**The Helms-Burton Act: Then and Now**

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Abstract:

In 2019, for the first time since the passing of the Helms-Burton Act in 1996, the President of the United States and the U.S. Secretary of State did not suspend the enactment of Title III of that Act. The Act helped to codify the U.S. embargo on Cuba. Title III allows U.S. nationals (often Cuban Americans) to sue foreign entities that traffic in property that the Cuban government confiscated from them after the revolution. Foreign governments have contended that Title III is an extraterritorial application of national law and violates international laws and norms. Congress passed Helms-Burton despite international objections and the potential for straining relationships with allies. **This paper will examine the political zeitgeist of U.S. Cuba policy during the 1990s and the impact of the Cuban-American community and its political arm, the Cuban American National Foundation. It will then compare that environment to the current context of U.S. Cuba policy regarding the Helms-Burton Act to draw lessons for U.S. foreign policy.**

Six pieces of legislation govern the U.S. embargo against Cuba: the Trading with the Enemy Act of 1917, the Foreign Assistance Act of 1961, the Cuban Assets Control Regulations of 1963, the Cuba Democracy Act of 1992, the Libertad Act of 1996, and the Trade Sanctions Reform and Export Enhancement Act of 2000. The Libertad Act, also known as the Helms-Burton Act, is the single biggest legislation that consolidated and codified the embargo. It ensures that only an act of Congress could reverse the embargo if Cuba were to democratize. Specifically, Cuba would have to legalize all political activity, release political prisoners, allow international human rights investigations, dissolve the Department of State Security, and commit to free and fair elections.[[1]](#footnote-1) If the embargo’s primary purpose was to achieve these ends, then it has not been successful. Yet, the Helms-Burton Act ensures that it is much easier to maintain the status quo than change courses dramatically.

Jorge Mas Canosa and his associates founded the Cuban American National Foundation (CANF) in 1981. They rose in prestige and power throughout the Ronald Reagan administration. Among their most notable accomplishments were successfully lobbying for Radio and TV Marti and helping to elect the first Cuban-American members of the U.S. Congress. They had close relationships with the Reagan and George H.W. Bush administrations. As the Cold War ended in the late 1980s and early 1990s, Cuban-Americans became increasingly excited about the prospect of Cuba democratizing like the former Soviet Union and its allies. The USSR dissolved and could no longer prop up the Cuban government financially. As Cuba entered its “Special Period” of tremendous poverty and scarcity. The situation was unsustainable and people were certain that the end of the Castro regime drew nigh. Cuban-Americans made plans to help in a transition and worked to hasten the fall. CANF worked with Representative Robert Torricelli (D-NJ) to pass the Cuba Democracy Act in 1992. President George H.W. Bush hesitated to sign it. When his opponent in the 1992 presidential election, Bill Clinton, officially supported the bill and made inroads into the majority-Republican Cuban-American community in South Florida, Bush gave in and signed the CDA shortly before the election. Clinton did not win Florida, but he won the election and continued to court Cuban-Americans throughout his first term. Cuba’s dire economic situation caused tens of thousands of rafters (balseros) to flee to Florida on makeshift boats. The Coast Guard intercepted thousands and took them to a refugee camp at the Guantanamo U.S. naval base. Countless others died in the Florida Straits. The Clinton administration negotiated migration agreements that stipulated that they would return interdicted rafters to Cuba, which upset exiles. Rafters who reached the U.S. soil could remain, subject to the Cuban Adjustment Act.

## The Helms-Burton Act

Bill Clinton remained tough on Cuba. However, he had dragged his feet on supporting more comprehensive legislation, particularly during his first two years with a Democrat-controlled Congress. The opportunity for hardliners came when Republicans took back the House and Senate in the 1994 midterm elections. Ultraconservative Jesse Helms (R-NC) became the Senate Foreign Relations Committee chair, and ultraconservative Dan Burton (R-IN) became chair of the House Foreign Affairs Committee’s Western Hemisphere Affairs Subcommittee.[[2]](#footnote-2) Representatives Robert Torricelli and Ileana Ros-Lehtinen served on Burton’s subcommittee.[[3]](#footnote-3) The Senate Foreign Relations Committee’s first bill under the new Republican-controlled Congress in 1995, and the first hearing for the Western Hemisphere subcommittee of the House Foreign Affairs Committee, concerned what would become the Cuban Liberty and Solidarity (Libertad) Act.[[4]](#footnote-4) The House panel featured hardliners from CANF and other groups.[[5]](#footnote-5)

 The Libertad Act, also known as the Helms-Burton Act, responded to the Special Period and attempted to build on the Cuba Democracy Act’s pressure on the Castro regime. Proponents believed that third countries propped up the dictatorship after the Soviet Union fell, enabling Castro and preventing popular discontent with the desperate economic conditions from fomenting into regime change. Members of Congress sought to codify existing embargo laws and guarantee that only an act of Congress could revert them rather than just executive action.

The Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996 (also known as the Helms-Burton Act) codified the Cuban embargo and gave Congress alone the power to repeal the law, thus ensuring that the act would remain in place while Castro’s government and economy were weak from losing their major source of support, the Soviet Union. It instituted the terms the United States demanded before it would repeal the embargo. The requirements included creating a representative democratic government, free and fair elections, an independent judiciary, respecting human rights, freeing political prisoners, and removing the Castros from the government, among other considerations. The most controversial sections of the law, Titles III and IV, concerned claims to property that the revolutionary government expropriated. Title IV denies U.S. visas to executives of companies that traffic in confiscated property and their immediate family members. It applies to any non-U.S. citizen and has remained enforced to varying degrees over the years. Title III allows American citizens that claim ownership of expropriated property in Cuba to file suit in U.S. courts against companies that traffic in their confiscated property. It is primarily directed toward companies in third countries (not the United States or Cuba) to discourage investment in Cuba. Due to the strained relationship it could cause with U.S. allies and accusations of extraterritorial infringement on sovereignty, every president deferred Title III implementation every six months until 2019.

The legislation would discourage new investments in Cuba by penalizing companies and individuals that “traffic” in current U.S. citizens’ confiscated property.[[6]](#footnote-6) U.S. citizens, regardless of whether they were citizens at the time of the takeover, would be able to sue foreign companies that make new investments on their confiscated property in Cuba.[[7]](#footnote-7) Canada, Mexico, and the European Union wrote official cables and made public statements that strongly opposed the proposals for violating existing trade agreements, national sovereignty, and international law.[[8]](#footnote-8) Representative Diaz-Balart, who helped write the bill, argued that it was unethical for foreign countries to protect their commercial interests at the expense of propping up “tyranny.”[[9]](#footnote-9) Senator Helms and Representative Burton pushed their legislation more aggressively. However, the administration opposed stipulations that would violate international law, harm relationships with allies and trading partners, and restrict executive control over foreign policy.[[10]](#footnote-10)

Detractors on the Hill called it the “Bacardi bill” because of the preferential provisions for sugar and liquor resulting from special interest lobbying.[[11]](#footnote-11) CANF and Bacardi helped to fundraise for Jesse Helms in Miami.[[12]](#footnote-12) The Fanjul sugar barons also pushed for the bill behind the scenes.[[13]](#footnote-13) Jorge Mas Canosa’s telecommunications investments would stand to benefit from the provision in the bill allowing U.S. aid for private telecommunications and media companies working in a post-Castro Cuba.[[14]](#footnote-14) Cuban exiles stressed that their primary motivation was independence and freedom for Cuba; cynics claimed that their actions were to benefit themselves, particularly respecting their Cuban property rights and future investment potential.[[15]](#footnote-15)

 Cuba watchers wondered if the United States would start to ease some sanctions as bipartisan support to overturn the embargo grew.[[16]](#footnote-16) Many felt that engagement was more likely to bring about change in Cuba. Agriculture and other business sectors sought to invest in the Cuban market. U.S. laws inhibited human rights organizations’ and charities’ efforts to assist needy Cubans. Still, powerful GOP lawmakers and exile leaders threatened to write laws that would limit the President’s authority over Cuba policy and cut off funding for unfavorable projects because of the recent policies and fears that the administration would loosen the embargo.[[17]](#footnote-17) Republicans in the House and Senate proposed bills to end the Cuban Adjustment Act.[[18]](#footnote-18) Shortly before the Helms-Burton bill vote, Representative Lee Hamilton (D-IN) introduced a bill that would lift sanctions on food and medicine sales to Cuba, but his colleagues rejected it.[[19]](#footnote-19) Representative Charles Rangel (D-NY) thought that opening up relations was a better way to encourage ideas and that the bill was mere “theatrics,” unlikely ever to pass.[[20]](#footnote-20)

The House Committee on International Relations (previously known as the Foreign Affairs Committee) discharged the Helms-Burton bill to the floor in summer 1995.[[21]](#footnote-21) The House of Representatives voted on the Helms-Burton bill on September 21, 1995.[[22]](#footnote-22) Speaker Newt Gingrich backed the Libertad bill and used it to exacerbate the wedge between Cuban-Americans and Clinton.[[23]](#footnote-23) Title I outlined U.S. relations with international organizations and third countries that collaborated the Cuban government. It required the United States to withhold aid to the former Soviet States if they supported Cuban intelligence or nuclear capacity development, deny aid to countries that trade with Cuba unless the President deemed the assistance was in the U.S. national interest, convert TV Marti signals to UHF broadcasts, report on third-country assistance to Cuba, and limit remittances.[[24]](#footnote-24) Title II outlined the political and economic conditions required to end the embargo. Title III allowed owners to sue entities that trafficked their confiscated Cuban property, and Title IV barred individuals who trafficked confiscated Cuban property from entering the United States. The law targeted foreign investment in Cuba, among other things, which Cuba valued at $2.1 billion, but independent analysts estimated $500 million.[[25]](#footnote-25) Cuba had 54 joint ventures and 12 risk contracts from, in descending order, Spain and Canada (which each held a third) and Netherlands and Mexico constituting the remaining third.[[26]](#footnote-26) The most humanitarian donations came from the United States.[[27]](#footnote-27) Non-U.S. humanitarian contributions totaled $63 million and primarily came from Norway, China, France, Spain, Sweden, the United Kingdom, and Vietnam.[[28]](#footnote-28) Chief export partners were Canada, Russia, Spain, Japan, Argentina, and Brazil.[[29]](#footnote-29) Chief import partners were Spain, Mexico, Russia, and Canada.[[30]](#footnote-30) Diaz-Balart warned: “The message is clear: They are going to have to choose between collaborating with Castro or participating in the U.S. market.”[[31]](#footnote-31) They wanted to dissuade new investments and cause current investors to rethink their projects. The Representatives signaled that they would not back normalization efforts.[[32]](#footnote-32) The House Report on the bill echoed this sentiment:

The purpose of this new civil remedy is, in part, to discourage persons and companies from engaging in commercial transactions involving confiscated property, and in so doing to deny the Cuban regime the capital generated by such ventures and deter the exploitations of property confiscated from U.S. nationals.[[33]](#footnote-33)

The House passed the bill 294-130, and the debate continued in the Senate.[[34]](#footnote-34) In that chamber, Senator Helms struggled to push the bill through the Senate Foreign Relations Committee.[[35]](#footnote-35)

 Clinton threatened to veto the bill if Congress did not alter the provisions that ostracized international partners.[[36]](#footnote-36) Clinton’s special adviser for Cuba, Richard Nuccio, said that the bill’s “extreme approach” “infringe[d] on the president’s ability to conduct foreign policy, antagonize[d] U.S. allies and corporate interests and jeopardize[d] ‘prospects for a peaceful democratic transition.’”[[37]](#footnote-37) Secretary of State Warren Christopher wrote to Speaker of the House Newt Gingrich outlining problems with the bill: that it would “damage prospects for a peaceful transition,” limited the President’s policy options and ability to respond, interfered with U.S. aid to Russia, harmed relationships with allies, hurt U.S. business interests, and gave Castro ammo for anti-U.S. propaganda.[[38]](#footnote-38) Others noted a marked difference between U.S. policy toward Cuba versus U.S. policy toward other remaining communist countries.[[39]](#footnote-39)

 The “right of action” provision, also known as Title III, which would allow U.S. citizens to sue third country entities in U.S. courts for “trafficking” in confiscated Cuban property, remained the most powerful and most controversial part of the bill.[[40]](#footnote-40) To appease fears of creating a backlog in courts, they added the stipulation that the property in question must value $50,000 or more.[[41]](#footnote-41) Third countries opposed how the bill attempted to strong-arm other countries into supporting U.S. policy and the extraterritorial provisions that infringed on their sovereignty and national interests; they argued that it was against international law and would harm cooperation with the United States in other areas.[[42]](#footnote-42)

Perhaps surprisingly, many large multinational U.S. corporations opposed Title III because it would increase the number of claimants eligible for restitution beyond those 5,911 claims that the U.S. Foreign Claims Settlement Commission (FCSC) certified two decades prior.[[43]](#footnote-43) The FCSC limited claims to claimants that were U.S. nationals or U.S. corporations at the time of takeover; the new legislation expanded eligibility for lawsuits to persons who later became U.S. citizens.[[44]](#footnote-44) It required new acts of trafficking by third-country investors on current U.S. citizens’ confiscated property and a notice of intent to sue. These FCSC-certified corporate claims amounted to over $1 billion and represented almost 60% of the certified FCSC claims.[[45]](#footnote-45) The Cuban government had limited resources to provide compensation for all the claims, and U.S. courts had a limited capacity to address a massive influx of lawsuits.[[46]](#footnote-46) Thus, large corporations, about thirty of whom were members of the Joint Corporate Committee on Cuban Claims, feared that the division of time, attention, and compensation would result in less for them.[[47]](#footnote-47) Proponents edited Title III to reduce the number of eligible cases and provide foreign companies with a two-year grace period.[[48]](#footnote-48) The sponsors of the bill, in response, added the stipulation that claims would have to be non-residential and value at least $50,000 to be eligible.[[49]](#footnote-49) Proponents risked alienating ordinary Cuban-Americans with smaller claims in favor of corporate interests.[[50]](#footnote-50) Nevertheless, estimates suggested that eligible claims could total up to $100 billion and result in 300,000-430,000 lawsuits.[[51]](#footnote-51)

 Senate Majority Leader Bob Dole sought to bring the Helms-Burton bill to a vote a few in October 1995.[[52]](#footnote-52) The Senate Foreign Relations Committee did not approve the bill despite Helms’s chairmanship, but Dole brought it to the floor anyway.[[53]](#footnote-53) Senator Chris Dodd (D-CT) led a filibuster noting that Cubans would get special status over other nationalities and that Title III would burden U.S. courts.[[54]](#footnote-54) Senate Republicans rejected Title III, but Dole was determined to keep pushing it.[[55]](#footnote-55) The Senate passed the bill on October 19, 1995.[[56]](#footnote-56) Bill Clinton hesitated to ratify it until an international tragedy left him little choice.

## Brothers to the Rescue

 On Saturday, February 24, 1996, Cuban MiG fighter jets killed four Cuban-Americans when they downed two Brothers to the Rescue civilian airplanes.[[57]](#footnote-57) The Brothers to the Rescue planes had served a humanitarian purpose for years as they scanned the waterways around Cuba and Florida for rafters. They would call the sightings into the Coast Guard, who could then pick them up and bring them to safety until the ‘wet foot-dry foot’ announcement. They provided relief and supplies. However, they also antagonized the Cuban government by flying into their airspace and dropping anti-Castro leaflets.[[58]](#footnote-58) The Cuban government had warned them and the U.S. Government for months that Cuba was prepared to defend its territory and retaliate. The day that Cuba fulfilled its warning, evidence showed that it occurred over international waters. Cuba had shot down civilian, American citizen pilots conducting humanitarian missions in international air space. The Coast Guard found no remains of the victims, Armando Alejandre Jr., Carlos Costa, Pablo Morales, and Mario de la Pena.[[59]](#footnote-59)

 The illicit act outraged Washington, Cuban-Americans, and the international community.[[60]](#footnote-60) The small attempts that Clinton had made to liberalize U.S.-Cuba information exchange, and Clinton’s reticence about the Helms-Burton Act, gave way to a harsher approach. Clinton retaliated with sanctions and other political measures to tighten travel restrictions on Cuban diplomats in the United States, suspended all charter air travel between the countries, and expanded TV Marti’s signal.[[61]](#footnote-61) He compensated the victims’ families using Cuba’s frozen assets in the United States, sought the United Nations’ condemnation, and agreed to the Helms-Burton bill.[[62]](#footnote-62) The European Union “strongly condemn[ed] the shooting down of two civilian aircraft” and urged “moderation and restraint” in responding actions.[[63]](#footnote-63) Congress returned to the Helms-Burton bill with a renewed mandate to punish Cuba and less resistance from the President.[[64]](#footnote-64) Titles III and IV were back on the table.[[65]](#footnote-65)

 President Bill Clinton signed the Cuban Liberty and Solidarity (Libertad) Act of 1996 on March 12.[[66]](#footnote-66) Clinton’s words at the signing ceremony left no doubt that the Brothers to the Rescue incident had been the determining factor for passing the legislation.[[67]](#footnote-67) Clinton began,

This Act is a justified response to the Cuban government’s unjustified, unlawful attack on two unarmed U.S. civilian aircraft that left three U.S. citizens and one U.S. resident dead….[[68]](#footnote-68)

By acting swiftly—just 17 days after the attack—we are sending a powerful message to the Cuban regime that we do not and will not tolerate such conduct. The Act also reaffirms our common goal of promoting a peaceful transition to democracy in Cuba by tightening the existing embargo while reaching out to the Cuban people….[[69]](#footnote-69)

Today, I sign it with the certainty that it will send a powerful, unified message from the United States to Havana that the yearning of the Cuban people for freedom must not be denied.[[70]](#footnote-70)

About half of the hundred people attending the signing ceremony were Cuban exiles from Florida and New Jersey.[[71]](#footnote-71) Relatives of the downed Brothers to the Rescue pilots and Jorge Mas Canosa were among those to receive commemorative pens.[[72]](#footnote-72)

 Cuban-Americans donated $800,000 in 1996 to pro-embargo candidates’ campaigns.[[73]](#footnote-73) Mas Canosa had promoted the legislation with at least thirty lawmakers.[[74]](#footnote-74) Embargo supporters had used U.S. electoral politics as leverage, reminding the President that Florida elections were at stake.[[75]](#footnote-75) Clinton won 42 percent of the Hispanic vote in Florida in the 1996 presidential election.[[76]](#footnote-76) He was the first Democratic presidential nominee to win Florida in a long time.[[77]](#footnote-77)

The international community responded negatively to the Helms-Burton Act. Cuba’s National Assembly President Ricardo Alarcon said that Clinton had caved to the “fascists” and that the law would strengthen the revolution.[[78]](#footnote-78) Clinton waived Title III lawsuits for six months (after the election) to give foreign firms time to divest and to revisit foreign countries’ cooperation at that time.[[79]](#footnote-79) Yet, third countries were upset that the possibility of enforcement remained in the future and prepared retaliatory legislation.[[80]](#footnote-80) Mexico said it violated NAFTA.[[81]](#footnote-81) Stuart Eizenstat, as the new undersecretary of Commerce for international trade Helms-Burton envoy, met with 40 exile organizations before traveling to other countries to defend the Helms-Burton Act and encourage them to pressure Cuba to democratize.[[82]](#footnote-82) Eizenstat and European Union trade commissioner Sir Leon Brittan negotiated an agreement that addressed the European Union’s concerns over the Helms-Burton Act.[[83]](#footnote-83) The resulting Memorandum of Understanding (MOU) ensured that the European Union would drop its trade suit at the World Trade Organization (WTO) over Helms-Burton and more actively promote democracy in Cuba if Clinton would continue to waive Title III lawsuits.[[84]](#footnote-84) Some Helms-Burton supporters like Representative Diaz-Balart balked at the arrangement.[[85]](#footnote-85) The President never waived Title IV, and the government had already banned Mexico’s Grupo Domos and Canada’s Sherritt executives and their families from the United States by the summer of 1997.[[86]](#footnote-86) Clinton waived the lawsuit provision again for another six months in July 1997, and exiles criticized him for repeatedly waiving Title III’s right to sue.[[87]](#footnote-87) U.S. Presidents waived the provision every six months for the next two decades.

Title III remained stalled despite the ever-changing situation in the Cuban-American community and U.S.-Cuba relations. The larger-than-life CANF founder and chairman, Jorge Mas Canosa, died in late 1997. Cuban-Americans advocated for a five-year-old rafter named Elian Gonzalez to stay in the United States. His mother had died at sea and he arrived in Florida alone in November 1999. His father, who lived in Cuba, wanted the boy back, which sparked an international custody battle that tarnished public perceptions of Cuban-Americans. Clinton’s Attorney General forcibly removed the child from his Miami relatives’ home and returned him to Cuba. Exiles punished the presidential candidate Al Gore, Clinton’s Vice President, at the ballot box. George W. Bush won a very close election that came down to a recount in Florida. CANF floundered and split into factions after Jorge Mas Canosa's death and the Elian Gonzalez incident in the late 1990s and early 2000s. In the vacuum of pro-embargo Cuban foreign policy leadership, new exile organizations emerged. CANF began to moderate and hardline members left to form the Cuban Liberty Council, which had a close relationship with the George W. Bush administration. Cuban-Americans who preferred more engagement with the island formed the Cuba Study Group, which became influential during the Obama administration’s “D17” normalization efforts with Cuba in 2014. The FIU Cuba Poll showed that Cuban-American public opinion moderated as well; younger Cuban-Americans especially supported greater engagement.

Meanwhile, the isolationist U.S.-Cuba Democracy PAC formed in 2004 and emerged as a potent force. Its large donations primarily benefited Republicans but also buoyed the campaigns of pro-embargo Democrats. Among the top donors are prominent activists and wealthy Cuban-American community members, such as Javier Garcia-Bengochea, George Feldenkreis, Jorge Munilla, Felipe Valls, Fausto Diaz, Benjamin Leon, their family members, and more.[[88]](#footnote-88) U.S.-Cuba Democracy PAC donation recipients included South Florida politicians Rep. Carlos Curbelo, Rep. Alcee Hastings, Rep. Wasserman-Schultz, Rep. Ileana Ros-Lehtinen, Rep. Frederica Wilson, Sen. Marco Rubio, and Sen. Bill Nelson, as well as other recipients nationwide.[[89]](#footnote-89) While these contributions on their own may not have been enough to win elections, they had the potential to swing votes on Cuba policy in Congress. Many wealthy Cuban-Americans also donated directly to candidates or candidates’ PACs.[[90]](#footnote-90) They were a major force in helping to elect increasing numbers of Cuban-Americans to Congress and other national, state, and local positions (see text box). The Republican Cuban-American lawmakers resented Obama’s Cuba thaw, and they helped set the stage for President Donald Trump to reverse Obama’s policies.

Cuban-American Members of US Congress:

Ileana Ros-Lehtinen, R-FL (House: 1989–2019)

Lincoln Diaz-Balart, R-FL (House: 1993-2011)

Bob Menendez, D-NJ (House: 1993-2006; Senate: 2006–Present)

Mario Diaz-Balart, R-FL (2003–Present)

Mel Martínez, R-FL (Senate: 2005-2010)

Albio Sires, D-NJ (House: 2007–Present)

Marco Rubio, R-FL (Senate: 2011–Present)

David Rivera, R-FL (House: 2011-2013)

Joe Garcia, D-FL (House: 2013–2015)

Ted Cruz, R-TX (Senate: 2013–Present)

Alex Mooney, R-WV (House: 2015–Present)

Carlos Curbelo, R-FL (House: 2015-2018)

Maria Elvira Salazar, R-FL (House: 2021)

Carlos Gimenez, R-FL (House: 2021)

Nicole Malliotakis, R (House: 2021)

## 2016 Election

 Trump first proposed running for President in 2000. The Trump organization explored third-country partnerships in Cuba in the late 1990s despite the Helms-Burton Act becoming law in 1996. However, when Trump considered running as a third-party presidential candidate, he took a hard line against Cuba. Trump officially launched his 2000 presidential campaign in November 1999 at a Miami Cuban-American National Foundation luncheon.[[91]](#footnote-91) He concentrated on Florida, where Ross Perot won thousands of Republican votes in earlier elections. Trump defended the embargo in the campaign speech, calling the Clinton administration’s “weak stance” on Cuba “inconceivable.”[[92]](#footnote-92) Trump did not consistently support the embargo in the intervening years, but he returned to that message as he campaigned in Florida during the 2016 presidential election.

 One month before the election, Donald Trump held a town hall in Little Havana.[[93]](#footnote-93) He promised Miami Cubans that he would reverse Obama’s Cuba thaw.[[94]](#footnote-94) The fight for Republican votes in Florida’s largest city necessitated enlisting Cubans, who accounted for 72% of registered Republicans in Miami-Dade.[[95]](#footnote-95) For the first time in the Bay of Pigs veterans’ history, Brigade 2506 endorsed a presidential candidate: Donald Trump.[[96]](#footnote-96) By 11 PM on Election Day, Trump was the projected winner of Florida.[[97]](#footnote-97) He won the electoral college 306-232.

 The day after the election, Trump reportedly asked future Senior Advisor to the National Security Advisor Fernando Cutz how to reverse Obama’s Cuba policies.[[98]](#footnote-98) Trump added pro-embargo, Cuban-American lobbyist Mauricio Claver-Carone, executive director of the U.S.-Cuba Democracy PAC, to his transition team.[[99]](#footnote-99) Yleem Poblete, the former Chief of Staff for the House Foreign Affairs Committee, also joined the team.[[100]](#footnote-100) Hardliners on the Trump team and advisors included: Mike Pence, James Jay Carafano of the Heritage Foundation, Mauricio Claver-Carone, Representative Devin Nunes, A.J. Delgado, Carlos Diaz Rosillo, and Yleem Poblete.[[101]](#footnote-101) Mario Diaz-Balart became an important voice for Cuba, meeting regularly with members of the transition team.[[102]](#footnote-102) They concerned themselves with Cuban entrepreneurs’ future if the United States backed out and how to capitalize on a Cuban leadership transfer.[[103]](#footnote-103)

When Trump took office, he appointed numerous Cuban-Americans. Most prominently, Trump nominated Alexander Acosta, the Cuban-American dean of Florida International University’s law school and former federal judge, to be Secretary of Labor.[[104]](#footnote-104) Acosta became the only Hispanic member of Trump’s cabinet, which gratified Trump’s South Florida supporters.[[105]](#footnote-105)

 Republican power over the executive and legislative branches afforded Cuban-American legislators the opportunity to reverse Obama’s legacy.[[106]](#footnote-106) Trump took a strict approach to Cuba because he wanted to repay Cuban-Americans for helping him win Florida.[[107]](#footnote-107) Trump repeatedly spoke to Representative Mario Diaz-Balart and Senator Marco Rubio about repaying the Bay of Pigs Veterans for their endorsement.[[108]](#footnote-108) Furthermore, Cuban-American congressional votes and committee assignments proved useful for Trump’s policy agenda.[[109]](#footnote-109) Ros-Lehtinen and Rubio spearheaded Cuba initiatives in the House Foreign Affairs Committee and the Senate Foreign Relations Committee. Bipartisan Florida legislators supported the initiatives.[[110]](#footnote-110)

Rubio functionally took control of Latin America policy during the Trump administration. Rubio met with Trump several times in the administration’s early months, and Rubio confirmed that he broached Cuba.[[111]](#footnote-111) Rubio’s prominent positions on the Senate’s Foreign Relations and Intelligence committees contributed to his authority over Latin American and Caribbean affairs.[[112]](#footnote-112) Trump eagerly appeased Rubio’s Florida constituency to prepare for the 2020 election. Rubio boasted:

They’ve asked for my input on basically every issue in Latin America and the Western Hemisphere and... we’ve been engaged with them and they’ve been very open. In some ways the fact that they didn’t come in with preconceived ideas of what to do has created the space for that debate to occur.[[113]](#footnote-113)

At another interview, he explained:

I have disagreements with the White House and I have been able to address some of them privately and a couple of them more publicly, whether it was the initial response in Puerto Rico or some of the foreign policy issues in different parts of the world…. But my view is this: 95 percent of what is going to happen to me today, I cannot control. What I can control is how I react to what happens. And what I’ve chosen to do more than ever is focus like a laser on the things I can control and get done.[[114]](#footnote-114)

He and his fellow Cuban-American legislators dominated the Cuba and Venezuela discussions.[[115]](#footnote-115) Ros-Lehtinen commended him for advocating for Cuba, Venezuela, and Puerto Rican hurricane aid.[[116]](#footnote-116) She said, “Marco Rubio is the conduit we have to get to President Trump. He’s got the president’s ear on Cuba and Venezuela.”[[117]](#footnote-117)

Comparing his foreign policy style to Trump’s, Rubio said:

The president’s approach to foreign policy has largely been to not publicly antagonize leaders he’s trying to reach accommodation or agreement with,” Rubio said. “I’ve long said that human rights and respect for democracy should be at the forefront of everything we do and I have a different style about that.[[118]](#footnote-118)

As a result, the Trump administration undid many of Obama’s Cuba policies within his first six months in office.

## June Announcement

 On June 16, 2017, at Little Havana’s Manuel Artime Theater, Trump announced that he would roll back Obama’s policies. His plan prohibited transactions with businesses associated with “Cuba’s military-backed tourism conglomerate GAESA.”[[119]](#footnote-119) The National Security Presidential Memorandum limited the scope of Treasury-authorized travel.[[120]](#footnote-120) Trump maintained diplomatic relations, commercial flights, cruises, and most travel categories.[[121]](#footnote-121) Americans could still participate in group people-to-people educational travel with detailed itineraries.[[122]](#footnote-122) However, the plan eliminated individual people-to-people educational trips, which Obama’s critics claimed Americans abused to vacation.[[123]](#footnote-123) The United States would permit fewer Cuban government officials to enter the country.[[124]](#footnote-124) The State Department had to create a list of businesses that Americans could not patronize due to their the military-controlled GAESA organization ties.[[125]](#footnote-125) The administration sought to cut off funding to the repressive Cuban government, which benefited from a surge in tourism in recent years.[[126]](#footnote-126)

The U.S.-Cuba Democracy PAC continued to provide large donations to pro-embargo candidates even if they were not up for reelection. Rep. Debbie Wasserman-Schultz, Rep. Mario Diaz-Balart, Maria Elvira Salazar, Cuban-American Rep. Albio Sires (D-NJ), Sen. Bob Menendez, and Sen. Marco Rubio received considerable contributions.[[127]](#footnote-127) Many faced competitive races.[[128]](#footnote-128) Prominent Miamians donated to the US-Cuba Democracy PAC, including the Munillas, Benjamin Leon, and the Diaz-Olivers.[[129]](#footnote-129) Although many Cuban-Americans had embraced more engagement with Cuba, hardliners remained convinced that the embargo never ousted the Castro regime because U.S. Presidents had never fully implemented it. So, Helms-Burton enforcement also changed under the Trump administration.

 On March 4, 2019, Secretary of State Mike Pompeo announced partial, provisional Title III implementation.[[130]](#footnote-130) The major announcement came on April 17, the anniversary of the Bay of Pigs invasion.[[131]](#footnote-131) That day, National Security Advisor John Bolton gave a speech in front of the Bay of Pigs veterans’ association in Miami, denouncing the “troika of tyranny” and declaring that Title III waivers would end on May 2.[[132]](#footnote-132) Countries worldwide immediately expressed their displeasure through public statements condemning Title III implementation, including Mexico, Canada, the European Union, and more.

 Experts feared that ending the waivers would result in thousands of lawsuits. However, claimants only filed a total of about twenty-four cases within the first year (see chart).[[133]](#footnote-133) Most of these cases targeted U.S. companies, probably due to the blocking statutes in Canada and the European Union and jurisdiction questions that create obstacles to seeking redress.[[134]](#footnote-134) This has undermined the intention of dissuading foreign investment in Cuba. The claims need not be one of the nearly 6000 certified FCSC claims as long as they meet the standards. The act itself does not limit lawsuits to claimants who were U.S. nationals at the time of seizure, and it does not specify whether only the original property owners are eligible to sue. So far, the cases have questioned who bears the burden of proof for accusations of trafficking, whether Title III waives sovereign immunity, the role of OFAC licenses, and the definitions of the exceptions that the act outlines.[[135]](#footnote-135) The courts must decide these questions. According to III.302.b., the property must be worth at least $50,000, which greatly limits the number of cases eligible.

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| **Title III Lawsuits** |
| Canto v. Iberostar Hoteles y Apartamentos S.L. |
| Cueto v. Pernod Ricard |
| Del Valle v. TRIVAGO GmbH |
| Echevarria v. TRIVAGO GmbH |
| Exxon Mobil Corp. v. Corporacion CIMEX S.A. |
| Garcia Bengochea v. Royal Caribbean Cruises, Ltd. |
| Garcia-Bengochea v. Carnival Corp. |
| Garcia-Bengochea v. Norwegian Cruise Line Holdings, Ltd. |
| Glen v. American Airlines, Inc. |
| Glen v. Expedia, Inc. |
| Glen v. Travelscape LLC |
| Glen v. TripAdvisor LLC |
| Glen v. Visa Inc. |
| Gonzalez v. Amazon.com, Inc. |
| Havana Docks Corp. v. Carnival Corp. |
| Havana Docks Corp. v. MSC Cruises S.A. Co. |
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| Havana Docks Corp. v. Royal Caribbean Cruises, Ltd. |
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| Mata v. Grupo Hotelero Gran Caribe |
| Mata v. Melia Hotels International, S.A. |
| Mata v. TRIVAGO GmbH |
| Regueiro v. American Airlines Inc. |
| Sucesores de Don Carlos Nunez y Dona Pura Galvez, Inc. v. Societe Generale, S.A. |
| Trinidad v. TRIVAGO GmbH |

\*As of March 2020

Conclusion

 Unlike limiting American travel to Cuba, which demonstrably affected Cuban business owners, full implementation of the Helms-Burton Act’s Title III has had little impact in the United States, Cuba, or third countries. Further study will determine whether Title III dissuaded foreign companies from initially investing in Cuba, but evidence suggests that has not caused current foreign investors to withdraw. Instead, it has had limited reach, most of which has been domestic. The negotiations that led to and followed ratifying the bill certainly mitigated its impact, but it is also noteworthy just how much foreign policy analysts and Cuba watchers overestimated the efficacy of the policy. The Helms-Burton Act did, however, undermine the United States’ international reputation and harm diplomatic relationships with current and potential foreign partners.

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