



Policy Perspective

A “Cuban JCPOA” to Ease the US Embargo

Alberto Maresca 

Georgetown University, Center for Latin American Studies, Washington, DC, United States

Abstract – To reform the US embargo on Cuba, it would be possible to follow insights from the Joint Comprehensive Plan of Action (JCPOA), a 2015 agreement between the P5+1 (China, France, Russia, UK, US, Germany) and Iran. The restrictions imposed by the 1996 Helms-Burton Act are hampering the Cuban economy, without benefits for Washington. US Congress approved Helms-Burton to severe Cuba’s commercial capacities after the Cold War, hence attempting to finally overthrow Fidel Castro. This scenario did not occur, and at the same time, besides President Obama’s attempts, the US still perceives Cuba as a matter of domestic policy, without a new strategy. This policy perspective outlines that Cuba is transitioning to a market economy, out of necessity. Therefore, one of Helms-Burton’s requirements to ease the US embargo is already taking place. Relieving Havana from sanctions might not only better Cubans’ lives, but also improve US foreign policy for Latin America.

Keywords: Cuba; US; Sanctions; Embargo; JCPOA

Introduction

It might be argued that sanctions are the quintessential feature of US foreign policy. In this sense, the example of Cuba immediately comes to mind when studying sanctioning policies. The purpose of this article is not to evaluate the results of US sanctions on Cuba since President Kennedy’s Proclamation 3447 in 1962. Instead, the aim is to illustrate that the continuation and reinforcement of Washington’s sanctions toward Havana, spiked with the Helms-Burton Act of 1996, are harming the US image in Latin America. The Helms-Burton Act, a bill passed by the US Congress, codified the *bloqueo* to impact the Cuban economy after the collapse of its biggest financier, the Soviet Union. In general, “the objective of the Helms-Burton law is basically political: to discourage foreign investment in Cuba through the threat of lawsuits and the imposition of travel restrictions” (Roy, 1997, p. 78). Moreover, regardless of whether Helms-Burton drove the desired changes in the island, the detriment of the Cuban system in the last three decades is driving Cuba toward a market economy.

Considering the P5+1 success around the 2015 Joint Comprehensive Plan of Action (JCPOA), it is possible to identify two main aspects extendable to Cuba. Before that, we can define the JCPOA as an ambitious multilateral agreement that served to negotiate the following exchange between the US and Iran: Reduction of nuclear capacity for sanctions relief. Donald Trump unilaterally withdrew

from the JCPOA in 2018, restoring all the previous sanctions on Tehran (Galbraith, 2019). Firstly, as was the case for Iran, the longstanding hostility between the US and Cuba hampers unilateral or bilateral initiatives: A multilateral effort is needed. In the UN Security Council, Cuba's financiers, like China, will likely not hesitate to collaborate in reforming sanctions on Havana. The inability of Cuba to repay Chinese loans or to motivate Beijing's investments is affecting the exchanges between the Asian giant and the Caribbean nation (Financial Times, 2024). Secondly, if the JCPOA persuaded Iran to de-escalate its nuclear production, with all its political and economic consequences, it would be obviously straightforward to implement a similar agreement for Cuba.

Cuba as a matter of foreign not domestic policy

Contrarily to Iran, Cuba does not possess any belligerent capacity to threaten global or regional security. From US policymakers' perspective, it is essential to detect what must happen in Cuba to revise the sanctioning regime, with potential advantages for Washington, the United Nations Security Council (UNSC), and the European Union (EU). Reiterating the multilateral way for US sanctions' reform toward Cuba, both the UNSC and the EU are interested *fora* when it comes to the Cuban blockade. As indicated, the presence of China in the UNSC, being a significant economic partner for Cuba, together with Russia, might drive ideas fashioned upon the P5+1. Nonetheless, joint action with the EU can reapproach Transatlantic views on Cuba, remembering the outspoken European denunciation of the Cuban Democracy Act (Wilner, 1993). Before and after Helms-Burton, the Europeans have consistently stood against the US embargo, reaffirming their position in last year's UN General Assembly (European External Action Service, 2023).

Besides the actors with whom the US should interact about Cuba, there is a need for a vital shift in how policymakers think regarding Cuban affairs. In simple terms, the US should refrain from perceiving Cuba as a matter of domestic politics. Cuban-Americans hold a significant weight inside US politics, represented by high-ranking personalities such as Trump's new Secretary of State, the Republican Marco Rubio. Cuban-American voters confirmed Republican tendencies in the last elections, therefore influencing a confrontational foreign policy toward Cuba, which already took place during the first Trump presidency. It is safe to claim that Helms-Burton legally codified and politically invigorated the US embargo on Cuba. At the same time, the rationale for moving President Clinton to consent to Helms-Burton was related to internal politics instead of the faithful wish for changing conditions in Cuba throughout the Special Period:

The timing of the crisis added to the political pressure on Clinton. Coming just two weeks before the Florida presidential primary, it gave Republican candidates a golden opportunity to solicit Cuban-American votes by castigating Clinton for 'coddling' Castro. Reversing his stance on Helms-Burton enabled Clinton to mute the Republican attacks, and perhaps win enough Cuban-American votes in November to swing a tight race in Florida or New Jersey. (LeoGrande, 1997, p. 213).

Can US national interest diverge from voting matters? It is worth noting that the clear electoral flavor of Helms-Burton not only undermined any human rights justification of that bill but also found opposition among young Cuban Americans in Florida (López-Levy & Abrahams, 2010), who did not benefit from the "private cause of action" of Title III (U.S. Department of State, 2000).

A new strategy for US-Cuba relations can, paradoxically, come from the provisions of the very Helms-Burton Act. The 1996 law sets conditions to remove the embargo that, either upon necessity or *force majeure*, have already been met by Cuba. For example, Section 205 implies several requirements that, quite unrealistically, would constitute a democratic, liberal, and pluralist transition on the socialist island. However, we find an interesting proposition regarding a possible transition government in Cuba, which should not include the presence of Fidel and Raúl Castro. Passed away in 2016, Fidel Castro is logically out of the equation, while the beginning of Miguel Díaz-Canel's

presidency is being considered, by Cubans, the end of Raúl's dynastic continuation of Castroism (Sánchez, 2018). Furthermore, in 2021, Raúl Castro officially stepped down from the chieftaincy of the Communist Party of Cuba, ending the 1965-inaugurated presence of Castro's surname in the governing political organization (Xinhua, 2021). Assuming that Díaz-Canel's government is transitioning or willing to promote a pluralistic democratic system is naïve. A reform of US sanctions on Cuba based on this premise will not lead to any dialogue. In its vast assertions, Helms-Burton also includes economic priorities. Those are the more realistic bases for a relaxation of Washington's embargo on Cuba. Section 206 wants an eventual democratic government in Cuba that "is substantially moving toward a market-oriented economic system based on the right to own and enjoy property". Although the US cannot expect Cuba to convoke liberal elections without any incentive from its end, the push for a market-oriented economy is, in reality, already taking place. This argument will now be examined using a possible analogy with the JCPOA. Iran's convenience in signing the agreement was related to economic benefits, which were probably higher than the cost of pursuing its nuclear program (Dadpay & Tabrizy, 2021). For Cuba, liberalizing its economy, which is happening, might be highly advantageous in exchange for a relaxation of some sanctions.

Given the complexity of Helms-Burton, removing Cuba from the State Sponsors of Terrorism list can be a more realistic starting point. US Presidents have the required powers to designate or remove a country as Sponsors of Terrorism. In fact, two Republican Presidents (Reagan in 1982 and Trump in 2021) unilaterally decided to add Cuba to the mentioned list. Instead, the Obama Administration delisted Havana in 2015 (Congressional Research Service, 2021). There is no *a priori* full guarantee about Cuba's compliance or consensus. At the time of the JCPOA, influential Iranian hardliners, such as the recent presidential candidate Saeed Jalili, opposed the agreement due to mistrust toward US promises (Tehran Times, 2024). The difference is that Cuba and the US have diplomatic relations, and the revolutionary generation, correspondent the Iranian hardliners, lost significant appeal in Cuban politics. Moreover, Latin American countries recurrently confirm their opposition to the US through declarations or by voting at the UN General Assembly (Lamrani, 2021). This is the reason why easing sanctions will reapproach the Western Hemisphere and inaugurate a healthy US foreign policy for Latin America. In general, Latin American countries do not forcefully endorse the Cuban model; they instead refuse that Cuban ordinary people must pay a significant human cost due to the undeniable impact of the US embargo.

Considering Cuba a transitioning market economy

On October 18, 2024, Cuba's nationwide and state-owned electric system collapsed due to faults in the power plant of Matanzas (New York Times, 2024). There is room to offer two debatable explanations for this event. First, Cuba's nationalized energy system is highly inefficient and faces severe infrastructural decline due to misuse and obsolescence. Second, the US embargo critically hampers Cuba's capacity to import energy and technical material from foreign vendors. Whichever of the above might sound preferable, the reality is that the longstanding power grids will force Cuba to open to free market its electric system. This is not a utopian consideration. Since 2021, Cuba has vastly liberalized its economy in favor of small and medium enterprises, known on the island as MIPYMES. This trend led numerous scholars to argue whether Cuba is already a market economy or is under transition.

Using empirical and quantitative evaluations through questionnaires posed to public and private sector workers in Cuba, Romanò and Barrera (2021) found that Cuban liberalization, ongoing since the Special Period, created an entrepreneurial class that, undoubtedly connected with the Communist Party, achieved an ostensible amount of wealth due to its private activities. Despite the intertwinements between the State and the new private sector, it is inferable that Cuban entrepreneurs may want to rapidly transition the system into a market economy. Other studies concluded that the increased Cuba's dependence on tourism fosters private initiatives from residents

in key areas like Varadero (Gimmon & Felzensztein, 2023). Within Cuban academia, public-private partnerships are increasingly accepted as positive tools to tackle infrastructural challenges, including for the very energetic sector (Triana Cordoví, 2021). Despite numerous analyses on how Cuba is transitioning to a market economy, following at least in principle Helms-Burton's requests, US foreign policy remains constrained. The conceptual exercise that US policymakers need to open doors to Cuba is laborious. Friedman (2012) mentioned the pretext of regional anti-Americanism to continue a confrontational US foreign policy in Latin America, initiated in 1954 in Guatemala and prolonged to current-day Cuba. It is almost impossible for a US president to revert or amend Helms-Burton. However, this does not mean that US foreign policy for Cuba and Latin America must follow the Cold War-inspired one of the last decades. The efforts of the Biden Administration and OFAC have been helpful in re-authorizing U-Turn transactions from persons under US jurisdiction toward Cuban *cuentapropistas*, mainly private-sector entrepreneurs (Holland & Knight, 2024). It would not be inappropriate to argue that there is a feeling in the White House that the Cuban private sector is gaining unprecedented momentum. Simultaneously, due to geographic, historical, and cultural reasons, Cuban entrepreneurs look at Miami and US creditors, if allowed, to operate their commercial activities.

The problem is still the assumption that any foreign policy for Cuba should fall into the domestic category or debate. In this sense, specific sectors of the US Congress are already countering the easing of restrictions for Cuban entrepreneurs for their own electoral goals. María Elvira Salazar, a Republican representative from Florida, and Bill Huizenga, a Republican representative from Michigan, alerted Secretary of State Blinken and Secretary of Treasury Yellen about the supposed perils of relaxing sanctions, declaring that: "Any efforts to diminish or circumvent the current embargo on Cuba are in contravention of U.S. law and play into the hands of our foreign adversaries, Russia and China, who are closely aligned with Cuba" (2024, p. 2). These visions are not only based on no evidence, but miss that diminishing the US embargo can benefit Washington and hamper Russian and Chinese projects. Napier (2010) warned that the embargo is eroding the US image in Latin America and also freezing trading opportunities between the US and Cuba, being absolutely interdependent realities. If Iran, without diplomatic relations with the US since 1980 and on the verge of militaristic menaces to Washington and its allies, can secure a sanctions relief mechanism (JCPOA), it is unthinkable that a similar plan cannot be extended to Cuba, which today represents no threat to US national security. The JCPOA engaged with European actors and the International Atomic Energy Agency to force Iran's reduction of nuclear development in exchange for lesser sanctions (Congressional Research Service, 2022). This formula worked for all parties, with Iran prone to international observation and limiting its nuclear plans, and US-EU relations improved in light of a relaxation of secondary sanctions (Heo, 2023). The proposal is for an agreement between the US, the EU, and Cuba to remove Havana from the State Sponsors of Terrorism list in exchange for consistent liberalizations in the Cuban economy, as set by Helms-Burton. In virtue of its broad investments and presence in Cuba, the EU could play the role of the IAEA in Iran, verifying and assisting the Cuban transition toward a market economy. Reminding of the continuous European opposition to the US embargo, a Cuban JCPOA might strengthen Transatlantic relations in a critical international atmosphere.

Latin America will undoubtedly welcome, follow, and participate in this eventual project. Exiting Cuba from the State Sponsors of Terrorism embraces Latin American demands and also signals that there are changes in US hemispheric foreign policy. On October 22, 2024, the movement People's Forum advertised a letter in the New York Times, exhorting Biden to remove Cuba from the list in its last 90 days of ruling (Cuban Ministry of Foreign Affairs, 2024). US foreign policy could see a drastic change in less than three months, and probably make or break the future of the Western Hemisphere. A Cuban JCPOA would revive the humanity of US sanctions and help Washington portray a benevolent image to its European allies and Southern neighbors.

Conclusion

To achieve a Cuban JCPOA, US policymakers should start considering Cuba as a matter of foreign, not domestic policy. From Helms-Burton to Trump’s inclusion of Cuba in the State Sponsors of Terrorism, it has become clear that sanctions on Cuba are thought for electoral outcomes. In Latin America, the US needs to redefine its agenda, and reforming the Cuban embargo might be an outstanding first step. Multilaterally, the US can work with the UNSC, the EU, and Latin American partners to set conditions for a dialogue with Cuba. Several of Helms-Burton’s provisions are impossible to currently achieve and unrealistic to demand. However, if trade really drivers change, then the US should realize that Cuba is already transitioning toward a market economy.

In 1996, the assumption was that a liberalized Cuban economy would contribute to political reforms. Today, Cuba’s conditions are dramatically worse than even during the Special Period. By removing Cuba from the State Sponsors of Terrorism list, and via a JCPOA-inspired agreement with international verification on the Cuban transition to a market economy, the US may finally use a multilateral effort to review its sanctioning power in Latin America. The recent crises facing Cuba, from electric power scarcity to economic issues, are partial guarantees for compliance. A Cuban JCPOA could function without significant obstacles, given Cuba’s need for smoother foreign direct investments. Political willingness can turn the economic weapon into a new paradigm for inter-American benefits.

Notes

1. To achieve a Cuban JCPOA, US policymakers should start considering Cuba as a matter of foreign, not domestic policy.
2. From Helms-Burton to Trump’s inclusion of Cuba in the State Sponsors of Terrorism, it has become clear that sanctions on Cuba are thought for electoral outcomes.

Disclosure statement

No potential conflict of interest was reported by the author.

Notes on contributor

Alberto Maresca is a graduate student at the Center for Latin American Studies, Georgetown University, where he has also been a Research and Teaching Assistant. He holds a Master’s degree in Diplomacy and International Relations from the Diplomatic School of Spain and a BA in Political Science and International Relations from Federico II, the University of Naples.

ORCID

Alberto Maresca  <https://orcid.org/0009-0000-3697-8092>

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