Case Study: The U.S. Embargo on Cuba

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Geography

- Cuba is located 90 miles south of Florida.
- Population: 11 million
- GDP/ Capita: US$7,000
- Gini: 38/100 (U.S. is 41/100 and 0 is perfect equality)
- President: Miguel Diaz-Canel
- Government: Socialist
- Employment: 78% Public Sector
Cuba: Trade

- Exports (US$2.4 billion in 2005):
  - Sugar
  - Nickel
  - Tobacco
  - Fish
  - Medical Products
  - Citrus Fruits
  - Coffee

- Import Sources:
  - Venezuela
  - China
  - United States
  - Brazil
  - Spain
  - Canada

- Export Destinations:
  - Canada (18%)
  - China (17%)
  - Venezuela (13%)
  - Netherlands (9%)
  - Spain (6%)

- Imports (US$6.9 billion in 2005):
  - Food
  - Fuel
  - Clothing
  - Machinery

U.S. - Cuba Trade

- Trade between the U.S. and Cuba goes in one direction only, with U.S. exports to Cuba but no Cuban exports to the U.S.

- Prior to 2000, U.S. entities could only export to Cuba with special OFAC licenses. In 2000, the Bush Administration enacted TSRA, which enabled exports of agricultural products and goods to Cuban entrepreneurs.
Cuba Tourism

  - Tourists come primarily from Canada and the EU
  - Medical tourism accounts for some of the 1.9 tourists that visit annually

- 4 million tourists visited Cuba in 2016 and revenue has risen to US$3 billion

History

- Cuba was a Spanish colony until 1898, when the U.S. took control of the island.
- In 1902, Cuba declared independence from the U.S.
- Various military leaders, some harsh, led Cuba until 1959.
- Fidel Castro led a socialist revolution against Fulgencio Batista that ended in a consolidation of power by Castro.
Socialism

• Economic Theory:
  • The state is the most effective manager of the means of production, such as natural resources, factories, tools, and infrastructure.
  • Some forms of socialism use cooperatives to control the means of production.

• Began as an alternative to capitalism in the late 1700s.

Socialism vs. Capitalism

Socialism
• Usually Democratic
• Central Planning
• Focus on community
• Emphasis on cooperation
• Focus on equality

Capitalism
• Usually Democratic
• Decentralized Planning
• Focus on individual
• Emphasis on competition
• Less focus on equality

Variations:
• Communism (USSR)
• Mixed-Market Socialism (Nordic Countries, China)

Commanding Heights: https://www.youtube.com/watch?v=l1El1xy55w
Cuban Socialism

- **Resources**
  - Largely state owned

- **Property**
  - Individuals allowed one principal residence and one vacation home
  - Newly enacted laws allow foreign investment in limited properties
  - Policy: your home should not be an investment
  - Property can be sold at any price

- **Employment/Income**
  - State-issued jobs that provide basic living expenses – most industries are state-owned
  - Black market provides secondary income (such as Air BnB)

- **Socialism**
  - Health care is free
  - Education is free
  - Food is subsidized

- **Taxes**
  - Top individual rate is 50%
  - Corporate rate is 30%

Major Cuba Events: Bay of Pigs

- Eisenhower had the idea and set aside funding; Kennedy executed the plan.
- The CIA trained 1400 Cuban refugees/ exiles to prepare them to invade and take back the country from Castro.
- They landed at the Bay of Pigs, south of Havana.
- After 3 days of fighting in Cuba, Castro’s military defeated the invaders.
Major Cuba Events: Cuban Missile Crisis

- October 1962
- President Kennedy announced that Soviets had installed nuclear missiles in Cuba, which could reach the United States.
- In response, the U.S. enacted a Naval Blockade around Cuba.
- Kennedy and Soviet leader Nikita Khrushchev agreed that Soviets would remove the missiles if the U.S. promised not to invade Cuba.

Major Cuba Events: Mariel Crisis

- May 1980
- President Carter announced that the United States would welcome Cuban migrants fleeing communism with “open arms”.
- Castro responded by opening the Port of Mariel to any Cubans wishing to depart. 125,000 Cubans fled before the port was closed in October 1980.
- Unlike previous migrations of mostly white, upper-class, educated Cubans, those who fled from Mariel tended to be darker skinned, working class migrants that Castro considered undesirable.
- After the exodus, Castro claimed that he “flushed the toilets by disposing not only of political dissenters but also of criminals and mental patients.”
Embargo: What is a Trade Embargo?

- An economic embargo is a legal tool used to motivate a particular action by a country. It restricts trade with that country until a goal is achieved.
  - NSD 75 (1983) trade embargo against Eastern Europe during the Cold War.
  - Embargo on China and North Korea during 1950 Korean War.
  - Embargo on Iran and Libya in 1996.

- Goals:
  - Punish countries that support particular policies
  - Stop countries from engaging in certain behaviors (nuclear proliferation)
  - Change a political regime

The Embargo on Cuba

- 1960: Eisenhower prohibited U.S. refineries in Cuba from refining Soviet oil, reduced the sugar quota, and limited U.S. trade to medicines and food.
  - In response, Castro nationalized U.S. refineries and industries on the island.
- 1961: Eisenhower implements an embargo under the Trading with the Enemy Act authority (used during wartime).
  - In response, Castro said, “[t]he U.S. need not worry that a strategic embargo will damage private industry in Cuba,...it no longer exists.”
- 1961: Bay of Pigs Invasion
- 1962: Formal embargo on Cuba issued by Kennedy
- Subsequent Presidents renewed the Executive Embargo on Cuba
  - Some (Carter) tried to soften relations; others (Reagan, Bush) tightened the restrictions
The Embargo on Cuba: The End of the USSR

- Cuba was dependent upon the Soviets for oil and aid. It stopped.
- The end of the Cold War signaled a new era in Cuban history.
- Some in Congress sought to negotiate a lifting of the embargo, but newly elected Cuban representatives pushed against this.
- Given the President's desire to end the embargo, Congress enacted the Cuban Democracy Act of 1992 – a Congressional Embargo.
- The Embargo was tightened in 1996 by the Helms-Burton Act, in place today.

The Helms-Burton Act of 1996

- Turned the Executive embargo into a Congressional embargo.
- Tied lifting of the embargo to:
  - Democracy in Cuba
  - Removal of any Castro relative or associate from power
  - Repayment of debts to the United States
- Allowed U.S. Citizens to sue in U.S. courts to be compensated for nationalized property by the Castro regime (this section has been waived by every administration).
Helms-Burton, Title III and Trump

- Title III of the Helms-Burton Act stipulates that:
  - Any U.S. National has a cause of action in federal court against any person that “traffics” in property that was expropriated from a U.S. National on or after January 1, 1959.

- This clause could enable parties to use U.S. courts to sue foreign entities directly or indirectly benefiting from seized property in Cuba.

- The EU (and others) have strongly objected to this Title and sued the U.S. in the WTO. An agreement was reached whereby the U.S. continue to waive application of this Title.

- Every President has waived Title III. Until now.

Title III in Practice

- Because Title III has not been used, no precedent exists to guide us. However, USSC precedent disfavors extraterritorial application of U.S. law.

- Claims under this Title allow treble damages and legal fees for plaintiffs.

- Valuation of confiscated properties use a “market value” measure, which may be extraordinarily high depending on the use.
Title III Outcomes

• Suspension of Title III claims will be lifted on May 2, 2019.

• Lawsuits may exceed billions of dollars and will likely involve foreign companies as well as U.S. companies.

• Litigation at the WTO as well as in U.S. courts to stop implementation of Title III is likely.

• Europe, Canada and Mexico already enacted “Blocking Legislation” that would allow defendants to Title III claims to clawback their losses against the assets of the plaintiffs.

Has the Embargo on Cuba Achieved Its Goal

• The goal of the embargo on Cuba is to end communism and bring about a democratic government in Cuba.
  • Special immigration laws (Cuban Adjustment Act of 1966) have allowed Cubans to come to the U.S. lawfully and become citizens. This creates an exile community that might fight back against Castro.
  • However, today, most Cuban migrants are economic, not political refugees.
Has the Embargo on Cuba Achieved Its Goal

Cuba shows no signs of ending communism or adopting democracy.

Evolving Relations: Cuba and the United States

- Raul Castro took over power in Cuba in 2006. Raul has more pro-market inclinations than his brother.
- Obama has had pro-Cuba policies in place since 2009.
  - 2009: Lifted restrictions on family travel and remittances to Cuba
  - 2014: Restoration of full diplomatic ties between U.S. and Cuba
  - 2015: Embassies reopened in Washington and Havana
  - 2015: Cuba removed from State Dept.’s State Sponsors of Terrorism list
  - 2016: Flights to Cuba from the U.S. began operating
  - 2018: Cuba travel restrictions re-implemented by Trump Administration
Doing (U.S.) Business in Cuba

U.S. companies, enticed by gestures made by the Obama Administration, explored opportunities in Cuba. Some have invested there already:

Remove the Embargo Now
- It has not brought about democratic transition
- It has harmed the Cuban people more than the government
- Cuba has taken steps to create a market economy, like China
- Cuba is in our neighborhood and should be a partner with us
- Communism is no longer a threat to the United States
- Cuba is not a threat to the United States

Keep the Embargo for Now
- Cuba commits human rights abuses against its citizens
- Communism remains in place in Cuba
- Castro would “win” if the embargo is lifted

Should the Embargo on Cuba be Lifted?
American Attitudes About the Embargo on Cuba

Thank you for your attention. Comments welcome.

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- Other articles on Cuba: