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Trump Administration Rescinds Certain Actions by Previous Administration to Ease Cuba Sanctions

Andres Fernandez, Gabriel Caballero Jr., Aymee D. Valdivia,
Ronald A. Oleynik, Jonathan M. Epstein, Robert A. Friedman,
Antonia I. Tzinova, Andrew K. McAllister, Daniel A. Noste, and
Kristen Jimenez*

In this article, the authors discuss an executive order signed by President Trump that, among other things, rescinds certain actions taken by President Biden to ease sanctions on Cuba that included removing Cuba from the U.S. Department of State's State Sponsors of Terrorism list.

Within hours after taking office on January 20, 2025, President Donald Trump signed an omnibus executive order¹ revoking 78 executive actions by the previous administration, dating back to 2021. Among them, Trump rescinded two Presidential Memoranda regarding Cuba that were issued on January 14, 2025, just after President Joe Biden announced last-minute plans to relax sanctions on Cuba.

The measures announced by President Biden on January 14, 2025, included:

1. Removing Cuba from the U.S. Department of State's State Sponsors of Terrorism list;
2. Issuing a waiver for Title III of the Helms-Burton Act (Libertad Act); and
3. Rescinding the 2017 National Security Presidential Memorandum 5 on Cuba policy to eliminate the "restricted list," thereby lifting additional related limitations on engagement by U.S. persons and entities with Cuban persons and entities, beyond what is set forth under U.S. law.

President Biden had expressed that these actions were “necessary to the national interest of the United States” and would “expedite a transition to democracy in Cuba.”

In what appeared to be an attempt to roll back many of the sanctions imposed by President Trump during his first term in office, these measures also served as a “gesture of good will” to support a deal brokered by the Catholic Church and the government of Cuba. The agreement involved the Cuban government’s “gradual” release² of 553 political prisoners, many of whom were facing prison sentences of up to 30 years, including those imprisoned following the unprecedented anti-government riots on the island in 2021. The Cuban government began releasing political prisoners on January 15, 2025, and by January 21, 2025, it had released³ approximately 150 wrongfully detained protesters. It is unclear whether the releases will continue following the recent actions taken by the Trump administration.

Cuba’s Reinstatement as a State Sponsor of Terrorism

Among the measures announced by President Biden, President Trump’s sweeping executive order revoked two such measures: (1) one that certified Cuba’s removal from the State Sponsors of Terrorism list, and (2) another that rescinded the National Security Presidential Memorandum 5. Cuban President Miguel Diaz-Canel criticized the move as an “act of mockery and abuse.”⁴

The executive order in effect designates Cuba once again as a state sponsor of terrorism, which President Trump had done at the end of his first term in 2021. Cuban officials have long advocated for removal of the designation, which has resulted in strict economic sanctions, compounding the effects of a U.S. embargo that has persisted for more than 60 years. Former President Barack Obama lifted the designation in 2015, but it was reimposed by President Trump in January 2021.

President Trump’s rationale for reversing the Biden administration’s reprieve is not explicitly stated, though multiple Republicans have argued that the removal of Cuba’s designation as a State Sponsor of Terrorism was inadequately justified. During his U.S. Senate confirmation hearing, now-U.S. Secretary of State Marco Rubio expressed that he had no doubts Cuba met the criteria for

inclusion on the State Sponsors of Terrorism list. He indicated that the Trump administration intended to reverse the removal of Cuba from the list and reimpose other restrictions on the island.

Revival of “Restricted List”

The National Security Presidential Memorandum 5, issued on June 16, 2017,⁵ established the framework for numerous sanctions implemented or reinforced during President Trump’s first term. The memorandum created a Cuba “restricted list,” which bars U.S. persons and entities from engaging in direct financial transactions with certain Cuban entities identified as being under the control of, or acting for or on behalf of, the Cuban military, intelligence, or security services or personnel, such as its commercial conglomerate, Grupo de Administración Empresarial S.A. (GAESA), and its affiliates, subsidiaries, and successors, which are all owned by Cuba’s Revolutionary Armed Forces. Its purpose is to prevent direct financial transactions that would disproportionately benefit such services or personnel at the expense of the Cuban people or private enterprise in Cuba.

Following President Biden’s announcement to rescind National Security Memorandum 5, and thereby, the Cuba Restricted List, President Trump not only reinstated the Cuba Restricted List (and its previously listed entities) but he also expanded the list to include Orbit, S.A. (Orbit), a government-owned, Cuban remittance company responsible for handling money transfers from the U.S. to Cuba, in great extent from Cuban Americans to their families.

Designation of Orbit, S.A.

Remittances sent by relatives abroad are a lifeline for many families in Cuba; however, the Cuban military benefits directly from these transactions by taking a cut and retaining the dollars, while paying recipients in local currency. Remittances constitute a significant portion of Cuba’s gross national income, ranking as its third-largest source of dollar reserves after the service and tourism industries.⁶

Since 2008, GAESA has controlled a number of companies in Cuba, including, since 2010, the Cuban Export-Import Corporation (CIMEX). CIMEX is believed to control over 60 percent of the

Cuban economy across virtually every profitable sector, ranging from hotel chains to banks, supermarkets and clothing stores, real estate companies, gas stations, import and export companies, and an airline.

Prior to 2020, CIMEX controlled U.S. remittances through engagement with U.S. money transfer services like Western Union. To operate in Cuba, Western Union and other money-transfer services were required to contract with *Financiera Cimex, S.A. (Fincimex)*, a CIMEX subsidiary. However, in October of 2020, Western Union ceased operations in Cuba after the U.S. Department of State added Fincimex to the Cuba Restricted List. Miami money transfer agencies, VaCuba and Cubamax, also canceled their agreements with Fincimex. The sanctions were aimed at punishing the Cuban military for human rights violations and its support for Venezuela's Nicolás Maduro, while trying to redirect foreign currency from the Cuban military to the private sector.

Following the designation of Fincimex, the Cuban government refused to transfer the remittance business to a non-military entity, claiming that Fincimex was the only company capable of supporting Western Union. In 2021, the Cuban military falsely declared Fincimex “a 100% civil entity.”⁷ The Trump sanctions halted remittances to Cuba for two years until Cuba claimed to have created a new company free of military ties in 2022 to handle millions in annual remittances.

Although Orbit is—on paper—part of the Cuban Ministry of Foreign Trade and Investment, there have been reports that it is under military control;⁸ Orbit is led by a former GAESA executive, and CIMEX provides detailed reports to GAESA on Orbit's transactions. Orbit is nearly identical to Fincimex, is situated next door on the same street, and employs former Fincimex staff. These revelations prompted an investigation and U.S. scrutiny of Western Union's dealings with Orbit.⁹

The investigation revealed remittance data indicating that the sanctions imposed by President Trump significantly reduced military-handled remittances.¹⁰ In 2019, Fincimex handled nearly \$794.6 million in remittances, 93 percent of which was processed through Western Union. However, following Western Union's withdrawal due to sanctions, remittances decreased by 67 percent in 2021. By May 2024, the Cuban military had processed only \$35 million.

Suspension of Property Claims Under Title III of the Helms-Burton Act

President Trump's executive order of January 20, 2025, notably did not rescind President Biden's notice of a six-month waiver of Title III of the Helms-Burton Act, also known as the Libertad Act, which would have temporarily suspended the ability to file lawsuits in U.S. courts regarding claims to potentially confiscated property in Cuba. Since its enactment by President Bill Clinton in 1996, every U.S. president has opted to suspend this provision until President Trump lifted the suspension in 2019.

The Libertad Act establishes a private right of action for U.S. nationals against non-U.S. entities that traffic in property confiscated by the Castro regime during the Cuban revolution. It allows U.S. citizens and companies to seek damages from entities benefiting from such property seized by the Cuban government without compensation.

Pursuant to Section 6085(c) of the Libertad Act,¹¹ the president may suspend the right to bring an action regarding confiscated property for up to six months, provided a written report is submitted to the appropriate congressional committees at least 15 days before the suspension takes effect, that states such suspension is "necessary to the national interest" of the United States and "will expedite a transition to democracy in Cuba." Accordingly, President Biden sent a "Letter to the Chairmen and Chair of Certain Congressional Committees on the Suspension of the Right to Bring an Action Under Title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996," on January 14, 2025.

Under Section 6085(d) of the Libertad Act, the president may rescind a suspension by notifying Congress that doing so will expedite a transition to democracy in Cuba. It was not until January 31, 2025, that U.S. Secretary of State Marco Rubio issued a press statement announcing that he had sent a January 29, 2025, letter to the appropriate Congressional committees. The letter, sent on the same day the waiver was set to take effect, withdrew the Biden administration's notice of suspension. The letter also affirmed the Trump administration's commitment to ensuring that U.S. persons have the ability to sue for damages stemming from trafficked property confiscated by the Cuban regime.¹²

In Summary

- On January 20, 2025, President Donald Trump signed an omnibus executive order rescinding 78 executive actions taken by the previous administration, including sanctions-related orders regarding Cuba.
- The executive order reversed plans announced on January 14, 2025, by President Joe Biden, which aimed to relax certain sanctions on Cuba by:
 1. Recommending the U.S. Congress to remove Cuba from the U.S. State Department's State Sponsors of Terrorism list;
 2. Suspending claims under Title III of the Helms-Burton Act (the Libertad Act); and
 3. Rescinding the 2017 National Security Presidential Memorandum 5 on Cuba policy to eliminate the so-called Cuba Restricted List, and, by extension, other related limitations on engagement by U.S. persons and entities with Cuban persons and entities, beyond what is set forth under U.S. law.
- Notably, the Trump administration did not revoke President Biden's notice of a temporary suspension of Title III claims under the Libertad Act until U.S. Secretary of State Marco Rubio announced on January 31, 2025, that he had withdrawn the suspension in a letter to Congress, and in addition, added Orbit, a remittance-processing company linked to the Cuban military, to the Cuba Restricted List.

Looking Ahead

Due to the decades-old U.S. trade embargo on Cuba, financial transactions with Cuba that would typically be prohibited—such as money transfers—must be licensed by the U.S. Treasury Department. While remittances sent by Cuban Americans in the United States and other countries are a lifeline to many of their relatives in Cuba, they remain one of the island's largest sources of foreign revenue and a source of dollars for Cuban military-owned companies, which not only take a fee for handling each transaction but also retain the dollars and compensate recipients in Cuba with the equivalent amount in local currency.

To continue facilitating these transactions and offering remittance services, the Cuban government must establish a non-military company to replace Orbit. Until then, many remittance agencies that contract with Orbit, such as Western Union, and Miami's VaCuba and Cubamax, will need to sever their ties with the company to comply with U.S. sanctions. This disruption will affect the official mechanism for sending remittances to Cuba, impacting the estimated billions of dollars sent to Cuba every year, as was the case when Orbit's predecessor, Fincimex, was sanctioned.

President Trump has consistently reaffirmed his position on Cuba, particularly following the appointment of Marco Rubio, a son of Cuban immigrants and a vocal critic of the Cuban government, as the U.S. Secretary of State. Rubio, known for his stringent stance on Cuba, was instrumental in shaping many of the sanctions targeting the Cuban military.

Individuals and entities under U.S. jurisdiction, including financial institutions and other U.S. persons conducting business with ties to Cuba, should closely monitor changes in the Cuba sanctions regime. These changes are expected to be highly dynamic during President Trump's second term.

Notes

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1. <https://www.whitehouse.gov/presidential-actions/2025/01/initial-rescissions-of-harmful-executive-orders-and-actions/>.

2. <https://www.usnews.com/news/world/articles/2025-01-14/cuba-to-release-553-prisoners-following-talks-with-vatican>.

3. <https://www.reuters.com/world/americas/trump-order-leaves-cuba-prisoner-deal-limbo-2025-01-22/>.

4. <https://en.granma.cu/cuba/2025-01-20/donald-trump-revokes-the-removal-of-cuba-from-the-list-of-state-sponsors-of-terrorism>.

5. See National Security Presidential Memorandum NSPM-5, "Strengthening the Policy of the United States Toward Cuba" (June 16, 2017), <https://www.federalregister.gov/documents/2017/10/20/2017-22928/strengthening-the-policy-of-the-united-states-toward-cuba>.

6. Center for Strategic & International Studies, “U.S. Policy on Remittances to Cuba: What Are Some Viable Options?” (Sept. 15, 2021), <https://www.csis.org/analysis/us-policy-remittances-cuba-what-are-some-viable-options#:~:text=There%20are%20estimates%20produced%20by,Consulting%20Group%20reported%20%243.72%20billion.>

7. See Cuban Government Does Not Have a Direct Role in Receiving Remittances, Says General Manager of Fincimex (Aug. 19, 2021), <https://oncubanews.com/en/cuba/cuban-government-does-not-have-a-direct-role-in-receiving-remittances-says-general-manager-of-fincimex/>.

8. See How a Sweet Deal for Cuban Military Dried Up After Trump Blocked Flow of Money from Miami (Dec. 5, 2024), <https://www.miamiherald.com/news/nation-world/world/americas/cuba/article296236689.html>.

9. See How Cuba Fooled the U.S. to Get Millions of Dollars from Miami for Its Armed Forces (Dec. 3, 2024), <https://www.miamiherald.com/news/nation-world/world/americas/cuba/article296184264.html>.

10. *Supra* at n.8.

11. 22 U.S.C. 69A.

12. See U.S. Department of State Press Statement, Restoring a Tough U.S.-Cuba Policy (Jan. 31, 2025), <https://www.state.gov/restoring-a-tough-u-s-cuba-policy/>.