



Center for National Policy

**The Bush Administration, Cuba and the
Cuban-American Lobby**

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Introduction – Recent History

The election of George Bush came at a critical time for supporters of the economic embargo against Cuba. Since 1998, proponents of the embargo had faced increasing pressure in Congress to ease travel and trade restrictions against the island, led by an agricultural industry that was eager to export to Cuba in the wake of falling commodity prices.

But because of the controversy surrounding Bush's election, political appointees that might normally be approved in early 2001 were instead pushed back until later that year, including many Cuba-related positions. By the middle of 2001, the administration was still fighting over the nomination of Otto Reich to the post assistant secretary of State for western hemisphere affairs – a position that would normally have played a major role in the administration's first decision in July on whether to suspend the application of Title III of the Helms-Burton law.¹

In the absence of a "Cuba team" that would analyze and make a decision on Title III, the administration did what most expected, which was to continue the Clinton Administration policy of suspending the measure. However, Cuban-American groups and their allies in Congress – primarily Reps. Lincoln Diaz-Balart (R-FL) and Ileana Ros-Lehtinen (R-FL) – warned at the time that they would not give the new president a permanent pass on Title III.

In addition, this side of the debate was able to extract several concessions from the administration that summer. In a July 13, 2001 announcement, Bush said he had asked the Treasury Department's Office of Foreign Assets Control (OFAC) to "enhance and expand" its enforcement capabilities with respect to the embargo against Cuba. Bush highlighted the need to crack down on travel to Cuba that could not be justified under existing rules, and also hinted that he was open to pursuing an indictment against Castro for the 1996 shoot-down of two US planes.

Bush also said he would expand support and funding for pro-democracy programs in Cuba. One congressional staffer who supports the embargo says he believed at the time that a legislative proposal to bring more aid to dissidents was no longer needed based on administration promises to achieve this goal through executive branch actions.

The combination of the White House statement, plus a pro-sanctions speech Bush gave on Cuba the previous May, satisfied most supporters of the embargo. However, these supporters grew increasingly unhappy over the next six months, and by the end of the year, many were complaining that the administration had achieved few, if any, of the goals Bush outlined in his July announcement.²

In the run-up to January, when another Title III decision was due, several pro-embargo groups and members of Congress were beginning to vocalize their dissatisfaction with the administration. Joseph Garcia, executive director of the Cuban American National Foundation

¹ Title III allows US entities to sue foreign governments for using property in Cuba that was confiscated by the Castro regime without compensation. While liability has accrued under Title III since Helms-Burton was signed in 1996, Presidents Clinton and Bush have suspended the ability of entities to actually use the law to sue foreign companies. These suspensions are permitted under the law, but the president can only suspend the use of Title III for six months at a time. Suspension decisions are due in mid July and mid January.

² There was some evidence that the administration had begun cracking down on travel to Cuba through OFAC by mid to late 2001.

(CANF), told a reporter in Miami that the Bush Administration was no different than the Clinton Administration when it came to Cuba, and one member of Congress sent an angry email to administration officials complaining about the failure to follow through on Bush's July promises.

Yet another member began to question whether military contacts between the US and Cuba in Guantanamo Bay revealed a decision by the US to court Cuba in the global efforts to fight terrorism. By mid-January, rumors were flying in Miami that there was a decision to establish a better working relationship with Cuba, and that this decision was orchestrated by pro-business members of the government that took anti-sanctions positions before being appointed to the Bush Administration.

The Administration's Cuba Review is Born

It was this second round of pressure from pro-sanctions forces that prompted the White House to announce a broad review of Cuba policy, and may have played some role in the decision to recess-appoint Reich to the State Department over the Dec. 2001-Jan. 2002 congressional recess. In a Jan. 17 statement, the White House again announced that it would suspend Title III for another six months, but this time, the price for the Title III decision was the Cuba review.³

But the White House continued to face complaints from proponents of the embargo even after announcing its review. Several of these people suspected that the review was yet another tactic of delaying real efforts to tighten the embargo. One congressional source quipped that the review was "two percent milk" when hardline opponents of the Castro regime were looking for "heavy cream," and speculated that the results of the review itself could still prove unsatisfactory to these proponents of the embargo.

In response, the Bush Administration spent the next two months working to repair relations with Cuban-Americans who oppose engagement with Cuba. These efforts included White House meetings with Cuban-American groups and contacts with wire reporters and Spanish-language reporters in Miami that led to stories quoting U.S. officials saying that the U.S. was not softening its position on Cuba.

These efforts have largely stemmed the wave of Cuban-American criticism against the Bush Administration. However, there are already early signs that the White House will be watched closely to ensure that it follows through on the recommendations made in its review, particularly if the administration plans to suspend Title III for a third time, a move that is widely expected.

The Substance

Regarding the contents of the review, most expect that the administration's final product will be aimed primarily at examining how to better enforce current US restrictions against Cuba. Most of the items listed below have been suggested by CANF and pro-sanctions members of Congress in the form of letters, emails and direct discussions with US officials.

³ Congressional sources indicated at the time that the White House was hoping to downplay its January 2002 Title III decision by listing the steps it took in 2001 to strengthen trade and travel sanctions against Cuba. However, U.S. officials quickly found that nothing substantive had been accomplished, a finding that some say contributed to the decision to conduct a review.

The first obvious target will be finding ways to enforce US restrictions on travel to Cuba more tightly. Congressional sources and others have said since February that the Treasury Department's Office of Foreign Assets Control (OFAC) has most likely already been instructed to deny licenses to groups that do not fall under any of the twelve approved categories of travel to Cuba.

Because OFAC is one of the least transparent government agencies, it is difficult to determine with any certainty the extent to which there has been any real policy shift, although many people whose work involves submitting travel licenses to OFAC have anecdotal evidence that OFAC is interpreting the rules more strictly.

In other areas, the review could call for a closer look by administration officials into whether Cuba is in fact paying cash for recent US farm sales to Cuba under the Trade Sanctions Reform and Export Enhancement Act (TSREEA), and whether these sales were subsidized in any way (including by allowing Cuba to pay cash for farm commodities over a short period of time). This initiative would appear to be a sort of desperation measure by those opposed to the sales, as close observers on both sides of the issue agree that there is little evidence that Cuba is not paying for US food with cash.

At the same time, there have been some indications that an investigation into this issue could turn up some evidence that US farm commodities were sold to Cuba at less than market prices. Several well-placed sources have said in recent months that Cuba was initially surprised at the volume of US farm products it could purchase for a given amount of money, a sign that some US exporters may in fact have offered Cuba lower than market prices.

Some opponents of these sales hope to argue that subsidized exports to Cuba violates the TSREEA, but others argue that it would be a stretch to say the law prohibits giving Cuba a price break on farm commodities.

Another major recommendation could be to increase contacts with mid-level Cuban government and military officials. The aim of this initiative would be to strengthen ties between the US and some of these younger officials in the hopes of enlisting their support and advice during a transition away from the Castro regime.

In other areas, the review is expected to recommend improvements to the operation of pro-democracy broadcasts through Radio and TV Marti, as well as increases in funds used to aid dissident groups in Cuba and increased pro-democracy work by the US Interests Section in Havana.

The administration's review is expected to be announced as early as this week (April 29). As of this month, sources close to the process said a draft review has already been completed, but that officials are wary of releasing the final product while former President Carter is in Cuba from May 12-17. May 20, Cuba's independence day, is seen as the drop-dead date for the release of the review, although others have said the release could be delayed until June.

Analysis – Cuba Lobbying as a One-Way Street

Based on the above facts, it seems fair to conclude that while Bush's support for continued sanctions against Cuba appears genuine, there is no doubt that the administration has been hesitant at nearly every turn to take the aggressive, pro-sanctions moves against the island that are

demanded by supporters of the embargo. The idea that the administration has to be lobbied repeatedly, particularly on relatively non-controversial issues such as slight funding increases for Radio and TV Marti, has become a true source of frustration for supporters of the embargo, most of whom believed it would not take as much work to get results from the new president.

In a recent conversation, one pro-sanctions congressional staffer said there were indications last week that the review might not come close to the kind of recommendations for action that he and other hardliners want to see, which could lead to a new build-up of pressure from members and lobbyists.

Thus, after more than one year of the Bush Administration, many are beginning to believe that the new White House is only interested in doing enough to keep pro-sanctions groups quiet. More than one supporter of sanctions has said it would be fair to describe the administration, at least so far, as a strong supporter of the status quo.

For example, the administration seems more than willing to defend current restrictions on trade and travel from congressional efforts to lift these measures. Despite new pressure from Republican members of Congress (see below), the White House has put up a solid fight on issues such as trade financing and travel, and does not appear to be cowed by the growing majority in favor of easing sanctions.

Most recently, White House coordination with members of the House leadership proved enough to defeat language in the farm bill that would have allowed private financing for exports to Cuba.

But while these defensive efforts are appreciated, they are unlikely to keep the pro-sanctions lobby truly satisfied with the direction of US policy toward Cuba. As a result, this lobby will likely continue to press for more dramatic offensive strategies, such as the full enforcement of Helms-Burton, an indictment of Castro, and more pressure on US trading partners to isolate Cuba.

If the last 15 months are any guide to the future, it seems safe to speculate that the introduction of more aggressive offensive strategies by the administration will depend almost entirely on the ability of the Cuban-American lobby to convince the White House that these steps are needed. So far, proponents of the embargo have had the most influence on the White House in the run-up to Title III decisions, or, for example, when President Bush is planning to visit Miami, which he is expected to do in May or June.

Still, these momentary advantages in leverage have yet to bring about the kinds of changes sought by vocal opponents of the Castro regime.

There are two other issues that should be mentioned quickly, as they also point to the administration's hesitance to implement an offensive strategy against Cuba. First is a decision officials face on Title IV of Helms-Burton.⁴

⁴ Title IV requires State to deny US entry visas to executives of foreign companies trafficking in expropriated property in Cuba. The threat of applying this provision against a European company led the European Union to challenge Helms-Burton in the WTO in 1997, a challenge that was dropped after the two sides reached an "understanding" under which the Clinton Administration essentially agreed to not pursue Title IV cases against the EU.

Under Clinton, a decision on whether to implement Title IV against Grupo Sol Melia, the Spanish hotel chain, languished for years. Under Bush, pressure from the Cuban-American claimant in Miami – the Sanchez family – finally led to stepped-up negotiations under which Sol Melia tentatively agreed to pay that family an amount thought to be in the millions in order to continue using beachfront property in Cuba for hotel development.

However, those talks broke down in early March, and while Cuban-Americans are hopeful the administration will finally pull the Title IV trigger, this has yet to happen for the last month or so.

Secondly, some sanctions supporters have pointed to the Bush Administration's appointment of pro-sanctions officials as additional evidence that the White House is loathe to dramatically tighten sanctions against Cuba.

Since January 2001, Bush has appointed John Maisto as special assistant to the president and senior director of the National Security Council on western hemisphere affairs; Roger Noriega as US ambassador to the OAS; Mauricio Tamargo as chairman of the Foreign Claims Settlement Commission; and Reich to the State Department. Each of these appointees is thought to be sympathetic to the concept of maintaining sanctions against Cuba.

Some of the most vocal supporters of the embargo have speculated that these appointments were made not as a means to an end, but rather in order to demonstrate support for the embargo without actually having to tighten trade or travel restrictions. In the run up to the Bush Administration's second Title III decision, when speculation was running high that the administration was secretly seeking to engage with Cuba, several sanctions supporters believed that Cuban-Americans may have been put in place in order to "take the fall" for the slow erosion of the embargo, the thought being that Cuban-Americans in Miami would protest increased engagement less if Cuban-American officials were present to provide cover for this decision.

Regardless of whether these suspicions are accurate assessments or a reflection of the residual skepticism of the Bush Administration, they demonstrate that the relationship between the White House and the pro-sanctions lobby remains under serious strain.

The Changing Face of the Cuban-American Lobby

If the immediate future of US Cuba policy depends partly on the effectiveness of the Cuban-American lobby, then it is useful to describe some of the changes this lobby has undergone.

CANF needs no introduction – for years, this group has been the most effective and influential group on Cuba. However, the influence this group wields has been dramatically reduced in the space of about eight months, partly because of the emergence of the anti-embargo Cuba Policy Foundation, but mostly because of a split in the ranks of Cuban-American supporters of the embargo.

Last August, more than 20 of the group's hardline members announced their departure from CANF, a decision they made in light of a growing number of complaints about the direction of the group. One of the events that played a role in this decision was CANF's support for holding the Latin American grammy award show in Miami, which was seen as controversial among staunch opponents of Castro because Cuban artists were scheduled to perform there.

Because of these and other decisions, these hardline members perceived that CANF was softening its position on engagement with Cuba, and also had complaints that budget decisions were being made behind their backs. Upon leaving CANF, the group quickly founded the Cuban Liberty Council (CLC), whose members pledged to establish a Washington presence sometime this spring.

Sources close to CANF and the CLC agree that each group has its own distinct advantages. As the more established organization, CANF benefits from a network of sources, a more solid basis upon which to raise money, and more clout with members of Congress and new outlets.

However, the CLC is said to have far better personal relationships with members of the Bush Administration such as Senior Policy Advisor Karl Rove. In addition, members of the CLC are thought to be closer to Florida Governor Jeb Bush, which has given this group certain access to the White House.

There is some thought that the CLC would eventually eclipse CANF as the preeminent Cuban-American lobbying organization. If this does happen, however, it may be a result of CANF's financial troubles more than the effectiveness of the CLC. Sinking stock prices have threatened CANF's chief source of funding – an experience that many NGO's have gone through recently.

Perhaps because CANF is known to be struggling for funds, there have been persistent rumors that CANF Executive Vice President Dennis Hays might leave the group. More than one source has said that the departure of Hays could spell serious trouble for CANF, especially in light of the group's dwindling staff.

At the same time, it seems clear that the CLC is in no position to take over for CANF. Despite the group's political connections, the CLC does not yet appear to be anywhere near the level of funding that CANF enjoys, and efforts by the group to establish offices in Miami and Washington appear to be lagging.

Finally, while many anti-embargo groups have cheered the split between CANF and the CLC, it is not safe to assume that the two groups will be too busy fighting each other to be effective. To the contrary, when it comes down to the important issues – trade and travel – the two groups appear to hold virtually the same position: that there should be neither.

For example, in the past few months, both groups have held meetings with senior-level Washington officials, and both groups have delivered the message that the administration's review of Cuba policy needs to include strong recommendations on how to better enforce existing sanctions against Cuba.

The Rise of the Anti-Embargo Lobby

There have always been dozens of groups that have opposed the embargo against Cuba, but few if any have had any real success in chipping away at the embargo. If anything, the embargo has been strengthened over the years despite the existence of the anti-embargo lobby.

Aside from the numerous smaller groups that oppose the embargo, efforts to lift sanctions have been made by large business groups such as the US Chamber of Commerce and USA-Engage, although these attempts to create momentum for change did not make any lasting impression.

Perhaps the only recent success story involving efforts to ease elements of the embargo began about four years ago, when a loosely-organized group of House members began winning votes to lift trade and travel restrictions. These votes were rejected by House leaders, but this repeated rejection is what led to the success in passing the Trade Sanctions Reform and Export Enhancement Act of 2000, which allows the Cuban government to buy US food and medicine on a cash basis.

These votes also led to the formation of the Cuba Working Group, a bipartisan anti-sanctions group that only announced itself earlier this year.

Momentum in the House likely played some role in the establishment of the Cuba Policy Foundation, which many believe is slowly becoming the preeminent anti-embargo group. However, it is important to realize that, effective and involved as the CPF may be, the growing anti-embargo movement has been and continues to be driven by members of Congress. This is a very rare arrangement that some say has evolved precisely because there has never been an anti-embargo group that can match CANF's size, funding and passion over the last several decades.

One industry opponent of the embargo has said that the CPF is "the chosen one," meaning that companies and trade associations that are interested in supporting the work of the Cuba Working Group will most likely become members of or would otherwise support the CPF. The group, led by Ambassador Sally Cowal, has benefited from funding from the Arca Foundation, but is said to be making efforts to pick up corporate sponsorship.

The success CPF has in attracting new funding may very well serve as an indication of the strength of support for lifting the embargo among US exporters.

In addition, USA-Engage has recently re-emerged as a group that will back efforts of the congressional Cuba Working Group. USA-Engage, which is comprised of about 675 companies, will likely prove useful to the CWG as they try to convince members of Congress and the White House that US companies support changes to the embargo against Cuba.

But again, the recent failure of language that would allow private financing for US exports to Cuba shows that the White House so far has not buckled under this new pressure.

What to Look For

The following is a brief summary of some key Cuba-related events that CNP will want to follow as it examines the issue more closely during the coming year. In chronological order:

- 1) The next few weeks – House and Senate conferees to the farm bill are expected to announce formally that language allowing **private financing for US farm exports to Cuba** will be struck from the farm bill. Sources last week said the language will not be in the final bill.

- 2) Late April/early May – the Bush Administration is expected to release its **review of Cuba policy** somewhere in this timeframe. However, sources most recently have said it could be released as late as June. When the administration releases its review, the congressional Cuba Working Group is expected immediately to release its own study of Cuba policy.
- 3) May 20 – **Cuban Independence Day**. This anniversary has proven to be an “action-forcing event” that could prompt the White House make a surprise announcement on Cuba, most likely one that would result in tighter sanctions against the island.
- 4) Mid-July – the Bush Administration is due to make another **Title III decision**. These twice-a-year decisions have also turned out to be action-forcing events. Many supporters of sanctions admit that even the failure to fully implement Title III gives them needed leverage to tighten sanctions every six months.
- 5) Late summer/fall – appropriations bills. There are two things to watch for in this timeframe. First, supporters of **trade financing** for Cuba are expected to re-introduce this proposal on the agriculture appropriations bill. Second, Rep. Jeff Flake (R-AZ) is expected to re-introduce language that would prevent the US government from using revenues to enforce **travel restrictions** against Cuba. Similarly to last year, the Senate is expected to strengthen this language by repealing the travel restrictions altogether. Trade financing and the repeal of travel restrictions are two of the three main goals that the CWG has announced.
- 6) Summer/fall – **Section 211 reform (repeal?)**. Section 211 is a complex law that is aimed at preventing entities from registering US rights to intellectual property that was used in connection with property that was confiscated by Cuba without compensation. Because the fight centers on a dispute between Bacardi of Bermuda against a French-Cuban joint venture company, the European Union successfully challenged Section 211 in the World Trade Organization. In response to the ruling, the US Trade Representative’s office has said it would try to amend the law to conform with WTO rules, while opponents argue the law should be repealed. There is a growing interest among US exporters in repealing the law, since Castro has threatened to retaliate against it by ignoring US trademarks registered in Cuba, which could act as a serious hurdle to US exports to branded, processed food products under TSRA. USTR has agreed to come into compliance with the WTO by the end of this year, making it likely that the administration would have to introduce legislation that would amend the law. Repeal of Section 211 is the third main goal that the CWG has announced so far.
- 7) Anytime – Look for possible movement this year on **Title IV** of Helms-Burton. State Department officials have already pressed for a settlement between Sol Melia of Spain and the Sanchez family of Miami, and could try again in the interests of resolving the issue.