

Should the US Lift the Cuban Embargo? Yes; Maybe It Has; and Not for Free!

by

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Introduction

Discussions of the Cuban embargo are fraught with emotions, speaking at cross purpose and posturing of various kinds by politicians, pundits, the popular press and academicians. In this essay I will emphasize basic issues that underlie the Cuban embargo with the aim of avoiding these pitfalls as much as possible. One way of doing so is by stressing various features of embargoes in general as well as of the Cuban one in particular that are often overlooked and to do so from a political economy perspective. Perhaps this perspective can move the discussion of the topic to more fruitful grounds, at least for some.

From an economic point of view embargoes are restrictions on economic activities for political or policy purposes. Embargoes involving restrictions on flows of goods across borders are the most well-known due to their impact on international relations. Nevertheless, restrictions on flows of goods and services across lower level jurisdictions in a federal system are internal versions that are conceptually equivalent to the international ones. For instance, restrictions on the quantities of an item such as cigarettes that can be transported across state or provincial borders play the same role as restrictions on items that can cross international borders. In the international context one frequent justification for these restrictions that usually goes unchallenged is national security; in the internal context one frequent justification for these restrictions that usually goes unchallenged is enforcement of different tax policies by different internal jurisdictions.

Since these restrictions are imposed by governments unilaterally, they are usually viewed as acts of hostility toward the recipients of the restrictions when they involve international relations but not when they involve within 'country' restrictions. Thus, from a political perspective they become mechanisms for sending signals of various types in the international setting. From a strictly economic perspective, however, their impact is the same. They restrict the level of trade across borders whether

they are internal or external and provide incentives for illegal activities in the form of smuggling.

Moreover, the end result frequently includes a negative economic impact on the entity imposing the restrictions as well as on the recipients.

An unusual historical example of restrictions that have not been viewed as an embargo despite having the typical features from an economic perspective were the 'mercantilistic' restrictions on trade imposed by Spain on its colonies. These restrictions required all or most commerce between Spain and its colonies to take place in Spanish ships and through a particular set of Spanish ports: first Sevilla and, once the river Guadalquivir silted up, subsequently Cádiz. Yet, they are not referred to as an embargo. One suspects that the main reason is that we view them as taking place within a single jurisdictional entity at that time, the Spanish empire. This experience, however, has lessons for present day embargoes. These restrictions often were quite onerous economically, i.e., they entailed much higher trade costs as a result of transport costs due to geography. Thus, it made no economic sense to wait for ships to and from Spain to sell and buy goods wanted and available in nearby British or French colonies. Not surprisingly, widespread smuggling was a frequent response to these restrictions. Indeed, a Spanish historian has described the XVII century as a century of generalized smuggling (de la Fuente, 2009, p.67), which seems quite appropriate since other colonial powers imposed similar restrictions and with similar consequences.

More generally, embargoes differ with respect to 1) the dimensions of international economic interactions that are subject to the restrictions, 2) the purposes for which the restrictions are imposed, and 3) the economic agents to whom the restrictions apply. The US Cuban embargo is unique due to a combination of its duration, the variety of dimensions restricted, the purposes for which they apply, and the economic agents to whom they apply as well as the interactions between these three features. We will proceed by providing first a brief overview of its evolution. Subsequently, we will describe the main

features of the current version of the embargo. In the last substantive section, we will describe the pros and cons of lifting its main restrictions. A brief conclusion provides a political economy perspective with respect to lifting the three main features of the current version of the embargo.

I. **Origin and Evolution of the Cuban Embargo**

The first US trade embargo on Cuba after World War II was imposed on March of 1958, but this one would be met with approval by most opponents of the current embargo including the Cuban government. For, it was an arms embargo that signified the end of support at the US State Department for Batista's regime (Smith, 1962). In the current common use of the term, the Cuban embargo was originally imposed as a total trade embargo, excluding food and medicines, by the Kennedy administration in February and March of 1962. Some of its provisions went back to 1960 and the Eisenhower administration. It was an implicit reluctant recognition of the permanence of the Castro regime and an explicit signal of US displeasure with Cuba's having become an ally of the Soviet bloc.

Such use of trade embargoes for political or policy purposes had a long history in the US. For instance, in the early 19th century the Jefferson administration imposed a trade embargo on England and France to signal its sovereign right to remain neutral and its displeasure with both sides pressuring the US not to trade with the other one. For the US the results were costly, estimated at 8% of GNP (Irwin, 2001). Trade embargoes became quite popular in the 1790's and in the early 1800's as a result of the Napoleonic wars. According to Findlay and O'Rourke (2007, Ch.7) they had a distinctly eighteenth-century flavor in the sense that they were designed to deprive enemies from obtaining precious metals through exports. By contrast war embargoes in the first half of the twentieth century were designed to deprive enemies of imports such as food and ammunition. Thus, war embargoes have had different policy purposes at different times and the same is true of the Cuban embargo.

Due to the Missile Crisis in October of 1962, leading to the removal of nuclear missiles in Cuba introduced by the Soviets, the Cuban embargo was extended in 1963 beyond restrictions on transactions of goods and services to restrictions on flows of persons, e.g., travel restrictions, and to restrictions on capital flows, e.g., the freezing of Cuban assets in the US. Thus, at this point the embargo involved substantial restrictions on all aspects of international economic interactions. Furthermore, the reasons for the restrictions now included not only signaling displeasure or hostility but also natural security and the possibility of additional economic retaliation for the expropriation of US assets in Cuba. Finally, many other countries became involved as they were asked to participate in the embargo. By 1964 all OAS members but Mexico had agreed to participate.

In the ensuing 50 years the embargo has gone through a number of transformations in terms of softening or tightening the restrictions on transactions of goods and services as well as those on capital and labor flows, the purposes for which it has been tightened or softened and even with respect to the set of economic agents that are supposed to abide by the restrictions. For instance, the OAS abandoned official participation in the embargo in 1975. Moreover, the embargo has both formal statutory and discretionary features as well as informal ones. Since the discretionary ones and the informal ones can be softened or tightened at any particular time, often without public scrutiny, the embargo can and has been tightened and softened in some aspect for one reason or another by every US administration up to and including the Obama administration. Indeed, a recent paper by a Brookings foreign policy expert, Ted Piccone (2013), provides a menu of discretionary and 'informal' ways of relaxing the current embargo to President Obama for his second term. The potential incongruence between formal and informal features of the Cuban embargo can generate large discrepancies between what advocates of different positions claim and what the reality happens to be at any one point in time.

II. What are the Main Formal Characteristics of the Current Cuban Embargo?

Two events stand out as formally determining the main current features of the US Cuban Embargo: one is normally associated with the embargo and one is not. The first event is the Helms - Burton Act of 1996. This Act replaced the Cuban Democracy Act or Torricelli Act of 1992. The latter already represented a tightening of the original 1962 embargo, e.g., restrictions on US subsidiaries trade with Cuba, and a switch of policy aims from national security, which was harder to justify in view of the disappearance of the Soviet Union in 1991, to promoting democracy, which was easier to justify in light of events in Latin America where new democratic regimes had emerged in Chile, Brazil and Argentina. In this setting Helms-Burton represents a further tightening of the embargo in almost all aspects: with respect to the number and type of transactions involved; with respect to its purpose, through a more aggressive advocacy of regime change in the direction of democracy; and perhaps most importantly with respect to a substantial extension of the economic agents subject to the restrictions, potentially and unilaterally including all countries.

Passage of the Act in 1996 was facilitated due to the outrage caused by Cuba's downing of two unarmed planes in January of the same year, leading to 4 deaths, and the Clinton administration's need to respond in some form. This law generates the most international consternation among global elites due to its potential sanctions on private economic agents from other countries. For instance, one of its discretionary provisions allows lawsuits against foreign investors who make use of property expropriated by the Cuban government. US Presidents with positions as varied as Clinton, Bush and Obama have waived the application of this feature of the law every six months since its adoption in 1996. This Act remains the main legal determinant of most current embargo provisions with some exceptions.

A most important exception is a considerable softening of restrictions for Cuban citizens traveling to the US stemming from the Immigration Accord of 1994 between Cuba and the US. This accord was a

bilateral agreement whereby the formal and unilateral travel restrictions on Cuban citizens wishing to come to the US associated with the embargo were substantially softened. It normalized permanent legal flows from Cuba to the US for a minimum of 20,000 Cuban citizens every year. Holders of Cuban exit visas were allowed by this agreement to immigrate legally into the US once they obtained entry visas through the US Interests Section in Cuba. While this major change in the embargo had as a stated aim by both Cuba and the US of a response to a humanitarian concern about the number of people who lost their lives trying to exit Cuba in rafts (e.g., Travieso-Diaz 1998), it also served other interests of both countries.

For instance, the Cuban government agreed to increase its activities preventing departures in rafts and the US agreed to return the ones that succeeded in leaving to the island or to third parties, if they were found before reaching US shores. From Cuba's perspective this created a permanent safety valve for those unhappy with the regime; From the US perspective it represented a signaling of an end to migration policy with respect to Cuba as part of a broader approach to communist regimes. Indeed, it has been argued that the policy of returning refugees to Cuba violates international law on this issue (Werlau, 2005). This accord is still in place. Ironically, it was not affected by the tightening of the embargo represented by the Helms-Burton Act!

One way of acquiring perspective on the magnitude of the lifting of travel restrictions on Cubans coming to the US implied by this agreement is comparing it to the total number of legal emigrants from various sources. In 2006, for example, the top five countries as sources of emigrants to the US were (MPI, 2011): Mexico, 174K; China 87K; Philippines, 75K; India, 61K; Cuba 46K. On a per capita basis Cuba had 0.41% immigrants that year into the US whereas the top immigration country (in absolute terms) with a long border with the US had 0.17% immigrants into the US on a per capita basis that year. That is well over twice as many on a per capita basis. Even if only the minimum 20K visas had been granted

under the 1994 Accord in 2006, the 0.18% immigrants per year that year would be higher on a per capita basis than the percentage for the country that was the top source of immigrants to the US! This aspect of the embargo, namely restrictions on flows of Cuban persons into the US as permanent residents, has already been lifted beyond any reasonable expectations. Moreover if the aim of the Accord was to discourage immigration by Cubans to the US, it has been a complete numerical failure!

A further development in this area is that the Cuban government has rescinded the need for an exit visa and related fees as of January 13, 2013. All one needs is a valid Cuban passport and one can exit for up to two years without loss of any citizenship privileges. These changes affect both travelers that don't intend to migrate permanently as well as those who do so, either through the Accord or through other legal means (family reunification), by eliminating the substantial costs associated with the exit visa and related fees in both cases. Thus the costs of obtaining a passport, which run to about \$100, are left as the main economic restriction for foreign travel imposed by the government. Hence, this year Cuba lifted its own major embargo restrictions on the ability of its citizens to travel not only to the US but to any other country. What remains of the embargo in the area of flows of persons are restrictions on travel by US citizens that are not Cuban-Americans, which seem to have been somewhat loosened informally through the people to people exchanges in the Obama administration, and restrictions on travel by US citizens imposed by Cuba, which maybe no different than what it imposes on any other country.

Mention should also be made of an important restriction of the embargo that affects capital flows. It has been in place somewhat informally since the 1960's, but it is adopted formally in the Helms-Burton Act. To wit, the latter requires all US Directors at International Financial Institutions to vote against the admission of Cuba as a member. Admission is one of the conditions for receiving grants and

loans from these institutions. Yet this formal restriction on capital flows is rarely discussed as part of the lifting of the embargo, especially by those who advocate in favor of lifting the embargo.

III. Should the US Lift the Cuban Embargo?

Since the embargo has three different economic aspects in terms of the restrictions involved, one can partition the answer in terms of which set of restrictions are lifted: the ones on transactions of goods and services; the ones on the flows of persons and the ones on capital flows. With respect to restrictions on transactions of goods and services, the changes would matter little economically to both sides. After so many years Cuba has adjusted to the additional costs of the 'embargo' by switching to next best available alternatives. This is even more applicable in the case of the US, which has more alternatives due to its higher level of wealth. With respect to restrictions motivated by national security, selective restrictions that apply to all countries, including China, would be more than sufficient to satisfy these objectives. While Cuba would benefit more economically than the US from the lifting of these restrictions, the US would benefit more in terms of improving its international relations with almost every other country in the world. They vote against the US embargo every year at the UN.

With respect to labor flows, in many significant ways the embargo is already lifted by the US through the Immigration Accord of 1994 that allows at least 20,000 legal immigrants every year. Yet the US receives no credit for this step by ignoring that it is a lifting of embargo restrictions. More recently, the lifting of travel restrictions on Cuban-Americans is a further softening of the embargo. What is left in this realm is the formal lifting of travel restrictions on other American citizens. Even on this dimension some lifting has already taken place through expansion of people to people programs. For instance, the Havana Consulting Group reports 41K other American residents visited Cuba in 2007 and estimates of 103K for 2012. Cuban-American visitors residing in the US went from 204K in 2007 to 475K in 2012. This is happening despite incidents such as the detention and treatment of Alan Gross since 2009.

Last but not least are restrictions on capital flows. Except for limits on remittances by Cuban-Americans most of these remain in place, have substantial impacts on both sides and face a variety of economic, legal and political obstacles to their elimination. Some of the more difficult and important ones are not usually associated with the embargo and it is not in the US interest to emphasize this association. For instance, requiring US Directors to oppose admission of Cuba to the IFI's can be easily changed to requiring that Cuba meets normal standards and conditions in obtaining grants and loans from these institutions. Direct prohibitions against giving credit can also be easily changed to refusal to provide subsidized insurance for risky loans by the US government. Similarly, instead of straight prohibitions against foreign investment a refusal to insure investors for incurring high levels of sovereign risk would suffice to prevent most investments. Embargo provisions designed to obtain compensation for expropriated property would be more difficult to lift, since they involve complex legal issues.

In reply to the title question: Yes, but... 1) It should happen easily wrt to transactions on goods and services, by expanding on the exemptions which already exist for food and medicines; 2) it has already happened wrt most labor flows, although provisions for A. Gross type of cases and similar ones for Cuban-American residents of the US are needed and should be negotiated; 3) finally, it should happen slowly wrt capital flows and in return for concessions on other issues, including progress on human rights.

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