in changing it, first we must summarize what that old strategy was and how it was formed. Hence, to achieve a full mapping and understanding of this event, we will be shedding light to all the aspects that determine or affect the process of normalizing relations with Cuba. Those aspects include bureaucratic constraints that are coded within U.S. government institutions, and actors individual strategies and preferences and could affect the normalization in some way. Hence, this chapter will be divided into two parts, in the first part the *status quo* strategy of isolating Cuba will be discussed in a brief historical perspective to understand its origins and in the second part we will review the main *status quo* pillars of the U.S.'s foreign policy to Cuba organizing the pathways for their policy decision-making process if any intention of changing it is put into action.

3.1 Summarized history of Foreign Policy to Cuba until Obama

In this section we will review the major events that formed what was in 2014 the U.S. *status quo* Cuban foreign policy strategy. Considering our objective of exploring only the fundamental pillars that played a major role in constructing and supporting the U.S. *status quo* Cuban foreign policy strategy when Obama took office for the first time, we will not describe all the details in the historiography of U.S.-Cuba relations in the years of the Cold War and the two decades after it, since a great number of studies by other qualified authors have already built a valuable and rich research groundwork on this subject, such as the books "That Infernal Little Cuban

Republic” by Lars Schoultz (2009), “Cuba and the United States: Ties of singular intimacy” by Louis A. Pérez Jr (2003), “Cuba: What Everyone Needs to Know” by Julia Sweig (2012), and “The Closest of Enemies: A Personal and Diplomatic Account of U.S.-Cuba Relations since 1957” by Wayne Smith (1986), among many other articles and studies cited in our bibliography. Thanks to that comprehensive knowledge construction, we will highlight only the main variables that formed the *status quo* faced by Obama regarding Cuba, and analyze briefly how those variables can be explained by our analytical approach.

3.1.1 Cold War: Revolution, First Impressions and Crisis

The beginning of what can be called as the *status quo* strategy of the Cuban-Foreign Policy dates back to 1959, the first year of the revolutionary government. When Fidel Castro came to power as the result of a victorious guerilla campaign against the dictator Fulgencio Batista, the U.S. government’s impressions of the new Cuban leader were mixed. Since Cuba’s independence in 1898, the U.S. had enjoyed full access to the Cuban political sphere through the Platt Amendment of 1902 (until its “theoretical” repeal in the U.S. – Cuba treaties of 1934 given some agreements from it like the lease of the Guantanamo base were kept), inserted in the newborn Cuban Republic as one of the conditions for the U.S. occupation to end. The U.S. interest in the Island was guaranteed by the amendment proposed by Senator Oliver H. Platt who created the law to secure the U.S. right of intervention in Cuba under the justification of political guidance and economical guidance. (AYERBE, 2004; PÉREZ JR, 2003, 2006; SHOULTZ, 2009)

Before the Revolution, from time to time, the U.S. would intervene in Cuba’s government according to their political and economic interests thanks to the constitutional window opened by the Platt amendment, and even after the amendment’s repeal in 1934, as consequence of three decades of direct interference the U.S. economic and political interests were rooted within Cuba’s sovereignty and political life. Hence, the situation of 1959 in U.S. perception was a deterioration of Batista’s support from the neighbor country thanks to the increasingly brutal oppressiveness of his government in the eyes of public opinion. Until then, the U.S. ambassador had had the privilege of a head of state in Cuba which led Earl E.T. Smith to be the last key

U.S. actor to support Batista's government. However, as the Cuban government was crumbling, the emerging Revolutionary leadership from the M26 (26 of July Movement) of Fidel Castro was seen with uncertainty, given that the most prominent leaders had a mix of ideology beliefs. Castro himself had not declared explicit political ideology up to that moment besides strong nationalism, and in a context of Cold War, such inclination was seen with caution in the United States. (AYERBE, 2004; LE-GRANDE; KORNBLUH, 2015; SMITH, 1987; PREVOST, 2018; SCHOULTZ, 2009)

By the time the Cuban Revolution came to power, political and economic elites had begun fleeing the Island, following Batista rushed exile. Notwithstanding, the New Revolutionary government enjoyed massive popular support and euphoria which helped in using the momentum to completely restructure Cuba's constitution and political institutions (HILB, 2010). Throughout the first few months of the new government, the U.S. tried to access Cuban leadership to understand their political inclination in the bipolar context of Cold War, in other words, to find out if the Cuban Revolution represented a communist threat.

However, in a security scenario in which the main concern of the actors were the games in which nuclear weapons represented the capacities to shift the war, and considering Cuba's unstable political past with several coups and dictatorships, president Eisenhower was not invested in understanding if the new Cuban government was someplace in between communism or pure nationalism. In fact, considering the unconventional characteristics of the new Cuban leaders, when Fidel Castro was invited to the U.S., Eisenhower sent his vice-president Richard Nixon in his place. At that occasion, Castro declared publicly that he was not an enemy of the U.S. neither a communist and was even probed by CIA operatives on his willingness to cooperate to fight communist threats. That moment of "awkward handshaking" did not last long, and a couple of months after, with Castro's continuous nationalist reforms and State nationalization of private properties, the U.S. government and institutions were quick to label the Cuban leaders as communist enemies. It is worth noting that Leogrande and Kornbluh (2015) and Schoultz 2009, describe this initial spark of animosities between Revolutionary Cuba and the U.S. as a series of misunderstandings and mistrust of signals between decisive political actors on both sides.

3.1.1.1 Bay of Pigs (1961)

The aftermath of that bad start led to an urgency in U.S. policymakers, led by President Eisenhower, to design an action to oust the Cuban government and cut the snake's head before it could grow. Given the historical ties and geographical proximity of Cuba to the U.S., the first wave of Cuban immigrants after the Cuban Revolution was composed of an elite Cuban community that was strongly opposed to Fidel Castro and his Revolution. In order to not directly engage the U.S. military in a full-scale intervention on Cuba, Eisenhower used the CIA to recruit and train Cuban exiles to form an invasion army.

The invasion was scheduled to the first half of 1961 a year of U.S. presidential succession. Eisenhower was confident that Vice-President Nixon would emerge victorious against the Democrat candidate John F. Kennedy and did not brief the future President elect on the plans for the invasion. By the time Kennedy won and got to office, the invasion was in motion and on the way to be executed, and although it was secret, it would be bureaucratically and politically costly to reverse it. Hence, the new U.S. president moved on with the plans with minor tweaks on the U.S. aerial support (LEOGRANDE; KORNBLUH, 2015).

Eventually, the Revolution government proved itself militarily capable of a swift victory over the exiles invasion of Cuba's Bay of Pigs in April of 1961, taking a toll on Kennedy's reputation, both in the Cuban government's perception and in U.S. public opinion. On one side, the Cuban government had been attacked by a plot designed by one of the two main powers of the world, in the other, Kennedy had not had the sufficient strength and guts to push harder plans to overthrow a communist enemy in U.S.'s backdoor. Kennedy's individual interest has been repeatedly characterized by the literature as leaning toward improving relations with the Cuban government and controlling the fire ignited by the previous administration, but his main domestic opposition, the Republican Party and their preferences would continuously attack him on his soft stance against communism (LEOGRANDE; KORNBLUH, 2015; SCHOULTZ, 2009; SMITH, 1987).

The failed invasion of the Bay of Pigs further pushed the Cuban government from any good possibility of being recognized as legitimate by the U.S. government. In a bipolar context, if one of the poles was repelling, Cuba would automatically be

pulled by the other. Starting closer relations with the Soviet Union and aligning with the communist bloc was the logical decision from an Island's government that despite having defeated the exiles' invasion, recognized the threat of being invaded once more by a larger military force supported by the U.S.. With that correct assumption, Cuba engaged in a politically and economically deep relation with the Soviet Union, while the U.S. government started developing a new invasion plan that never came to fruition due to the biggest Cold War crisis.

3.1.1.2 Missile Crisis (1962)

While the second invasion of Cuba was being prepared under the codename Operation Mongoose, in October of 1962 the threat of nuclear war became a reality staged from the island. Predicting the upcoming U.S. invasion in Cuba, the Revolutionary government sought to intensify relations with the Soviet Union overextending them from mere economic cooperation to military protection. Fidel Castro and Nikita Khrushchev secretly planned the installation of nuclear missiles arsenal in Cuba, which caused the U.S. aerial U-2 spy surveillance activities to photograph the construction of the missile facilities in the Island, putting the U.S. government on alert (ALISSON; ZELIKOW, 1999).

The historiography and analysis of the political games involved in the Missile Crisis is widely studied and has been applied in the canonical book that it is part of our analytical model by Alisson and Zelikow (1999). Therefore we will not be describing and analyzing in detail every aspect of decisions and solutions for the Missile Crisis, given that our objective it is simply to explain what caused the *status quo* austerity strategy toward Cuba to be formed. Thus, our focus on the 1962 crisis is on the elements that served as the basis for future U.S. Cuban foreign policy.

On the days that followed the discovery of the Missile launch facilities in Cuba, the U.S. took the issue to the public at the U.N., formed a naval blockade of the Island and engaged in heated negotiations with the Soviet Union to remove the missiles. An agreement without the Cuban government's participation was reached between Kennedy and Khrushchev through backchannel negotiations, and in exchange for the Soviet Union's public withdraw of the missiles from Cuba, the U.S. would later

remove its own nuclear arsenal from Turkey. However, another result from those negotiations that is not often mentioned, is the U.S. compromise to not invading Cuba (ALISSON; ZELIKOW, 1999; LEOGRANDE; KORNBLUH, 2015; SCHOULTZ, 2009).

The event left a bitter taste in Fidel Castro, given that he was not involved in the negotiations and he wanted the Soviet Union not to concede on removing the missiles from Cuba because of his interest in securing the Island against any U.S. threat. However, the result of the missile crisis made the U.S. dismantle Operation Mongoose and never engage again in direct military operations against the Cuban government. Given the aftermath constraints of the Missile Crisis to overthrow the Cuban government using conventional force, the U.S. started to formulate austerity policies towards the Island, such as the economic embargo to undermine, suffocate and sabotage Castro's regime, hence starting what would effectively become the *status quo* strategy.

3.1.1.3 The decades of the 1970s and 1980s

Through the years that followed the Missile Crisis and the Invasion of the Bay of Pigs, even without the possibility of directly removing Fidel Castro from power using conventional military force, the U.S. engaged in a series of austere political practices to Cuba with the purpose of quickly undermining the support structure of the Revolution. The break in diplomatic relations, the embargo and the creation of the migration legislation for Cubans called Cuban Adjustment Act (which will be discussed further), the initial U.S. perspective was that Cuba being geographically isolated from the Communist bloc and deprived of U.S. commercial ties, its government would not last long before crumbling on its own or due to sabotage practices.

However, the Revolution endured, and Fidel Castro consolidated centralized power enjoying great popular support on the first decades of his government. The Cuban leader also engaged in a somehow diversity foreign policy, strengthening ties with both China and the Soviet Union (the competing poles of the communist bloc), and promoting the "exportation" of the Cuban Revolution to other Latin American countries. This last item became a constant factor of strife with the U.S. government. If the first communist government in their hemisphere in less than two years posed a

nuclear threat to U.S. territory, in the middle of the Cold War conflict with communism, preventing Cuba from “infecting” other regions in Latin America became a higher priority to the detriment of actually looking for common ground dialogue and improving relations (SCHOULTZ, 2009; SMITH, 1986).

Beyond Latin America, Cuba also engaged in armed conflicts in post-colonial African countries like Angola and Congo, supporting socialist movements in their fight for power. Hence, Cuban foreign policy to Africa was also a direct affront to U.S. interests for containing the spread of communism in the recently independent African republics. Schoultz (2009) Smith (1986), Leogrande and Kornbluh (2015) narrate how whenever backchannel communications between Cuba and the U.S. on minor issues would make some progress, both countries foreign agenda would undermine any possibility of actually accomplishing any positive results towards better relations. Looking at these dynamics through the optics of our analytical model, it is possible to observe how in the nested games network logic, the public international individual and joint games played by Cuba and the U.S. would overrun smaller games played in the background.

A specific event that deserves to be looked at since initiated the change in the demographic profile of the Cuban American community, was the Port of Mariel migration crisis of 1980. Before that year, the U.S. had been receiving a very specific group of Cuban migrants who were leaving the country due to severe contradictions with Castro’s ideology. Many of those migrants were friends or relatives from the first wave right after the Cuban Revolution and were warmly received and supported by the already established Cuban-American community composed mainly by exiles from the revolution. However, in 1980, due to domestic conflicts with a large group of Cubans that invade and took refuge in Latin American embassies, Fidel Castro decided to publicly declare that the Port of Mariel would be open for anyone who wanted to leave.

In practice, this action led to the arrival of several ships from Florida from Cuban Americans to pick-up dissidents from that event. Yet, Castro’s political maneuver was some sort of a “Trojan Horse”, since he used the opportunity to empty the Cuban prison system and even some mental health facilities, by sending convicted inmates and patients to fill the ships from Florida. The large number of Cuban migrants in that exodus was so large, that the Carter administration had to negotiate with Castro about closing the Mariel port to end the crisis. The aftermath of that event was seen

as a Carter political failure, and some analyst even considered the Mariel exodus to be one of the reasons Carter lost his reelection (BARROSO, 1997; DÍAZ, 2010; FERNANDÉZ; QUIJANO, 2003; GOTT, 2006; PIRES, 2008). Ironically Carter was one of the Cold War U.S. presidents who tried to improve relations with Cuba through backchannel efforts, and between Cuba's foreign policy and the Mariel exodus, this initiative was crippled. Nonetheless, Carter's involvement in the Cuban issue was so personally significant, that he became one of the third-party actors to advocate for normalizing relations as a private citizen in the years to come.

Within the Cold War context, the Cuban American National Foundation (CANF) was also born, an interest group that would become the main opposition to the Cuban government abroad. Most notably, CANF would be an actor in U.S. domestic influence in the Federal government and would exercise expressive political pressure on both the Legislative and Executive branches of government to shape and support the austerity focused foreign policy to Cuba. CANF was created in 1981 by the Cuban exile activist Jorge Mas Canosa, and "(...) the Reagan administration offered substantial help in conceptualizing its purpose and modus operandi" (SWEIG, 2012). With its high level leadership run by influential and powerful Anti-Castro Cuban-Americans, CANF was even counseled by Reagan's staff to research and learn from the Israeli lobby and Advocacy groups on how to exercise political influence. Upon its creation, CANF served a mutual purpose of politically empowering itself and acting as an additional justification and guide for the U.S. Executive branch to maintain a hard grip on Cuban foreign policy.

The Reagan administration was also responsible for including Cuba in the List of countries that sponsor terrorism in 1982, due to its support of refugees from insurgent groups such as Basque Fatherland and Liberty (ETA) and its connections with *FARC's (Fuerzas Armadas Revolucionarias de Colombia) guerrilla* movements. During Reagan's administration, the creation of Radio Martí was also promoted by the U.S. administration with the support and operative engagement of CANF. Radio and TV Martí are networks that were created to broadcast an unauthorized foreign signal from within the U.S. to Cuba with propaganda critical of the Castro government. For almost all its duration, both the Martí medias were directed by CANF members and were funded from the Federal U.S. budget (SWEIG, 2012).

Throughout the Cold War, the Foreign Policy *status quo* strategy to Cuba was primarily created in the aftermath of the Cuban Revolution and aggravated by the

initial miscommunication and misinterpretation of both governments. Within a bipolar conflict context, Cuba aligned with the communist bloc given initial U.S. aggression to the new established Revolutionary government, and in a defiant and self-determined initiative, the Cuban government engaged in a foreign policy agenda that was directly against U.S. Cold War interests, that is by exporting the Revolution. Still, it must be noted that there were attempts at a U.S. soft approach to the Cuban government by the Ford/Kissinger administration and by the Carter government, which ultimately failed because of the integrated dynamics of nested games in the two-level logic. The games and preferences of each other's governments were simply too conflicted if one takes into account all international games in which they participated, thus jeopardizing any smaller game in which they both preferred to cooperate (LEOGRANDE; KORNBLUH, 2015; SWEIG, 2012; SCHOULTZ, 2009; SMITH 1986).

3.1.2 Post Cold War

In October of 1989, the Berlin wall was taken down, signaling the beginning of the Soviet Union is dismantle which finally ended in 1991. Alongside the Soviet bloc, the Cold War ended finishing the bipolar international division of the world with capitalist ideology promoted by the U.S. as the “winner” of almost half a century of conflict. Hence, Pecequilo (2005) considers that the beginning of the decade of 1990s setup a new world configuration with the U.S. acting as the main hegemonic center.

For Cuba, this new scenario caused what was called by its government as the “Special Period”. The end of the Soviet Union, massive subsidies and economic support for the Island combined with the active U.S. embargo, Cuba went through a severe shortage of supplies and resources which caused leading to its worst economic crisis up to that point. Through most of the 1990s decade, the U.S. government was under the Clinton administration, and while the global order was adjusting to this new context, we will discuss ahead why during this period of change the U.S. kept the *status quo* strategy to Cuba and even coded most of it in its legislation (ERISMAN, 2006).

3.1.2.1 From Clinton's calibrated response to Bush's Frost (1993-2008): The world changes and Cuba kept stuck in the past

In 1992 the issue of Cuba came to be a relevant subject of discussion. At the time, President George H. Bush (1989-1993) was faced with a congressional initiative to extend and intensify the Cold War period economic embargo. Representative Robert Torricelli, the politician that presented the bill proposal, was supported by the Cuban-American interest groups to use the momentum of the Soviet Union's end as an opportunity to intensify the pressure on Cuban Government and finally make it crumble. The idea of the "Cuba Democracy Act" (that would be nicknamed as Torricelli's Law), was to increase the isolationism caused by the U.S. embargo on Cuba and prevent the Island from trading with other countries. Taking advantage of the U.S.'s economic hegemonic context of the world, the proposed bill sought to punish companies and ships that had previously traded with Cuba by banning them from trading with the United States for 180 days.

That same year the presidential elections were happening, and although President Bush initially showed some concern with the Torricelli proposal he eventually endorse it publicly to appeal to the conservative anti-Castro Cuban Americans that were eager to see some aggressive foreign policy towards Cuba to finally overthrow Castro's government. Yet, looking at the same electoral preferences, candidate Bill Clinton announced his public support to the proposal even before the President, and when he won the elections he enacted the Torricelli Law (MORRONE, 2008).

Over two decades later, upon Fidel Castro's death in 2016, Robert Torricelli wrote an article entitled "After meeting Castro, I have no regrets choking Cuba", in which he attributes part of the reason for proposing the Cuba Democracy Act to a meeting he had with Castro in the spring of 1990 during a short visit to Cuba. In Torricelli's opinion, he decided to be "part of the solution" to Cuba, when he judged Castro's character as arrogant, presumptuous, and authoritarian given the political prisoners' visits he made. Looking back at the consequences of the Torricelli Bill which were the first normative constraint on the U.S. Executive power over the embargo, Robert Torricelli said:

From the date of enactment of the Cuban Democracy Act, Cuba never again led an international insurgency. The wars in Central America came to an end. Cuba withdrew from Africa. The legislation didn't produce a free Cuba

but untold thousands of lives were saved by ending Castro's foreign adventures.
No regrets. (TORRICELLI, 2016, np).

In his rationale, Torricelli considered that the Cuba Democracy Act had been somewhat successful since it managed to terminate Cuba's Cold War foreign policy of exporting the Revolution even if it did not actually bring down the Cuban government. The Torricelli law did help to undermine Cuba's capacities to keep its foreign policy agenda but did not accomplish its original goal. However, it took a severe toll on Cuba, especially on its society. It is interesting to observe how an individual congressional politician playing a domestic game created a domino effect on international games, not only played by Cuba, but also other countries that could have been interested in trading with the Island. At the same time, the same decision also deeply affected Cuba's domestic environment.

With such an austere start to Cuba, comparing the endorse of the Torricelli bill with the whole two terms period in which Clinton held the presidential office, the Torricelli approval can be seen as a political cost that the new president had to pay. In fact, his foreign policy agenda was organized towards a strategy he called "calibrated response", and overall he was not necessarily interested in engaging in the escalation of tensions with Cuba. Clinton's rhetoric suggested quite the opposite, a cautious will to improve relations (BRENNER; KORNBLUH, 1995). However, during his administration, at least three other critical events involving Cuba happened and force the variables of the nested games network toward the maintenance of the *status quo* strategy.

Due to the serious economic crisis of the Special Period, a third migration wave hit the U.S. from Cuba, it was called the *Balseros* (rafters) Crisis. This time, no port was opened but, motivated by the economic hardships, Cubans designed improvised rafts made of whatever materials they had on hand, and launched themselves into the sea in an attempt to reach the coast of Florida. Besides being a massive illegal migration movement, the characteristics of the crisis took many human lives in the 90 miles that separated Havana from Key West. The crisis went beyond a migration exodus, becoming a humanitarian issue.

Fearing the same political disaster as the Mariel Crisis, the Clinton administration engaged in bilateral dialogues with Cuba and reached some migration agreements, among them the President created the "wet foot/dry foot" policy. In practice,

the U.S. coast guard would return any rafter rescued on the sea to Cuba with the promise of no-retaliation against them from the Cuban government (wet foot), but if the rafters managed to touch U.S. soil they had the right to apply for a kind of “refugee” status and were legally paroled into American territory. The combination of the wet foot/dry foot with a law created in 1966 as a consequence of the first migration wave, called the Cuban Adjustment Act, resulted in U.S. special treatment for Cuban migrants. Different from other Latin American illegal migrants, Cubans had practically the right of free entrance in the U.S. as long as they could reach its territory. Combining the Special Period economic crisis aggravated by the U.S. embargo with the ease of entering the U.S., a steady wet migrant flow continued until the end of the foot/dry foot in 2017 by Obama’s initiative. This caused the Cuban government to harden its rhetoric on the U.S. use of abusive migration policies combined with the embargo to stimulate illegal migration (COLOMER, 1998; DÍAZ, 2010; ROY, 2009).

Another consequence of the *balseros* crisis was the creation of a Florida based group called *Hermanos al Rescate* (Brothers to the Rescue), composed mainly by Cuban-Americans that would use private aircrafts to search in the Florida Strait for drifting rafters to call for rescue. However, being part of anti-Castro interests groups, two aircrafts from the group allegedly started flying over Cuba throwing anti-government propaganda fliers. In one of such flights, the Cuban airforce shot down both planes which caused an uproar in the U.S. domestic environment. While the Cuban government would claim that the aircrafts invaded Cuban airspace and were duly warned before being shot down, domestic actors in the U.S. that defended a hard policy to Cuba considered the act an aggression. Hence, in 1996, boosted by the *Hermanos al Rescate* incident, Congress approved yet another Law that codified the embargo to Cuba on U.S. legislation which was signed by Clinton due to the political pressure caused by the incident even from inside the Executive bureaucracy itself. This internal pressure was corroborated by an interviewed⁵ high official who worked for the State Department coordination for Cuban Affairs at that time and believed the new Embargo law to be a justified retaliation for the shot down of the aircrafts. This time, the new bill nicknamed the Helms-Burton Law or Bacardí Law⁶ would definitely remove presidential capacities to lift the embargo unilaterally as will

⁵ Our interviewed source asked for the condition of personal anonymity in order to publish the content of our interview.

⁶ Its official full name is *Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996*

be discussed further ahead in detail (CARCANHOLO; NAKATAMI, 2002; HOFFMANN, 1997).

The last relevant event that had an impact on the nested games network of the *status quo* Cuban foreign policy, was the Elián González case, a rafter boy who was rescued adrift after losing his mother during their attempt to reach Florida in 1999. Elián's mother was planning to go live with relatives in Miami and was separated from his father, who stayed in Cuba. Given that he was just a child, the U.S. Coast Guard initially took him to his family in the U.S., but his father later claimed for the boy to be reunited with him in Cuba and went to the U.S. backed by the Cuban government to pick up Elián. The incident was internationally covered by the press, and while the Cuban government would call for the father's right and the migration agreements, Elián's Cuban-American family backed by Cuban-American groups would pressure the Clinton administration let him stay in the United States. Eventually, Elián was returned to Cuba causing major criticism of the Democratic administration among the Cuban-American community. The unpopular result of Elián's case would later be considered by analysts as a possible game changer in the next year presidential elections, in which the Republican George W. Bush defeated the Democrat candidate Al-Gore (Vice-President in the Clinton administration) in a final electoral college stalemate in Florida decided by only 537 votes (MORRONE, 2008).

Therefore, being elected by Florida with such a close margin and possibly favored among Cuban-Americans for his conservative stance towards Cuba, the Bush government reversed any small improvements in bilateral relations with Cuba made by the previous administration, increased remittance restrictions to the Island and even family visit travel permits. In the Bush administration's perception it was advantageous to leave the issue of Cuba in the background among the lowest priorities, especially after the 9/11 terrorist attacks. Cuba was seen as an obsolete reminiscent enemy from the Cold War, and after 2001 U.S. security concerns were shaped towards the War on Terror. Besides, having the support from the oldest anti-Castro Cuban-American interests groups who were still prominent in the Cuban-American community at the time facilitated the political cost of not engaging in any new action towards Cuba. Hence, during the Bush administration it is possible to observe that the *status quo* strategy toward Cuba was not only maintained but further frozen (GUEVARA, 2015; MORRONE, 2008).

Since we have established, the origins of the *status quo* strategy for Cuba, we will now recapitulate the main normative constraints that determine U.S. foreign policy to Cuba, that is, all the laws and “fixed” policies. In order to understand the Obama administration’s capacities to alter policy towards Cuba, it is necessary to clarify the paths and constraint the U.S. bureaucracy built since the 1959 Cuban Revolution and even codified within its legislative framework. Additionally, we will review how those normative aspects influence and are influenced by less tangible aspects of Foreign Policy-making, which consist of subjective traits in the formation of the *status quo* strategy towards Cuba that came from the history of antagonism since the 1959 Revolution.

3.2 The 2008 *status quo* of Foreign Policy to Cuba and its’ bureaucratic configuration

To understand how the Obama administration attempted to change U.S. Foreign Policy toward Cuba, it is necessary to observe what exactly that Foreign Policy was before he took office. Considering the previous discussions presented in this section where we sought to illustrate the decision making processes that maintained a strategy of isolationism, none – or minimal– dialogue, austerity, rhetorical aggression and especially the absence of official normal diplomatic and other relations, it is necessary to summarize the main aspects that compose the *status quo* strategy, that were the targeted for changes by Obama’s presidency in late 2014. Thus, we will be discussing the main issues that represent the non-normal relations with Cuba, their normative rules, and the possible decision-making pathways to alter them.

Most of these policies are either U.S. reactions to the aftermath of the Cuban Revolution or pivotal subjects of discussions between both countries since Fidel Castro came to power. Those main foreign policy pillars and actions were:

a) The economic embargo, which was the earliest foreign policy adopted towards post-revolutionary Cuba and three decades later, through two different bills, became U.S. codified Laws via the Cuba Democracy Act of 1992, and the Helms-Burton Law of 1996;

b) The role of Guantanamo base will also be analyzed, since not only does the U.S. military occupation dates from early independent Cuba, but after the Revolution, it became one of Cuba's main claims and subject of debate to achieve some sort of understanding with the U.S. government on Cuba's sovereignty;

c) On the diplomatic front, we will be reviewing the current state of diplomatic relations in 2014, that is, how they worked through Interests Sections and other third-party countries embassies, and how it could possibly be changed via Executive powers.

That aspect of the *status quo* foreign policy also reaches the international dimension of U.S. multilateral relations with Latin America, since the U.S. pushed and pivoted the OAS to oust Cuba from the organization, and later was isolated in its position to continue to keep Cuba out. Additionally, we will also discuss Cuba's position on the U.S. government's official list of Countries that Sponsor Terrorism and how that is also a facet of the diplomatic relations and a symbol of the *status quo* Foreign Policy to the Island. Further on the subject of international relations between both countries since 1959, migration came to be an important issue which, as discussed before, was used and treated as an important political aspect on both sides, generating specific U.S. policies for Cuban immigrants that are also part of the *status quo* strategy.

3.2.1 The Embargo

The economic sanctions and embargo against Cuba are a policy practice that began during the Kennedy government when the Revolution Government was still consolidating itself and the gravest moments between Cuba and the U.S. were stir, such as the Bay of Pigs Invasion and the Missile Crisis. After the Cold War, the embargo was codified on U.S. legislation as an attempt to seize the moment of collapse of the Soviet Block and isolation of Cuba to further strangle the Island's economy and provoke the downfall of Fidel Castro's government. Hence, this particular part of the *status quo* Cuban Foreign Policy can be considered the most significant and important one.

For the purpose of analyzing the Normalization possibility under the Obama Administration starting in 2008, there are two main legislative pieces that regulate the embargo and both were created in the 1990s, the Cuban Democracy Act of 1992 and the Cuban Liberty and Democratic Solidarity (*Libertad*) Act of 1996. Within their texts, both Laws take over the narrative of Foreign Policy towards Cuba and establish the Revolutionary government of Castro as a regime to be taken out of power. Further on we will be discussing the bureaucratic constraints that these laws create for changing or even adapting U.S. Foreign Policy towards the Island.

3.2.1.1 Cuban Democracy Act (1992)

The Cuban Democracy Act, also known as Torricelli Law, was a bill that was approved in Congress in 1992 and served the purpose to codify into the U.S. Legislation the embargo policy toward Cuba that began during the Kennedy presidency back in early 1960. When Obama took office the Cuban Democracy Act could be found in Chapter 69 under Title 22 – Foreign Relations and Intercourse of the United States Law Code.

To understand the law, one must the Soviet Union fall represents an opportunity for the blossoming of a democratic government in Cuba Yet, the authors of the Law believed that Castro was an intransigent anti-democratic leader and therefore that the U.S. must seize that historic opportunity to more forcefully pressure the Cuban economy and finally take down the revolutionary government. Finally, the Law also considers that there should be an international effort to push Cuba towards a democratic government and that the U.S. initiative should be supported by other countries friendly to democracy. This last particular aspect introduces the international collateral effects of the implementation of the Torricelli Law. Imposing the embargo unilaterally is not enough, the Law must be sufficient to enforce it on other countries, guaranteeing that the effects of the embargo were felt on the Cuban economy and government.

The most damaging effect on the Cuban economy that this legislation had can be found by interpreting the sanctions section:

[22 USC, CHAPTER 69, §6005] (...)Prohibition on certain transactions between certain United States firms and Cuba

(1) Prohibition Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) Applicability to existing contracts Paragraph (1) shall not affect any contract entered into before October 23, 1992. (b) Prohibitions on vessels

(1) Vessels engaging in trade Beginning on the 61st day after October 23, 1992, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) Vessels carrying goods or passengers to or from Cuba Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may not enter a United States port.

(3) Inapplicability of ship stores general license No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) Definitions As used in this subsection— (A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft; (B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 1401 of title 19; and (C) the term "Cuban national" means a national of Cuba, as the term "national" is defined in section 515.302 of title 31, Code of Federal Regulations, as of August 1, 1992. (c) Restrictions on remittances to Cuba The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency. (d) Clarification of applicability of sanctions. (UNITED STATES, 1992)

Those specific regulations⁷ extend the economic sanctions against Cuba to other countries, by imposing a time sanction to trade with the U.S. to any individual or institution that had traded with Cuba. Considering the difference in size between the U.S. and Cuba markets, the purpose of that regulation it is to prevent or penalize any third party that wants to do business with the U.S. from accessing the Cuban economy.

Strategically speaking, this legislation was created to further isolate Cuba, but when that it was approved, the Torricelli Law already faced some international backlash, at least on the rhetorical level, since the U.S. was interfering with third parties' interests in the Island. Currently, the embargo still has great weight on Cuba's economy, but it politically isolated the U.S. on the international level, since at the United Nations general assembly the motion to repeal the U.S. embargo it is only has the

⁷ The full text of the Cuban Democracy Act can be found in Annex A.

negative votes of the U.S. and Israel, more on this subject will be further discussed when we consider the diplomatic *status quo* strategy.

3.2.1.2 Helms-Burton (1996)

The Cuban Liberty And Democratic Solidarity (*Libertad*), also known as Helms-Burton Law, was a bill that was approved in Congress in 1996 and served the purpose of codifying further the restrictions for the Cuban Embargo and further pressuring the Island's government. When Obama took office the Cuban Liberty And Democratic Solidarity (*Libertad*) could be found in Chapter 69A, under Title 22 – Foreign Relations and Intercourse of the United States Code of Law. This piece of Legislation comes right after the original Cuban Democracy Act in Chapter 69 and became an important complement to the previous, if not the main legislative piece on the Embargo.

While Torricelli focus on extending the reach of the embargo to further isolate Cuba by affecting third parties that trade with the Island, the Helms-Burton Law goes back to the roots of the conflict between both countries and regulates pre-conditions for the embargo that dictate new governmental arrangements that would dismantle the whole process of the 1959 Cuban Revolution. Within the text of the Helms-Burton Law, several references to past issues between the U.S. and Cuba are made to justify the wide array of sanctions and policy recommendations to the President in the dealing with the Island, such as restrictions on any kind of foreign support for Cuban nuclear facilities (mentioning the missile crisis) and retaliation toward international financing institutions that loan money to Cuba due to the debt of the Island's government on expropriation of U.S. private properties. Furthermore, the Law often asserts that the Cuban government is a sponsor of terrorist activities in other countries, by engaging in training and supporting insurgent military movements.

Although the Helms-Burton Law reaches out to attempt to regulate several aspects of the U.S. Foreign Policy towards Cuba, being itself a bureaucratic rule the Law's own text doesn't transfer all decision-powers to Congress, since even though it always suggesting what direction the President should take, it also admits some autonomy for the Executive branch, specifically to the President, the Secretary of

Treasury and the U.S. Attorney General. Those individuals are granted the capacities of interpreting and adjusting certain economic policies towards Cuba according to specific situations such as family remittances and travels to the Island. Besides, the Law also gives the Executive branch almost full responsibility for assessing the situation in Cuba and reporting back to Congress in order to set in motion some sort of policy change.

Still, the Helms-Burton Law is very specific in its opposition to the revolutionary Cuban government and accepts no other option besides full dismantling of the Castro regime and the establishment of what it is called a democratic transitional government to terminate the Embargo. Such “transitional government” must meet the following requirements:

[22 USC, CHAPTER 69A §6065] (a) Requirements For the purposes of this chapter, a transition government in Cuba is a government that—(1) has legalized all political activity;(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; and(4) has made public commitments to organizing free and fair elections for a new government— (A) to be held in a timely manner within a period not to exceed 18 months after the transition government assumes power;(B) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and(C) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other election monitors;(5) has ceased any interference with Radio Marti or Television Marti broadcasts;(6) makes public commitments to and is making demonstrable progress in—(A) establishing an independent judiciary;(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;(C) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;(7) does not include Fidel Castro or Raul Castro; and (8) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people. (UNITED STATES, 1996).

The additional requirements for proving all the above-mentioned changes and the integrity of the full text of the “Cuban Liberty And Democratic Solidarity (*Libertad*) Act” can be found in Annex B. The important finding about the Helms-Burton Law is the determination of the embargo as a fixated “rule of the game” that the U.S. Executive has limited decision-making capacity over. On the occasion of Obama’s first election, the conditions required for the self-termination of the Embargo weren’t a reality in Cuba, or at least no U.S. Politician would consider it, thus the only way to effective-

ly end the Embargo would need to be a full repeal of the law by Congress, that is, an Act to repeal the “Cuban Liberty And Democratic Solidarity (*Libertad*)”. Meanwhile, on Executive authority, Obama could only tweak a few economic restrictions through the Department of Treasury and its Office of Foreign Assets Control.

Also, it is worth mentioning that as stated in the previous section, the Helms-Burton Law received a considerable lobby support from the Bacardi company (even getting nicknamed after it), given its interest in regaining – or being compensated by – expropriated lands at the beginning of the Revolution. This fact helps to understand why a whole section of the Law is dedicated in detail to the “Settlement of outstanding United States claims to confiscated property in Cuba.”, and subchapter III of it is entitled “Protection Of Property Rights Of United States Nationals”. Therefore, it can be considered that economic interests played a large role regarding the embargo.

3.2.3 Formal Diplomacy

In this section, we will present which are the main aspects of formal diplomacy that characterize the *status quo* U.S. strategy for Cuba that Obama found when he took office for the first time. We highlighted three main aspects, all of them manifest in the international relations games between both countries, but with domestic implications for the decision-making process that the President must engage in order to change fundamental traits of the Foreign Policy towards the Island. Those topics to be discussed are: Embassies instead of Interests Sections; The OAS admission of Cuba as a formal member and the Guantanamo U.S. military base.

3.2.3.1 Embassies *versus* Interest Section

After Fidel Castro’s policies of wide confiscation, expropriation and nationalization of private properties, taxation on U.S. imports and trade deals with the Soviet Union, President Eisenhower imposed the first signs of the embargo to Cuban exports and severed diplomatic relations closing the U.S. embassy on Havana. All dip-

lomatic staff was removed from the Island and the embassy building was closed off. For several years the United States “diplomatic interests” were represented in Cuba by the Swiss embassy, and after the dialogues between President Carter and Fidel Castro an official U.S. Interest Section in the Swiss Embassy was established in Havana and later was transferred to the same building as the old U.S. embassy (SMITH,1987).

The Interest Section operated similarly to an embassy, issuing visas, representing U.S. interests to official local authorities and territorially belonging to the U.S., but with reduced staff and without an Ambassador but rather a Charged of Affairs or as the official assignment name calls “Chief of Mission”. Strategically, having an Interest Section means having a direct line of diplomatic communication but without the officially recognizing of the host country as worthy of actual official diplomatic relations. In this case, without recognizing the authority of the Cuban government as an actor to maintain a friendly line of dialogue.

This small difference between an Interest Section and an official Embassy represents a clear sign of non-normal relations between Cuba and the U.S. since theoretically, diplomatic relations were non-existent since early 1961. Reversing the status to an official embassy could mean recognizing the Cuban government as a sovereign government worthy of normal relations. Structurally all diplomatic relations are under the authority of the Department of State, hence under the decision-making power of the Executive branch – the presidency. Yet, the opening of an embassy means appointing and allocating an ambassador, and under the United States structural process, the President appoints an ambassador and then the Senate must approve it in order for that person to be vested with the title. That separated structure means that despite the Executive power having technical authority for establishing and administrating diplomatic relations, Congress does have a minor capacity to influence the issue of normalizing the embassy level diplomatic relations with Cuba.

3.2.3.2 Organization of American States

On the occasion of the early conflicts between the U.S. government and the Cuban Revolution government catalyzed by the Cold War climate one of the first international initiatives that the U.S. took to prevent the new Cuban government from spreading its influence to the region, was to isolate the Island from the Organization of American States (OAS). The regional organization was founded in 1948 and Cuba was one of the initial 21 members. In January of 1962, during a meeting of the organization that discussed the communist offensive in the Americas, the U.S. pushed an initiative to suspend Cuba's membership from the OAS with the argument that Castro's government was disrespecting the fundamental values of the organization, and managed to bar the country from participating in meetings until 2009 (ORGANIZATION OF AMERICAN STATES, 1962).

In that specific context, that antagonist strategy towards Cuba worked and was supported by two-thirds of the members, but as time passed, the Cold War ended, the communist enemy stop being so important, several leftist governments appeared in Latin America, and the Cuban government managed endured. The United States became isolated in maintaining the strategy to isolate Cuba since their justification to keep the country out of the regional organization became outdated and the other member countries shift their interests with more pragmatic ones.

The U.S.'s OAS representation is coordinated by the Executive branch, and while in 2008 the other regional members had been asking the U.S. to reconsider its opposition on Cuba's membership suspension, the possibility of change had not presented itself due to a lack of political interest until the Bush administration. Since all representation on international or multilateral organizations depend solely on the diplomatic directive from the State Department, on this specific issue the Obama administration had the possibility of changing its position towards Cuba and improving its image before the other members of the OAS. In terms of Foreign Policy, the Executive branch held the possibility of improving relations with all it's Americans neighbors through reopening some space for multilateral dialogues with Cuba.

3.2.3.3 Guantanamo

From the original historical point of view, the U.S. military naval base in Guantanamo is the oldest issue of unresolved conflict between Cuba and the U.S. government. The base was officially inaugurated in 1903, right after the end of the U.S. occupation on the Island with the agreement of the Constitution for the new founded Republic of Cuba, which contained the inclusion of the Platt Amendment. Given the close ties between the recently founded Republic and its independence backed by U.S. military support and occupation, the U.S. managed to lease the region of the Base (120 square kilometers) to build a strategic military base overseas. The original lease agreement was based on annual rent price of US\$ 2,000.00 in gold, that latter was converted to US\$ 4,085.00. To this day that same amount is still sent in a check to the Cuban government as “payment” for the maintenance of the base in Cuba (SWEIG; 2012; PREVOST, 2018).

This subject is a particularly sensitive topic to approach regarding Foreign Policy and normalization with Cuba, since that from the beginning of the Cuban Revolution and U.S. antagonism the Island’s government demanded the withdrawal of the base from the Cuban territory, a request that was never conceded. The main political complication, in this case, is linked to security issues. Although being in Cuban territory, because of the military aspect of the base, the Cuban government never risked enforcing the expulsion of the American forces due to armed conflict consequences of such action. At the same time, the U.S. government used that risk constraint to keep a strategic point of pressure, surveillance and protection on a foreign territory that for several years was considered part of an enemy state. With the Cold War as the background, any military advanced post gave a necessary advantaged for the conflict, under the doctrine of containment of communist expansion, keeping the base on the first “American Soviet territory” was unnegotiable, especially after the Missile Crisis of 1962.

Another political aspect of Guantanamo Bay for the “non-normalization” process it is linked to the sovereignty concept for the Cuban territory. As seen in this study, the denial of formal recognition of the legitimacy of the Cuban government has been one of the aspects of the *status quo* strategy of animosities in U.S. Cuban Foreign Policy. Therefore, by not attending the claims to return the territory of the base

to the Cuban government, the U.S. government maintains another piece of its strategy to disqualify the revolutionary regime.

Structurally the military reports directly to the Presidential authority, hence, the Executive branch could technically initiate a movement to return the Guantanamo base, but all military issues are sensitive to security concerns. The Guantanamo base serves as an offshore post, strategically positioned on a privileged geographical location in the far east of Cuba it is positioned in the Atlantic sea entrance to all of Central America. Such advantageous position weighs heavily in a decision that favored the normalization of relations with Cuba and the withdrawal of the base.

Finally, it is necessary to mention the current use of the base since Obama took office. After the U.S. is new security orientation to the War on Terror, with the Cuban communist threat due to the end of the Soviet Union and the economic crisis on the Island, the Guantanamo base began to be used as an offshore prison mainly for terrorist suspects. Although the Cuban government expressed solidarity towards the U.S. due to the terrorist attacks of 9/11, their claim to the return of the Guantanamo bay never ceased, and after the base became known as a prison used to torture and extract information from the prisoners via “unconventional” methods, the legitimacy of the U.S. accusations of the Cuban government human rights violation became weaker. This means a rhetoric disadvantage to the U.S. government on the Cuban issue, yet it is far from outweighing the strategic benefits for maintaining Guantanamo.

3.2.4 Enemy *versus* Friend Perception: List Countries that Sponsor Terrorism

During the 1990's, the Regan administration added Cuba to their Department of State' list of States that Sponsor Terrorism due to the Island support to the FMLN guerrilla's in El Salvador. As seen on previous chapters, during the 1970s and the 1980's Cuba was engaged in an active foreign policy of some sort of export of their revolution through other countries that had social potential to generate friendly and governments similar to the one established by the Cuban Revolution. As a heritage of the containment of communism doctrine (which it is worth remembering that It was created in the early years of the Cold War), the U.S. was particularly active in apply-

ing such doctrine towards its Cuban foreign policy and the inclusion of Cuba in that list was one of the symptoms of that specific engagement.

The fact is that after the end of the Soviet Union, given the heavy economic crisis and the isolation of Cuba, the Island lost its capacity to continue to invest in that approach. All the Eastern European socialist system was discredited and the Cuban government had more pressing domestic issues to address. With the “war on communism” won, during the 1990’s the U.S. isolation strategy was used as a way of simply waiting for the revolutionary government to collapse as it is peers did in Eastern Europe, hence the alleged threat of Cuba was now perceived as a crippled “enemy” not worth any direct engagement besides the economic embargo. During that decade, maintaining Cuba on the list of countries that sponsor terrorism was just an additional rhetorical justification for the isolation strategy, given that the Island had to abandon its foreign policy efforts due to the new context the world was in.

In 2001, when the 9/11 terrorist attacked happened, the security concerns of the U.S. finally shifted from the “post-Cold War” to the War on Terror. The “terrorism” concept transformed into a more explicit term that was linked mostly to radical Islamic attacks and organizations, at least from the U.S. government perspective. The next military engagements that the North-American power participated in were directly linked to an attack on terrorist organizations like Al-Qaeda in Afghanistan and even Iraq. This meant that the inclusion of Cuba in the List of Countries that sponsor Terrorism was now misplaced, given the different nature of what was considered as “mainstream terrorism” for the foreign policy perception that the U.S. now had. Still, as part of the continuity of the isolation policy of the Bush administration, the Island was kept within that list, albeit in an outdated context. Julia Sweig even highlights the fact that “Despite publicly charged rhetoric throughout the Bush administration, American military officials credit Cuba with consistently providing cooperation in counterterrorism (and counternarcotics as well) during this period.” (SWEIG, 2012, p.184)

All of this leads to the necessity of removing Cuba from an outdated position in the List of Countries that Sponsor terrorism as part of a normalization of relations process. From the very different issues that are necessary to address in order to change the *status quo* strategy, the removal of the Island from that List it is not only a part of re-establishing normality but rather a conceptual correction of counter-Terrorism Foreign Policy. It is also worth mentioning that the country’s association

with terrorism is a rhetorical tool to deepen and justify economic embargo sanctions, hence its removal can also be used as a rhetorical tool to ease such sanctions.

3.2.5 Migration

On the migration issue, there are basically two important policies that can be addressed regarding a normalization of relations between the U.S. and Cuba: the Cuban Adjustment Act of 1966, and the Wet Foot/Dry Foot policy of 1995, created by the Clinton government. It is important to keep in mind that both policies appeared as a response to mass migration waves, yet their durability was never an issue called into question and their very existence can be linked to the idea of an open migration bridge to the U.S. that it is being supported by its institutions. In that sense, both policies that were supposed to resolve migration issues ended up serving as a channel for the migration flow to continue at a high intensity.

3.2.5.1 Cuban Adjustment Act

The Cuban Adjustment Act was a bill approved in Congress in 1966 and served the purpose at that time to facilitate the processing of Cuban migrants who were dissidents of the Castro government. When Obama took office, this law could be found by the number of P.L. 89–732, paragraph § 1555. Adjustment of status of nonimmigrant to that of a person admitted for permanent residence, under Subchapter II of Chapter 8 - Immigration and Nationality, of Title 8 – Aliens and Nationality.

Created during the Lyndon Johnson administration, and recommended by the president, the Cuban Adjustment Act was intended to help official authorities to register and processes the Visa entry of the thousands of Cubans dissidents who since 1959 had been had an uncertain future regarding the possibility of return or not. Both the dissidents and the U.S. Executive had a limited comprehension of how solid the Cuba revolutionary government would be and how long it would survive since their interests were invested in the downfall of Castro. Yet, the Bay of Pigs and the Missile

Crisis had passed and the Revolutionary government hadn't shown any kind of signs that the regime would crumble, and had gained the important support of U.S. greatest rival, the USSR.

Thus the U.S. Executive worked with Congress to create the Cuban Adjustment Act, a Law that still is in effect at the time of this study:

[8 USC, CHAPTER 12, §1255] *Be enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That, notwithstanding the provisions of section 245(c) of the Immigration and Nationality Act, the status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959, and has been physically present in the United States for permanent for at least two years, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence (...) (UNITED STATES, 1966).

Since it is creation, the few amendments that were added to the original Law only improved the benefits that Cuban migrants received upon staying in the U.S.. But we highlight an important ammendments to this study that attaches Presidential powers over the Cuban Adjustment Act to the preconditions of the Helms-Burton Law of 1996 to be self-terminated upon the required changes in Cuba, as follows:

[8 USC, CHAPTER 12, §1255] SEC. 606. CONDITIONAL REPEAL OF CUBAN ADJUSTMENT ACT. (a) IN GENERAL.—Public Law 89–732 is repealed effective only upon a determination by the President under section 203(c)(3) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114) that a democratically elected government in Cuba is in power. (b) LIMITATION.—Subsection (a) shall not apply to aliens for whom an application for adjustment of status is pending on such effective date. (UNITED STATES, 1996).

Although this conditionality of repeal appears to put some sort of power in the President's hands, attaching the Cuban Adjustment Act to the Helms-Burton Law means linking the existence of the embargo to the oldest migration policy for Cubans. Since the embargo cannot be fully repealed unless Congress does it or the conditions for self-termination are met in Cuba, the power over the Cuban Adjustment Act, in reality, moves further away from Presidential capacities.

3.2.5.2 Wet Foot/Dry Foot

Created during the Clinton Administration, the Wet Foot/Dry Foot was a policy practiced by the U.S. government regarding illegal arrival of Cubans without an expedited entry visa to U.S. territory. As discussed in the previous section, this policy was created to deal with the wave of Cuban *balseros* that grew exponentially during the Special Period in the decade of 1990 and consisted of a practice of admitting any Cuban migrant that actually stepped on U.S. land (Dry Foot) and returning to Cuba any migrant intercepted on the sea (wet foot), upon the guarantee that the Cuban government wouldn't practice any kind of reprisal on the returnees.

Although created to solve the specific issue of the nineties *balseros* crisis, the Wet Foot/Dry Foot policy stayed in place beyond the peak of the crisis. Notably, while this policy was maintained, the *balseros* movement never ceased to exist, given the possibility that if a Cuban could complete the dangerous sea journey from the Island to the coast of Florida, he or she could be legally admitted in the U.S. The importance of this policy to the *status quo* relations between U.S. and Cuba when Obama took office for the first time presented a distinct scenario for "abnormal" migrant relations.

With time, Cuban migrants learned to use the Wet Foot/Dry Foot in their favor in different ways than the ones anticipated by this policy. Terrestrial routes through other countries began to be used heavily by the migrants. The border of Mexico became a usual door entry for Cubans, even without legal visas. Stepping on a U.S. border control post was the same as stepping in U.S (Dry Foot"), hence the policy was applicable and the Cuban could be legally admitted. Combined with the Cuban Adjustment Act, the U.S. was bureaucratically attractive to Cuban migration, since Cubans first could be admitted without the normal legal procedures to acquire a Visa, and one year later apply for permanent residency.

Needless to say, this situation greatly displeased the Cuban government, which recurrently accused the U.S. of stimulating illegal and dangerous migration with this policy and related laws. Combined with the strangling of the Cuban economy through the economic Embargo, this led Cubans to consider immigration because of the precarious situation of the Island and not because of political dissidence, persecution or repression as the U.S. claimed.

Hence, in regards of the Wet Foot/Dry Foot *status quo* inherited by the Obama administration, the practice was a 13 years old policy that went through a Democratic government more or less aligned with the idea of improving relations with Cuba and a Republican government that aimed to gain distance from the idea of dialogue with the Cuban government. However, the Wet Foot/Dry Foot Policy was an Executive controlled practice, it was never codified as a Law in Congress, therefore, jurisdictionally the decision-making power over it relied on the presidency.

Finally, all the policies and practices discussed above are the main structure of the *status quo* strategy to Cuba. Hence, after understanding the extent of the normative process to change such normative preconditions for U.S. foreign policy towards Cuba, in the next chapter we will be able to place the Obama administration within that structure and analyze how it operated the decision-making process up to the point of the 2014 announcement. That analysis will take into account interests and preferences manifested publicly and also the network of nested games preferences in which Obama participated. That approach will help to understand the influences that played a role in the strategy shift, the rationale behind the new foreign policy and how interests and preferences were organized or manifested through the outcome of games

4 THE OBAMA ADMINISTRATION: REDEFINING U.S. FOREIGN POLICY TOWARDS CUBA

The goal of this chapter is to shed light on the network of games that allowed, justified, and supported the decision to actually attempt to change the *status quo* 55 years old strategy of isolation and austerity towards Cuba. Taking into account that, as this chapter will show, the decision to normalize relations was progressively built through the Obama years; it will also be important to understand the configuration of Barack Obama capacities at each moment of his Executive career. Up to 2014, Obama went through two presidential elections and different Congress configurations. Also, at the beginning of Obama's first term, Raúl had just substituted Fidel Castro officially as head of government and state and by the time the normalization was announced the new Cuban leader had already consolidated his position, at least in the perception of U.S policymakers (SWEIG, 2012). Therefore, after discussing the bureaucratic pathways to normalize relations with Cuba, the Obama administration will be analyzed within a division of four pivotal moments to understand its' preferences towards Cuba: The first electoral race; The first term administration; The second electoral race (which overlaps with the first term); And the second term administration, in which the full shift of strategy was put into practice.

This four moments division of the Obama years is important due to the variation of Executive capacities or possibilities within the full context framework. As established in the theoretical chapter, politicians need to secure their election in order to actually pursue other preferences; therefore it is necessary to understand how the issue of Cuba was presented by Obama during elections and how the same subject was addressed by the Administration after securing the Executive power. The importance of this division will be clearer further ahead when understanding how the dynamic of addressing Cuba played a different role and involved a different prioritization of preferences by different actors during elections. Meanwhile, during Obama's terms in office, with the power of Executive guarantee, the actual policymaking realigned those preferences. However, since the main object of study of this research is the Normalization itself, and given that the effective policy change happened during Obama's second term, we will discuss both subjects together in the next chapter. This chapter discussion will focus on the first campaign, the first term and the second

campaign which were laid the groundwork for the Normalization during the second term, and therefore can to be observed separately in greater detail.

4.2 Obama and the new Foreign Policy strategy to Cuba: Thaw and Normalization

As previously stated, Obama's strategy towards Cuba must be observed from a chronological perspective in order for the conditions to enable the decision and initiative towards diplomatic normalization to be fully explored. In that sense, we will discuss Obama's public references to the issue of Cuba within both campaign processes and within both terms in office. This combination of timeframes is the structural foundation for the actual actions that were taken in order to get to the announcements of 2014 and the Executive foreign policy change toward Cuba.

4.2.1 The first presidential electoral Campaign: What was the importance of Cuba?

In his book about "Obama and the Americas", Lowenthal (2011) states that during the presidential campaign of 2008 few observers expected that Senator Barack Obama would dedicate some attention to the Latin-America region, given the more urgent matter of the financial housing crisis, and the Middle-East conflicts that the U.S. was engaged on. The author also considers the fact that the then-democratic candidate barely mentioned the region, focusing on some restructuring of the North American Free Trade Agreement (NAFTA) and some bilateral possibilities with U.S. partners like Panama and Colombia. Yet the most pressing issues in foreign and domestic policies would leave Latin-America subjects as a lower tier priority.

Still, the Cuban topic was not totally neglected as we will see further ahead. Therefore, we will be discussing how the first-time presidential candidate Obama approached the Island's foreign policy issue, and how the topics that we highlighted on the main issues of the U.S. strategy to Cuba were (or were not) "advertised" during the campaign. It is also worth trying to grasp how high on the priorities list those is-

sues were addressed and how the *modus operandi* in which the Cuban topic was approached worked within the campaign strategy context. It is necessary to observe how issues are addressed in the campaign and how they are actually approached once in office, given that the “interests priorities” change once the election is secured.

Talking about Cuba in a context of U.S. presidential elections means discussing the preferences of the Cuban-American community, especially the preference of the voting individuals among that group. Following the theoretical approach presented in the first Chapter, we will be discussing such specific preferences, keeping in mind concepts like action channel and player position and capacities on this issue. In that sense, the key elements to understand Obama’s stance towards Cuba during his first presidential electoral campaign are tied to his interest in being President, the electoral significance of the Cuban-American voters, and Obama’s difference with his rival, Republican Arizona Senator John McCain.

Since 2001 the Bush administration had increased the isolationist aspects the U.S. foreign policy toward Cuba by restricting family remittances and travel and refusing to actually attempt any kind of dialogue with the neighbor’s government. In 2008 the “post-Cold-War” isolation of Cuba was nearing two decades, yet the Cuban government did not change substantially. The consequences of that were that, as new polls were gradually showing over time, questioning the *status quo* strategy began to be more accepted within U.S. society and within the Cuban-American community. However, this did not mean that public opinion was clearly in favor of normalization, but rather that it was acknowledging the ineffectiveness of the current strategy.

4.2.1.1. Cuban-Americans and the first campaign

On May 24th, 2008 Jeff Zeleny wrote an article for *The New York Times* where he covered a speech then-Senator Obama delivered to the Cuban-American community that was hosted by the Cuban-American National Foundation, in the spirit of the presidential campaign. In that speech, Obama verbalized what the polls were showing about the U.S.’s ineffective strategy, criticizing Bush’s specific policies that interfered with the ability of Cuban-Americans to help families on the Island. He proposed a new engagement towards Cuba, but only specified the reversion of such

limitations imposed by the Bush government. It is important to observe that at that moment Obama was effectively only talking about changing policies that would give the Cuban-Americans – the same public for whom the speech was directed – the possibilities of further interaction with families and friends on the Island, a benefit specific only to Cuban-Americans and not just any U.S. citizen. In the same speech, he also rebuffed Senator McCain who a few days earlier had told that same audience that Obama planned to reverse the trade policy with Cuba, that is, lift the embargo. Obama told the audience not to be confused by his proposition on a new approach to Cuba, he would maintain and support the embargo, since he considered that that policy was an effective way of demonstrating to the Cuban government that a path to normalization could be pursued if the Island demonstrated some sort of initiative towards domestic democratic changes (ZELENY, 2008; SEGRERA, 2017).

This particular public address it is even more significant to understand Obama's presidential campaign preferences towards Cuba considering that the Cuban-American National Foundation is the oldest and more traditional Anti-Castro Cuban-American interest group. In terms of traditional stance, Obama knew that the softer Democratic approach to Cuba was not only dangerous in a Republican-inclined state like Florida, but also dangerous amidst Cuban-Americans like the ones from CANF (especially considering the 2000 elections). John McCain's attack on Obama to that public was not random, and in order to establish a good fighting chance within Cuban-Americans in Florida, the candidate had to repeal his contestant claims towards the embargo and give something to the Cuban-Americans that could appeal to their preferences without abandoning a tough attitude on the Castro's government (ERIKSON, 2011). Despite claiming years later that the Embargo should be lifted on the occasion of the first normalization process, in his first electoral race the candidate wasn't in a comfortable enough position to actually announce his intentions about the future normalization that he would promote.

4.2.1.2 Guantanamo and the first campaign

Regarding Guantanamo base, Obama announced publicly that one of his policy goals on that subject was to close the detainee center for accused suspects of

terrorism. This is due to the widely known human rights violations used in the military prison for questioning and counterintelligence. Those practices generated public criticisms within the U.S. and abroad since they were incompatible with the country's human-rights defense rhetoric (which was used as part of the strategy to attack the Cuban government). Therefore, it is important to note that Obama was not promising to actually close the Guantanamo base for good, but rather terminate its use as a military prison in order to divert international and domestic criticism. Focusing on Cuba itself, that promise would only "re-legitimize", so to speak, the U.S. discourse on the Cuban government's alleged human-rights violations.

As discussed before, the return of the Guantanamo base area to Cuban sovereignty is one of the Island's historic claims since the beginning of the Revolution. Still, Obama's promises regarding that subject were actually part of his broad reform on foreign policy towards the Middle-East and the War on Terror, instead of an actual change in his approach to the Cuban issue.

Although some actions towards Guantanamo Base were taken by Obama in his second term, we will be highlighting the fact that those actions were not directly related to the shaping of foreign policy toward Cuba. Hence, it is worth noting that because of the security complexity and geostrategical meaning of the subject of Guantanamo, a full closure of the Base could only be possible as the last step of an actual full normalization of Relations between the U.S. and the Island. Yet, given the nature of U.S. relations with Latin American countries, specifically those that host foreign U.S. military bases, it is not likely that even in the case of a full normalization Guantanamo would actually be withdrawn from U.S. control (BITAR, 2016). That possibility is even more remote if we consider that the Guantanamo Base was a military strategic defense point during the U.S.'s greatest historical threat, the Missile Crisis. Giving up the perks of the base is simply a possible outcome that depends on a multiplicity of suboptimal decisions derived from political calculations that have a remote chance of actually generate that result, at least from the short to medium term perspective. In order for the Guantanamo issue to become viable currency for U.S.-Cuba negotiations, a deep change in U.S. foreign policy as a whole must occur. Therefore this issue must be seen as a simple rhetorical tool when analyzing the object of this study. Therefore, regarding Obama's first campaign, what needs to be observed is that Guantanamo was not used as part of the foreign policy preferences for Cuba.

4.2.2.1. The Cuban-American arena

Although the pressures to sustain the old strategy continued to exist and was enforced by the same old actors (Cuba-American politicians and Anti-Castro Cuban-American interests groups), even within Congress opposite interests for Cuba began to present themselves. The Cuba subject stirred economic preferences towards an Island barely touched by modern capitalism and a sharp critical view towards the *status quo* strategy that was supposed to debunk the Cuban Revolution government but up that point had failed to do so (SEGRERA, 2017).

Also, and perhaps most importantly in terms of political cost for a change, the demographics of Cuban-Americans changed over five decades of flow of migrants, and the preferences within that same community also changed. It should be noted that the first generations of Cuban-Americans to arrive at the U.S. came due to dissidence with the Revolution and were the first to obtain citizenship and to establish a solid community in the U.S. and later fully engaging in politics. That first generation was marked by a strong ideology confrontation with the Cuban government and a focus on overthrowing the Castro regime and “liberating” the Island (from their perspective). The Cuban-American politicians within the U.S. Congress belong to that specific group of the Cuban-American community, and are therefore inclined to support the most conservative position for Cuban Foreign Policy, in other words, the *status quo* policy (LEOGRANDE; KORNBLUH, 2015; GUEVARA, 2015; ERIKSON, 2011).

On the other hand, as the flow of Cuban migrants never ceased, new generations and groups within the Cuban-American community gained space and transformed the preference for Foreign Policy towards Cuba into a more heterogeneous one. The ideological conflict with the Castros’ government became less important to new generations or recently arrived Cuban-American migrants, defining their interest as more economic and pragmatic (ERIKSON, 2011).

According to Huddleston and Pascual (2010), in 2008 a poll taken by the Brookings Institution and the Florida International University showed that a substantial majority of Cuban-Americans in Miami was in favor of several changes in Foreign

Policy to Cuba that favored some sort of normalization path as seen in the chart below:

Chart 2 - 2008 Poll

<i>Percentage of Cuban Americans polled who . . .</i>	<i>2008</i>	<i>Registered to vote</i>	<i>Not registered to vote</i>
Favor ending current restrictions on sending money to Cuba by Cuban Americans	65	54	69
Favor ending current restrictions on travel for Cuban Americans	66	56	63
Favor ending current restrictions on travel for all Americans	67	58	63
Think the embargo has worked not very well or not well at all	79	72	78
Oppose continuing the embargo	55	44	53
Favor reestablishing diplomatic relations	65	56	65
Favor direct talks between the U.S. and Cuban governments about migration and other critical issues	79	72	85
Voted for John McCain	62	62	
Voted for Barack Obama	38	38	

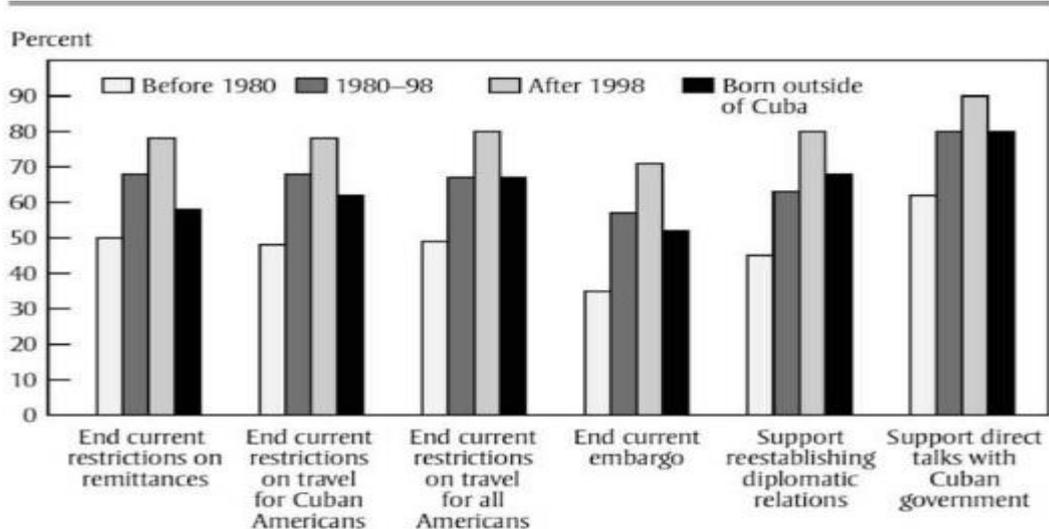
Source: Huddleston and Pascoal (2010, n.p.).

In all results that favor the overall responses of Cuban-Americans registered and non-registered to vote are in favor of a wide array of economic flexibility towards Cuba. The only unfavorable result was that only 44% of Cuban-Americans registered to vote are in favor of ending the embargo, yet a larger majority of the non-registered, 53% are in favor of ending it. Considering all the information above, the scenario of Cuban-American interests that could support the Obama administration in changing the strategy towards Cuba, already in 2008 seemed favorable. However, it is relevant to observe that many of the Cuban-Americans are not registered to vote, therefore without the capacity to exercise influence through electoral action. Another important confirmation that the data provides is that regarding the political preference of Cuban-Americans registered to vote in Miami – the epicenter of the Cuban-American community – is that the majority votes Republican, despite favoring some economic flexibilization towards Cuba.

With that information, it is possible to begin to grasp what was the role of the Cuban-American community as a whole as an interest group at the beginning of Obama's first term. Derived from that same Poll it is also possible to observe how the generation affects Cuban-Americans opinion on whether there should be changes in

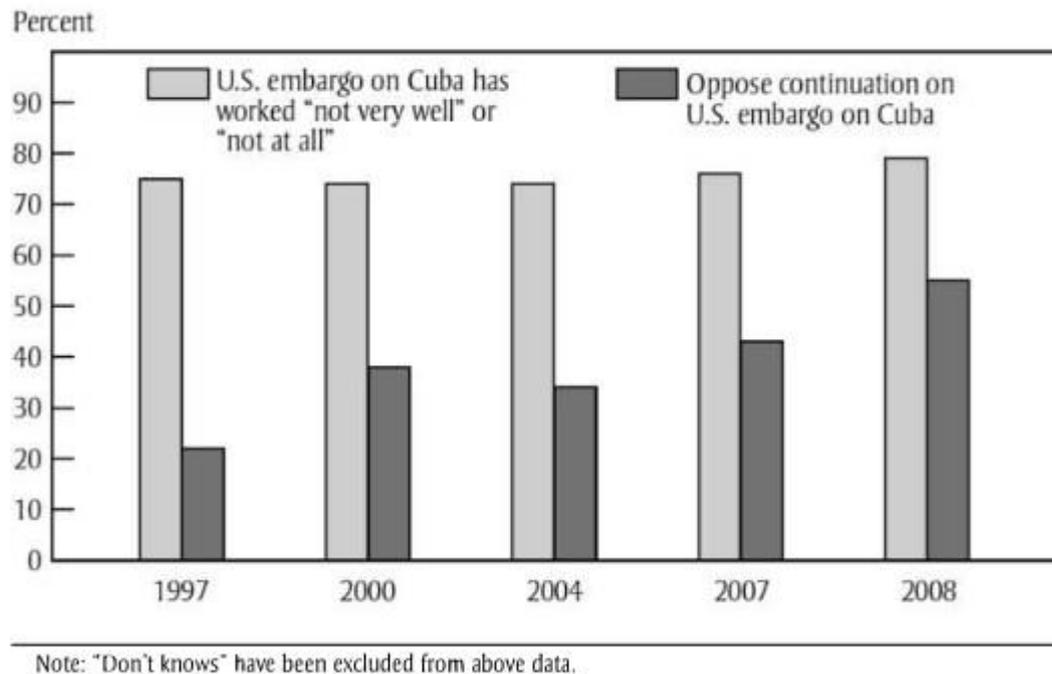
the economic policies towards Cuba. The graph below provides data that helps to confirm that fact, by comparing Cuban-Americans opinion on those subjects by year of immigration. In it is possible to observe that only the migrants that arrived in the U.S. before 1980 are less favorable to relaxed restrictions on the Island:

Graph 1 – Overview of Poll Results by Year of Immigration



Source: Huddleston and Pascoal (2010, n.p.).

Finally, considering the economic embargo as the central pillar of the *status quo* strategy toward Cuba, and given that it is the oldest practice of pressuring the Island's government, the same Poll used for the data above was compared to the results of polls made in 2007, 2004, 2000 and 1997, specifically on the issue of Cuban-Americans favoring the Embargo as a valid strategy:

Graph 2 - Shifting Attitudes on the U.S. Embargo on Cuba, 1997-2008

Source: Huddleston and Pascoal (2010, n.p.)

Since 1997 most Cuban-Americans, recognize the inefficiency of the U.S. embargo to achieve the result of overthrowing the Cuban government, however, since 1997, the preference for opposing the maintenance of that strategy has grown exponentially until in 2008 it finally reached more than 50% of Cuban-Americans opposing its' continuation. This important result shows that 2008 was a mark where the specific public of Cuban-Americans showed a majority of preference in ending the most substantial policy of the old strategy for Cuba. Hence, given the importance of the embargo, these circumstances represented a favorable environment among the Cuban-American community for Obama to actually consider taking a different course of action and breaking with a 50-years old failed strategy.

However, so far, we have been talking about a possible scenario given this general result among Cuban-Americans, yet, as stated before, the data shows that this specific group is usually more inclined to favor Republicans, especially those that are registered to vote. Thus, the part of the community that had could more greatly influence the government through electoral participation still showed some signs of unwillingness or mild distrust in a total Democratic turn over of U.S. policy towards Cuba. Furthermore, that same community kept electing Cuban-American Congress-

men and Congresswoman, mainly Republicans, and all against any kind of flexibilization towards the Cuban government.

Nevertheless what the polls also demonstrated was that the Cuban-Americans were heavily interested in specific small flexibilizations that benefit them like the lift on travel restrictions and money remittances to the Island. These results are also linked to a generational factor since the immigrants that arrived before 1980 were less interested in subjects that are directly connected to the possibility of family relations in the Island. By the logic that all these results show, it is possible to see a gradual increase in the willingness to adopt a new approach towards Cuba.

During his first term, Obama did respond to those smaller preferences towards travel and economic flexibilizations specifically for Cuban-Americans. The restrictions increased by Bush were lifted, family visits were allowed to be more frequent, and money remittances limits were also increased. The first changes were made within a few weeks after Obama took office and similar loosening of restriction was granted through the first term, yet almost all of them were positively directed to affect Cuban-Americans that wanted to get closer relations to relatives or friends in Cuba (LE-GRANDE; KORNBLUH, 2015).

Although upper level officials of the Department of State involved in the secret Cuba negotiations have said in a private interview that the Obama administration was ready to negotiate the normalization with Cuba since the first term, the collateral cost of that initiative displeasing or even causing an intense movement of opposition among more conservative Cuban-Americans could have damaged the reelection race of 2012. Even with positive results indicating some substantial willingness from Cuban-Americans to accept and favor some sort of normalization beyond the concessions that Obama gave them on travel and remittance restrictions, this favorable scenario among that community was recent, and engaging in a drastic policy shift could mean taking an unnecessary risk regarding reelection. In that sense, it is possible to say that normalizing relations with Cuba was not a top hierarchical preference on the government agenda, especially if compared with the importance of securing reelections. Curiously the electoral votes from Florida – a state with a strong Republican presence - was won by Obama in the 2012 presidential election. Though this does not necessarily means that it was because of the Cuban-American vote, whatever policies Obama made during the first term, the result did not do enough damage to cause him to lose Florida because of the Cuban-Americans, in fact our

analysis so far demonstrates that it was quite the opposite. By doing subtle moves and granting specific preferences to the Cuban-American community, Obama most likely used the heterogenous demographic changes in their preferences to gain their support, and by doing so tested their willingness to accept a new approach towards Cuba. Hence, with those indications, it can be observed that not engaging in a full Normalization process during the first term was a convenient and rational choice of the Obama administration.

4.2.2.2. Latin America and International Arenas

Leogrande and Kornbluh considered that “In Latin America, hopes ran high that Obama would finally tackle this anachronistic Cold War policy that symbolized a bygone era of U.S. hegemony.”(LEOGRANDE; KORNBLUH, ANO, p.369). The region was experiencing what became to be called the “Pink Tide”, a rise of moderate left-center governments and regional leaders in countries like Brazil, Argentina, and Venezuela, whose new presidents had established good relations with Cuba (LANZARO, 2007; PANIZZA, 2006; PEDROSO, 2014; SILVA, 2010). The *status quo* strategy of isolating and suffocating the Island had a the opposite political effect on U.S.’s Latin American neighbors, since during the Bush administration, the region actually flourished with political autonomy because of the U.S. blind focus on the middle-east, stimulating Latin American countries to strength regional bonds, which favored Cuba (SERBIN, 2016).

Considering the fact that during Bush’s two-terms, the Latin American countries wouldn’t expect any major changes towards a friendlier U.S. approach to Cuba, the shift to a Democratic administration led by the first black President in the country’s history allowed regional leaders such as Luiz Inacio “Lula” da Silva to seriously propose a new U.S. sanctions free agenda for the Island during the Fifth Summit of the Americas in Trinidad and Tobago in April 2009. It is important to observe that Brazil, for instance, had deepened political and economic ties to Cuba which were unavoidably limited by the Embargo Laws, at least to the extent that those ties couldn’t be more comprehensive without jeopardizing Brazilian trade possibilities with the United States. During Lula’s last years in the presidency and later on with his

successor, Dilma Rousseff's government, through private corporate investment boosted by State credits, Brazil's invested heavily in the modernization of Mariel's naval port, and the creation of a Special Economic Development Zone in Cuba (ERIKSON, 2011; LEOGRANDE, 2016; HOFFMANN, 2016)

Also in June of 2009, the U.S. government was part of the unanimous OAS decision to cancel the 1962 resolution that excluded Cuba from participating in the organization. Being absent from the OAS for almost 50 years, and considering that the exclusion itself was orchestrated by the U.S. as part of an attempt to suppress and overthrow the Revolution government, by 2009 Cuba said that it had no interest in coming back to the organization. During the Bush years "absence" from Latin America, Cuba participated in and even initiated several initiatives of regional integration and the creation of multilateral regional organizations like ALBA (Bolivarian Alliance for the People of Our America), CELAC (Community of Latin American and Caribbean States) and UNASUR (Union of South American Nations), and even before the 1990's the Island's government was already engaged in active participation on other alternative regional organizations like CARICOM (Caribbean Community) (SEGRERA, 2017; SERBIN, 2016).

Despite the lack of interest in rejoining the OAS and the critical realization that the U.S. was conceding Cuba's entrance mainly for political gain with other countries in the region rather than a genuine focused interest in Cuba's participation, the gesture was seen by Raúl's government as an opportunity to reinforce the message of Cuba's willingness to establish dialogue:

(...) before the Summit of the Americas, he declared, 'We have let the American government know both in private and in public,' that Cuba was willing to open dialogue on all issues, including human rights, political prisoners and political freedoms – 'everything they would like to talk about, but on an equal footing, with absolute respect for our sovereignty and for the right of the Cuban people to their self-determination'. (LEOGRANDE; KORNBLUH, 2015, p.370).

Those interactions did produce a positive effect in the U.S.-Cuba arena as discussed further ahead, and as for the regional game in which the Obama administration was trying to recover the lost ground of his predecessor's legacy, there is no clear measurement of how much exactly the Cuban issue affected positively or negatively U.S. political capital in the region, given that the policy towards the Island was only one piece of a larger Latin America agenda, still the new U.S. stance towards

Cuba was a regional request form other countries (LOWENTHAL; WHITEHEAD; PICCONE, 2011).

By 2009 Cuba had a solid relation with Hugo Chávez from Venezuela and even political influence in the country. The Cuban government found in the Venezuelan partnership a worthy substitute for the loss of the Soviet Union in the early 1990's. With the largest natural reserves of oil in the world, the South American country (with coastal access to the Caribbean), went through a deep political transformation after Chávez's elections in 1998. By then the new Venezuelan president already had a good relationship with Fidel Castro, and by 2009 Cuba was receiving large amounts of low-cost oil in exchange for medical, academic and even military and intelligence expertise. Venezuela was not necessarily the most predominant leader in the region but pivoted the "reddest" leadership within the Pink tide shades, and was sitting on the largest energetic reservoir in the region which created intrinsic economic ties with its American neighbors, including the U.S., one of its main Oil importers. All of this combined with the *commodities boom* of that decade meant that Cuba-Venezuela alliance was not only important to Cuba but also at least a subject of interest of U.S. concerns (PEDROSO, 2014; HELLINGER 2018).

Three years after Chávez took office, he suffered a failed coup attempt, which turned a warning alert on the Venezuelan president. From 2003 forward Pedroso (2018) highlights that his reforms became more radical and his attitude towards the U.S. government (led by Bush at the time) more aggressive. The context could not have been more favorable for Cuba's political gain with Venezuela and with Latin America in general. On the assumption of U.S. involvement with the attempt to overthrow him, Chávez also gained political expertise from the Cuban government that had been resisting that same U.S. agenda for almost 50 years.

Such was the legacy left from Bush to the Obama administration to handle Venezuela's importance in the scope of Latin America. Hence, the same approach given to Cuba during the Summit of the Americas was offered to Chávez, a willingness to regain dialogue and mutual understanding. Ironically, five months before Obama took office, the U.S and Venezuelan embassies were closed in the aftermath of a political dispute regarding Bolivia, leaving the "diplomatic" situation with the South American country even more similar to the Cuban issue, yet in the "initial" conciliatory phase of the Obama administration the embassies were promptly reopened (MCCOY, 2011). This movement is an indicator of the importance of the time variable

in the political complexity of changing a diplomatic approach according to how old is it. Reversing the closing of embassies after a few months involves much less mobilization of interests that were formed in that situation than doing the same with embassies that had been closed for almost 50 years (by 2009). Metaphorically those five decades represent an equivalent amount of time for dust to settle on the *status quo* policy; hence, to reverse such situation it would mean removing 50 years worth of dust rather than that of a few months. That is, 50 years of invested interests, and 50 years of animosities, aggravated by the lack of diplomatic communication and contacts.

Throughout the Obama administration, MCCoy (2011) and Pedroso (2018) observed some subsequent derailing and degradation of U.S.-Venezuela relations. Nonetheless the 2009 Summit of the Americas served the Obama agenda by signaling a positive will to improve relations with Latin American States, even the ones that had had a background of grievances with the U.S. government. Still, a additional regional fact remains to be discussed about the motivation for this new agenda-- Chinese and Russian ties to the region, in this case specifically the ties that extended to Cuba.

Despite the Special Period being directly effected by the Soviet Union's collapse and of the absence of that important partnership to Cuba, Russia never really stopped having close relations with the Island even if less economically supportive. During the Cold War, the Russian influence infiltrated Cuba through academic and technical paths being only followed to by the Chinese ties. For almost 40 years Cuba had an industrial income of Chinese and Russian products not only for final consumption but also for infrastructure, the need for a continued relationship with those countries is intrinsic. Further, both China and Russia have recently restructured Cuba's debt to them, improving the Island's perspectives for payment, with Russia even forgiving almost 90% of the total debt amount (VILLANUEVA, 2016). Yet, those countries are not part of the Latin American region, nonetheless, in context of the 2000's decade the U.S. absence and increased autonomy of the "Pink Tide" countries opened a window for China to the extent its' economic influence through alternative partnerships with those countries who were seeking to diversify their multilateral relations beyond U.S. influence. In this new scenario, if Cuba was "naturally" under "Sino-Russian" influence given the Cold War history, now the whole Latin-American

region could find in these countries an alternative partner to replace or diminish U.S. influence over them (AYERBE, 2009).

On the Russian importance, even after the dismantling of the Soviet Union, Russia remained a military power and eventually was grouped with Brazil, India, South Africa, and China as part of the BRICS, a group of economically rising regional leaders. With the “Pink Tide” high in Latin America, Russia also became an alternative partner for countries in the region in the area of military equipment trade and cooperation, especially for countries that were more willing to challenge U.S. influence on the region, like Venezuela. The fact that Cuba had a direct channel for some decades, eased the insertion of Russia in the region even if with less intensity than China.

Linking these variables together helps to build a “regional board” where Cuba it is a channel that leads to better relations to Latin America (not necessarily only for the U.S.). Since the Obama agenda for the region was to regain the political capital and influence that was lost during the Bush years, using this channel that had been open to China and Russia was a necessary step to lessen the distance between the U.S. and Latin America (SERBIN; SERBIN, 2015).

4.2.2.3. Background of the Cuba arena

In the title of this section, the word “bilateral” between quotes was used on purpose to denote that the usual meaning for bilateral relations between two countries can not be properly applied to the case of U.S.-Cuba relations, even if the main object of study, normalization, is, in essence, an attempt to reestablish a degree of real bilateral relations. The election of Obama was seen by the Cuban government as a possibility for change given that the new U.S. counterpart was elected as a political shift between traditionally conservative Republicans and more progressive Democrats. In the chapter about Cuba from the book “Obama and the Americas”, Erickson says that “Even Fidel Castro, the indisposed former president of Cuba, 82 years old, exalted the new president as ‘bright’, ‘polite’ and ‘judicious’” (ERICKSON, 2011, p.105, our translation). Moreover, in the analytical chapter of previous research on migration policies in the U.S. for Cubans from 1966 to 2014, it was possible to note

that during Democratic governments the U.S. government was more or less inclined to a softer approach in its foreign policy to the Island, with the exception of critical phenomena such as the Missile Crisis or the downing of the *Hermanos al Rescate* aircraft (GUEVARA, 2015).

Despite Obama's speech during the elections to the Cuban-American community containing the same democratic values critical of the Cuban government, by now the Island's administration was familiar enough with the "must-have" elements of rhetoric of any political actor in the U.S. to separate that same old message from what the new information really meant. The result is that Cuba carefully perceived the transition of power in the U.S. as a window of opportunity for better relations, given that a significant transition also occurred in the Island itself-- the officialization of Raúl's presidency.

In 2006 Cuban television announced that Fidel Castro was handing power temporarily to his brother Raúl due to health issues. Although not holding specifically the office of president, for the past 47 years Fidel Castro had always been the leader of the Cuban government, making this the first occasion after the Revolution in which he was effectively transferring power to someone else. As seen in the historical chapter, Raúl was first perceived as communist idealist when the Revolution came to power, and Fidel Castro was seen as possibly more moderate, yet, 50 years later the logic of that perception was inverted (MESA-LAGO; PÉREZ-LOPES, 2013). Since Raúl had been backstage in the government, despite being Fidel's brother, he was more involved in pragmatic political strategies while Fidel had to maintain the public image of the Revolution as solid with the rhetoric of Cuba's sovereignty and self-determination in the face of the U.S. pressure to destabilize his administration.

That moderate image of Raúl's was later confirmed by a series of small economic and political reforms towards a broader opening of Cuba to the world and to small private initiatives (FRANK, 2013). However, the U.S. Anti-Castro opposition didn't change their discourse; after all, even the Embargo Law itself had a codified demand to only accept a new government in Cuba if it excluded the Castro family. Alongside political coherent reasons, knowing that the U.S. opposition would continue to press domestic politics in the U.S. to further suffocate the Revolutionary government, he also resumed the government public stance of willingness to dialogue with its neighbor. In Raúl's first television speech:

(...) he spent most of the interview talking about relations with the United States. He ridiculed Washington's assumption that it had the right and ability to disrupt Cuba's leadership transition, 'as if they were the rulers of the planet'. The Bush administration would get nowhere with 'impositions and threats', he affirmed, but Cuba remained open to 'normal relations on an equal plane'. He then read a passage from Fidel's speech to the 1986 Congress of the Cuban Communist Party: 'Cuba is not remiss to discussing its prolonged differences with the United States and to go out in search of peace and better relations between our people....This would be possible only when the United States decides to negotiate with seriousness and is willing to treat us with the spirit of equality, reciprocity and the fullest mutual respect' In the twenty years since Fidel's address, this had been Cuba's position and remained so, Raúl said. (LEOGRANDE; KORNBLUH, 2015. p.366).

Even if the Bush administration did not respond positively to that address and refused to engage in serious dialogue, the message that Cuba would establish dialogue was reinforced. Two years later, in 2008, Fidel stepped down officially from the presidency of Cuba and Raúl took definitive charge of the Island's government.

Hence, the context of Obama's first term in the "Cuba Arena" was that the Island was going through some soft internal changes promoted by Raúl and that he had publicly assured that Cuba was willing to negotiate. In this regard, a logical question that this scenario raises is, if both president's had recently declared some openness to dialogue, why then did not the negotiations to normalized happen sooner. This is particularly interesting since as mentioned above, the Obama's administration's diplomatic officials have said that their side was ready to negotiate since the first term.

4.2.2.3.1 Critical developments: Alan Gross and Cyber Wars

Following the 2009 Summit of the Americas discussed previously on the regional arena, there was a subtle understanding in the air that mutual interest for dialogue and improved relations was on the table for the U.S. and Cuba to discuss. In the domestic sphere, Obama did roll back family visit travel restrictions for Cuban-Americans and increased the remittance limits, but:

he passed up the opportunity to also roll back the restrictions President Bush placed on "people-to-people" educational exchanges. For another two years, travel to Cuba would remain far less open than it was under President Clinton for everyone except Cuban Americans. (LEOGRANDE; KORNBLUH, 2015, p.371).

Still, in early 2009, the State Department release the annual updates report on the List of Countries that Sponsor Terrorism, and Cuba's inclusion was untouched. U.S. Agency for International Development (USAID) budgets for programs orientated to promote democratic changes in Cuba were kept (following Bush's implemented policies), and Leogrande and Kornbluh (2015) and Erikson (2011) all agree in some level that by the end of Obama's first year in office, the initial boost for changes towards Cuba had decreased significantly, frustrating high expectations for major shifts in the U.S. strategy to the Island, at least from the Executive perspective.

At this point, the book "Backchannel to Cuba" by Leogrande and Kornbluh (2015) brings an interesting analysis which can be corroborated through the optics of Alisson's and Zelikow (1999) Model III for understanding decisions, specifically the propositions that regard inaccurate expectations and miscommunication in predicting the reaction of the counterpart. With the combined actions at the OAS, the Summit of the Americas and the lifting of Cuban American travels and remittances, members of the cabinet who were involved in the Cuban foreign policy team considered the work done as sufficient and relevant, up to the point that "Hillary Clinton called it 'a completely new approach', and Obama called it 'the most significant change[s] to my nation's policy towards Cuba in decades'" (LEOGRANDE; KORNBLUH, 2015, p.372). The authors proceeded to analyze the self-evaluation of the actors involved in such policy changes as being satisfied with the work done, especially because their actions involved the successful compromise with Democrats opposed to better relations with Cuba, such as Bob Menendez, and because under Obama's logic strategy the U.S. had taken its turn and stepped towards better relations with the Island, and now it was the Cuban's government turn. Publicly, Secretary Clinton even stated that now it was time for Cuba to reciprocate and demonstrate some sort of internal changes towards democratic reforms or political freedoms. This message fell directly on Cuba's historic demand for respect for the Island's sovereignty and that all of the previous changes that Obama promoted could be considered to fulfill his promises to Cuban-Americans in Florida and Miami and not necessarily in favor of better relations with the government.

Still, the event that marked the definitive slow pace for any developments in improving relations was Alan Gross arrest on December 3rd, 2009. Working as a contractor for a private firm that was part of a large USAID project to improve communication possibilities in Cuba, Alan Gross was a private U.S. citizen who traveled often

to Cuba on tourist visas and engaged in supporting activities to establish internet networks for small specific Cuban groups. In fact, on the occasion of his arrest, despite being in Cuba as a tourist, he alleged that he was only helping a local Jewish community to get better communication with the international Jewish society (FRANK, 2013; LEOGRANDE; KORNBLUH, 2015).

At its core, the USAID programs for Cuba can be understood as some sort of passive-aggressive foreign policy, given that the nature of the promoted actions per se come in the form of “supportive activities” for local societies. In the case of Cuba, the program which Alan Gross was part of, aimed to better Cuba’s private citizen’s communications with the outside world, and within the country itself, that is the passive “aspect” of such strategy. The aggressive aspect comes with the consequences generated by the improvement of Cuba’s networks that the U.S. government expects. By improving the Cuban society’s access to outside communication the program sought to incite Cubans preferences towards more democratic values and liberties, which by extension would end up changing the societal demands and eventually cause the long waited democratic transitions in the Island’s government from within. It is important to highlight that this same strategy that was being employed as secondary via USAID and small programs, would later become the justification for Obama’s whole new approach with Cuba in 2014. Such initiatives to improve Cuban’s society’s access to the internet also included the public support of opposition Cuban bloggers like Ioani Sánchez, which represented the U.S. reinforcing it’s rhetoric war now using actors inside Cuba to back it.

Despite the goal of that strategy being a direct affront to the Cuban government, what got Alan Gross into a Cuban prison was the combination of the explicit counter-intelligence technology he was bringing and setting up in the Island under the openly false pretext of tourism. At this point, not only a U.S. citizen had been arrested under circumstances that made it possible to frame him for sabotage and espionage, but his work also made openly explicit that even under Obama’s new government, the U.S. was persisting with the same historic strategies to undermine the Revolutionary government. As a result, open, friendly dialogue ended up in a circular discussion over Alan Gross’s fate and the fairness of his arrest. Eventually, Gross was convicted by the Cuban judiciary system to 15 years in prison (FRANK, 2013; LEOGRANDE; KORNBLUH, 2015).

The U.S. domestic consequences of Alan Gross arrest did cause some interest based reactions by politicians and governmental bureaucracies. Senator John Kerry and Representative Howard Barman, both heads of their houses' committees on foreign relations and foreign affairs, took a closer look at the USAID programs to Cuba and proposed changes in it so it would be less political and more humanitarian focused in an effort to gain a political bargain that could favor Gross's release. Kerry, a Democrat from Massachusetts, aided by former CIA officer Fulton Armstrong, engaged in a unilateral effort to negotiate with the Cuban Foreign Affairs Minister the downsizing and restructuring of the USAID program in exchange for Gross's release, but:

(...) the informal deal seemed to be on track. Back in Washington, however, Senator Menendez called the White House demanding that the Cuba program be left intact. Obama's team did not have the stomach to wage a political fight with Menendez, so they scuttled the proposed changes in the program. From this, the Cubans concluded that the Obama administration's word could not be trusted. (LEOGRANDE; KORNBLUH, 2015, p.379).

That domestic dynamic originated by the Alan Gross's controversy exemplifies two important movements in the context of Obama's first term in the domestic political games. The weight of traditional anti-Castro preferences, even inside the Democrat party, represented by Senator Menendez, but also the heterogeneity of politicians preferences in that same party. A non-Cuban American like John Kerry, who had been a candidate for the presidency in the 2004 elections against Bush, engaged in direct talks with the Cuban government, willing to restructure the USAID strategy to a friendlier one. More notably, Kerry came to be Obama's Secretary of State in 2013 and participated actively in the execution of the normalization initiative. Also, regarding the fate of Alan Gross, despite being the critical figure that set the slow-paced speed of "improving" relations between Obama and Raúl Castro, later in 2014, he would be a central piece of the kickstarting actions that set in motion the normalization process.

Nonetheless, the subject of Alan Gross became a steady cause for the U.S. to keep an open line of communication with Cuba. The "improving" of relations could have been jeopardized by it, but the need to make sure of the well being of a U.S. citizen combined with Obama's public agenda to supposedly move towards improving relations with the Island made sure that both governments kept up some exchange of information.

Also in 2009, Bill Richardson, governor of New Mexico went to Havana to oversee, prospect and promote agricultural trade. LeoGrande and Kornbluh (2015) highlight the fact that Richardson had a good relation with Obama, and even if he did not admit publicly to be doing a diplomatic errand on the Federal Executive's behalf, the possibility of Richardson acting as a backchannel messenger corroborates with the fact that after Gross's arrest he engaged in the attempts of negotiations his release. On that very first trip, Richardson did suggest to the Cuban government that Washington could be waiting for them to take steps towards the promotion of speech liberties or democratic changes to keep improving relations, which the Cubans didn't take well given that this suggested meddled in Cuba's internal affairs. It is also worth mentioning that Richardson's further negotiations with Cuban officials to release Alan Gross didn't accomplish that goal, but allowed Richardson to convey a report to Washington that Raúl Castro was toning down the aggressiveness towards the U.S. government and was interested in further negotiations to improve relations. Also, in this report, the Cubans linked the subject of the Cuban Five's release with the Alan Gross case, paving the way for what would be the first gesture in normalization-- the prisoner's exchange (FRANK, 2013; LEOGRANDE; KORNBLUH, 2015).

The next serious attempt to negotiate the fate of Alan Gross was made by former President Jimmy Carter. Once again he flew to Cuba on Raúl Castro's invitation. Once again he went under the condition of a private citizen. Upon arrival, the Cuban officials explained that this trip was not about Alan Gross's immediate release. Nonetheless, Carter met with several important actors such as the opposition bloggers community (who were supported by the USAID program), the Jewish community that Gross was allegedly helping, relatives of the Cuban Five, The Catholic Cardinal, Alan Gross himself, and Raúl Castro. This last meeting served for the Cuban President to reinforce the fact that Cuba was willing to negotiate if everything was based on mutual respect and equal footing, and as a result of their meeting a press conference was organized where Carter reaffirmed his ideas from 2002 for a complete normalization with Cuba, the lifting of the economic embargo, the removal of the Island from the List of Countries that Sponsor Terrorism and that Cuba should pursue freedom of speech and democratic values, "In response to Carter's statement, Raúl Castro quipped, 'I agree with everything President Carter said'" (LEOGRANDE; KORNBLUH, 2015, p.387). Upon Carter's return, he briefed Secretary Hillary Clinton about his trip, and after it, LeoGrande and Kornbluh (2015), with intelligent irony de-

scribe how the administration went back to “business as usual” and the day after it asked Congress for the release of an extra \$20 million dollars for the USAID democracy promotion program.

Governor Richardson did try one more time to negotiate Alan Gross’s release in 2010. He was briefed in Washington with a list of concessions that he could bring forward to the Cuban government in exchange for Gross’s freedom. Yet as he went to Cuba as a private citizen, the list didn’t contain promises but rather “possibilities”. Its content is worth being analyzed given that it includes several actions that were later taken during normalization (LEOGRANDE; KORNBLUH, 2015, p.394):

- Review of Cuba’s inclusion in the List of Countries that Sponsor Terrorism;
- Reduction of USAID democracy promotion program;
- The possibility of accessing the permission for U.S. companies to invest in the Island’s telecommunications infrastructure;
- Restoration of Cuba’s ownership of the Havana Club trademark;
- Extradition of Luis Posada Carriles (wanted by the Cuban and Venezuelan government for bombings)
- Return of one of the Cuban Five who already served his sentence but was on parole prohibited to leave Florida.

The authors remark that the items promised on the list were already publicly announced as possibilities for change in the U.S. foreign policy to Cuba. However, on the basis of Richardson’s status and authority, and based on his own perception of the true meaning of the items offered in the list, he recognized that the offer would not be enough for the release of Alan Gross given the sensitivity of the issue to the Cuban government. Contrary to that perception, Richardson leaked his trip plan to the U.S. press, to what the media announce as a trip to specifically get the release of Gross. Consequently, upon arrival, Richardson was met with a less than warm reception by Cuban officials and he was promptly informed that he would not be meeting Raúl Castro or Gross and that any possibility of release was off the table. Upset with those refusals, Richardson proceed to give a statement to the press in which he affirmed that his mission was to negotiate Gross’s release who he said was being held as a hostage. The word hostage triggered a backlash from the Cuban government which ended any real possibility of negotiation and terminated the purpose of Richardson’s trip (MARC, 2013; LEOGRANDE; KORNBLUH, 2015).

Analyzing the U.S. government proposals sent through Richardson's list, and the whole trip as a failed game of negotiations, it is possible to observe how Gross's arrest served as a permanent stimulator of interest for the U.S. to actually offer some sort of improvement in relations with Cuba. Notwithstanding, Carter's trip before that and its aftermath also shows clearly that at that point, despite having an interest in Alan Gross's release, the Obama administration was not that invested in transforming its intentions to improve relations into actions no matter the political costs. Also, Richardson's failure in leaking the news of his trip and allowing the media to label it as a committed negotiation was a clear miscommunication which was received poorly by the Cuban side. That same miscommunication was later aggravated by Richardson's reaction to the negative from the Cubans taken in regard to negotiating anything regarding Alan Gross, and his further negative message to the media calling Gross a hostage of Cuba. All of these factors combined with Cuba's mistrust of U.S. promises helped to consolidate the Cubans' perception that the U.S. commitment to improving relations was not that serious. In fact:

The Cubans had heard promises like this many times before; if only they would make concessions up front on an issue of interest to the United States, better relations would follow. More than once, the Cubans had taken the deal, but never did they see any payoff. Fidel Castro freed U.S. prisoners in 1963 after hints that their release could lead to a process of reconciliation; he ended the 1980 Mariel migration crisis when Washington promised broader bilateral talks (...) (LEOGRANDE; KORNBLUH, 2015, p.396).

Many examples as those follow but,

In none of these cases did the United States make good on its commitment. A nonbinding, informal proposal from a private citizen who himself admitted he could not make a firm commitment was not, for the Cubans, a credible offer. (LEOGRANDE; KORNBLUH, 2015, p.397).

All of these precedents and the vague offers transmitted to the Cuban government reinforced and justified Raúl Castro's constant verbal demand that in order to have dialogue to improve relations, everything must be done respecting the principles of sovereignty and on equal footing. The asymmetric relations that have been historically imposed by the U.S. on Cuba is what induced the Cuban government to mistrust offers made by their counterpart and strengthen their position and demands without meeting the U.S. request for a demonstration of goodwill.

Still, it is necessary to note that by the end of Obama's first term, he did improve relations with Cuba according to his proposed agenda. He successfully initiated a path for better acceptance from other Latin American countries by signaling the

U.S.'s will to change its policy toward Cuba; he fulfilled his campaign promises to Cuban-Americans granting them exclusive benefits that were wanted and well perceived, and he did initiate a routine of dialoguing through small exchanges with the Cuban government, even if there were obstacles and it was slow paced. By the end of his four years term, he would have to focus on the reelection campaign if any continuation of these improvements was to be made.

4.2.3 The reelection Campaign

In 2012 President Barack Obama ran for reelection against the Republican candidate Mitt Romney. This new electoral process, now with Obama as the acting President influenced the structure of interests once more, since now, in order to continue to pursue and put into practice his political preferences, Obama had to secure his reelection (once more, the imperative of election appears as a guiding concept).

Whether candidates are already in office or are just candidates, election year means the prioritization of preferences that could secure their win. Although preferences can be understood as "preferred policies", they can also be understood as a set of actions that when combined help to achieve the goal of winning the election so the candidate can actually pursue those preferences, in other words, preferences in this case also means strategy.

This small recap on the discussion about preferences developed in Chapter 1 is relevant because in the U.S. a President can only be in office for two consecutive terms, that is 8 years straight with two electoral races. Hence, these characteristics of the Presidential electoral possibilities affect how the imperative of reelection will work in Obama's case. Considering the constitutional constraints of U.S. Executive electoral possibilities, any individual Presidential agenda has an expiration date of 8 years tops, which means that if the President intends to take actions, it must be done with a strategy that contemplates that timeframe of 8 years with an election in the middle.

What this means for the normalization process of 2014 is that between 2008 and 2016 (Obama's time in his campaign and in office) the strategy change toward the Island was formulated and put into action with multiple variables affecting it through time, including Obama's reelection. Consequently, to understand the deci-

sion making process that leads to changes in policy toward Cuba, it is important to understand the role of that issue during the second campaign.

Caputo (2012) said that according to polls Obama actually gained the vote of 53% of Florida Cuban-American voters. That data by itself represents an important indicator of the *status quo* of the preferences of the Cuban-American community since, as we previously observed after the first election, they have been gradually moving to support some revision of the U.S. strategy towards Cuba. Considering that such an electoral public has been traditionally Republican (especially the ones engaged directly in politics), those poll results are a significant indicator that not only gradual change in Cuban-Americans opinions regarding Cuba was important, but also that the policies that Obama promoted toward the Island and to that community caused a positive effect in that voting public.

Considering Obama's increased capacities from taking different positions, his four years experience in office and all the disclosed polls regarding Cuban-American's opinions on the U.S. foreign policy toward the Island, it is safe to say that at the moment of the reelection campaign, Obama possessed a pretty secure position regarding a positive appeal to Cuban-American voters, at least from the perspective of an outside observer of such past events. Anti-Castrist groups and sectors (from civil society or Republican Cuban-American politicians) did sustain a steady discourse against Obama's relaxation of family travel permits and remittances to the Island, and Mitt Romney's vice-president candidate, Representative Paul D. Ryan, did meet with those groups and publicly criticized Obama's relaxations as lenient to the Castro's regime, but the results of election polls showed that despite that opposition, the majority of Cuban-Americans was favorable to what Obama was doing (GUEVARA, 2015)⁸.

During this reelection campaign, President Obama did not announce any new important changes to the Cuba approach, at least not in a public manner. In terms of publicity, the only big issue that was impacted by the subject of Cuba, was again the Guantanamo prison (since the detention center was still operative). However, as discussed above, that specific topic was not part of the foreign policy toward Cuba, but rather related to other concerns.

⁸ On a previous work developed by the author about the decision-making process of the Cuban Adjustment Act, several proposals of legislation amends to restrict interactions between Cubans in the U.S. and Cubans in the Island were studied between 2000 and 2014, and most of those initiative were sponsored or supported by Cuban-Americans anti-castro interests groups and politicians

In a strategic context, given that the urgent goal in 2012 was to secure his maintenance in office, and provided with the information on the positive feedback to his initiatives towards Cuba (alongside with the traditional opposition of anti-Castro hardliners), not mentioning any major changes in a “winning” policy was a safe play until the reelection was guaranteed. Here it is possible to better grasp the meaning and the whys of the secrecy of the negotiations with Cuba for the reestablishment of diplomatic relations.

5 THE SECOND TERM FOREIGN POLICY TO CUBA AND THE NORMALIZATION

After reviewing the groundwork of Obama's foreign policy to Cuba since 2008 through the context of two elections and one term in office, in this Chapter, we will discuss his second term alongside the trail of the normalization decision-making process, mapping the important context changes and variable arrangements as seen by our conceptual approach.

In 2012, with his reelection secure, Obama was now somewhat free of the prioritization to secure elections and the constraints that came with it. Hence, once he was set for his second term, the possibilities for changing U.S. foreign policy toward Cuba were increased. However, other types of constraints remained in the game, made by different political actors, public demand, international interests and the two-level network of games that the government must play to achieve its goal as we will discuss further ahead. Campaign promises are often the first priorities that a new term in office must address, because of the political demand and close observation of society, media and opposition, the first one hundred days are usually dedicated to assessing as many campaign pledges as possible. Following that logic, an analysis of his second campaign suggests that Cuba would not be a top priority, at least at the beginning of Obama's second term. Still, just because the administration wasn't with all hands on deck on the Cuba subject, doesn't mean that the variables that affected the possibilities for the normalization weren't in motion. In this next section, we will be discussing that arrangement of variables and pre-scenario for the December 17th, 2014 announcement, highlighting important movements in the configuration of the intertwined games. And we will observe that despite Cuba not being in the top public priorities list, to achieve the normalization Obama had to kick start early in his second term the events that would lead to the normalization given the favorable scenario.

5.1 Assessing the possibilities: Historical constraints and current condition of games networks

As highlighted before, polls in the U.S. had been showing an increasing acceptance for changing the policy towards Cuba by American society and most im-

portantly by the Cuban-American community, thanks to the growing heterogeneity of interests in it. By Obama's second campaign for the presidency, he benefitted positively from those changes in preferences among the Cuban-Americans in Florida, a key state that due to his elections had been turning into a swing state instead of a traditionally Republican state.

Obama's success in Florida, and the fact that he would not have to stand for reelection, gave him more freedom of action on Cuba than any president in recent decades. Yet many of the same forces that prevented Obama from taking a truly new approach to U.S.-Cuba relations during his first term were still operative (LEOGRANDE, KORNBLUH, 2015, p.399).

As an example, anti-Castro politicians such as Robert Menendez (Democrat) and Marco Rubio (Republican) continued to actively threaten and oppose any legislative initiative that supported a friendlier policy to Cuba. Congressional politicians like them have a smaller and more focused constituency, and they could virtually run for Congress indefinitely, that is, there is no constitutional limit for consecutive terms in office for House Representatives and Senators. While Senator serves six-year terms, Representatives have two-year terms. All of these variables combined and observed through the optics of our analytical model lead to a scenario where Congressional politicians have the reelection concern as a permanent priority in their preferences hierarchy, in oppose to a reelected President, such as in Obama's case. Moreover, the fact that Congressional politicians such as the ones cited have a smaller constituency means that their preferences are more locally focused, which leads to the concept of parochial interests and preferences discussed in the first chapter. With more concentrated preferences to focus on, it is important to observe that Cuban-Americans Congressmen like Marco Rubio and Robert Menendez are also sponsored by the most prominent Cuban-American interests groups in politics, that is, the oldest and traditional anti-Castro Cuban American institutions like CANF.

Even with a broader spectrum of Cuban-Americans preferences overall, the groups that have been in the U.S. the longest, are the ones that first got their citizenship and were enabled to participate in U.S. political life. Besides, as discussed previously, the oldest Cuban-American members are the ones derived from the first immigration wave caused by the 1959 Revolution, which was the Anti-Castro economic elite that had their interests jeopardized by the social reforms promoted by the new government. Hence, not only were those groups the first to be able to participate in U.S. politics and influence foreign strategy to Cuba, but they were also highly moti-

vated to push for a tight grip on Cuba's government. Besides, coming from an economic elite, those groups had the financial capacities to further engage in U.S. policy through lobbying and campaign financing (GUEVARA, 2015; MARIÑO, 2006, SEGRERA, 2017).

Yet, even with the old variables that pressed for an austere policy toward Cuba still in the game, new actors and variables, such as the increasing acceptance towards a new approach, were surfacing and starting to demand space. For Obama's second term he chose John Kerry as Secretary of State, the same former Senator who had engaged in reviewing Cuba's USAID program to bargain with the Island's government for Alan Gross's release. More Cuban-Americans were not only satisfied with Obama's small movement toward greater policy flexibilization toward the Island but were also open for a change in the 50 years old failed policy. Also, those same Cuban-Americans were now in the U.S. for long enough to organize new interest groups that were not necessarily aligned with CANF preferences. Meanwhile, it had been four years since Raúl became the official President of Cuba and by 2012 he had been implementing small economic and political changes within the Island and engaging in an embracing foreign policy of exporting an image of Cuba as a country that valued international solidarity (through medical humanitarian missions) and a country that favored mediation (FRANK, 2013; KIRK, 2018; TORRES, 2016).

Notwithstanding, Leogrande and Kornbluh (2015) propose an interesting reflection on the Obama agenda to Cuba up to that point. The authors compare Obama's premises for improving relations with Cuba with previous governments that were somewhat inclined to do the same like Clinton and Carter. In their view, all of these three presidents were stagnated and limited by assuming that:

(...)significant progress in bilateral relations would come only if Cuba began to dismantle its political and economic systems, (...) and (2) even the smallest U.S. steps toward a reduction in tension would have to be met by reciprocal steps from the Cuban side. (LEOGRANDE; KORNBLUH, 2015, p. 400).

The same authors also put forward the contrast between the existent domestic constraints to normalize relations such as the Helms-Burton Law in face of the Executive possibilities to tweak embargo regulations through the Secretary of Treasury, allowing minor changes to ultimately stimulate economic relations with Cuba. Consistent with that scenario, we highlight the power of the tool at Obama's disposal, the Executive Order, which ultimately could be used to run over the Embargo and force a

deeper degree of normalization. Notwithstanding, the “imperial” capacities that are bestowed on the presidency through Executive Orders are politically costly, because they can overshadow other Constituent Powers, which in the particular case of the Embargo would be Congress. During his time in office, Obama did make use Executive Orders to make policy, but in the case of Cuba and normalization, he restrained himself to only deal with matters that weren’t in Congress reach. Using Executive Orders to bypass a Law as controversial and mined with preferences as the Embargo would force what could be perceived by Obama as an unnecessary power struggle with a Congress that in his second term was Republican-dominated.

Curiously, in light of that stalemate, with the slow and timid pace for changes in the foreign policy to Cuba:

(...) those in the Obama administration who were genuinely interested in improving relations with Cuba had to fight a war on two fronts: they were exasperated with Cuban American members of Congress for making any policy change so hard and with the Cuban government for not doing anything to make it easier. (LEOGRANDE; KORNBLUH, 2015, p.401).

A year and a half through his second term, Obama’s foreign policy toward Cuba was still in a similar situation as the *status quo* strategy of previous administrations that were not as aggressive with Cuba but still inept or unwilling to engage in actual action for change. However, in 2013 a distinct situation presented a small but significant phenomenon, Obama and Raúl met briefly and shook hands at Nelson Mandela’s funeral. Although being a second-long encounter, this was the first time since the Revolution that an acting U.S. President met a Castro in person. Analyzing Cuba’s persistent rhetoric of mutual respect and recognition (which as reinforce several times since Raúl came to power), this small encounter between the heads of State can be seen as a symbol of Obama’s willingness to have “normal” relations with Cuba. This is particularly significant from the Cuban perspective.

As discussed previously, the Cuban government’s mistrust of U.S. intentions has been aggravated by indirect messages and a refusal to recognize the Cuban government legitimacy, not only verbally, but also through actions and demands for “domestic changes” in the Island, which were seen as foreign interference on Cuban territorial sovereignty. This small meeting and shake of hands gave Raúl Castro’s a better image of Obama’s political will. The U.S. president was willing to be seen in public shaking a Castro’s hand.

To further assess the background surrounding the possibilities for change in the U.S. foreign policy to Cuba during Obama's second term, Leogrande and Kornbluh's (2015, p.408-415) book brings a useful and accurate list of ten lessons they considered that must be taken into account when analyzing the U.S. dynamics with Cuba, especially if normalization is the goal. We will review the items on the list and analyze them further from the perspective of our model, highlighting important aspects that affect decisions, especially the ones that can influence the normalization initiative:

"1) Even at moments of intense hostility, there have always been reasons and opportunities for dialogue"

Like Alan Gross's case, critical junctures that involved the U.S. and Cuba are likely to produce urgent reasons for dialogue or "opportunities" as the authors say. This can be explained by Alisson and Zelikow's (1999) concept of "deadlines in the face of issues," because the Cuba subject becomes a high priority when urgent contexts require fast resolutions. In critical junctures, the cost of "slow policies" becomes higher. This logic can also be used to understand the non-prioritization of Cuba in the face of different issues that are more urgent than the foreign policy toward the Island. Notwithstanding, it is worth observing that the urgency from critical junctures will not necessarily produce opportunities for dialogue that are actually used, as we have seen through U.S.-Revolutionary Cuba history. Miscommunication and misinterpretation of the actions and intentions of each other have played a major role jeopardizing rather than benefiting relations. Besides, based on the suboptimal decision logic and the concepts of time frame limits impact, the quality of decisive actors' perceptions on critical junctures is expected to foster decisions and actions that are not optimal. Therefore, opportunities caused by sporadic phenomenon that escalate hostilities are not necessarily well used.

"2) Although Cuban leaders have always been willing to talk, they instinctively resist making concession to U.S. demands"

As extensively exposed and discussed, the Revolutionary government have always had logic reasons to mistrust U.S. intentions. Not only have several administrations directly tried to undermine and disrupt Castro's government, but the 50 years old *status quo* foreign policy toward Cuba is based on strangling Cuba's economy as a way to dismantle the regime's government. Most notably it is also necessary to keep in mind, that the Cuban Revolution was born from nationalist sentiments, aggravated by intense U.S. interference in Cuba's domestic affairs since its

independence. Constant U.S. demands have challenged the Cuban government's perception of Cuba's sovereignty, hence its resistance to make concessions.

"3) Nevertheless, Cuba has been willing to take steps responsive to U.S. concerns so long as those steps come at Havana's own initiative, not as explicit concessions"

In response to the previous lesson, the Cuban government recognizes the need for "reciprocal" steps in some sense in order to improve relations and therefore, the Cuban side's "concessions" come in the form of national initiatives that publicly are advertised as actions taken as domestic decisions in Cuba's best interest.

"4) Small successes do not necessarily lead to big ones"

Throughout the several administrations that actually accomplished some success in improving relations with Cuba (even if a lot of those successes are actually the resolution of critical junctures that demanded immediate action such as migration crises), in five decades of hostilities relations the improvement of relations never was a permanent and progressive reality. What we highlight here, is that small success can be reversed easily by different interests. Therefore there has been a manifold movement of improvements being made and retracted by different administrations, such as the case of the difference between the Clinton and Bush government regarding their preferences for Cuba.

"5) Cuban leaders have had a hard time distinguishing between gestures and concessions"

This lesson is better explained by the following exposition: "Whenever Cuba engaged in talks with the United States, Castro was at pains to make it clear that he was doing so from a position of strength." (LEOGRANDE; KORNBLUH, 2015, p.411). Given the asymmetry of capacities, the concept of the 51-49 logic, and the history of U.S. interference in Cuba, the Island's government will always be in a vulnerable position when facing the U.S., hence for the Cuban government to engage in talks that involve the principle of equity, it is logical for them to demand bigger concessions and gestures from the U.S. to balance the scale. On the other hand, with such a structured domestic opposition to the Cuban government within the U.S., allowing a smaller power considered by Anti-Castro forces as illegitimate to push for bigger gestures can weaken the U.S. government image, which plays against the demands of the Cubans.

"6) Timing is everything"

The authors discuss this assumption from the view that mutual interests for relations improvements have not always been coincidental, given each country's specific domestic relation to other variables, such as domestic opposition, controversial foreign policy and critical junctures. In this discussion, we note the assumption that the context matters, and that's why mapping decisive variables in a two-level logic (domestic and international). It is important to understand the path that decisions go through and how that path affects the games. Adding the time variable helps to understand the reasons for context change.

"7) An incremental approach to normalization has not worked"

If small success can be reversed as previously discussed and an incremental slow-paced approach is met with all the resistance variables and combinations between U.S. interests and strategy constraints and the Cuban government's logic and perception. Here the authors are considering an incremental approach as a sequence of "small success;" therefore it can be reversed too. The Cuban Revolution was an intense disruptive phenomenon that radically changed Cuba-U.S. relations. Therefore it is necessary to consider the possibility that only an equally disruptive action could transform the *status quo* strategy toward the Island. Considering our conceptual construct, we argue that even if small success can be reversed, their very own existence sets precedents and channels interests that can be re-explored in a changed future context. In that sense, the incremental approach cannot be discarded as totally ineffective. During the Clinton administration, some flexibilities for family visit travel and remittances for Cuban Americans were taken and then reversed by the Bush administrations. However, polls helped Obama reengage the Clinton more flexible initiatives and obtain Cuban-Americans approval. The same poll showed a gradual growing acceptance for a change in U.S. foreign policy toward Cuba. Therefore, even if an incremental strategy doesn't produce immediate effects, and even if it is reversed, it's existence can create pathways that can be explored in the future.

However, it is worth highlighting the authors' reflection on this topic to understand some dynamics and difficulties for changing U.S foreign policy toward Cuba:

Finally, although gradualism seems politically safe because each incremental step is small and therefore ought to be less controversial, in fact, an incremental approach prolongs the political fight with domestic opponents, who are no less vociferous in opposing small steps than larger ones. They, like policy makers, understand that small steps can lead down the slippery slope, building momentum for normalization, so they battle to derail the process at every juncture. Every incremental step gives them a new opportunity to halt the process (...) (LEOGRANDE; KORNBLUH, 2015, p.413).

Conceptually speaking, such reflection is validated by the action-channels and parochial preferences logic. To please the preferences of their public, congressional anti-normalization politicians will use each step of an incremental approach as a game itself, in which at every step what they dismantle counts as a victory for them and the preferences of their public. This helps us understand the authors logic for not believing that an incremental approach is very effective since it creates several stages for domestic oppositionist to shine and demonstrate their capacities.

“8) Domestic politics is always an issue on both sides”

This assumption is precisely the two-level games logic. Cuba and U.S. relations should be a dialogue between two Executive branches (who are in charge of their countries' international relations), yet their domestic dynamics in the Alisson and Zelikow's logic implies several interests and games being played simultaneously and producing different priorities and contradictory preferences and decisions to the “normalizing goal”.

“9) Neither side really comprehends the other's bureaucracy, so the opportunities for misunderstanding abound”

In this case, we are inclined to partially disagree, the U.S. government structure is quite transparent in normative aspects, even if the relations within it may vary from government to government, but the Revolutionary government has been always alert and cautious about U.S. domestic dynamics, since from its very beginning in 1959 its integrity has been threatened by U.S. interests. Hence, for the Cuban government, it is more important to be attentive and watchful of U.S. games and preference than the U.S. government. Understanding the U.S. austere politics toward the Island and its details is an unavoidable priority for the Cuban government. The same cannot be said about the U.S. In an interview conducted with a high official of the Department of State staff of the Clinton administration (who preferred not to be identified), we notice that the Coordinator for Cuban Affairs at that time was a diplomatic staffer who had never been in Cuba, did not speak Spanish and had a detached political view of the Island. This distance between a supposedly important actor for foreign policy to Cuba with Cuba itself leads us to believe that staff choices of the Clinton administration (one of the Presidents who was in favor of improving relations) suggest the administration was not that preoccupied with having a close assessment and knowledge of Cuba itself.

“10) Cuba wants to be treated as an equal, with respect for its national sovereignty”

Finally, the last item on the list is a recap of what has been stated publicly by the Cuban government countless times and discussed in this work. The authors even quote Lowenthal’s (1991) idea of Washington’s presumption of hegemonic power or duty as an incentive or justification for treating Cuba as its virtual possession, given the Island’s power and its proximity to the U.S. In contrast, Cuba’s government wants to get past this unequal relation of power and demand an equal spot among the “hegemonic” powers to protect its sovereignty integrity.

Leogrande and Kornbluh (2015) conclude their discussions on the lessons from the past by first bringing a reflection on the possibilities for normalization. Given the proximity between Cuba and the U.S. and the development of the Cuban American community, it is logical that in the world context such variables naturally bring both countries closer despite the history of antagonism since 1959. In the modern context, even with a full-scale embargo on the Island, economic and financial interests will transpose the borders between the countries, and the economic, cultural and family ties between the Cuban American community and the Cubans. Despite the fact that they originated from a disruptive relation at the beginning of the Revolution, they have been knitted through time into some sort of mutualistic relation that connects a community naturalized in the U.S. but which still has deep attachments to Cuba. In that sense, geography and history act like natural inescapable variables that will slowly drag both countries closer. Therefore, we agree with the authors that the normalization, is a possible and logical direction, despite being a difficult political action to consummate, it is a possible and logical direction.

5.2 New Actors

Between Obama’s second election and December 17th, 2014 new relevant actors appeared in the nested games network of the decision-making process for normalization. Although they didn’t directly participate in the secret negotiations with Cuba, their presence and actions may have had some influence in the course of events that lead to D17. Both these actors are domestic to the U.S. environment, and we consider that their possible role in the normalization was part of the favorable

background that allowed Obama to push for changes. The actors in question are a Cuban American interest group called CubaNow and a legislative coalition of congressmen who were highly interested in pressing Obama for new actions regarding Cuba, motivated by Alan Gross's case. These two types of actors fall once again in the trinity of players that participate in political decisions proposed by Helen Milner (1997) and applied to our analytical model.

Regarding the political coalition mentioned, Senator Patrick Leahy, a Democrat from Vermont, led this movement after his involvement with negotiations that could affect Alan Gross's case. Leahy had been a vocal critic of U.S. foreign policy to Cuba for more than 20 years and since Gross reached Congress attention, he had seen in it a window for solving both the restructuring of policy to Cuba and the release of the U.S. citizen. Since Gross was no ordinary prisoner, the Cuban government that had been openly willing to improve relations since Raúl came to power (and even before) granted him some special treatment regarding U.S.'s personal access to monitor his situation. Leahy had a staff member that on a regular basis would attend to Gross's case. As we have defended the passage of time brings new situational events that have transformative power, and such was the case for Leahy's role in the normalization. In 2011 the Cuban government began to reach out to U.S. authorities on the case of one of the Cuban Five, Gerardo Pérez, because his wife and he wanted to have a child, and given that he was imprisoned for 15 years with no prospect or seeing liberty and his wife was approaching her 40's, they were seeking a special request for some way that would allow them to conceive a child. Eventually, this issue reached Leahy's ears, and he attended to the situation leading to the arrangements to make possible. By the time of Gerardo's release right after D17, his daughter was about to be born. The whole situation was called by LeoGrande and KornBluh (2015) "stork diplomacy", and to solve it Leahy had to engage both with the U.S. and Cuban governments, besides engaging with the Cuban Five situation, which gave him further involvement and interest in Alan Gross's case.

The "stork diplomacy" catapulted Leahy towards forming the legislative coalition that would directly engage in searching for possible ways to release Alan Gross. However, the difference from previous attempts by actors like Governor Richardson and Jimmy Carter was tied to the coalition understanding that the Cuban government wouldn't release Alan Gross solely on the basis of U.S. "possibilities of returning the gesture". The coalition leadership was composed of Leahy, Senator Richard Durbin

(Democrat from Illinois), Senator Jeff Flake (Republican from Arizona), Carl Levin (Democrat from Michigan), Representative Jim McGovern (Democrat for Massachusetts), Representative Chris Van Hollen (Democrat from Maryland), and Representative Barbara Lee (Democrat from California). “Their goal was to reinforce the president’s instincts about the policy’s failures, push him to lean forward on the issue, and at the same time provide the White House some political cover to ease the fears of Obama’s advisors” (LEOGRANDE; KORNBLUH, 2015, p.432), by achieving their aim, they could simultaneously resolve Alan Gross’s case while shifting U.S. Cuban policy.

Here we make the observation regarding these actors’ perspective on the situation of Cuba. Perhaps motivated by Leahy’s old perception of the U.S.’s inadequate strategy toward the Island, the actors saw in Cuba’s and Obama’s new context and because of the failed attempts to release Alan Gross, that this was the moment to seize the opportunity and kill two birds with one stone. Leahy’s experience with the Cuban Five gave him the information to form the idea that they could be used as the bargaining chip to exchange Alan Gross for their freedom and then engage in improving dialogue. As discussed in Chapter 1, information orientates perspective and influences the preferences chosen. By Obama’s second term Leahy had already believed for some time that the U.S. should approach Cuba differently. By But given the specificities of the context and the clear changes in Obama’s perspective on Cuba in comparison with previous presidents, and by gathering the support of other legislative politicians he formed a consistent group that in combination had an incremental capacity to transmit their preferences to the Presidency. Besides, as their own goal, they recognized that to achieve it they should serve as backup to reduce the political cost for the Executive branch to engage in policy change.

Before approaching Obama, Leahy’s group made field research, with Leahy himself traveling to Cuba to meet with Alan Gross and talk in person to Raúl Castro. Such meetings made him understand, that Raúl’s perspective linked the fate of the Cuban Five to Alan gross, strengthening the realization that to obtain any success with Gross, the U.S. Cuban prisoners would have to be on the table. Besides, he got another personal confirmation from Raúl himself that the Cuban government remained interested in improving relations with the U.S. even if that meant putting both countries’s past grudges behind, since the history of antagonism could jeopardize future possibilities. After this, “Leahy and other members lobbied the President at

every opportunity” (LEOGRADE; KORNBLUH, 2015, p.435); they also sought to push for a change on the Cuba issue through other executive staff officials and the President top-advisors such as Secretary Kerry, members of the NSC, and Obama’s Attorney General Eric Holder. Eventually, the group drafted a memo addressed to the President urging strategies to release Alan Gross and change the outdated U.S. strategy toward Cuba, and justifying their argument focusing on the jurisdictional possibilities of releasing the Cuban Five in exchange for Gross’s freedom. Curiously, this memo included suggestions for several actions that were actually employed after December 17, such as the establishment of formal diplomatic relations, removal of Cuba from the List of Countries that sponsor terrorism and the release of the Cuban Five

LeoGrande and Kornbluh (2015) describe how in mid 2014 the group was received in the oval office by Obama and they pitched their plan for urgently addressing Cuba, unaware of the secret ongoing negotiations. Nonetheless, Obama used the opportunity to access their opinions on how trustworthy they believed that the Cuban counterparts could be in negotiations for sensitive subjects such as the exchange of prisoners (The Cuban Five for Alan Gross). McGovern later would recall that their talk on such issues would be a “push and pull” game where they would heavily argue in favor of moving forward in a new approach and Obama would lay his counter-arguments and doubts in the viability of such change; hence, despite considering the meeting as positive, the legislative group didn’t come out of it with the certainty if their goal had been achieved.

Analyzing this interaction, it is possible to observe how domestic variables were arranging favorably to influence Obama’s preference intensity to actually execute the actions to change U.S. policy toward Cuba. Also, it is necessary to observe that none of the politicians involved in this legislative group had any of the “classical” ties to Cuban-Americans conservatives, and hence were not constraint by anti-castrist interests. Notably, the group itself despite having a majority of Democrat was a bi-partisan body, which is another structural sign of a favorable context to normalize. Although we are not engaging in a further discussion of each legislative member of the group motives to participate in it⁹, it is possible to speculate about how their home States’ possible economic relations with Cuba could have motivated their par-

⁹ But in the logic of the Two-level Nested Games mapping it is possible to add those details in future researchs to the content built in this work.

ticipation in that game. In Leahy's specific case, we also highlight the fact that he shared Vermont's Senator seats with Bernie Sanders, who was one of the main Democrat candidates in the 2016 elections and has been publicly saying for some time that the U.S. should engage in changing its policy to Cuba since the 1990's; also Leahy had had personal involvement in the "stork diplomacy" case, which was tied to humanitarian motives to be solved, which could have influenced his interest to keep pushing for friendlier resolutions.

The second actor that positively influenced initiative for normalizing relations with Cuba was the above mentioned interest group. Created in 2013, by early 2014 a new important domestic actor appeared in the nested games network of U.S. foreign policy to Cuba. The New advocacy group CubaNow, described by Leogrande and Kornbluh as the "voice of [the] moderate Cuban American community in Miami, most especially the younger generation. (LEOGRANDE; KORNBLUH, 2015, p.437). The origin of this group came from a bigger lobbying agent called Trimpa Group, focused on a "three P's" principle: policy, philanthropy and politics. This agency served as an umbrella project for several moderate-progressive causes such as LGBTQI rights. Notwithstanding, it is worth specifying that the CubaNow branch that it came from attended to more "moderate" interests, considering that despite Cuban-American interest being increasingly more inclined toward a different approach for Cuba, they did not necessarily agree with the Island's governmental regime model. Therefore, CubaNow's declared purpose involved finding constructive and informative ways to naturally promote democratic changes in Cuba.

CubaNow's main public facet describes itself as a non-partisan advocacy campaign for change in U.S. policy that benefits the future of the Cuban people. And through their channels from the Trimpa Group, they lobbied in favor of the Obama administration to push for strategy changes. Their main Cuban-American leader came from a wealthy first generation immigrant generations from 1960, who nonetheless had been critical to the results of the U.S. *status quo* policy toward Cuba. With the support of the Trimpa Group, CubaNow managed to gain access to meetings with high foreign policy officials from Obama's staff and inform them on their preferences and provide the administration with polls from the Atlantic Council that showed U.S. society's support for improving relations with Cuba. To bolster this support and provide solid demonstrations of public acceptance of changing policy to the Island, the Trimpa group used its staff to build a coalition of interests groups and think tanks

that backed and intensified demands for the realization of their preferences in regard to Cuba. These included the the Brookings Institution, Council of the Americas, the Center for Democracy in the Americas, the Cuba Study Group, the Latin American Group, the Washington Office on Latin America, , the Atlantic Philanthropies, the Cristopher Reynolds Foundation and the Ford Foundation. It is worth noting that those groups represented both policy and economic preferences. The result of this coalition was a letter to Obama available to the press in which several important actors from military, economic, political, academic and cultural spheres signed their support. Later press editorials like those from the *New York Times* would eventually join the coalition chorus in advocating for a more constructive Cuban foreign policy (ATLANTIC COUNCIL, 2014; HUDDLESTONE; PASCUAL, 2010 LEOGRANDE; KORNBLUH, 2015; NEW YORK TIMES, 2014).

This unprecedented “new lobby” with Cuban American support to back it achieve a size and influence that can be measured by the action-channels concept. The big coalition that was organized gathered enough capacity to reach upper-level white house ears, provided information to back their claim and preferences, while simultaneously advertising their actions to the press, as a way to bring their preferences to the public and use that environment to also influence the Executive bureaucracies. By appealing to public opinion and making a public awareness campaign in Washington D.C. and other U.S. locations, the “pro-improvement interest group” planted their preference as a priority to be addressed by political actors.

5.3 The Normalization: Secret negotiations and secret games

The December 17th, 2014 simultaneous announcements of the normalization initiative was the fruit of at least eighteen months of secret negotiations between the delegations of the U.S. and Cuba government. As we will discuss further on, the secrecy of their agreement was intentionally made to avoid third-party interference that could jeopardize the viability of arranging any successful deal. Although many details of such still remain a secret, especially on the Cuban side, given that the goal of the negotiations to begin normalization was achieved. From 2014 to when this study was developed, a substantial amount of information was released and compiled by the

authors from our bibliography, along with an interview conducted for this research with one of the U.S. key negotiators who has asked for anonymity.

Based on the background previously presented of the situation that contributed to a possible environment for the normalization to happen, we will review the secret negotiations step by step of and explain their development according to our proposed analytical model. Each decision and each obstacle can be fitted into a conceptual mapping that helps to organize and understand explicit and implicit variables that affect actors' decisions and actions.

Ironically, the main issues that collaborate with the "non-normal" U.S. foreign policy to Cuba and have been the central stage for the discussions and tensions between the governments of both countries were not the subject that catalyzes the cycle of negotiations that would end up with the normalization. Instead, Alan Gross's case was the pillar that set in motion the secret negotiations. Yet, Alan Gross's arrest turned out to be an unexpected event that acted as a welcome fuel to a policy goal that was already on Obama's agenda. By the beginning of his second term, Obama gathered his National Security Council and announced his intentions to change U.S. policy to Cuba, asking the staff to begin designing alternatives for a different approach and setting Cuba as a priority for his foreign policy agenda. The result of this was the authorization for backchannel talks to begin.

Considering that Alan Gross was the latest issue regarding Cuba, his release was the first topic to reach the Cubans with the proposal for extended dialogue. As a precedent for this negotiations to start, besides the other unuseful efforts made during the first term by indirect actors such as Richardson and Carter, in the aftermath of the Haiti 2010 earthquake, the presence of Cuban humanitarian aid in the Port-au-Prince presented an opportunity for Secretary Clinton's staff to establish some private contact with the Cuban government and assess Alan Gross's situation on behalf of the Obama administration. At that time, the same message that had been delivered by third-party actors got to the official communication channels of the presidency--that Alan Gross was not going to be released solely for humanitarian reasons and that the Cubans were interested in negotiating a prisoner exchange (LEOGRANDE; KORNBLUH, 2015).

Conceptually speaking all those unsuccessful episodes for Alan Gross's release clearly informed the Obama administration that Cuba was willing to negotiate but was going to be firm in what they considered to be their equivalent interest that is,

the Cuban Five must be part of the bargain. For over five decades, the U.S. had not only insisted on a consistently austere foreign policy to Cuba but also on the same unfruitful strategies of negotiations that overlooked the Cuban government's resolve on getting their demands taken seriously. This is part accounted for Obama's failed attempt to improve relations substantially on his first term.

However, in his second term, free of reelection cautiousness and facing a Republican Congress that would make his political decisions difficult because of their general opposition, Obama had the liberty to pursue bolder initiatives. Hence, to begin the secret negotiations and with the certainty of the need to address a prisoner exchange, Obama appointed Deputy National Security Advisor Benjamin Rhodes (Ben Rhodes) and National Security Council Senior Director for the Western Hemisphere Affairs, Ricardo Zuniga. Rhodes had been part of Obama's circle of trust since the 2008 campaign and had a close relationship with the president and his role in the negotiations was to represent Obama himself. Zuniga, a Honduran diplomat had served in the U.S. Havana interest section and acted in the State Department as coordinator for Cuban Affairs, therefore he actually had some field expertise and knowledge in dealing directly with Cubans, differently from former coordinators of Cuban Affairs.

Beyond the two negotiators, only a handful of high-level officials inside the government knew about the talks, among them the president, Vice President Joe Biden, White House Chief of Staff Denis McDonough, and National Security Advisor Susan Rice. No one at the Pentagon was 'read in' – not even Secretary of Defense Chuck Hagel. Secretary Kerry was belatedly brought into the loop, but no one in the State Department's Bureau of Western Hemisphere Affairs was briefed until a final agreement had been reached. (LE-GRANDE; KORNBLUH, p. 425).

This listing of involved actors shows how the Obama administration purposely kept in secret the negotiations even from upper level members of the Executive or other bureaucracies that worked directly with the presidency in the White House (such as the Pentagon and the Secretary of Defense). In Chapter 1 we discussed the use of Alisson's and Zelikow Model III due to the complexity of games linked to each other across different bureaucracies that the decision to normalize involved. Obama's intentional secrecy from key actors of the Executive inner circle of decision shows his individual knowledge and perception that bringing different actors with different priorities (such as defense and security) could introduce problematic preferences in the decision-making process. Cuba has been perceived by the U.S. as an "enemy" for so long that it would be expected that the leaders of structures dedicated to military de-

fense and intelligence would belittle any efforts to normalize, despite the past of animosities.

The two appointed main negotiators, Rhodes and Zuniga, were instructed to keep an open agenda of possibilities to deal with the Cuban delegation, that is, their main and first concern was Alan Gross, but he would be the bridge to extend negotiations to other subjects. The Cubans came with a fixed main priority of obtaining the Cuban Five release. In total, the secret negotiations had seven meetings that took place in Toronto, Ottawa the Vatican and an undisclosed city. Between all of those meetings, several subjects end up being discussed including “a full agenda that included an end to Washington’s democracy promotion programs, the return of Guantánamo, and the removal of Cuba from the State Department’s list of state sponsors of terrorism” (LEOGRANDE; KORNBLUH, 2015, p.425).

In the beginning, both parties were leery of each other’s interest and given the Cuban bed rock aim on negotiating prisoners, they became suspicious of the U.S.’s broader agenda and took it as the repetition of previous attempts at dialogue in which the agreements would revolve around quid-quo-pro exchanges and incremental improvements. Considering that the Obama directive was to actually make a change in the foreign policy to Cuba, the U.S. negotiators understood that repeating the same failed practices and attempts was not their goal. Segrera (2017) and Leogrande and Kornbluh (2015) agree that in his second term Obama considered that to actually change U.S. policy to Cuba he would need a grand symbolic gesture. The president knew he could not fully normalize, given that Congress held power over the embargo, but the ultimate goal to induce true change needed to be restoring diplomatic relations.

As negotiations moved further several stales came up, such as Cuba’s refusal to talk about human rights violations and the U.S. refusal to reconsider their democracy promotion programs and the return of the Guantánamo base. However, guided by Obama’s goal of restoring diplomatic relations, the U.S. delegation let the Cubans know that their president was willing to negotiate normalizing diplomacy (which meant full recognition) as a consequence to Gross’s release. For the U.S.’s rhetorical position exchanging Gross for the Cuban Five was problematic, since they never assumed Gross was a spy, therefore, to resolve this issue their negotiator come up with a possible solution, releasing Gross for humanitarian reasons and exchanging the Cuban Five for the U.S. CIA operative Rolando Sarraf Trujillo who was in a Cuban

prison since the mid 1990s for actual proven espionage. What later complicated the U.S.'s proposal was a different exchange they made of five Taliban combatants for one U.S. soldier in May 2014, which had a domestic political cost for Obama and gave justifications for the Cubans to question why they couldn't replicate the deal if their demanded prisoners were not even combatants.

Since the beginning of the negotiations each other's prisoners started to get incremental better treatment, but to further complicate (and accelerate) the negotiations in the first half of 2014 Alan Gross's mother became severely ill and eventually past away, which cause a deep deterioration of his mental state. He began to publicly announce he was losing hope of being released and both governments got concerns about the possibilities of him committing suicide. By then the Congressional group that was formed to push for Gross's release and a change in Cuban policy was acting and began to be involved indirectly in the turn of events, given their support in attending directly to Gross and their work on easing jurisdictional paths to release the Cuban Five. Gross's lawyer also became a catalyst for accelerating negotiations by warning both governments of Gross's mental health. To the U.S. and Cuban governments, this meant that if something happened to him and he ended up dying, the negotiations would die along with all possibilities of improving relations given the consequences of opposition uproar and backlash (LEOGRANDE; KORNBLUH, 2015).

Although our source interviewed didn't emphasize the Vatican's role in the negotiations, our mapping of the development of the games indicates that the Papal interference may have served as an important boost to the realization of the 17D. In late September of 2013, Zuniga, members of the pro-Cuba Congress group led by Senator Leahy and National Security Advisor Susan Rice, met to discuss ways to support and protect the president from political backlash for improving relations with Cuba, especially from Senator Menendez. One of the fruits of this gathering was the idea to get the Pope's support, an idea that came from Julia Sweig, a Cuba specialist and one of the authors in this study's bibliography (LEOGRANDE; KORNBLUH, 2015; SERBIN, 2018).

From this idea, the group sought to contact two Cardinals in the U.S. and Cuba's Cardinal Ortega as action channels, to convince the Pope to include Cuba in the issues he would discuss in Obama's visit in late March that year. The result was that upon Obama's private meeting with Pope Francis in the Vatican, the main issue ap-

proached was Cuba, in which the U.S. president briefed the Pontifice on his negotiations with Cuba and in return he was offered help and support to mediate the process. Considering that for the past decades Cuba had been improving its relationship with the Catholic Church, most notably there was a good relation between Raúl and Cardinal Ortega, and Pope Francis himself had been to Cuba before, the inclusion of the Vatican as a mediator not only helped to shield Obama from domestic opposition but also could increase the Cuban trust and goodwill in the negotiations (SWEIG, 2012). This was confirmed when negotiations began to stall a few months later and Pope Francis wrote a letter both to Raúl and Obama urging them to resume negotiations. Finally, in late October of 2014, Francis invited both delegations for a negotiation round in Rome in which the Vatican would reassure and vouch for both sides' compromises. Differing from the Canadian involvement, in which the government only provided the privacy, logistic, and secrecy for the delegations to meet, Vatican Cardinals actually participated of the meeting alongside Cardinal Ortega and pushed for an actual final comprehensive accord in which the Pope would act as guarantor (LEGRANDE; KORNBLUH, 2015; SEGRERA, 2017) .

The U.S. delegation delivered the agreement for National Security Council review and approval, which led to one final meeting in Canada to arrange Gross's release and the remaining Cuban Five's return logistics. Despite the controversies, the exchange of prisoners was possible due to a wide array of other interests that came into play. The costs of compromising in an exchange of prisoners were outweighed by the gains in different areas, and considering the urgency of Gross's situation aligned with Obama's major interest in a real and symbolic policy change to Cuba plus the domestic support he was getting from Congress members and interest group, closing the deal was possible.

Finally, on December 16th, 2014 Obama, accompanied by his top advisors involved in the secret negotiations, talked for about an hour with Raúl Castro on the phone and arrange the normalization announcement for the next day. On the next day, President Obama made an official public speech in which he announces the change in policy to Cuba, the normalization initiative and disclosed that all was the fruit of ongoing secret negotiations with the Cuban government. Most notably he remarked on Alan Gross's return to the U.S., the upcoming reopening of the Cuban and U.S. embassies, and therefore the restoration of diplomatic ties, and his intentions to do everything in his authority to get to a normal economic relation with Cuba,

urging Congress to review the Embargo. He justified this radical change because of the failure of the *status quo* strategy to accomplish any of its goals of promoting democracy in Cuba yet managing to cripple Cuban society itself. He also reaffirmed that he was not satisfied with democratic values and human rights violations in Cuba, but the new U.S. strategy was based on a people-to-people relation, and from opening Cuba to the world and to the U.S., the countries own society would end up changing and pursuing democratic changes (OBAMA, 2014). On 17D, from the lofty heights of the U.S. Executive branch, Obama publicly attempted to break a 50 year old *status quo* strategy of obsolete Cold War foreign policies to Cuba by moving towards a thaw and normalization of relations and proposing a new positive approach to pursue democracy in the Island instead of extraterritorial harsh interference as it had been up to that point. By taking this steps, with no possibility of being reelected, Obama set a positive legacy for himself towards the world-wide public opinion of the U.S. unsuitable foreign policy to Cuba.

6 CONCLUSIONS

To summarize the findings of this research we will briefly review how the concepts discussed in the Theoretical Approach chapter can build an objective mapping schematic of the 17D negotiations, framing actors possibilities and decisions within

the conceptual analysis we proposed for understanding the decision-making process, specifically regarding Cuba.

As it was presented previously, the 17D normalization announcement was the result of a secret unilateral game that Obama engaged in during his second term to improve relations with Cuba, an intention that according to his own staff he had since he took office for the first time. However, "Major policy changes that require significant expenditure of political capital rarely happen unless the urgency of the problem forces policy maker to act" (LEOGRANDE, KORNBLUH, p. 398). That same observation it is not exclusive for outsider observers since the authors state that senior administration officials lamented not being able to pursue a broader opening to Cuba given what they called "the tricky politics" and the demands from different priorities. Solely based on this idea, it could be inferred that the normalization did not happen sooner because of a lack of urgency on the part of decisive actors, yet this is only a partial response.

Analyzing the events that culminated in the secret talks we can, in fact, consider that Alan Gross's case helped to input a sense of urgency in the interest of improving relations, yet Gross was arrested during Obama's first term and his imprisonment despite having a direct effect on the slow pace of the government changes towards Cuba, it did not sprout directly from the U.S. Executive engagement for Gross's release. Hence, it is necessary to look for the other important factors discussed that influenced Obama's relations with Cuba, including a broader foreign policy agenda for Latin America and elections.

Regarding Latin America, in Obama's first year in office, his expressed willingness at the 2009 Summit of the Americas to improve relations toward Cuba served the purpose of improving his own personal image to other regional leaders, even if those improvements didn't come to fruition immediately. Here, Obama used information as a tool for shaping third-party perceptions of himself, the game he was focused on was not the U.S.-Cuba relations, but rather the U.S.-Latin American relations. The Cuba mention worked as a public statement that he was willing to bargain that subject in the spirit of having good relations with the continent overall.

Regarding elections, looking at this aspect allow us to observe a larger picture of Obama's interest and priority arenas. This subject presents a good framework for understanding the overall importance of Cuba in the hierarchy of preferences during campaigns. After reviewing the few mentions of Cuba in the campaign context, it is

necessary to place the expressed preferences towards the Island in the broader context of the campaign, hence, we will be discussing their place among the main promises that Obama used as the discourse that would lead him to electoral victory.

The website PolitiFact, owned by the nonprofit organization Poynter Institute for Media Studies, it is a portal dedicated to fact checking and tracking political news and developments in the U.S. In a 2017 article they listed the main 24 campaign promises made during Obama’s two presidential electoral campaigns among 500 counted promises. In the article Linda Qiu analyses those 24¹⁰ promises and rates them in the category of “kept”, “compromised” and “broken”, justifying why each promise was categorized this way (QIU, 2017). On Chart 3, the rating made by PolitiFact was compiled according to their categorization on the fulfillment or not of those promises, and an additional category rating regarding whether such promise were related to domestic or international politics or both it was added at the same time.

Chart 3 - Obama Campaign Promises Status

Promise	Status of accomplishment	Domestic/International/Both
Train and equip the Afghan army	Kept	International (with domestic effects)
End the use of torture	Kept	Both, but mainly executed abroad
Seek verifiable reductions in U.S. and Russian nuclear stockpiles	Kept	International
Centralize ethics and lobbying information for voters	Kept	Domestic
Require more disclosure and a waiting period for earmarks	Kept	Domestic
Reform mandatory minimum sentences	Kept	Domestic
Create new financial regulations	Kept	Domestic (with International spillover)
Health Insurance choice of exchange	Kept	Domestic
Begin removing combat brigades from Iraq	Compromise	International (with domestic effects)
Cut taxes for 95 percent of American families	Compromise	Domestic
Repeal the Bush tax cuts for higher incomes	Compromise	Domestic
Restrict warrantless wiretaps	Compromise	Domestic
Secure the borders	Compromise	Domestic

¹⁰ Despite having the title “Barack Obama's top 25 campaign promises: How'd he do?”, the article misses the 25th promise and list only 24, yet given the relevant quality content of the promises listed, we opted for using the source material to enrich this study analysis.

Secure nuclear weapons materials in four years	Compromise	Domestic(with International effects)
Sign a "universal" health care bill	Compromise	Domestic
Create 5 million "green" jobs	Compromise	Domestic
Create a foreclosure prevention fund for homeowners	Broken	Domestic
Close the Guantanamo Bay Detention Center	Broken*	International (with Domestic spillover)
Tougher rules against revolving door for lobbyists and former government officials	Broken	Domestic
Provide a path to citizenship for un-documented immigrants	Broken	Domestic (with International spillover)
Reduce oil consumption by 35 percent by 2030	Broken	Domestic (with International spillover)
Create cap and trade system with interim goals to reduce global warming	Broken	International (with Domestic spillover)
Cut the cost of a typical family's health insurance premium by up to \$2,500 a year	Broken	Domestic
Bring Democrats and Republicans together to pass an agenda	Broken	Domestic

Source: QIU, 2017, adapted and compiled by the Author.

The Kept/Compromised/Broken indicators refer to the level of success that President Obama had in achieving such promise (which can be interpreted as an interest goal defended during the campaign periods). In total there are eight promises in each category, yet how successful the President was in achieving those campaign goals, depends on whether the "Compromised" status counts as a win or not, since it refers to a promise that was partially kept, but had to undergo some changes. Still, for this particular study, what is important to observe is that in a campaign promise context, the subject of Cuba it is only collaterally found within the Guantanamo Bay promise (which was highlighted with an asterisk). As we previously discussed, that specific promise is not directly linked to the Foreign Policy towards Cuba, but rather to a broad reform in the strategy to the War on Terror and Middle-East conflicts. However, indirectly, the promises regarding the end of torture as a method for interrogation and the intentions to close the Guantanamo prison do somewhat affect Obama's rhetorical legitimacy regarding the Human-Rights issue on Cuba, given that those practices affected internationally the U.S. image and weakened its discourse

regarding the Island given the hypocritical character of accusing Cuba's government while violating those same principles within Cuban territory.

Finally, the categorization for International/Domestic/Both was added to place the analysis in the theoretical framework we proposed to analyze U.S. foreign policy, given that some of the preferences contained in those promises have wider effects at the domestic and international levels. In Qiu's (2017) analysis, despite the case of the Guantanamo detention center closing promise being categorized as broken, the author suggests that the same promise could have been a "compromise", since the President did actually attempted to empty the detention center during his years in office but was met with Congress's resistance on the issue and never obtained the necessary funding to actually close down the prison facility. The decision itself to close the Guantanamo prison is part of an international agenda (with non-direct side effects to the Cuba subject) for recovering some of the U.S. credit as an example and enforcer of democratic and human-rights values, yet domestic Legislative constraints were responsible for undermining such preferences, resulting in the outcome that was classified as a promise broken by PolitiFact.

Still, within the context of this study, even if the initiative to close the Guantanamo prison wasn't fully accomplished, given the unilateral nature of Obama's initiative to reshape the foreign policy towards Cuba, in that particular subject some success can be observed given that what actually matters for the new strategy to the Island was the President's image regarding his own stance on the subject of human-rights violation at the base. Even in this new strategy proposed to Cuba, rhetoric still plays a significant role, whether it is directed to the Cuban government, the International community or even the domestic public inside the U.S. And that is why Obama's stance itself regarding the Guantanamo prison was important. Verbally expressing his disapproval towards the operations within the detention center (and acting on it, even if restricted by Congress) allowed the President to speak about human-rights issues with more legitimacy to all publics. To the Cuban government, this meant he was able to condemn Castro's regime without getting the full counter-speech regarding U.S. own practices, at least in what concerned his own preferences. To domestic actors, this meant he could sustain the human rights rhetoric despite changing the policy to the Island to a friendlier one. And, in the International environment, the same rhetoric could mean a gain in legitimacy on several human rights issues of U.S. interest around the Globe.

In this particular case, we can also observe the conceptual dynamics proposed by Alisson and Zelikow (1999) in a chronological perspective, and how the logic of the nested game assists to oversee several arenas that clashed and produced results that effected the actors mutually. The fact is, Obama's promises during the campaign were part of his strategy to secure the election, and among more than 500, of the 24 selected as his main promises 19 can be categorized as either domestic or both domestic and international, and yet, all the main international promises are tied to domestic effects. For instance, training the Afghan army is linked to his intention to withdraw U.S. troops from the region and return the deployed U.S. military personnel back home. Here, the preferences expressed regard the minimization of U.S. soldiers' casualties abroad and wasted resources that had been happening since the beginning of the War on Terror, hence this "international" agenda promise was still linked to domestic effects which are the main concern for a candidate running according to the reelection imperative of Arnold (1990) and Mayhew (1974). Therefore, it is logical to assume that at least in a campaign context, the main promises will look to domestic results since they need to stir the voter's preferences positively.

Moving forward from the elections and into the first term, when analyzing the result of whether those campaign promises were kept/compromise/broken, it is necessary to consider that the same actor who was promising based on his primary need to get elected, was now in office, attending to multiple issues at once, and bargaining with several other actors, which meant he moved away from the "election game focus" and had to participate in several other arenas simultaneously. The proportion of compromised and broken promises demonstrates how the Executive practice is different from the campaign intentions, at least regarding results. The compromised promises are the demonstration of Alisson's and Zelikow (1999) concepts such as misexpectations and Tsebelis (1990) suboptimal results and decisions, given that in order to obtain the perfect results for all those promises Obama would have to win every bureaucratic game with no opposition and that's simply not how the U.S. democratic system works since it presumes a plurality of ideas and interest. Notwithstanding, as President, Obama did manage to keep at least 8 of his listed main promises, but as the bargaining nested games suggest, for that success the compromised and broken promises were part of the process, at least indirectly.

Regarding Cuba, the fact that the new foreign policy strategy to the Island didn't appear among the 24 main promises during the campaign does not mean that the subject was completely out of Obama's area of interest. As previously discussed, in a campaign context it makes sense that subjects addressed to urgent domestic interests be prioritized, which was not the case for the theme of Cuba, at least not from a nation-wide public perspective. Even so, the Cuban foreign policy agenda did come out during the campaign but it was addressed to targeted electoral sectors to whom it matters the most-- the Cuban-American community.

Strategically, not placing the Cuban approach in the top tier promises makes sense not only from the electoral perspective but also from the perspective of practical effectiveness in the long-run electoral victory agenda, that is, electoral strategy for a second term after taking office. The secretive and unilateral aspects of Obama's move on the 2014 announcement of the normalization and its posterior Legislative opposition that barred the initiative from advancing further, shows that the execution of the normalization was intentionally planned in the background. In a nested games logic inserted within Model III of Alisson and Zelikow (1999), the information that actors possess about each other and what arenas in which their counterparts participate and have interests, plays a large role on how they plan and choose their moves. If Obama had publicized his intention to fully restore diplomatic relations with Cuba while the negotiations with the Island's government were in motion, the same actors that played their part in barring the normalization from continuing further, may have anticipated this strategy and attempted to affect the secret negotiations game in order to prevent the beginning of the normalization ever happening at all.

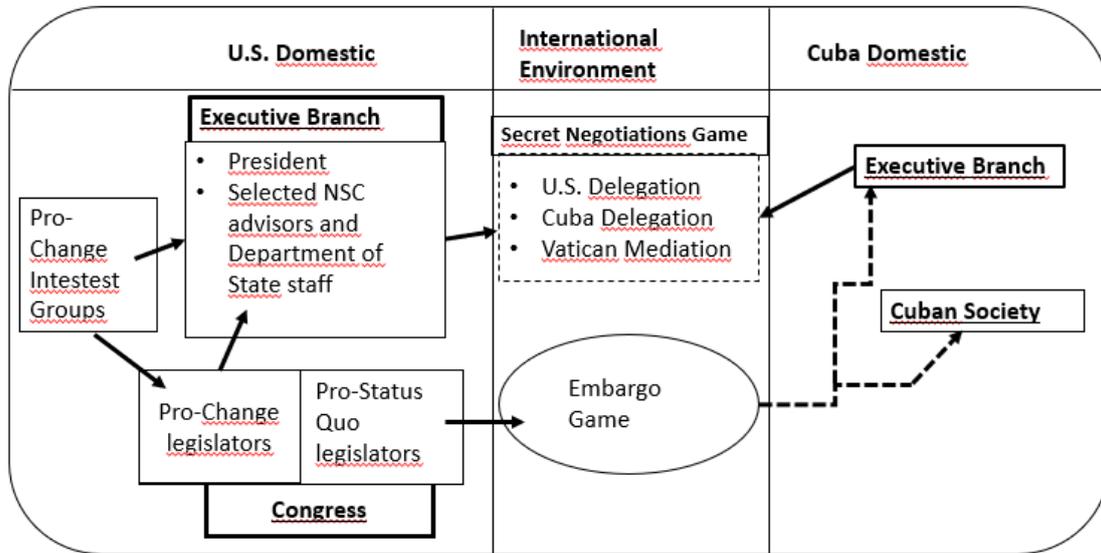
This means that despite not being included at the top of the hierarchical expressed preferences in the campaign context, that placement of the preferences towards Cuba was actually beneficial for the eventual realization of Obama's initiative. According to an interview granted to the author of this work on the condition of anonymity by a diplomatic official of the Obama administration who participated in the secret negotiations with the Cuban delegation, the will to normalize relations with Cuba existed since the beginning of the first Obama administration, even if it only came to fruition in 2014. Notwithstanding, comparing the information that Obama actually expressed during his first campaign regarding his preferences for Cuba, it was never openly said he would take decisive steps to change U.S. foreign policy. This demonstrates clearly the game of communication that the then-candidate Obama

played in order to touch Cuban-American voters by promising small changes that would benefit them directly while not compromising his electoral chances with that community by expressing his alleged will to fully restore diplomatic relations from the very beginning of his campaign back in 2008 (even if the Castro regime didn't show any signs of the democratic changes the U.S. wanted).

Regarding the normalization itself within our conceptual framework, the mapping of the decision-making process is simplified by Obama's strategy. Because of the secret and unilateral aspects of the negotiations with Cuba, Obama managed to play the game that would lead to the break in the *status quo* strategy alone. The only other player was the Cuban negotiation delegation, and eventually, the Vatican's mediation that acted as a cooperative player. If U.S.-Cuba relations are considered a game, then the secret negotiations were a hidden subgame within it and its outcome affected the whole upper game. In the original framework of the nested games model, considering policy decisions as collective voting results, with each vote cast as the preference of an individual participant player, the more players who participate in the game, the more complex its result will be, generating suboptimal results. By excluding other players, Obama prevented potentially contestious players, keeping the participating actors to a minimum and the sub-optimal result was more effective. Besides, keeping the game hidden was beneficial to both parties, since if Cuba-US relations are the bigger game, and having the particular capacity of altering it unilaterally through the results of the normalization, the secrecy of the negotiations helped to prevent opposition players from acting on it and engaging in side games that could undermine the normalization, as they actually did after 17D. This dynamic is illustrated below in figure 2.

Figure 2 - Cuba Relations Game

U.S. – Cuba Relations Game



Source: Elaborated by the author, 2019.

The schematics above show how even actors interested in changes in U.S. foreign policy to Cuba were left out of the negotiations but their preferences indirectly positively influenced the Obama administration through the nested game. In that same logic, in regard to actors who were in favor of the *status quo* strategy and who had been influencing the U.S.-Cuba game for decades, one can observe Leogrande and Kornbluh's (2015) previously cited remark about high ranking officials lamenting the "trickiness" of the political structure to engage in any action towards the improvement of relations.

Our specific case study offers a simple mapping of the nested games network in the context of the 17D decision thanks to Obama's option for secret negotiations. As extensively discussed in this research, it is possible to observe that the main difficulty to alter the status quo strategy is due to the complexity of a network of nested games and interests built over half a century of bad relations (including Cold War conflicts). Deep-rooted interests and actors who built their political career leaning on the status quo strategy to Cuba (such as CANF and Cuban-American politicians) have been playing the game of maintenance for a long time, seeking results that make it difficult to change the direction of U.S. foreign policy. This explains Obama's rational choice to follow the secret and unilateral trail in order to bypass the status quo obstacles for normalizing relations with the Island.

On the Cuban side, when dealing with its government, the Obama administration had to consider an equally old demand on their part, since Cuba's rhetoric to resume dialogues has always been based on mutual respect, equality, recognition of its self-determination and sovereignty, given that since the independence, the country has always been under the shadow cast by U.S. interests. Even when the Revolution came to power, the opposition and aggression from U.S. foreign policy have shaped the fate of the Island, since the initial sanctions in a bipolar world automatically forced Cuba to be attracted to the Soviet pole, to the dismantling of the Soviet Union that aggravated the isolationism imposed by the U.S. embargo. The demand for dialogue on equal footing represented the Island's need for official recognition, without which Cuba will always be on the vulnerable side of negotiations since currently only U.S. foreign policy directly attacks the Island. The harsh rhetoric towards the U.S. government is the only means of response that Cuba has to defend its government from American policies. Considering both actors as players in a single arena, the U.S. disproportionately outweighs Cuba in bargaining capacities, so for dialogue to be even considered as a "game" it could only be done with the U.S. recognition of the Cuban government as legitimate.

That it is one of the reasons why Obama's initiative for normalization has such a significant meaning. Beyond reopening embassies for easier normative processes (which includes dialogue), the act represents recognition of the Cuban government as the *de jure* (legitimate) government for the sovereign state of Cuba, after all, diplomatic representation means the will to have a State-to-State relations through the current Cuban government, in other words, the first step in realizing the Cuban government's demands for dialogues as being possible and fair. Still the scales of the balance remained tilted, given that Obama operated unilaterally separate from Congress, which despite having limited decisive power over diplomacy, can disrupt the formal process of appointing an ambassador, as it did. However, this "incomplete" recognition was enough to encourage the Cuban side to step into the secret normalization negotiations.

Despite the slow-paced improvements observed in Obama's first term, the public statement that he was willing to pursue better relations with Cuba over time built a positive image for the Cuban government, which saw mistrust in U.S. intentions during dialogue as a logical choice given the history of animosities. Even at the beginning of the secret negotiations, the Cuban delegation was not necessarily ex-

pecting the results to take the bigger dimension of normalizing relations. Nonetheless, the result of the normalization was relatively positive for the Cuban actors, since it showed that even U.S. actors were willing to recognize the Revolutionary government as a legitimate State representative and actor.

However, Brenner (2016) made a relevant observation regarding the meaning of the use of “normal relations” for U.S. and Cuba. He specified that the 2014 initiative is a (re)establishment of normal relations rather than a “restoration” in the very title of his chapter. In the author's perspective that distinction it is important because normal relations between the governments of both countries never existed. Although we agree that the history of Cuba and U.S. relations has always been controversial, given the asymmetric relations of dominance exercised over the Island up to the beginning of the Cuban Revolutionary government, in terms of diplomacy and strictly normatively speaking, it can be considered that the relations were “normal”. Therefore, the normalization process proposed by Obama and Raúl Castro can be partially considered a restoration of diplomatic relations since the spearheading action of the initiative was the reopening of the embassies. Notwithstanding, the normalization initiative had a broader goal, which included the ending of the aggressive policies towards Cuba. From a historical point of view, such policies can be considered a perpetual reaction to the 1959 Revolution that deeply changed the window for U.S. influence in Cuba's domestic affairs. That fact, combined with the U.S. direct interference in the Island since the very conception of its constitution, strengthens Brenner's (2016) argument that if full normalization could be accomplished, then for the first time the U.S. and Cuba would have established normal diplomatic relations.

Finally, we remark that despite not achieving the full normalization of relations, Obama's efforts left a true mark on the history of U.S.-Cuba relations, given the shock it delivered to the status quo strategy. The future political context after 17D has not been favorable so far for a speedy continuation process of normal relations. Under President Trump, improvements have receded significantly and the embassies staffs have been reduced, but at least they still remain as embassies and not interest sections. There have been a few exchanges of unpleasantries between the Trump administration and the Cuban government, and the regional context of the pink ride reversal in Latin America and the Venezuelan crisis have affected negatively Cuba's foreign influence. Yet, Cuba remains geographically relevant, due to its privileged position in the entrance of the Mexico Gulf and the new foreign policy agenda that

the Island has been building as a mediator and humanitarian aid exporter of expertise.

The mapping explored through this research also shows that as time passes, more actors interested in improving relations with Cuba have gained influence and are participating in the decision-making network of games. The passing of time unavoidably comes with the accumulation of information and therefore information changes, changing actors' preferences. On several occasions, Obama said that the status quo strategy began before he was born, which indicates that the further away actors are from the initial feud between the U.S. and Cuba, the more inclined they are to have a pragmatic perspective on the issue. This is also explained by the historical experience of actors within the conflict. The "Players in Positions" concept can be used not only for analyzing anachronical events but also in a chronological perspective, which positions players within the time frame of games. Their chronological distance from past decisions affects their present decisions.

Currently, for the first time since the Revolution came to power Cuba has a president who is not a Castro-- Miguel Díaz-Canel, who despite having close relations with Raúl, represents a significant change in the nature of the Cuban government regime. For instance, the embargo's conditions for its self-termination include the non-participation of any of the Castro brothers (Raúl and Fidel) in Cuba's government. Even with Raúl still holding significant influence in the politics of the Island, those changes indicate a course of transformations that will only make the status quo strategy more obsolete, which in its turn makes the normalization initiative more logical.

However, considering all the complex map of the dynamics of the decision-making process of U.S.'s foreign policy to the Island and these back and forward movements of freeze and thaw, it is clear that the U.S. continues to have trouble dealing with its interest in that "infernal little Cuban republic" and the revolutions that happened there.

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ANNEX A – CUBAN DEMOCRACY ACT

Cuban Democracy Act – Torricelli Law 1992

22 USC Ch. 69: CUBAN DEMOCRACY
From Title 22—FOREIGN RELATIONS AND INTERCOURSE
CHAPTER 69—CUBAN DEMOCRACY

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§6001. Findings

The Congress makes the following findings:

- (1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.
- (2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.
- (3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.
- (4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.
- (5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.
- (6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.
- (7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

(Pub. L. 102–484, div. A, title XVII, §1702, Oct. 23, 1992, 106 Stat. 2575.)

EFFECTIVE DATE

Pub. L. 102–484, div. A, title XVII, §1712, Oct. 23, 1992, 106 Stat. 2581, provided that: "This title [enacting this chapter, amending section 4315 of Title 50, War and National Defense, and enacting provisions set out as a note below] shall take effect on the date of the enactment of this Act [Oct. 23, 1992]."

SHORT TITLE

Pub. L. 102–484, div. A, title XVII, §1701, Oct. 23, 1992, 106 Stat. 2575, provided that: "This title [enacting this chapter, amending section 4315 of Title 50, War and National Defense, and enacting provisions set out as a note above] may be cited as the 'Cuban Democracy Act of 1992'."

EX. ORD. NO. 12854. IMPLEMENTATION OF CUBAN DEMOCRACY ACT

Ex. Ord. No. 12854, July 4, 1993, 58 F.R. 36587, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trading with the Enemy Act, as amended (50 U.S.C. App. 1–6, 7–39, 41–44) [now 50 U.S.C. 4301 et seq.], the Cuban Democracy Act of 1992 (Public Law 102–484, sections 1701–1712, October 23, 1992, 106 Stat. 2575) (the "Act") [22 U.S.C. 6001 et seq.], and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, hereby order:

Section 1. *Implementation of the Act.* All agencies are hereby directed to take all appropriate measures within their authority, including the promulgation of rules and regulations, to carry out the provisions of the Act.

Sec. 2. *Functions of the Department of State.* The Secretary of State shall be responsible for implementing sections 1704, 1707, and 1708 of the Act [22 U.S.C. 6003, 6006, 6007]. Responsibility for transmitting the certification required by section 1707 and the report required by section 1708 of the Act is delegated to the Secretary of State.

Sec. 3. *Functions of the Department of the Treasury.* Except as provided in section 4 of this order, the Secretary of the Treasury shall be responsible for implementing sections 1705(b)–(e) and 1706 [22 U.S.C. 6004(b)–(e), 6005] of the Act, to the extent that these sections pertain to transactions with Cuba.

Sec. 4. *Functions of the Department of Commerce.* The Secretary of Commerce shall be responsible for implementing sections 1705(b)–(e) of the Act, to the extent that these sections pertain to the exportation to Cuba from the United States or from a third country of goods and technology subject to the jurisdiction of the Department of Commerce.

Sec. 5. *Consultation.* In consultation with the Secretary of State, the Secretary of the Treasury and the Secretary of Commerce are hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the Act and this order.

Sec. 6. Nothing in this order shall be deemed to affect any functions vested by law in the Federal Communications Commission.

Sec. 7. *Effective Date.* This order shall be effective immediately.

WILLIAM J. CLINTON.

§6002. Statement of policy

It should be the policy of the United States—

- (1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;
- (2) to seek the cooperation of other democratic countries in this policy;
- (3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;
- (4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;
- (5) to continue vigorously to oppose the human rights violations of the Castro regime;
- (6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;
- (7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;
- (8) to encourage free and fair elections to determine Cuba's political future;

(9) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and
 (10) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

(Pub. L. 102-484, div. A, title XVII, §1703, Oct. 23, 1992, 106 Stat. 2576.)

§6003. International cooperation

(a) Cuban trading partners

The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this chapter.

(b) Sanctions against countries assisting Cuba

(1) Sanctions

The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] or assistance or sales under the Arms Export Control Act [22 U.S.C. 2751 et seq.].

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) "Assistance to Cuba" defined

For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba;

(B) includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba (including the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba) or of a Cuban national; and

(C) does not include—

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 6004(c) of this title.

As used in this paragraph, the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(3) Applicability of section

This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 6007(a) of this title.

(Pub. L. 102-484, div. A, title XVII, §1704, Oct. 23, 1992, 106 Stat. 2576; Pub. L. 104-114, title I, §102(f), Mar. 12, 1996, 110 Stat. 793.)

REPEAL OF SECTION

Pub. L. 104-114, title II, §204(d)(3), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, this section is repealed.

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1)(A), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (b)(1)(A), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104-114, §102(f), added subpar. (B), redesignated former subpar. (B) as (C), and inserted concluding provisions "As used in this paragraph, the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined

in section 1603(b) of title 28, with each reference in such section to 'a foreign state' deemed to be a reference to 'Cuba'."

§6004. Support for Cuban people

(a) Provisions of law affected

The provisions of this section apply notwithstanding any other provision of law, including section 2370(a) of this title, and notwithstanding the exercise of authorities, before October 23, 1992, under section 5(b) of the Trading With the Enemy Act [50 U.S.C. 4305(b)], the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], or the Export Administration Act of 1979.

(b) Donations of food

Nothing in this or any other Act shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) Exports of medicines and medical supplies

Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent such restrictions would be permitted under section 5(m) ¹ of the Export Administration Act of 1979 or section 203(b)(2) of the International Emergency Economic Powers Act [50 U.S.C. 1702(b)(2)];

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) Requirements for certain exports

(1) Onsite verifications

(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) Licenses

Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) Telecommunications services and facilities

(1) Telecommunications services

Telecommunications services between the United States and Cuba shall be permitted.

(2) Telecommunications facilities

Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) Licensing of payments to Cuba

(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this chapter, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act [50 U.S.C. 4305(b)].

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) Authority of Federal Communications Commission

Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(5) Prohibition on investment in domestic telecommunications services

Nothing in this subsection shall be construed to authorize the investment by any United States person in the domestic telecommunications network within Cuba. For purposes of this paragraph, an "investment" in the domestic telecommunications network within Cuba includes the contribution (including by donation) of funds or anything of value to or for, and the making of loans to or for, such network.

(6) Reports to Congress

The President shall submit to the Congress on a semiannual basis a report detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.

(f) Direct mail delivery to Cuba

The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) Assistance to support democracy in Cuba

The United States Government may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

(Pub. L. 102–484, div. A, title XVII, §1705, Oct. 23, 1992, 106 Stat. 2577; Pub. L. 104–114, title I, §102(g), Mar. 12, 1996, 110 Stat. 793.)

AMENDMENT OF SECTION

Pub. L. 104–114, title II, §204(d)(3), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063(c) of this title that democratically elected government in Cuba is in power, this section is amended by repealing subsection (d).

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (a), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Export Administration Act of 1979, referred to in subsecs. (a) and (c)(1), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense, prior to repeal by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232, except for sections 11A, 11B, and 11C thereof (50 U.S.C. 4611, 4612, 4613). Section 5 of the Act was classified to section 4604 of Title 50 prior to repeal.

AMENDMENTS

1996—Subsec. (e)(5), (6). Pub. L. 104–114, §102(g), added pars. (5) and (6).

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (e) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46075, set out as a note under section 301 of Title 3, The President.

¹ *See References in Text note below.*

§6005. Sanctions

(a) Prohibition on certain transactions between certain United States firms and Cuba

(1) Prohibition

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) Applicability to existing contracts

Paragraph (1) shall not affect any contract entered into before October 23, 1992.

(b) Prohibitions on vessels

(1) Vessels engaging in trade

Beginning on the 61st day after October 23, 1992, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) Vessels carrying goods or passengers to or from Cuba

Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may not enter a United States port.

(3) Inapplicability of ship stores general license

No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) Definitions

As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft;

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 1401 of title 19; and

(C) the term "Cuban national" means a national of Cuba, as the term "national" is defined in section 515.302 of title 31, Code of Federal Regulations, as of August 1, 1992.

(c) Restrictions on remittances to Cuba

The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) Clarification of applicability of sanctions

The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 6004 of this title or section 6006 of this title or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act [50 U.S.C. 4305(b)(4)].

(Pub. L. 102–484, div. A, title XVII, §1706, Oct. 23, 1992, 106 Stat. 2578.)

REPEAL OF SECTION

Pub. L. 104–114, title II, §204(d)(3), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, this section is repealed.

§6006. Policy toward a transitional Cuban Government

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] and the Food for Peace Act [7 U.S.C. 1691 et seq.] if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

(Pub. L. 102–484, div. A, title XVII, §1707, Oct. 23, 1992, 106 Stat. 2579; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(V), June 18, 2008, 122 Stat. 1820, 1821.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in text, is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

AMENDMENTS

2008—Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954" in introductory provisions.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§6007. Policy toward a democratic Cuban Government

(a) Waiver of restrictions

The President may waive the requirements of section 6005 of this title if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) Policies

If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

- (1) To encourage the admission or reentry of such government to international organizations and international financial institutions.
- (2) To provide emergency relief during Cuba's transition to a viable economic system.
- (3) To take steps to end the United States trade embargo of Cuba.

(Pub. L. 102–484, div. A, title XVII, §1708, Oct. 23, 1992, 106 Stat. 2580.)

§6008. Existing claims not affected

Except as provided in section 6004(a) of this title, nothing in this chapter affects the provisions of section 2370(a)(2) of this title.

(Pub. L. 102–484, div. A, title XVII, §1709, Oct. 23, 1992, 106 Stat. 2580.)

§6009. Enforcement

(a) Enforcement authority

The authority to enforce this chapter shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act [50 U.S.C. 4301 et seq.] in enforcing this chapter. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 6004 of this title are carried out for the purposes set forth in this chapter and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this chapter.

(c) Omitted

(d) Applicability of penalties

The penalties set forth in section 16 of the Trading With the Enemy Act [50 U.S.C. 4315] shall apply to violations of this chapter to the same extent as such penalties apply to violations under that Act [50 U.S.C. 4301 et seq.].

(e) Office of Foreign Assets Control

The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this chapter.

(Pub. L. 102–484, div. A, title XVII, §1710, Oct. 23, 1992, 106 Stat. 2580.)

REFERENCES IN TEXT

The Trading With the Enemy Act, referred to in subsecs. (a) and (d), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, which is classified to chapter 53 (§4301 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of section 1710 of Pub. L. 102–484. Subsec. (c) of section 1710 of Pub. L. 102–484 amended section 4315 of Title 50, War and National Defense.

§6010. "United States person" defined

As used in this chapter, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

ANNEX B - CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT

22 USC Ch. 69A: CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD)

From Title 22—FOREIGN RELATIONS AND INTERCOURSE

CHAPTER 69A—CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD)

SUBCHAPTER I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SUBCHAPTER II—ASSISTANCE TO FREE AND INDEPENDENT CUBA

SUBCHAPTER III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS

SUBCHAPTER IV—EXCLUSION OF CERTAIN ALIENS

§6021. Findings

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of at least 60 percent in the last 5 years as a result of—

(A) the end of its subsidization by the former Soviet Union of between 5 billion and 6 billion dollars annually;

(B) 36 years of communist tyranny and economic mismanagement by the Castro government;

(C) the extreme decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the stated policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba on strictly commercial terms.

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(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of

this economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba.

(3) The Castro regime has made it abundantly clear that it will not engage in any substantive political reforms

that would lead to democracy, a market economy, or an economic recovery.

(4) The repression of the Cuban people, including a ban on free and fair democratic elections, and continuing

violations of fundamental human rights, have isolated the Cuban regime as the only completely non-democratic

government in the Western Hemisphere.

(5) As long as free elections are not held in Cuba, the economic condition of the country and the welfare of the

Cuban people will not improve in any significant way.

(6) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to

improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts

to escape from Cuba to freedom.

(7) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with

news and information and have helped to bolster the morale of the people of Cuba living under tyranny.

(8) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried

out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and

has been effective in sanctioning the totalitarian Castro regime.

(9) The United States has shown a deep commitment, and considers it a moral obligation, to promote and

protect human rights and fundamental freedoms as expressed in the Charter of the United Nations and in the

Universal Declaration of Human Rights.

(10) The Congress has historically and consistently manifested its solidarity and the solidarity of the American

people with the democratic aspirations of the Cuban people.

(11) The Cuban Democracy Act of 1992 [22 U.S.C. 6001 et seq.] calls upon the President to encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(12) Amendments to the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] made by the FREEDOM

Support Act require that the President, in providing economic assistance to Russia and the emerging Eurasian

democracies, take into account the extent to which they are acting to "terminate support for the communist

regime in Cuba, including removal of troops, closing military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance".

(13) The Cuban Government engages in the illegal international narcotics trade and harbors fugitives from

justice in the United States.

(14) The Castro government threatens international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence.

(15) The Castro government has utilized from its inception and continues to utilize torture in various forms

(including by psychiatry), as well as execution, exile, confiscation, political imprisonment, and other forms of

terror and repression, as means of retaining power.

(16) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and continues to make clear that

he has no intention of tolerating the democratization of Cuban society.

(17) The Castro government holds innocent Cubans hostage in Cuba by no fault of the hostages themselves

solely because relatives have escaped the country.

(18) Although a signatory state to the 1928 Inter-American Convention on Asylum and the International

Covenant on Civil and Political Rights (which protects the right to leave one's own country), Cuba nevertheless

surrounds embassies in its capital by armed forces to thwart the right of its citizens to seek asylum and systematically denies that right to the Cuban people, punishing them by imprisonment for seeking to leave the

country and killing them for attempting to do so (as demonstrated in the case of the confirmed murder of over 40

men, women, and children who were seeking to leave Cuba on July 13, 1994).

(19) The Castro government continues to utilize blackmail, such as the immigration crisis with which it threatened the United States in the summer of 1994, and other unacceptable and illegal forms of conduct to

influence the actions of sovereign states in the Western Hemisphere in violation of the Charter of the Organization of American States and other international agreements and international law.

(20) The United Nations Commission on Human Rights has repeatedly reported on the unacceptable human

rights situation in Cuba and has taken the extraordinary step of appointing a Special Rapporteur.

(21) The Cuban Government has consistently refused access to the Special Rapporteur and formally expressed its decision not to "implement so much as one comma" of the United Nations Resolutions appointing

the Rapporteur.

(22) The United Nations General Assembly passed Resolution 47-139 on December 18, 1992, Resolution

48-142 on December 20, 1993, and Resolution 49-200 on December 23, 1994, referencing the Special

Rapporteur's reports to the United Nations and condemning violations of human rights and fundamental

freedoms in Cuba.

(23) Article 39 of Chapter VII of the United Nations Charter provides that the United Nations Security Council

"shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall

make recommendations, or decide what measures shall be taken . . . , to maintain or restore international peace

and security."

(24) The United Nations has determined that massive and systematic violations of human rights may constitute a "threat to peace" under Article 39 and has imposed sanctions due to such violations of human rights

in the cases of Rhodesia, South Africa, Iraq, and the former Yugoslavia.

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(25) In the case of Haiti, a neighbor of Cuba not as close to the United States as Cuba, the United States led

an effort to obtain and did obtain a United Nations Security Council embargo and blockade against that country

due to the existence of a military dictatorship in power less than 3 years.

(26) United Nations Security Council Resolution 940 of July 31, 1994, subsequently authorized the use of "all

necessary means" to restore the "democratically elected government of Haiti", and the democratically elected

government of Haiti was restored to power on October 15, 1994.

(27) The Cuban people deserve to be assisted in a decisive manner to end the tyranny that has oppressed

them for 36 years, and the continued failure to do so constitutes ethically improper conduct by the international

community.

(28) For the past 36 years, the Cuban Government has posed and continues to pose a national security threat

to the United States.

(Pub. L. 104–114, §2, Mar. 12, 1996, 110 Stat. 786.)

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The Cuban Democracy Act of 1992, referred to in par. (11), is title XVII of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2575, which is classified principally to chapter 69 (§6001 et seq.) of this title.

For

complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title

and Tables.

The Foreign Assistance Act of 1961, referred to in par. (12), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete

classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The FREEDOM Support Act, referred to in par. (12), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320,

as amended, also known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

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Pub. L. 104–114, §1(a), Mar. 12, 1996, 110 Stat. 785, provided that: "This Act [enacting this chapter and sections 1643l and 1643m of this title, amending sections 2295a, 2295b, 2370, 6003, and 6004 of this title,

section 1611 of Title 28, Judiciary and Judicial Procedure, and section 4315 of Title 50, War and National

Defense, repealing sections 1465 to 1465f, 1465aa to 1465ff, 6003, and 6005 of this title, amending provisions set out as a note under section 1446g of Title 7, Agriculture, and repealing provisions set out

as notes under sections 1465, 1465c, and 1465aa of this title] may be cited as the 'Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996'."

§6022. Purposes

The purposes of this chapter are—

- (1) to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;
- (2) to strengthen international sanctions against the Castro government;
- (3) to provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals by the Castro government, and the political manipulation by the Castro government of the desire of Cubans to escape that results in mass migration to the United States;
- (4) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;
- (5) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and
- (6) to protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime.

(Pub. L. 104–114, §3, Mar. 12, 1996, 110 Stat. 788.)

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This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

§6023. Definitions

As used in this chapter, the following terms have the following meanings:

(1) Agency or instrumentality of a foreign state

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The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) Commercial activity

The term "commercial activity" has the meaning given that term in section 1603(d) of title 28.

(4) Confiscated

As used in subchapters I and III, the term "confiscated" refers to—

- (A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959—
 - (i) without the property having been returned or adequate and effective compensation provided; or
 - (ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and
- (B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay, on or after January 1, 1959—
 - (i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;
 - (ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or
 - (iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated

property claim.

(5) Cuban Government

(A) The term "Cuban Government" includes the government of any political subdivision of Cuba, and any

agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality of the Government of Cuba" means

an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, with each reference in

such section to "a foreign state" deemed to be a reference to "Cuba".

(6) Democratically elected government in Cuba

The term "democratically elected government in Cuba" means a government determined by the President to

have met the requirements of section 6066 of this title.

(7) Economic embargo of Cuba

The term "economic embargo of Cuba" refers to—

(A) the economic embargo (including all restrictions on trade or transactions with, and travel to or from, Cuba, and all restrictions on transactions in property in which Cuba or nationals of Cuba have an interest) that

was imposed against Cuba pursuant to section 2370(a) of this title, section 4305(b) of title 50, the Cuban

Democracy Act of 1992 (22 U.S.C. 6001 and following), or any other provision of law; and

(B) the restrictions imposed by section 902(c) of the Food Security Act of 1985.

(8) Foreign national

The term "foreign national" means—

(A) an alien; or

(B) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United

States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United

States.

(9) Knowingly

The term "knowingly" means with knowledge or having reason to know.

(10) Official of the Cuban Government or the ruling political party in Cuba

The term "official of the Cuban Government or the ruling political party in Cuba" refers to any member of the

Council of Ministers, Council of State, central committee of the Communist Party of Cuba, or the Politburo of

Cuba, or their equivalents.

(11) Person

The term "person" means any person or entity, including any agency or instrumentality of a foreign state.

(12) Property

(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of

intellectual property), whether real, personal, or mixed, and any present, future, or contingent right, security, or

other interest therein, including any leasehold interest.

(B) For purposes of subchapter III of this chapter, the term "property" does not include real property used for

residential purposes unless, as of March 12, 1996—

(i) the claim to the property is held by a United States national and the claim has been certified under title V

of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.]; or

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(ii) the property is occupied by an official of the Cuban Government or the ruling political party in Cuba.

(13) Traffics

(A) As used in subchapter III, and except as provided in subparagraph (B), a person "traffics" in confiscated

property if that person knowingly and intentionally—

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property,

or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds

an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another

person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions

and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and

who is not an official of the Cuban Government or the ruling political party in Cuba.

(14) Transition government in Cuba

The term "transition government in Cuba" means a government that the President determines is a transition

government consistent with the requirements and factors set forth in section 6065 of this title.

(15) United States national

The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District

of Columbia, or any commonwealth, territory, or possession of the United States, and which has its principal

place of business in the United States.

(Pub. L. 104–114, §4, Mar. 12, 1996, 110 Stat. 789.)

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This chapter, referred to in introductory provisions, was in the original "this Act", meaning Pub. L.

104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity

(LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of

this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

Subchapters I and III of this chapter, referred to in pars. (4), (12)(B), and (13)(A), were in the

original references to titles I and III, meaning titles I and III of Pub. L. 104–114, Mar. 12, 1996, 110 Stat.

791, 814. Title I of Pub. L. 104–114 enacted subchapter I (§6031 et seq.) of this chapter, amended

sections 2295a, 2295b, 6003, and 6004 of this title and section 4315 of Title 50, War and National Defense,

and repealed subchapters V–A (§1465 et seq.) and V–B (1465aa et seq.) of chapter 18 of this title.

Title III of Pub. L. 104–114 enacted subchapter III (§6081 et seq.) of this chapter and sections 1643l

and

1643m of this title and amended section 1611 of Title 28, Judiciary and Judicial Procedure. For complete

classification of titles I and III to the Code, see Tables.

The Cuban Democracy Act of 1992, referred to in par. (7)(A), is title XVII of div. A of Pub. L. 102–484,

Oct. 23, 1992, 106 Stat. 2575, which is classified principally to chapter 69 (§6001 et seq.) of this title.

For

complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title

and Tables.

Section 902(c) of the Food Security Act of 1985, referred to in par. (7)(B), is section 902(c) of Pub. L.

99–198, title IX, Dec. 23, 1985, 99 Stat. 1443, which was set out as a note under former section 1446g

of

Title 7, Agriculture.

The International Claims Settlement Act of 1949, referred to in par. (12)(B)(i), is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended. Title V of the Act is classified generally to subchapter V (§1643 et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

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Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§6024. Severability

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If any provision of this chapter or the amendments made by this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, the amendments made by this chapter, or the application thereof to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

(Pub. L. 104–114, §5, Mar. 12, 1996, 110 Stat. 791.)

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This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

SUBCHAPTER I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

§6031. Statement of policy

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human

rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the

United Nations to propose and seek within the Security Council, a mandatory international embargo against the

totalitarian Cuban Government pursuant to chapter VII of the Charter of the United Nations, employing efforts

similar to consultations conducted by United States representatives with respect to Haiti;

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational any

nuclear facilities in Cuba, and any continuation of intelligence activities by such a state from Cuba that

are targeted at the United States and its citizens will have a detrimental impact on United States assistance to such

state; and

(4) in view of the threat to the national security posed by the operation of any nuclear facility, and the Castro

government's continuing blackmail to unleash another wave of Cuban refugees fleeing from Castro's oppression,

most of whom find their way to United States shores, further depleting limited humanitarian and other resources

of the United States, the President should do all in his power to make it clear to the Cuban Government that—

(A) the completion and operation of any nuclear power facility, or

(B) any further political manipulation of the desire of Cubans to escape that results in mass migration to the

United States,

will be considered an act of aggression which will be met with an appropriate response in order to maintain the

security of the national borders of the United States and the health and safety of the American people. (Pub. L. 104–114, title I, §101, Mar. 12, 1996, 110 Stat. 791.)

§6032. Enforcement of economic embargo of Cuba

(a) Policy

(1) Restrictions by other countries

The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992 [22 U.S.C. 6003(a)],

which states that the President should encourage foreign countries to restrict trade and credit relations with

Cuba in a manner consistent with the purposes of that Act [22 U.S.C. 6001 et seq.].

(2) Sanctions on other countries

The Congress further urges the President to take immediate steps to apply the sanctions described in section

1704(b)(1) of that Act [22 U.S.C. 6003(b)(1)] against countries assisting Cuba.

(b) Diplomatic efforts

The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their

contacts with foreign officials, are communicating the reasons for the United States economic embargo of Cuba,

and are urging foreign governments to cooperate more effectively with the embargo.

(c) Existing regulations

The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban

Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) Omitted

(e) Denial of visas to certain Cuban nationals

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It is the sense of the Congress that the President should instruct the Secretary of State and the Attorney General

to enforce fully existing regulations to deny visas to Cuban nationals considered by the Secretary of State to be

officers or employees of the Cuban Government or of the Communist Party of Cuba.

(f), (g) Omitted

(h) Codification of economic embargo

The economic embargo of Cuba, as in effect on March 1, 1996, including all restrictions under part 515 of title

31, Code of Federal Regulations, shall be in effect on March 12, 1996, and shall remain in effect, subject to section

6064 of this title.

(Pub. L. 104–114, title I, §102, Mar. 12, 1996, 110 Stat. 792.)

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The Cuban Democracy Act of 1992, referred to in subsec. (a), is title XVII of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2575, which is classified principally to chapter 69 (§6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables.

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Section is comprised of section 102 of Pub. L. 104–114. Subsec. (d) of section 102 of Pub. L. 104–114

amended section 4315 of Title 50, War and National Defense. Subsecs. (f) and (g) of section 102 of Pub.

L. 104–114 amended sections 6003 and 6004 of this title, respectively.

§6033. Prohibition against indirect financing of Cuba

(a) Prohibition

Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a

United States national, a permanent resident alien, or a United States agency to any person for the purpose of

financing transactions involving any confiscated property the claim to which is owned by a United States national

as of March 12, 1996, except for financing by the United States national owning such claim for a transaction permitted under United States law.

(b) Suspension and termination of prohibition

(1) Suspension

The President is authorized to suspend the prohibition contained in subsection (a) upon a determination made under section 6063(c)(1) of this title that a transition government in Cuba is in power.

(2) Termination

The prohibition contained in subsection (a) shall cease to apply on the date on which the economic embargo of Cuba terminates as provided in section 6064 of this title.

(c) Penalties

Violations of subsection (a) shall be punishable by such civil penalties as are applicable to violations of the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) Definitions

As used in this section—

(1) the term "permanent resident alien" means an alien lawfully admitted for permanent residence into the United States; and

(2) the term "United States agency" has the meaning given the term "agency" in section 551(1) of title 5.

(Pub. L. 104–114, title I, §103, Mar. 12, 1996, 110 Stat. 794.)

§6034. United States opposition to Cuban membership in international financial institutions

(a) Continued opposition to Cuban membership in international financial institutions

(1) In general

Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until the President submits a determination under section 6063(c)(3) of this title that a democratically elected government in Cuba is in power.

(2) Transition government

Once the President submits a determination under section 6063(c)(1) of this title that a transition government in Cuba is in power—

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(A) the President is encouraged to take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power, and

(B) the Secretary of the Treasury is authorized to instruct the United States executive director of each international financial institution to support loans or other assistance to Cuba only to the extent that such loans

or assistance contribute to a stable foundation for a democratically elected government in Cuba.

(b) Reduction in United States payments to international financial institutions

If any international financial institution approves a loan or other assistance to the Cuban Government over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution

an amount equal to the amount of the loan or other assistance, with respect to either of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) "International financial institution" defined

For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

(Pub. L. 104–114, title I, §104, Mar. 12, 1996, 110 Stat. 794.)

§6035. United States opposition to termination of suspension of Cuban Government from participation in Organization of American States

The President should instruct the United States Permanent Representative to the Organization of American

States to oppose and vote against any termination of the suspension of the Cuban Government from participation

in the Organization until the President determines under section 6063(c)(3) of this title that a democratically elected

government in Cuba is in power.

(Pub. L. 104–114, title I, §105, Mar. 12, 1996, 110 Stat. 795.)

§6036. Assistance by independent states of former Soviet Union for Cuban Government

(a) Reporting requirement

Not later than 90 days after March 12, 1996, the President shall submit to the appropriate congressional

committees a report detailing progress toward the withdrawal of personnel of any independent state of the former

Soviet Union (within the meaning of section 5801 of this title), including advisers, technicians, and military

personnel, from the Cienfuegos nuclear facility in Cuba.

(b), (c) Omitted

(d) Facilities at Lourdes, Cuba

(1) Disapproval of credits

The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to \$200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) Omitted

(Pub. L. 104–114, title I, §106, Mar. 12, 1996, 110 Stat. 795.)

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Section is comprised of section 106 of Pub. L. 104–114. Subsecs. (b), (c), and (d)(2) of section 106 of Pub. L. 104–114 amended sections 2295a and 2295b of this title.

§6037. Television broadcasting to Cuba

(a) Conversion to UHF

The Director of the International Broadcasting Bureau shall implement a conversion of television broadcasting to

Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) Periodic reports

Not later than 45 days after March 12, 1996, and every three months thereafter until the conversion described in

subsection (a) is fully implemented, the Director of the International Broadcasting Bureau shall submit a report to

the appropriate congressional committees on the progress made in carrying out subsection (a).

(c) Termination of broadcasting authorities

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Upon transmittal of a determination under section 6063(c)(3) of this title, the Television Broadcasting to Cuba Act

(22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are

repealed.

(Pub. L. 104–114, title I, §107, Mar. 12, 1996, 110 Stat. 798; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(r),

Oct. 21, 1998, 112 Stat. 2681–790.)

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The Television Broadcasting to Cuba Act, referred to in subsec. (c), is part D of title II of Pub. L. 101–246, Feb. 16, 1990, 104 Stat. 58, as amended, which is classified principally to subchapter V–B (§1465aa et seq.) of chapter 18 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1465aa of this title and Tables.

The Radio Broadcasting to Cuba Act, referred to in subsec. (c), is Pub. L. 98–111, Oct. 4, 1983, 97 Stat. 749, as amended, which is classified generally to subchapter V–A (§1465 et seq.) of chapter 18 of

this title. For complete classification of this Act to the Code, see Short Title note set out under section 1465 of this title and Tables.

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1998—Subsecs. (a), (b). Pub. L. 105–277 substituted "Director of the International Broadcasting Bureau" for "Director of the United States Information Agency".

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Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§6038. Reports on commerce with, and assistance to, Cuba from other foreign countries**(a) Reports required**

Not later than 90 days after March 12, 1996, and by January 1 of each year thereafter until the President

submits a determination under section 6063(c)(1) of this title, the President shall submit a report to the appropriate

congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the

preceding 12-month period.

(b) Contents of reports

Each report required by subsection (a) shall, for the period covered by the report, contain the following, to the

extent such information is available:

(1) A description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance.

(2) A description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade.

(3) A description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a

description of the terms of agreement of the joint ventures and the names of the parties that are involved.

(4) A determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim

against Cuba by a United States national.

(5) A determination of the amount of debt of the Cuban Government that is owed to each foreign country,

including—

(A) the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in

Cuba involving foreign nationals; and

(B) the amount of debt owed the foreign country that has been exchanged, forgiven, or reduced in return for

a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban

Government or of a Cuban national.

(6) A description of the steps taken to assure that raw materials and semifinished or finished goods produced

by facilities in Cuba involving foreign nationals do not enter the United States market, either directly or through

third countries or parties.

(7) An identification of countries that purchase, or have purchased, arms or military supplies from Cuba or that

otherwise have entered into agreements with Cuba that have a military application, including—

(A) a description of the military supplies, equipment, or other material sold, bartered, or exchanged between

Cuba and such countries,

(B) a listing of the goods, services, credits, or other consideration received by Cuba in exchange for military

supplies, equipment, or material, and

(C) the terms or conditions of any such agreement.

(Pub. L. 104–114, title I, §108, Mar. 12, 1996, 110 Stat. 798.)

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For delegation of congressional reporting functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46075, set out as a note under section 301

of Title 3, The President.

§6039. Authorization of support for democratic and human rights groups and international observers

(a) Authorization

Notwithstanding any other provision of law (including section 6032 of this title), except for section 2394–1 of this

title and comparable notification requirements contained in any Act making appropriations for foreign operations,

export financing, and related programs, the President is authorized to furnish assistance and provide other support

for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba,

including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy,

human rights, and market economies, to be made available to independent democratic groups in Cuba.

(2) Humanitarian assistance to victims of political repression, and their families.

(3) Support for democratic and human rights groups in Cuba.

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

(b) OAS emergency fund

(1) For support of human rights and elections

The President shall take the necessary steps to encourage the Organization of American States to create a

special emergency fund for the explicit purpose of deploying human rights observers, election support, and

election observation in Cuba.

(2) Action of other member states

The President should instruct the United States Permanent Representative to the Organization of American

States to encourage other member states of the Organization to join in calling for the Cuban Government to

allow the immediate deployment of independent human rights monitors of the Organization throughout Cuba and

on-site visits to Cuba by the Inter-American Commission on Human Rights.

(3) Voluntary contributions for fund

Notwithstanding section 2227 of this title or any other provision of law limiting the United States proportionate

share of assistance to Cuba by any international organization, the President should provide not less than

\$5,000,000 of the voluntary contributions of the United States to the Organization of American States solely for the purposes of the special fund referred to in paragraph (1).

(c) Denial of funds to Cuban Government

In implementing this section, the President shall take all necessary steps to ensure that no funds or other

assistance is provided to the Cuban Government.

(Pub. L. 104–114, title I, §109, Mar. 12, 1996, 110 Stat. 799.)

§6040. Importation safeguard against certain Cuban products

(a) Prohibition on import of and dealings in Cuban products

The Congress notes that section 515.204 of title 31, Code of Federal Regulations, prohibits the entry of, and

dealings outside the United States in, merchandise that—

(1) is of Cuban origin;

(2) is or has been located in or transported from or through Cuba; or

(3) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(b) Effect of NAFTA

The Congress notes that United States accession to the North American Free Trade Agreement does not modify

or alter the United States sanctions against Cuba. The statement of administrative action accompanying that trade

agreement specifically states the following:

(1) "The NAFTA rules of origin will not in any way diminish the Cuban sanctions program. . . . Nothing in the

NAFTA would operate to override this prohibition."

(2) "Article 309(3) [of the NAFTA] permits the United States to ensure that Cuban products or goods made

from Cuban materials are not imported into the United States from Mexico or Canada and that United States

products are not exported to Cuba through those countries."

(c) Restriction of sugar imports

The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99–198) requires the

President not to allocate any of the sugar import quota to a country that is a net importer of sugar unless

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appropriate officials of that country verify to the President that the country does not import for reexport to the

United States any sugar produced in Cuba.

(d) Assurances regarding sugar products

Protection of essential security interests of the United States requires assurances that sugar products that are

entered, or withdrawn from warehouse for consumption, into the customs territory of the United States are not

products of Cuba.

(Pub. L. 104–114, title I, §110, Mar. 12, 1996, 110 Stat. 800.)

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Section 902(c) of the Food Security Act of 1985, referred to in subsec. (c), is section 902(c) of Pub.

L. 99–198, which is set out as a note under section 1446g of Title 7, Agriculture.

§6041. Withholding of foreign assistance from countries supporting Juragua nuclear plant in Cuba

(a) Findings

The Congress makes the following findings:

(1) President Clinton stated in April 1993 that the United States opposed the construction of the Juragua

nuclear power plant because of the concerns of the United States about Cuba's ability to ensure the safe

operation of the facility and because of Cuba's refusal to sign the Nuclear Non-Proliferation Treaty or ratify the Treaty of Tlatelolco.

(2) Cuba has not signed the Treaty on the Non-Proliferation of Nuclear Weapons or ratified the Treaty of Tlatelolco, the latter of which establishes Latin America and the Caribbean as a nuclear weapons-free zone.

(3) The State Department, the Nuclear Regulatory Commission, and the Department of Energy have expressed concerns about the construction and operation of Cuba's nuclear reactors.

(4) In a September 1992 report to the Congress, the General Accounting Office outlined concerns among nuclear energy experts about deficiencies in the nuclear plant project in Juragua, near Cienfuegos, Cuba, including—

(A) a lack in Cuba of a nuclear regulatory structure;

(B) the absence in Cuba of an adequate infrastructure to ensure the plant's safe operation and requisite maintenance;

(C) the inadequacy of training of plant operators;

(D) reports by a former technician from Cuba who, by examining with x-rays weld sites believed to be part of

the auxiliary plumbing system for the plant, found that 10 to 15 percent of those sites were defective;

(E) since September 5, 1992, when construction on the plant was halted, the prolonged exposure to the

elements, including corrosive salt water vapor, of the primary reactor components; and

(F) the possible inadequacy of the upper portion of the reactors' dome retention capability to withstand only

7 pounds of pressure per square inch, given that normal atmospheric pressure is 32 pounds per square inch

and United States reactors are designed to accommodate pressures of 50 pounds per square inch.

(5) The United States Geological Survey claims that it had difficulty determining answers to specific questions

regarding earthquake activity in the area near Cienfuegos because the Cuban Government was not forthcoming

with information.

(6) The Geological Survey has indicated that the Caribbean plate, a geological formation near the south coast

of Cuba, may pose seismic risks to Cuba and the site of the power plant, and may produce large to moderate earthquakes.

(7) On May 25, 1992, the Caribbean plate produced an earthquake numbering 7.0 on the Richter scale.

(8) According to a study by the National Oceanic and Atmospheric Administration, summer winds could carry

radioactive pollutants from a nuclear accident at the power plant throughout all of Florida and parts of the States

on the coast of the Gulf of Mexico as far as Texas, and northern winds could carry the pollutants as far northeast

as Virginia and Washington, D.C.

(9) The Cuban Government, under dictator Fidel Castro, in 1962 advocated the Soviets' launching of nuclear

missiles to the United States, which represented a direct and dangerous provocation of the United States and

brought the world to the brink of a nuclear conflict.

(10) Fidel Castro over the years has consistently issued threats against the United States Government, most

recently that he would unleash another perilous mass migration from Cuba upon the enactment of this chapter.

(11) Despite the various concerns about the plant's safety and operational problems, a feasibility study is

being conducted that would establish a support group to include Russia, Cuba, and third countries with the objective of completing and operating the plant.

(b) Withholding of foreign assistance

(1) In general

Notwithstanding any other provision of law, the President shall withhold from assistance allocated, on or after March 12, 1996, for any country an amount equal to the sum of assistance and credits, if any, provided on or after March 12, 1996, by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

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(2) Exceptions

The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

- (A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;
- (B) democratic political reform or rule of law activities;
- (C) the creation of private sector or nongovernmental organizations that are independent of government control;
- (D) the development of a free market economic system;
- (E) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160) [22 U.S.C. 5951 et seq.]; or
- (F) assistance under the secondary school exchange program administered by the United States Information Agency.

(3) "Assistance" defined

As used in paragraph (1), the term "assistance" means assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], credits, sales, guarantees of extensions of credit, and other assistance under the Arms Export Control Act [22 U.S.C. 2751 et seq.], assistance under titles I and III of the Food for Peace Act [7 U.S.C. 1701 et seq., 1727 et seq.], assistance under the FREEDOM Support Act, and any other program of assistance or credits provided by the United States to other countries under other provisions of law. (Pub. L. 104–114, title I, §111, Mar. 12, 1996, 110 Stat. 800; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(W), June 18, 2008, 122 Stat. 1820, 1821.)

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Upon the enactment of this chapter, referred to in subsec. (a)(10), means the date of enactment of Pub. L. 104–114, which was approved Mar. 12, 1996.

The Cooperative Threat Reduction Act of 1993, referred to in subsec. (b)(2)(E), is title XII of div. A of Pub. L. 103–160, Nov. 30, 1993, 107 Stat. 1777, which is classified generally to chapter 68A (§5951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5951 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (b)(3), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (b)(3), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Food for Peace Act, referred to in subsec. (b)(3), is act July 10, 1954, ch. 469, 68 Stat. 454. Titles I and III of the Act are classified generally to subchapters II (§1701 et seq.) and III–A (§1727 et seq.), respectively, of chapter 41 of Title 7, Agriculture. For complete classification of this Act to the

Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The FREEDOM Support Act, referred to in subsec. (b)(3), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, also known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

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2008—Subsec. (b)(3). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

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General Accounting Office redesignated Government Accountability Office by section 8 of Pub. L. 108–271, set out as a note under section 702 of Title 31, Money and Finance.

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Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

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United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and

6532 of this title.

§6042. Reinstitution of family remittances and travel to Cuba

It is the sense of the Congress that the President should—

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(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; and

(B) if licenses described in subparagraph (A) are reinstated, require a specific license for remittances described in subparagraph (A) in amounts of more than \$500; and

(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.

(Pub. L. 104–114, title I, §112, Mar. 12, 1996, 110 Stat. 802.)

§6043. Expulsion of criminals from Cuba

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.

(Pub. L. 104–114, title I, §113, Mar. 12, 1996, 110 Stat. 803.)

§6044. News bureaus in Cuba

(a) Establishment of news bureaus

The President is authorized to establish and implement an exchange of news bureaus between the United

States and Cuba, if the exchange meets the following conditions:

(1) The exchange is fully reciprocal.

(2) The Cuban Government agrees not to interfere with the establishment of news bureaus or with the movement in Cuba of journalists of any United States-based news organizations, including Radio Marti and

Television Marti.

(3) The Cuban Government agrees not to interfere with decisions of United States-based news organizations

with respect to individuals assigned to work as journalists in their news bureaus in Cuba.

(4) The Department of the Treasury is able to ensure that only accredited journalists regularly employed with a

news gathering organization travel to Cuba under this subsection.

(5) The Cuban Government agrees not to interfere 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.

(b) Assurance against espionage

In implementing this section, the President shall take all necessary steps to ensure the safety and security of the

United States against espionage by Cuban journalists it believes to be working for the intelligence agencies of the

Cuban Government.

(c) Fully reciprocal

As used in subsection (a)(1), the term "fully reciprocal" means that all news services, news organizations, and

broadcasting services, including such services or organizations that receive financing, assistance, or other support

from a governmental or official source, are permitted to establish and operate a news bureau in the United States

and Cuba.

(Pub. L. 104–114, title I, §114, Mar. 12, 1996, 110 Stat. 803.)

§6045. Effect of chapter on lawful United States Government activities

Nothing in this chapter prohibits any lawfully authorized investigative, protective, or intelligence activity of a law

enforcement agency, or of an intelligence agency, of the United States.

(Pub. L. 104–114, title I, §115, Mar. 12, 1996, 110 Stat. 803.)

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This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

§6046. Condemnation of Cuban attack on American aircraft

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(a) Findings

The Congress makes the following findings:

(1) Brothers to the Rescue is a Miami-based humanitarian organization engaged in searching for and aiding

Cuban refugees in the Straits of Florida, and was engaged in such a mission on Saturday, February 24, 1996.

(2) The members of Brothers to the Rescue were flying unarmed and defenseless planes in a mission identical to hundreds they have flown since 1991 and posed no threat whatsoever to the Cuban Government,

the Cuban military, or the Cuban people.

(3) Statements by the Cuban Government that Brothers to the Rescue has engaged in covert operations,

bombing campaigns, and commando operations against the Government of Cuba have no basis in fact.

(4) The Brothers to the Rescue aircraft notified air traffic controllers as to their flight plans, which would take

them south of the 24th parallel and close to Cuban airspace.

(5) International law provides a nation with airspace over the 12-mile territorial sea.

(6) The response of Fidel Castro's dictatorship to Saturday's afternoon flight was to scramble 2 fighter jets

from a Havana airfield.

(7) At approximately 3:24 p.m., the pilot of one of the Cuban MiGs received permission and proceeded to shoot down one Brothers to the Rescue airplane more than 6 miles north of the Cuban exclusion zone, or 18

miles from the Cuban coast.

(8) Approximately 7 minutes later, the pilot of the Cuban fighter jet received permission and proceeded to

shoot down the second Brothers to the Rescue airplane almost 18.5 miles north of the Cuban exclusion zone, or

30.5 miles from the Cuban coast.

(9) The Cuban dictatorship, if it truly felt threatened by the flight of these unarmed aircraft, could have and

should have pursued other peaceful options as required by international law.

(10) The response chosen by Fidel Castro, the use of lethal force, was completely inappropriate to the situation presented to the Cuban Government, making such actions a blatant and barbaric violation of international law and tantamount to cold-blooded murder.

(11) There were no survivors of the attack on these aircraft, and the crew of a third aircraft managed to escape

this criminal attack by Castro's Air Force.

(12) The crew members of the destroyed planes, Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandro, were United States citizens from Miami flying with Brothers to the Rescue on a voluntary

basis.

(13) It is incumbent upon the United States Government to protect the lives and livelihoods of United States

citizens as well as the rights of free passage and humanitarian missions.

(14) This premeditated act took place after a week-long wave of repression by the Cuban Government against

Concilio Cubano, an umbrella organization of human rights activists, dissidents, independent economists, and

independent journalists, among others.

(15) The wave of repression against Concilio Cubano, whose membership is committed to peaceful democratic change in Cuba, included arrests, strip searches, house arrests, and in some cases sentences to

more than 1 year in jail.

(b) Statements by Congress

(1) The Congress strongly condemns the act of terrorism by the Castro regime in shooting down the Brothers to

the Rescue aircraft on February 24, 1996.

(2) The Congress extends its condolences to the families of Pablo Morales, Carlos Costa, Mario de la Pena, and

Armando Alejandro, the victims of the attack.

(3) The Congress urges the President to seek, in the International Court of Justice, indictment for this act of

terrorism by Fidel Castro.

(Pub. L. 104–114, title I, §116, Mar. 12, 1996, 110 Stat. 803.)

SUBCHAPTER II—ASSISTANCE TO FREE AND INDEPENDENT CUBA

§6061. Policy toward transition government and democratically elected government in Cuba

The policy of the United States is as follows:

(1) To support the self-determination of the Cuban people.

(2) To recognize that the self-determination of the Cuban people is a sovereign and national right of the

citizens of Cuba which must be exercised free of interference by the government of any other country.

(3) To encourage the Cuban people to empower themselves with a government which reflects the selfdetermination

of the Cuban people.

(4) To recognize the potential for a difficult transition from the current regime in Cuba that may result from the

initiatives taken by the Cuban people for self-determination in response to the intransigence of the Castro regime in not allowing any substantive political or economic reforms, and to be prepared to provide the Cuban people with humanitarian, developmental, and other economic assistance.

(5) In solidarity with the Cuban people, to provide appropriate forms of assistance—

(A) to a transition government in Cuba;

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(B) to facilitate the rapid movement from such a transition government to a democratically elected government in Cuba that results from an expression of the self-determination of the Cuban people; and

(C) to support such a democratically elected government.

(6) Through such assistance, to facilitate a peaceful transition to representative democracy and a market

economy in Cuba and to consolidate democracy in Cuba.

(7) To deliver such assistance to the Cuban people only through a transition government in Cuba, through a

democratically elected government in Cuba, through United States Government organizations, or through United

States, international, or indigenous nongovernmental organizations.

(8) To encourage other countries and multilateral organizations to provide similar assistance, and to work

cooperatively with such countries and organizations to coordinate such assistance.

(9) To ensure that appropriate assistance is rapidly provided and distributed to the people of Cuba upon the

institution of a transition government in Cuba.

(10) Not to provide favorable treatment or influence on behalf of any individual or entity in the selection by the

Cuban people of their future government.

(11) To assist a transition government in Cuba and a democratically elected government in Cuba to prepare

the Cuban military forces for an appropriate role in a democracy.

(12) To be prepared to enter into negotiations with a democratically elected government in Cuba either to

return the United States Naval Base at Guantanamo to Cuba or to renegotiate the present agreement under

mutually agreeable terms.

(13) To consider the restoration of diplomatic recognition and support the reintegration of the Cuban Government into Inter-American organizations when the President determines that there exists a democratically

elected government in Cuba.

(14) To take steps to remove the economic embargo of Cuba when the President determines that a transition

to a democratically elected government in Cuba has begun.

(15) To assist a democratically elected government in Cuba to strengthen and stabilize its national currency.

(16) To pursue trade relations with a free, democratic, and independent Cuba.

(Pub. L. 104–114, title II, §201, Mar. 12, 1996, 110 Stat. 805.)

§6062. Assistance for Cuban people

(a) Authorization

(1) In general

The President shall develop a plan for providing economic assistance to Cuba at such time as the President

determines that a transition government or a democratically elected government in Cuba (as determined under

section 6063(c) of this title) is in power.

(2) Effect on other laws

Assistance may be provided under this section subject to an authorization of appropriations and subject to the

availability of appropriations.

(b) Plan for assistance

(1) Development of plan

The President shall develop a plan for providing assistance under this section—

(A) to Cuba when a transition government in Cuba is in power; and

(B) to Cuba when a democratically elected government in Cuba is in power.

(2) Types of assistance

Assistance under the plan developed under paragraph (1) may, subject to an authorization of appropriations

and subject to the availability of appropriations, include the following:

(A) Transition government

(i) Except as provided in clause (ii), assistance to Cuba under a transition government shall, subject to an

authorization of appropriations and subject to the availability of appropriations, be limited to—

(I) such food, medicine, medical supplies and equipment, and assistance to meet emergency energy needs, as is necessary to meet the basic human needs of the Cuban people; and

(II) assistance described in subparagraph (C).

(ii) Assistance in addition to assistance under clause (i) may be provided, but only after the President certifies to the appropriate congressional committees, in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 [22 U.S.C. 2394–1],

that such assistance is essential to the successful completion of the transition to democracy.

(iii) Only after a transition government in Cuba is in power, freedom of individuals to travel to visit their relatives without any restrictions shall be permitted.

(B) Democratically elected government

Assistance to a democratically elected government in Cuba may, subject to an authorization of appropriations and subject to the availability of appropriations, consist of economic assistance in addition to

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assistance available under subparagraph (A), together with assistance described in subparagraph (C). Such

economic assistance may include—

(i) assistance under chapter 1 of part I [22 U.S.C. 2151 et seq.] (relating to development assistance), and

chapter 4 of part II [22 U.S.C. 2346 et seq.] (relating to the economic support fund), of the Foreign Assistance Act of 1961;

(ii) assistance under the Food for Peace Act [7 U.S.C. 1691 et seq.];

(iii) financing, guarantees, and other forms of assistance provided by the Export-Import Bank of the United

States;

(iv) financial support provided by the Overseas Private Investment Corporation for investment projects in

Cuba;

(v) assistance provided by the Trade and Development Agency;

(vi) Peace Corps programs; and

(vii) other appropriate assistance to carry out the policy of section 6061 of this title.

(C) Military adjustment assistance

Assistance to a transition government in Cuba and to a democratically elected government in Cuba shall

also include assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy.

(c) Strategy for distribution

The plan developed under subsection (b) shall include a strategy for distributing assistance under the plan.

(d) Distribution

Assistance under the plan developed under subsection (b) shall be provided through United States Government

organizations and nongovernmental organizations and private and voluntary organizations, whether within or

outside the United States, including humanitarian, educational, labor, and private sector organizations.

(e) International efforts

The President shall take the necessary steps—

(1) to seek to obtain the agreement of other countries and of international financial institutions and multilateral organizations to provide to a transition government in Cuba, and to a democratically elected government in

Cuba, assistance comparable to that provided by the United States under this chapter; and

(2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(f) Communication with Cuban people

The President shall take the necessary steps to communicate to the Cuban people the plan for assistance

developed under this section.

(g) Report to Congress

Not later than 180 days after March 12, 1996, the President shall transmit to the appropriate congressional

committees a report describing in detail the plan developed under this section.

(h) Report on trade and investment relations

(1) Report to Congress

The President, following the transmittal to the Congress of a determination under section 6063(c)(3) of this title

that a democratically elected government in Cuba is in power, shall submit to the Committee on Ways and

Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate

congressional committees a report that describes—

(A) acts, policies, and practices which constitute significant barriers to, or distortions of, United States trade

in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with a democratically elected government

in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored-nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] (relating to the Generalized System of Preferences) or as a beneficiary country under

the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.], and the implications of such designation with respect to trade with any other country that is such a beneficiary developing country or

beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade

Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives

described in section 3317(b)(5) of title 19; and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) Consultation

The President shall consult with the Committee on Ways and Means of the House of Representatives and the

Committee on Finance of the Senate and the appropriate congressional committees and shall seek advice from

the appropriate advisory committees established under section 135 of the Trade Act of 1974 [19 U.S.C. 2155]

regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

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(Pub. L. 104–114, title II, §202, Mar. 12, 1996, 110 Stat. 806; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(W), June 18, 2008, 122 Stat. 1820, 1821; Pub. L. 115–254, div. F, title VI, §1470(n), Oct. 5, 2018, 132 Stat. 3518.)

A (b)(2)(B)

Pub. L. 115–254, div. F, title VI, §1470(n), (w), Oct. 5, 2018, 132 Stat. 3518, 3519, provided that, effective at the

end of the transition period, as defined in section 9681 of this title, subsection (b)(2)(B)(iv) of this section is

amended by striking "Overseas Private Investment Corporation" and inserting "United States International

Development Finance Corporation". See 2018 Amendment note below.

R **T**

The Foreign Assistance Act of 1961, referred to in subsec. (b)(2)(B)(i), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Act are classified generally to part I (§2151 et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of chapter 32 of this title. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, referred to in subsec. (b)(2)(B)(ii), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

This chapter, referred to in subsec. (e)(1), was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of

1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (h)(1)(B)(ii), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Title V of the Act is classified generally to subchapter V (§2461 et seq.) of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (h)(1)(B)(ii), is title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to chapter 15 (§2701 et seq.) of Title 19.

For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 19 and Tables.

A

2018—Subsec. (b)(2)(B)(iv). Pub. L. 115–254 substituted "United States International Development Finance Corporation" for "Overseas Private Investment Corporation".

2008—Subsec. (b)(2)(B)(ii). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

E **D** **2018 A**

Amendment by Pub. L. 115–254 effective at the end of the transition period, as defined in section 9681

of this title, see section 1470(w) of Pub. L. 115–254, set out as a note under section 905 of Title 2, The Congress.

E **D** **2008 A**

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§6063. Coordination of assistance program; implementation and reports to Congress; reprogramming

(a) Coordinating official

The President shall designate a coordinating official who shall be responsible for—

- (1) implementing the strategy for distributing assistance described in section 6062(b) of this title;
- (2) ensuring the speedy and efficient distribution of such assistance; and
- (3) ensuring coordination among, and appropriate oversight by, the agencies of the United States that provide

assistance described in section 6062(b) of this title, including resolving any disputes among such agencies.

(b) United States-Cuba council

Upon making a determination under subsection (c)(3) that a democratically elected government in Cuba is in power, the President, after consultation with the coordinating official, is authorized to designate a United States-Cuba council—

(1) to ensure coordination between the United States Government and the private sector in responding to

change in Cuba, and in promoting market-based development in Cuba; and

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(2) to establish periodic meetings between representatives of the United States and Cuban private sectors for

the purpose of facilitating bilateral trade.

(c) Implementation of plan; reports to Congress

(1) Implementation with respect to transition government

Upon making a determination that a transition government in Cuba is in power, the President shall transmit

that determination to the appropriate congressional committees and shall, subject to an authorization of

appropriations and subject to the availability of appropriations, commence the delivery and distribution of

assistance to such transition government under the plan developed under section 6062(b) of this title.

(2) Reports to Congress

(A) The President shall transmit to the appropriate congressional committees a report setting forth the strategy

for providing assistance described in section 6062(b)(2)(A) and (C) of this title to the transition government in

Cuba under the plan of assistance developed under section 6062(b) of this title, the types of such assistance,

and the extent to which such assistance has been distributed in accordance with the plan.

(B) The President shall transmit the report not later than 90 days after making the determination referred to in

paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after

making that determination.

(3) Implementation with respect to democratically elected government

The President shall, upon determining that a democratically elected government in Cuba is in power, submit

that determination to the appropriate congressional committees and shall, subject to an authorization of

appropriations and subject to the availability of appropriations, commence the delivery and distribution of

assistance to such democratically elected government under the plan developed under section 6062(b) of this

title.

(4) Annual reports to Congress

Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 6062(b)

of this title, including a description of each type of assistance, the amounts expended for such assistance, and a

description of the assistance to be provided under the plan in the current fiscal year.

(d) Reprogramming

Any changes in the assistance to be provided under the plan developed under section 6062(b) of this title may

not be made unless the President notifies the appropriate congressional committees at least 15 days in advance in

accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title.

(Pub. L. 104–114, title II, §203, Mar. 12, 1996, 110 Stat. 809.)

§6064. Termination of economic embargo of Cuba

(a) Presidential actions

Upon submitting a determination to the appropriate congressional committees under section 6063(c)(1) of this

title that a transition government in Cuba is in power, the President, after consultation with the Congress, is

authorized to take steps to suspend the economic embargo of Cuba and to suspend the right of action created in

section 6082 of this title with respect to actions thereafter filed against the Cuban Government, to the extent that

such steps contribute to a stable foundation for a democratically elected government in Cuba.

(b) Suspension of certain provisions of law

In carrying out subsection (a), the President may suspend the enforcement of—

(1) section 2370(a) of this title;

(2) section 2370(f) of this title with respect to the "Republic of Cuba";

(3) sections 6003, 6004(d), and 6005 of this title;

(4) section 902(c) of the Food Security Act of 1985; and

(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

(c) Additional Presidential actions

Upon submitting a determination to the appropriate congressional committees under section 6063(c)(3) of this

title that a democratically elected government in Cuba is in power, the President shall take steps to terminate the

economic embargo of Cuba, including the restrictions under part 515 of title 31, Code of Federal Regulations.

(d) Conforming amendments

On the date on which the President submits a determination under section 6063(c)(3) of this title—

(1) section 2370(a) of this title is repealed;

(2) section 2370(f) of this title is amended by striking "Republic of Cuba";

(3) sections 6003, 6004(d), and 6005 of this title are repealed; and

(4) section 902(c) of the Food Security Act of 1985 is repealed.

(e) Review of suspension of economic embargo

(1) Review

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If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President

shall immediately so notify the Congress. The President shall report to the Congress no less frequently than

every 6 months thereafter, until he submits a determination under section 6063(c)(3) of this title that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the

establishment of such a democratically elected government. The action of the President under subsection (a)

shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) Joint resolutions

For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of

Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action

of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to

suspend the economic embargo of Cuba, notice of which was submitted to the Congress on ____.", with the

blank space being filled with the appropriate date.

(3) Referral to committees

Joint resolutions introduced in the House of Representatives shall be referred to the Committee on

International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) Procedures

(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b)

of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to

the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated

as highly privileged in the House of Representatives.

(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the

6-month period beginning on the date on which the President notifies the Congress under paragraph (1) of the

action taken under subsection (a), and in each 6-month period thereafter.

(Pub. L. 104–114, title II, §204, Mar. 12, 1996, 110 Stat. 810.)

R **T**

Section 902(c) of the Food Security Act of 1985, referred to in subsecs. (b)(4) and (d)(4), is section 902(c) of Pub. L. 99–198, which is set out as a note under section 1446g of Title 7, Agriculture.

Section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, referred to in subsec. (e)(2), is subsec. (a) of this section.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (e)(4)(A), is section 601(b) of Pub. L. 94–329, title VI, June 30, 1976, 90 Stat. 765,

which is not classified to the Code.

C **N**

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§6065. Requirements and factors for determining transition government

(a) Requirements

For the purposes of this chapter, a transition government in Cuba is a government that—

(1) has legalized all political activity;

(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the

Committees for the Defense of the Revolution and the Rapid Response Brigades; and

(4) has made public commitments to organizing free and fair elections for a new government—

(A) to be held in a timely manner within a period not to exceed 18 months after the transition government

assumes power;

(B) with the participation of multiple independent political parties that have full access to the media on an

equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(C) to be conducted under the supervision of internationally recognized observers, such as the Organization

of American States, the United Nations, and other election monitors;

(5) has ceased any interference with Radio Marti or Television Marti broadcasts;

(6) makes public commitments to and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

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(C) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the

International Labor Organization, and allowing the establishment of independent social, economic, and political associations;

(7) does not include Fidel Castro or Raul Castro; and

(8) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people.

(b) Additional factors

In addition to the requirements in subsection (a), in determining whether a transition government in Cuba is in

power, the President shall take into account the extent to which that government—

(1) is demonstrably in transition from a communist totalitarian dictatorship to representative democracy;

(2) has made public commitments to, and is making demonstrable progress in—

(A) effectively guaranteeing the rights of free speech and freedom of the press, including granting permits to

privately owned media and telecommunications companies to operate in Cuba;

(B) permitting the reinstatement of citizenship to Cuban-born persons returning to Cuba;

(C) assuring the right to private property; and

(D) taking appropriate steps to return to United States citizens (and entities which are 50 percent or more

beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and

entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such

property;

(3) has extradited or otherwise rendered to the United States all persons sought by the United States

Department of Justice for crimes committed in the United States; and

(4) has permitted the deployment throughout Cuba of independent and unfettered international human rights

monitors.

(Pub. L. 104–114, title II, §205, Mar. 12, 1996, 110 Stat. 811.)

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This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

§6066. Requirements for determining democratically elected government

For purposes of this chapter, a democratically elected government in Cuba, in addition to meeting the requirements of section 6065(a) of this title, is a government which—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers; and

(B) in which—

(i) opposition parties were permitted ample time to organize and campaign for such elections; and

(ii) all candidates were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) is substantially moving toward a market-oriented economic system based on the right to own and enjoy

property;

(4) is committed to making constitutional changes that would ensure regular free and fair elections and the full

enjoyment of basic civil liberties and human rights by the citizens of Cuba;

(5) has made demonstrable progress in establishing an independent judiciary; and

(6) has made demonstrable progress in returning to United States citizens (and entities which are 50 percent

or more beneficially owned by United States citizens) property taken by the Cuban Government from such

citizens and entities on or after January 1, 1959, or providing full compensation for such property in accordance

with international law standards and practice.

(Pub. L. 104–114, title II, §206, Mar. 12, 1996, 110 Stat. 812.)

R

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

§6067. Settlement of outstanding United States claims to confiscated property in Cuba

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(a) Report to Congress

Not later than 180 days after March 12, 1996, the Secretary of State shall provide a report to the appropriate

congressional committees containing an assessment of the property dispute question in Cuba, including—

(1) an estimate of the number and amount of claims to property confiscated by the Cuban Government that

are held by United States nationals in addition to those claims certified under section 1643f of this title;

(2) an assessment of the significance of promptly resolving confiscated property claims to the revitalization of

the Cuban economy;

(3) a review and evaluation of technical and other assistance that the United States could provide to help

either a transition government in Cuba or a democratically elected government in Cuba establish mechanisms to

resolve property questions;

(4) an assessment of the role and types of support the United States could provide to help resolve claims to

property confiscated by the Cuban Government that are held by United States nationals who did not receive or

qualify for certification under section 1643f of this title; and

(5) an assessment of any areas requiring legislative review or action regarding the resolution of property

claims in Cuba prior to a change of government in Cuba.

(d) 1 Sense of Congress

It is the sense of the Congress that the satisfactory resolution of property claims by a Cuban Government

recognized by the United States remains an essential condition for the full resumption of economic and diplomatic

relations between the United States and Cuba.

(Pub. L. 104–114, title II, §207, Mar. 12, 1996, 110 Stat. 813.)

1 So in original. No subsec. (b) or (c) has been enacted.

SUBCHAPTER III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS**§6081. Findings**

The Congress makes the following findings:

(1) Individuals enjoy a fundamental right to own and enjoy property which is enshrined in the United States

Constitution.

(2) The wrongful confiscation or taking of property belonging to United States nationals by the Cuban Government, and the subsequent exploitation of this property at the expense of the rightful owner, undermines

the comity of nations, the free flow of commerce, and economic development.

(3) Since Fidel Castro seized power in Cuba in 1959—

(A) he has trampled on the fundamental rights of the Cuban people; and

(B) through his personal despotism, he has confiscated the property of—

(i) millions of his own citizens;

(ii) thousands of United States nationals; and

(iii) thousands more Cubans who claimed asylum in the United States as refugees because of persecution and later became naturalized citizens of the United States.

(4) It is in the interest of the Cuban people that the Cuban Government respect equally the property rights of

Cuban nationals and nationals of other countries.

(5) The Cuban Government is offering foreign investors the opportunity to purchase an equity interest in, manage, or enter into joint ventures using property and assets some of which were confiscated from United States nationals.

(6) This "trafficking" in confiscated property provides badly needed financial benefit, including hard currency, oil, and productive investment and expertise, to the current Cuban Government and thus undermines the foreign policy of the United States—

(A) to bring democratic institutions to Cuba through the pressure of a general economic embargo at a time

when the Castro regime has proven to be vulnerable to international economic pressure; and

(B) to protect the claims of United States nationals who had property wrongfully confiscated by the Cuban Government.

(7) The United States Department of State has notified other governments that the transfer to third parties of properties confiscated by the Cuban Government "would complicate any attempt to return them to their original owners".

(8) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.

(9) International law recognizes that a nation has the ability to provide for rules of law with respect to conduct

outside its territory that has or is intended to have substantial effect within its territory.

(10) The United States Government has an obligation to its citizens to provide protection against wrongful

confiscations by foreign nations and their citizens, including the provision of private remedies.

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(11) To deter trafficking in wrongfully confiscated property, United States nationals who were the victims of

these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny

traffickers any profits from economically exploiting Castro's wrongful seizures.

(Pub. L. 104–114, title III, §301, Mar. 12, 1996, 110 Stat. 814.)

§6082. Liability for trafficking in confiscated property claimed by United States nationals

(a) Civil remedy

(1) Liability for trafficking

(A) Except as otherwise provided in this section, any person that, after the end of the 3-month period beginning on the effective date of this subchapter, traffics in property which was confiscated by the Cuban

Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to

such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949 [22 U.S.C. 1621 et seq.], plus interest;

(II) the amount determined under section 6083(a)(2) of this title, plus interest; or

(III) the fair market value of that property, calculated as being either the current value of the property, or

the value of the property when confiscated plus interest, whichever is greater; and

(ii) court costs and reasonable attorneys' fees.

(B) Interest under subparagraph (A)(i) shall be at the rate set forth in section 1961 of title 28, computed by the

court from the date of confiscation of the property involved to the date on which the action is brought under this subsection.

(2) Presumption in favor of the certified claims

There shall be a presumption that the amount for which a person is liable under clause (i) of paragraph (1)(A)

is the amount that is certified as described in subclause (I) of that clause. The presumption shall be rebuttable by

clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate

amount of liability under that clause.

(3) Increased liability

(A) Any person that traffics in confiscated property for which liability is incurred under paragraph (1) shall, if a

United States national owns a claim with respect to that property which was certified by the Foreign Claims

Settlement Commission under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.],

be liable for damages computed in accordance with subparagraph (C).

(B) If the claimant in an action under this subsection (other than a United States national to whom subparagraph (A) applies) provides, after the end of the 3-month period described in paragraph (1) notice to—

(i) a person against whom the action is to be initiated, or

(ii) a person who is to be joined as a defendant in the action,

at least 30 days before initiating the action or joining such person as a defendant, as the case may be, and that

person, after the end of the 30-day period beginning on the date the notice is provided, traffics in the confiscated

property that is the subject of the action, then that person shall be liable to that claimant for damages computed

in accordance with subparagraph (C).

(C) Damages for which a person is liable under subparagraph (A) or subparagraph (B) are money damages in

an amount equal to the sum of—

(i) the amount determined under paragraph (1)(A)(ii), and

(ii) 3 times the amount determined applicable under paragraph (1)(A)(i).

(D) Notice to a person under subparagraph (B)—

(i) shall be in writing;

(ii) shall be posted by certified mail or personally delivered to the person; and

(iii) shall contain—

(I) a statement of intention to commence the action under this section or to join the person as a defendant

(as the case may be), together with the reasons therefor;

(II) a demand that the unlawful trafficking in the claimant's property cease immediately; and

(III) a copy of the summary statement published under paragraph (8).

(4) Applicability

(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect

to property confiscated before, on, or after March 12, 1996.

(B) In the case of property confiscated before March 12, 1996, a United States national may not bring an

action under this section on a claim to the confiscated property unless such national acquires ownership of the

claim before March 12, 1996.

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(C) In the case of property confiscated on or after March 12, 1996, a United States national who, after the

property is confiscated, acquires ownership of a claim to the property by assignment for value, may not bring an

action on the claim under this section.

(5) Treatment of certain actions

(A) In the case of a United States national who was eligible to file a claim with the Foreign Claims Settlement

Commission under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.] but did not

so file the claim, that United States national may not bring an action on that claim under this section.

(B) In the case of any action brought under this section by a United States national whose underlying claim in

the action was timely filed with the Foreign Claims Settlement Commission under title V of the International

Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the

Commission on the claim as conclusive in the action under this section.

(C) A United States national, other than a United States national bringing an action under this section on a

claim certified under title V of the International Claims Settlement Act of 1949, may not bring an action on a claim

under this section before the end of the 2-year period beginning on March 12, 1996.

(D) An interest in property for which a United States national has a claim certified under title V of the International Claims Settlement Act of 1949 may not be the subject of a claim in an action under this section by

any other person. Any person bringing an action under this section whose claim has not been so certified shall

have the burden of establishing for the court that the interest in property that is the subject of the claim is not the

subject of a claim so certified.

(6) Inapplicability of act of state doctrine

No court of the United States shall decline, based upon the act of state doctrine, to make a determination on

the merits in an action brought under paragraph (1) .

(7) Licenses not required

(A) Notwithstanding any other provision of law, an action under this section may be brought and may be

settled, and a judgment rendered in such action may be enforced, without obtaining any license or other

permission from any agency of the United States, except that this paragraph shall not apply to the execution of a

judgment against, or the settlement of actions involving, property blocked under the authorities of section

4305(b) of title 50, that were being exercised on July 1, 1977, as a result of a national emergency declared by

the President before such date, and are being exercised on March 12, 1996.

(B) Notwithstanding any other provision of law, and for purposes of this subchapter only, any claim against the

Cuban Government shall not be deemed to be an interest in property the transfer of which to a United States

national required before March 12, 1996, or requires after March 12, 1996, a license issued by, or the permission

of, any agency of the United States.

(8) Publication by Attorney General

Not later than 60 days after March 12, 1996, the Attorney General shall prepare and publish in the Federal

Register a concise summary of the provisions of this subchapter, including a statement of the liability under this

subchapter of a person trafficking in confiscated property, and the remedies available to United States nationals

under this subchapter.

(b) Amount in controversy

An action may be brought under this section by a United States national only where the amount in controversy exceeds the sum or value of \$50,000, exclusive of interest, costs, and attorneys' fees. In calculating \$50,000 for purposes of the preceding sentence, the applicable amount under subclause (I), (II), or (III) of subsection (a)(1)(A)

(i) may not be tripled as provided in subsection (a)(3).

(c) Procedural requirements

(1) In general

Except as provided in this subchapter, the provisions of title 28 and the rules of the courts of the United States

apply to actions under this section to the same extent as such provisions and rules apply to any other action

brought under section 1331 of title 28.

(2) Service of process

In an action under this section, service of process on an agency or instrumentality of a foreign state in the

conduct of a commercial activity, or against individuals acting under color of law, shall be made in accordance

with section 1608 of title 28.

(d) Enforceability of judgments against Cuban Government

In an action brought under this section, any judgment against an agency or instrumentality of the Cuban

Government shall not be enforceable against an agency or instrumentality of either a transition government in

Cuba or a democratically elected government in Cuba.

(e) Omitted

(f) Election of remedies

(1) Election

Subject to paragraph (2)—

(A) any United States national that brings an action under this section may not bring any other civil action or

proceeding under the common law, Federal law, or the law of any of the several States, the District of

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Columbia, or any commonwealth, territory, or possession of the United States, that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil

action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action

would otherwise be cognizable under this section may not bring an action under this section on that claim.

(2) Treatment of certified claimants

(A) In the case of any United States national that brings an action under this section based on a claim certified

under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.]—

(i) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States

national may not receive payment on the claim under any agreement entered into between the United States

and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the

United States from any further responsibility to represent the United States national with respect to that claim;

(ii) if the recovery in the action is less than the amount of the certified claim, the United States national may

receive payment under a claims agreement described in clause (i) but only to the extent of the difference

between the amount of the recovery and the amount of the certified claim; and

(iii) if there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in clause (i) to the same extent as any certified claimant who does not bring an action under this section.

(B) In the event some or all actions brought under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy the claims in such actions, including a pool of assets in a proceeding in bankruptcy, every claimant whose claim in an action so consolidated was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.] shall be entitled to payment in full of its claim from the assets in such pool before any payment is made from the assets in such pool with respect to any claim not so certified.

(g) Deposit of excess payments by Cuba under claims agreement

Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling certified claims under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.] that are in excess of the payments made on such certified claims after the application of subsection (f) shall be deposited into the United States Treasury.

(h) Termination of rights

(1) In general

All rights created under this section to bring an action for money damages with respect to property confiscated

by the Cuban Government—

(A) may be suspended under section 6064(a) of this title; and

(B) shall cease upon transmittal to the Congress of a determination of the President under section 6063(c)

(3) of this title that a democratically elected government in Cuba is in power.

(2) Pending suits

The suspension or termination of rights under paragraph (1) shall not affect suits commenced before the date

of such suspension or termination (as the case may be), and in all such suits, proceedings shall be had, appeals

taken, and judgments rendered in the same manner and with the same effect as if the suspension or termination

had not occurred.

(i) Imposition of filing fees

The Judicial Conference of the United States shall establish a uniform fee that shall be imposed upon the plaintiff

or plaintiffs in each action brought under this section. The fee should be established at a level sufficient to recover

the costs to the courts of actions brought under this section. The fee under this subsection is in addition to any

other fees imposed under title 28.

(Pub. L. 104–114, title III, §302, Mar. 12, 1996, 110 Stat. 815.)

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For the effective date of this subchapter, referred to in subsec. (a)(1)(A), as Aug. 1, 1996, or date determined pursuant to suspension authority of President see section 6085 of this title.

The International Claims Settlement Act of 1949, referred to in subsecs. (a)(1)(A)(i)(I), (3)(A), (5), (f) (2), and (g), is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended, which is classified generally to chapter 21 (§1621 et seq.) of this title. Title V of the Act is classified generally to subchapter V (§1643 et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

This subchapter, referred to in subsecs. (a)(7)(B), (8) and (c)(1), was in the original "this title", meaning title III of Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 814, which enacted this subchapter and

sections 1643l and 1643m of this title and amended section 1611 of Title 28, Judiciary and Judicial Procedure. For complete classification of title III to the Code, see Tables.

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Section is comprised of section 302 of Pub. L. 104–114. Subsec. (e) of section 302 of Pub. L. 104–114

amended section 1611 of Title 28, Judiciary and Judicial Procedure.

§6083. Proof of ownership of claims to confiscated property

(a) Evidence of ownership

(1) Conclusiveness of certified claims

In any action brought under this subchapter, the court shall accept as conclusive proof of ownership of an

interest in property a certification of a claim to ownership of that interest that has been made by the Foreign

Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643

and following).

(2) Claims not certified

If in an action under this subchapter a claim has not been so certified by the Foreign Claims Settlement

Commission, the court may appoint a special master, including the Foreign Claims Settlement Commission, to

make determinations regarding the amount and ownership of the claim. Such determinations are only for

evidentiary purposes in civil actions brought under this subchapter and do not constitute certifications under title

V of the International Claims Settlement Act of 1949.

(3) Effect of determinations of foreign or international entities

In determining the amount or ownership of a claim in an action under this subchapter, the court shall not

accept as conclusive evidence any findings, orders, judgments, or decrees from administrative agencies or

courts of foreign countries or international organizations that declare the value of or invalidate the claim, unless

the declaration of value or invalidation was found pursuant to binding international arbitration to which the United

States or the claimant submitted the claim.

(b) Omitted

(c) Rule of construction

Nothing in this chapter or in section 514 of the International Claims Settlement Act of 1949 [22 U.S.C. 1643l], as

added by subsection (b), shall be construed—

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after

their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign

Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly

government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made under title V of the

International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.] before March 12, 1996.

(Pub. L. 104–114, title III, §303, Mar. 12, 1996, 110 Stat. 819.)

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The International Claims Settlement Act of 1949, referred to in subsecs. (a)(1), (2) and (c)(2), is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended. Title V of the Act is classified generally to subchapter V (§1643 et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 104–114, Mar.

12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

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Section is comprised of section 303 of Pub. L. 104–114. Subsec. (b) of section 303 of Pub. L. 104–114

enacted section 1643I of this title.

§6084. Limitation of actions

An action under section 6082 of this title may not be brought more than 2 years after the trafficking giving rise to

the action has ceased to occur.

(Pub. L. 104–114, title III, §305, Mar. 12, 1996, 110 Stat. 821.)

§6085. Effective date

(a) In general

Subject to subsections (b) and (c), this subchapter and the amendments made by this subchapter shall take

effect on August 1, 1996.

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(b) Suspension authority

(1) Suspension authority

The President may suspend the effective date under subsection (a) for a period of not more than 6 months if

the President determines and reports in writing to the appropriate congressional committees at least 15 days

before such effective date that the suspension is necessary to the national interests of the United States and will

expedite a transition to democracy in Cuba.

(2) Additional suspensions

The President may suspend the effective date under subsection (a) for additional periods of not more than 6

months each, each of which shall begin on the day after the last day of the period during which a suspension is

in effect under this subsection, if the President determines and reports in writing to the appropriate congressional

committees at least 15 days before the date on which the additional suspension is to begin that the suspension

is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(c) Other authorities

(1) Suspension

After this subchapter and the amendments of this subchapter have taken effect—

(A) no person shall acquire a property interest in any potential or pending action under this subchapter; and

(B) the President may suspend the right to bring an action under this subchapter with respect to confiscated

property for a period of not more than 6 months if the President determines and reports in writing to the

appropriate congressional committees at least 15 days before the suspension takes effect that such suspension is necessary to the national interests of the United States and will expedite a transition to

democracy in Cuba.

(2) Additional suspensions

The President may suspend the right to bring an action under this subchapter for additional periods of not

more than 6 months each, each of which shall begin on the day after the last day of the period during which a

suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate

congressional committees at least 15 days before the date on which the additional suspension is to begin that

the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(3) Pending suits

The suspensions of actions under paragraph (1) shall not affect suits commenced before the date of such suspension, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension had not occurred.

(d) Rescission of suspension

The President may rescind any suspension made under subsection (b) or (c) upon reporting to the appropriate congressional committees that doing so will expedite a transition to democracy in Cuba. (Pub. L. 104–114, title III, §306, Mar. 12, 1996, 110 Stat. 821.)

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This subchapter, referred to in subsecs. (a) and (c)(1), was in the original "this title", meaning title III of Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 814, which enacted this subchapter and sections 1643l and 1643m of this title and amended section 1611 of Title 28, Judiciary and Judicial Procedure. For complete classification of title III to the Code, see Tables.

D A T S P T III C L D S (LIBERTAD) A 1996

Memorandum of President of the United States, Jan. 31, 2013, 78 F.R. 9573, provided: Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the authority to suspend the provisions of title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 22 U.S.C. 6021–6091), as authorized by section 306(c)(2) of the Act. You are authorized and directed to publish this memorandum in the Federal Register.

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SUBCHAPTER IV—EXCLUSION OF CERTAIN ALIENS

§6091. Exclusion from United States of aliens who have confiscated property of United States nationals or who traffic in such property

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(a) Grounds for exclusion

The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any

alien who the Secretary of State determines is a person who, after March 12, 1996—

(1) has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is

owned by a United States national;

(2) traffics in confiscated property, a claim to which is owned by a United States national;

(3) is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been

involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a

United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(b) Definitions

As used in this section, the following terms have the following meanings:

(1) Confiscated; confiscation

The terms "confiscated" and "confiscation" refer to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of

property—

(i) without the property having been returned or adequate and effective compensation provided; or
(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and
(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(2) Traffics

(A) Except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—

(i) (I) transfers, distributes, dispenses, brokers, or otherwise disposes of confiscated property,

(II) purchases, receives, obtains control of, or otherwise acquires confiscated property, or

(III) improves (other than for routine maintenance), invests in (by contribution of funds or anything of value,

other than for routine maintenance), or begins after March 12, 1996, to manage, lease, possess, use, or hold

an interest in confiscated property,

(ii) enters into a commercial arrangement using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another

person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions

and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and

who is not an official of the Cuban Government or the ruling political party in Cuba.

(c) Exemption

This section shall not apply where the Secretary of State finds, on a case by case basis, that the entry into the

United States of the person who would otherwise be excluded under this section is necessary for medical reasons

or for purposes of litigation of an action under subchapter III.

(d) Effective date

(1) In general

This section applies to aliens seeking to enter the United States on or after March 12, 1996.

(2) Trafficking

This section applies only with respect to acts within the meaning of "traffics" that occur on or after March 12,

1996.

(Pub. L. 104–114, title IV, §401, Mar. 12, 1996, 110 Stat. 822.)

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Subchapter III, referred to in subsec. (c), was in the original "title III", meaning title III of Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 814, which enacted subchapter III of this chapter and sections 1643l and 1643m of this title and amended section 1611 of Title 28, Judiciary and Judicial Procedure. For complete

classification of title III to the Code, see Tables.

R **D** **U** **T** **IV** **LIBERTAD A**

Pub. L. 105–277, div. G, subdiv. B, title XXVIII, §2802, Oct. 21, 1998, 112 Stat. 2681–845, as amended

by Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §209(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-

423; Pub. L. 107–228, div. A, title II, §216(b), Sept. 30, 2002, 116 Stat. 1366, provided that:

"(a) **R** **R**.—Not later than 30 days after the date of the enactment of this Act [Oct. 21,

1998] and every 3 months thereafter during the period ending September 30, 2003, the Secretary of State shall submit to the appropriate congressional committees [Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate] a report on the implementation of section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6091). Each report shall include—

"(1) an unclassified list, by economic sector, of the number of entities then under review pursuant to that section;

"(2) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined to be subject to that section;

"(3) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined are no longer subject to that section;

"(4) an explanation of the status of the review underway for the cases referred to in paragraph (1); and

"(5) an unclassified explanation of each determination of the Secretary of State under section 401(a) of that Act and each finding of the Secretary under section 401(c) of that Act—

"(A) since the date of the enactment of this Act, in the case of the first report under this subsection; and

"(B) in the preceding 3-month period, in the case of each subsequent report.

"(b) **P** **I** **C** **E**.—In preparing the report under subsection (a),

the names of entities shall not be identified under paragraph (1) or (4)."

ANNEX C - OBAMA'S SPEECH, DECEMBER 17, 2014

The White House

Office of the Press Secretary
For Immediate Release
December 17, 2014

Statement by the President on Cuba Policy Changes

Cabinet Room

12:01

P.M.

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THE PRESIDENT: Good afternoon. Today, the United States of America is changing its relationship with the people of Cuba.

In the most significant changes in our policy in more than fifty years, we will end an outdated approach that, for decades, has failed to advance our interests, and instead we will begin to normalize relations between our two countries. Through these changes, we intend to create more opportunities for the American and Cuban people, and begin a new chapter among the nations of the Americas.

There's a complicated history between the United States and Cuba. I was born in 1961 — just over two years after Fidel Castro took power in Cuba, and just a few months after the Bay of Pigs invasion, which tried to overthrow his regime. Over the next several decades, the relationship between our countries played out against the backdrop of the Cold War, and America's steadfast opposition to communism. We are separated by just over 90 miles. But year after year, an ideological and economic barrier hardened between our two countries.

Meanwhile, the Cuban exile community in the United States made enormous contributions to our country — in politics and business, culture and sports. Like immigrants before, Cubans helped remake America, even as they felt a painful yearning for the land and families they left behind. All of this bound America and Cuba in a unique relationship, at once family and foe.

Proudly, the United States has supported democracy and human rights in Cuba through these five decades. We have done so primarily through policies that aimed to isolate the island, preventing the most basic travel and commerce that Americans can enjoy anyplace else. And though this policy has been rooted in the best of intentions, no other nation joins us in imposing these sanctions, and it has had little effect beyond providing the Cuban government with a rationale for restrictions on its people. Today, Cuba is still governed by the Castros and the Communist Party that came to power half a century ago.

Neither the American, nor Cuban people are well served by a rigid policy that is rooted in events that took place before most of us were born. Consider that for more than 35 years, we've had relations with China — a far larger country also governed by a Communist Party. Nearly two decades ago, we reestablished relations with Vietnam, where we fought a war that claimed more Americans than any Cold War confrontation.

That's why — when I came into office — I promised to re-examine our Cuba policy. As a start, we lifted restrictions for Cuban Americans to travel and send remittances to their families in Cuba. These changes, once controversial, now seem obvious. Cuban Americans have been reunited with their families, and are the best possible ambassadors for our values. And through these exchanges, a younger generation of Cuban Americans has increasingly questioned an approach that does more to keep Cuba closed off from an interconnected world.

While I have been prepared to take additional steps for some time, a major obstacle stood in our way — the wrongful imprisonment, in Cuba, of a U.S. citizen and USAID sub-contractor Alan Gross for five years. Over many months, my administration has held discussions with the Cuban government about Alan's case, and other aspects of our relationship. His Holiness Pope Francis issued a personal appeal to me, and to Cuba's President Raul Castro, urging us to resolve Alan's case, and

to address Cuba's interest in the release of three Cuban agents who have been jailed in the United States for over 15 years.

Today, Alan returned home -- reunited with his family at long last. Alan was released by the Cuban government on humanitarian grounds. Separately, in exchange for the three Cuban agents, Cuba today released one of the most important intelligence agents that the United States has ever had in Cuba, and who has been imprisoned for nearly two decades. This man, whose sacrifice has been known to only a few, provided America with the information that allowed us to arrest the network of Cuban agents that included the men transferred to Cuba today, as well as other spies in the United States. This man is now safely on our shores.

Having recovered these two men who sacrificed for our country, I'm now taking steps to place the interests of the people of both countries at the heart of our policy.

First, I've instructed Secretary Kerry to immediately begin discussions with Cuba to reestablish diplomatic relations that have been severed since January of 1961. Going forward, the United States will reestablish an embassy in Havana, and high-ranking officials will visit Cuba.

Where we can advance shared interests, we will -- on issues like health, migration, counterterrorism, drug trafficking and disaster response. Indeed, we've seen the benefits of cooperation between our countries before. It was a Cuban, Carlos Finlay, who discovered that mosquitoes carry yellow fever; his work helped Walter Reed fight it. Cuba has sent hundreds of health care workers to Africa to fight Ebola, and I believe American and Cuban health care workers should work side by side to stop the spread of this deadly disease.

Now, where we disagree, we will raise those differences directly -- as we will continue to do on issues related to democracy and human rights in Cuba. But I believe that we can do more to support the Cuban people and promote our values through engagement. After all, these 50 years have shown that isolation has not worked. It's time for a new approach.

Second, I've instructed Secretary Kerry to review Cuba's designation as a State Sponsor of Terrorism. This review will be guided by the facts and the law. Terrorism has changed in the last several decades. At a time when we are focused on threats from al Qaeda to ISIL, a nation that meets our conditions and renounces the use of terrorism should not face this sanction.

Third, we are taking steps to increase travel, commerce, and the flow of information to and from Cuba. This is fundamentally about freedom and openness, and also expresses my belief in the power of people-to-people engagement. With the changes I'm announcing today, it will be easier for Americans to travel to Cuba, and Americans will be able to use American credit and debit cards on the island. Nobody represents America's values better than the American people, and I believe this contact will ultimately do more to empower the Cuban people.

I also believe that more resources should be able to reach the Cuban people. So we're significantly increasing the amount of money that can be sent to Cuba, and removing limits on remittances that support humanitarian projects, the Cuban people, and the emerging Cuban private sector.

I believe that American businesses should not be put at a disadvantage, and that increased commerce is good for Americans and for Cubans. So we will facilitate authorized transactions between the United States and Cuba. U.S. financial institutions will be allowed to open accounts at Cuban financial institutions. And it will be easier for U.S. exporters to sell goods in Cuba.

I believe in the free flow of information. Unfortunately, our sanctions on Cuba have denied Cubans access to technology that has empowered individuals around the globe. So I've authorized increased telecommunications connections between the United States and Cuba. Businesses will be able to sell goods that enable Cubans to communicate with the United States and other countries.

These are the steps that I can take as President to change this policy. The embargo that's been imposed for decades is now codified in legislation. As these changes unfold, I look forward to engaging Congress in an honest and serious debate about lifting the embargo.

Yesterday, I spoke with Raul Castro to finalize Alan Gross's release and the exchange of prisoners, and to describe how we will move forward. I made clear my strong belief that Cuban society is constrained by restrictions on its citizens. In addition to the return of Alan Gross and the release of our intelligence agent, we welcome Cuba's decision to release a substantial number of prisoners whose cases were directly raised with the Cuban government by my team. We welcome Cuba's decision to provide more access to the Internet for its citizens, and to continue increasing engagement with international institutions like the United Nations and the International Committee of the Red Cross that promote universal values.

But I'm under no illusion about the continued barriers to freedom that remain for ordinary Cubans. The United States believes that no Cubans should face harassment or arrest or beatings simply because they're exercising a universal right to have their voices heard, and we will continue to support civil society there. While Cuba has made reforms to gradually open up its economy, we continue to believe that Cuban workers should be free to form unions, just as their citizens should be free to participate in the political process.

Moreover, given Cuba's history, I expect it will continue to pursue foreign policies that will at times be sharply at odds with American interests. I do not expect the changes I am announcing today to bring about a transformation of Cuban society overnight. But I am convinced that through a policy of engagement, we can more effectively stand up for our values and help the Cuban people help themselves as they move into the 21st century.

To those who oppose the steps I'm announcing today, let me say that I respect your passion and share your commitment to liberty and democracy. The question is how we uphold that commitment. I do not believe we can keep doing the same thing for over five decades and expect a different result. Moreover, it does not serve America's interests, or the Cuban people, to try to push Cuba toward collapse. Even if that worked -- and it hasn't for 50 years -- we know from hard-earned experience that countries are more likely to enjoy lasting transformation if their people are not subjected to chaos. We are calling on Cuba to unleash the potential of 11 million Cubans by ending unnecessary restrictions on their political, social, and economic activities. In that spirit, we should not allow U.S. sanctions to add to the burden of Cuban citizens that we seek to help.

To the Cuban people, America extends a hand of friendship. Some of you have looked to us as a source of hope, and we will continue to shine a light of freedom. Others have seen us as a former colonizer intent on controlling your future. José Martí once said, "Liberty is the right of every man to be honest." Today, I am being honest with you. We can never erase the history between us, but we believe that you should be empowered to live with dignity and self-determination. Cubans have a saying about daily life: "No es facil" -- it's not easy. Today, the United States wants to be a partner in making the lives of ordinary Cubans a little bit easier, more free, more prosperous.

To those who have supported these measures, I thank you for being partners in our efforts. In particular, I want to thank His Holiness Pope Francis, whose moral example shows us the importance of pursuing the world as it should be, rather than simply settling for the world as it is; the government of Canada, which hosted our discussions with the Cuban government; and a bipartisan group of congressmen who have worked tirelessly for Alan Gross's release, and for a new approach to advancing our interests and values in Cuba.

Finally, our shift in policy towards Cuba comes at a moment of renewed leadership in the Americas. This April, we are prepared to have Cuba join the other nations of the hemisphere at the Summit of the Americas. But we will insist that civil society join us so that citizens, not just leaders, are shaping our future. And I call on all of my fellow leaders to give meaning to the commitment to democracy and human rights at the heart of the Inter-American Charter. Let us leave behind the legacy of both colonization and communism, the tyranny of drug cartels, dictators and sham elections. A future of greater peace, security and democratic development is possible if we work together -- not to maintain power, not to secure vested interest, but instead to advance the dreams of our citizens.

My fellow Americans, the city of Miami is only 200 miles or so from Havana. Countless thousands of Cubans have come to Miami -- on planes and makeshift rafts; some with little but the shirt on their back and hope in their hearts. Today, Miami is often referred to as the capital of Latin America. But it is also a profoundly American city -- a place that reminds us that ideals matter more than the color

of our skin, or the circumstances of our birth; a demonstration of what the Cuban people can achieve, and the openness of the United States to our family to the South. Todos somos Americanos.

Change is hard -- in our own lives, and in the lives of nations. And change is even harder when we carry the heavy weight of history on our shoulders. But today we are making these changes because it is the right thing to do. Today, America chooses to cut loose the shackles of the past so as to reach for a better future -- for the Cuban people, for the American people, for our entire hemisphere, and for the world.

Thank you. God bless you and God bless the United States of America.

END

12:16 P.M. EST