



# The Cubans Are (Still) Coming: U.S. Immigration and Foreign Policy on Cuba

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## CUBA BRIEFING PAPER SERIES

**L**ike Washington's policy toward Cuba generally, U.S. policy regarding Cuban immigration is marked by a number of apparent paradoxes. The dramatic saga of Elián González brought before the U.S. public as never before the highly politicized, controversial, and seemingly contradictory nature of the issue.

The United States and Cuba have had an adversarial relationship since 1959. The policy of the U.S. government has been decidedly hostile toward Cuba's government for four decades. In the 1990s, that hostility increased with the passage of the Cuban Democracy Act and the Helms-Burton Act. Yet in 1994 the United States negotiated an immigration agreement with Cuba that made the latter the only country in the world to whose citizens the United States guarantees the issuance of at least twenty thousand visas a year.

This unique privilege was ostensibly conferred in order to guarantee safe, legal, and orderly migration. In fact, the United States seeks to stem the flow of unauthorized Cuban immigrants. The 1994 agreement and the provisions added in 1995 are meant to channel migration into legal avenues both by providing increased opportunities for migrating legally (the twenty thousand visas, most of them provided through a special Cuban immigration lottery) and by discouraging attempts at irregular entry by sea. Although an increase in legal migration has indeed taken place, irregular migration by sea has returned to the levels of the early 1990s.

Aside from the discrepancy between Washington's hostile overall policy and its willingness to grant special immigration privileges, there is some inconsistency between enforcing an embargo against Cuba and discouraging illegal immigration from that country. The United States maintains the embargo in order to undermine the Castro government. Although not the main cause of the island's economic troubles, the embargo makes a bad economic situation worse. In turn, the economic malaise acts as a major impetus to emigration and therefore makes it harder for the United States to enforce its immigration controls.

From time to time, Cuba has responded to U.S. economic pressure by releasing waves of emigration. The resulting crises tend to be resolved through agreements and increased immigration. The flow of emigrants drains the actual or potential opposition on the island. In addition, recent migrants now provide the bulk of the estimated \$800 million in annual remittances from Cubans living abroad. These remittances are a major element in keeping the Cuban economy afloat.

Currently the United States deploys the Coast Guard to prevent entry of Cubans by sea. If it catches (in official parlance, "interdicts") would-be migrants while they are still at sea, the Coast Guard returns most of them to Cuba. However, any Cuban who manages to evade detection and reach U.S. shores (often with the help of a smuggler and a fast boat) is permitted to stay, can quickly



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receive work authorization, and, under the terms of the Cuban Adjustment Act, may apply for permanent legal residence in a year. This has come to be called the “wet-feet/dry-feet” policy.

Many of the Cubans attempting the sea crossing would be denied even a tourist visa were they to submit an application at the U.S. Interests Section in the Swiss embassy in Havana. Yet, if they place one foot on dry land in Florida, they are in. This creates an incentive to take to the sea and reach U.S. shores at all costs. Having paid thousands of dollars to a smuggler (or having arranged for their relatives to pay the price for them), and having come tantalizingly close to Miami, “rafters” are often reluctant to surrender to the Coast Guard. Confrontations between frustrated, desperate rafters and members of the Coast Guard perform-

ing their enforcement duties have sometimes resulted in altercations, collisions, and at least one death.

Some observers consider it ironic that, while perennially denouncing Cuba as a major human rights violator, the United States has, since 1995, returned the majority of rafters caught by the Coast Guard to the island. Admittedly, the Cuban government has agreed to suspend enforcement of its laws against unauthorized emigration, and those returned to Cuba by the U.S. government have not been prosecuted by the regime for attempting to leave the country. However, human rights groups have charged that other, more subtle, reprisals have taken place in a substantial number of cases. For example, Elizardo Sánchez Santacruz, a Cuban dissident who heads the Comisión Cubana de Derechos Humanos y Reconciliación Nacional (Cuban Commission for Human Rights and National Reconciliation), has been cited by the Miami Spanish-language daily newspaper *El Nuevo Herald* as saying that Cubans returned to the island have been subjected to loss of employment and harassment.

A final irony, this one on the Cuban side, is that at a time when most countries in the Western Hemisphere are negotiating with Washington for immigration benefits for their nationals, the Cuban government wages a permanent propaganda campaign against the Cuban Adjustment Act, which ensures Cubans decidedly preferential treatment by the U.S. immigration authorities. The Cuban government’s rationale is that the law encourages unsafe and illegal migration. This may be so, but migration is also driven by economic and political conditions in Cuba. In any case, the Cuban Adjustment Act is a permanent invitation to defection. Its very existence as a unique element of U.S. immigration law is seen in Havana as having adverse political and ideological implications for the Cuban government.

The seemingly bizarre nature of the U.S.-Cuban migration dispute no doubt reflects aspects of the overall relationship between the two countries. Cuba is an anomaly in terms of U.S. foreign policy, especially since the end of the cold war. When dealing with the other remaining Communist states, including China, Vietnam, and North Korea, the United States has generally acted in accordance with the thesis that contact and commerce tend to promote change toward democracy. With Cuba, on the other hand, the United States has pursued a policy of diplomatic isolation accompanied by economic sanctions (the embargo) and ideological confrontation (Radio and TV

### Cuban Immigrants Admitted\* to the United States, 1921-1998

Period	Number of People Admitted
1921-30	15,901
1931-40	9,571
1941-50	26,313
1951-60	78,948
1961-70	208,536
1971-80	264,863
1981-90	144,578
1991-94	47,556
1995	17,661
1996	26,166
1997	29,913
1998	15,415

\*The number of immigrants admitted for legal permanent residence is not the same as the number of immigrants who entered the United States in that year.

Source: 1998 Statistical Yearbook of the Immigration and Naturalization Service.

Martí, “Track II of the Cuban Democracy Act”).

Moreover, far from being rethought and revised with the end of the cold war, U.S. policy toward Cuba took a harder turn in the 1990s. At a time when the ideology that had sustained the Cuban regime (Marxism-Leninism) was imploding and losing credibility, increased U.S. hostility gave Castro a much-needed ideological boost by providing a measure of legitimacy to a revised revolutionary discourse centered on nationalist resistance to U.S. imperialism. The Helms-Burton Act, with its implications of U.S. supervision of politics during a post-Castro transition and its echoes of the 1901 Platt Amendment (which mandated that the Cuban constitution contain clauses authorizing U.S. intervention), was a particular blessing to Havana from an ideological standpoint. The Elián González affair and the actions of the U.S. Congress in 2000 (when it approved only a small and highly conditioned opening for the sale of food and medicines to Cuba while giving legislative force to existing travel restrictions) have provided more grist for the ideological mill.

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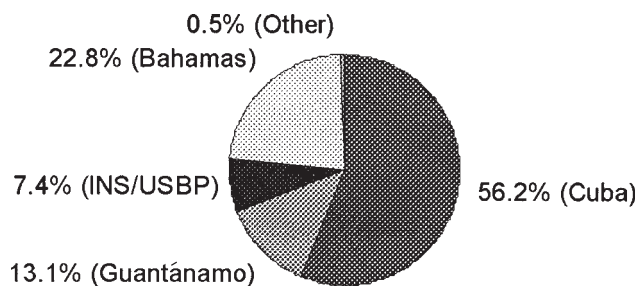
Although migration has been a major source of tension between Havana and Washington, it is also one of a handful of issues about which the two countries have been able and willing to bargain. The two sides have not always seen eye to eye in the series of semiannual talks that have been held to review mutual compliance, but neither side has seen fit to abrogate or brazenly violate the understandings reached in 1994 and 1995.

However, given the push factors inherent in tough economic conditions in Cuba, and the pull factors implicit in U.S. law and policy regarding Cuban migrants, the agreements have not completely succeeded in stopping dangerous, unauthorized migration from Cuba.

### CUBAN IMMIGRATION, 1959-1990

Cuba and the United States have been described as “the closest of enemies” and the links between the two countries as “ties of singular intimacy.” The very development of Cuban national identity has been seen as significantly influenced by the U.S.-Cuban connection. Even though a sustained migration of the current magnitude has never occurred before, the Cuban presence in the United States long predates 1959.

### Cuban Migrants Disposition Interdicted (Coast Guard): FY 1995-2000



Source: U.S. Coast Guard.

In the second half of the nineteenth century, the island witnessed two wars for independence (1868-1878 and 1895-1898) that occasioned substantial emigration to the United States (especially to Key West, Tampa, New York, and New Orleans). During the Cuban Republic (1902-1958), there were small albeit increasing flows of politically and economically motivated emigration. Between 1950 and 1958, about sixty-five thousand people migrated to the United States; almost half of them arrived between 1956 and 1958.

The closeness of the preexisting bonds, the tradition of Cuban political exile in the United States, the radical character of the Cuban Revolution, and the tendency of both governments to see possible political gains in migration are part of the explanation for post-1959 emigration. “*A enemigo que huye, puente de plata*” (give a fleeing enemy a silver bridge) is an old Spanish saying that no doubt summarizes some of the Cuban government’s thinking on emigration.

Following the Communist revolutions in Russia and China, large segments of inconvenient or “counterrevolutionary” social classes were physically exterminated (e.g., the kulaks in the Soviet Union). In the Cuban case, these classes largely exited the scene through emigration, or in some cases joined the Revolution. Emigration served as a political escape valve for the regime, smoothed the way for radical change, and provided abandoned houses and other benefits that could be distributed to supporters of the Revolution.

Since 1959, U.S. policy regarding immigration from Cuba has been influenced by a mixture of motives: cold war concerns, humanitarian issues, and domestic political considerations. In March 1960, President Eisenhower authorized a project aimed at unseating Castro that eventually led to the unsuccessful Bay of Pigs invasion. By that time, Cuban refugees had begun streaming into the

United States—with Washington’s consent as well as Havana’s. Aside from humanitarian motivations, allowing Cubans into the United States was seen as conducive to the development of an exile political and military opposition and as a propaganda tool against the Castro regime.

Cuban migration to the United States since 1959 has been highly discontinuous, consisting of waves rather than a steady flow. Each wave has had its specific social and economic signature, although there are characteristics common to all of them. Perhaps the most notable of these common characteristics is the overrepresentation of whites among those exiting Cuba. The level of that overrepresentation has varied across waves, but is always significant. Class origin has also varied sharply, with members of the highest social strata concentrated in the earliest wave.

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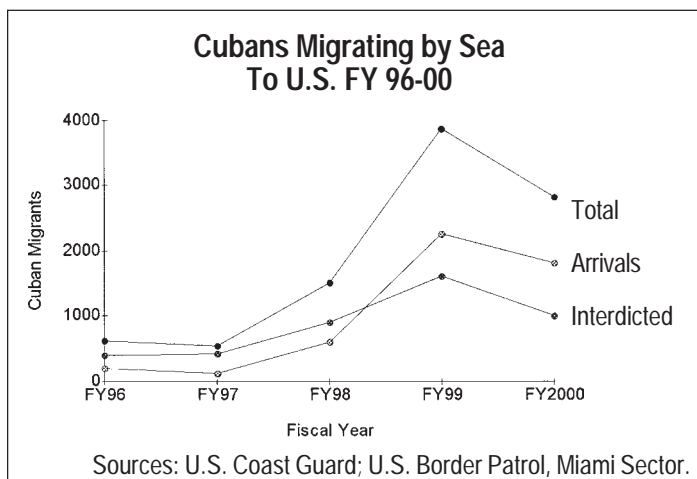
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The 1959-1962 wave saw first the exit of Batista supporters in early 1959, followed by the rich late in that year and throughout 1960-1961 (along with a growing number of professionals and employees of U.S. companies), and finally members of the middle class and highly paid workers. Approximately 215,000 Cubans left the island during this wave, which was ended abruptly by the Cuban Missile Crisis of October 1962.

During this first period, the U.S. government facilitated the massive emigration of Cubans through visa waivers. There was also a special program that has become known as “Operation Pedro Pan,” through which thousands of Cuban children came to the United States unaccompanied by their parents.

The second wave (1965-1972) was more diverse



and less elite in social origin than the first. The 1980 Mariel boatlift tsunami contained a higher percentage of blacks than earlier waves, although the vast majority of Mariel immigrants were white. Although often stereotyped as hardened criminals, those who arrived in the Mariel boatlift actually included relatively few people in that category. Most were normal, law-abiding people, although there were a substantial number of persons with various types of adjustment problems and/or who had been labeled in Cuba as being deviant for nothing more than being gay or dissenting from the status quo.

### THE 1994 RAFTER CRISIS

Prior to the U.S.-Cuban agreement of 1994, the ongoing “Special Period” migration that began in 1990 largely consisted of rafters. The causes and implications of the rafter crisis of the summer of 1994 have been analyzed elsewhere but the event is nevertheless worth another look.

Clearly, the principal cause of the exodus was the drastic deterioration of living conditions in Cuba (the “Special Period”) resulting primarily from the implosion of the Soviet bloc at the beginning of the 1990s and secondarily from the tightening of the U.S. embargo through the 1992 Cuban Democracy Act. Quantitative estimates vary, but there is a consensus that the decline of the Cuban economy in the early 1990s has been unparalleled in any other Latin American country at least since World War II. According to Carleton University economist Archibald Ritter’s estimate, the Cuban gross domestic product declined by around 45 percent between 1989 and mid-1993.

The near-collapse of the Cuban economy was the ultimate cause of the rafter crisis, which saw a total of more than thirty-three thousand rafters rescued by the Coast Guard in August and September 1994. However, the specific event that sparked the exodus was the decision by Fidel Castro on 12 August to stop interfering with those who wished to leave Cuba by sea. Castro’s action followed a long series of incidents (including hijackings of ships and aircraft that had resulted in the deaths of several Cuban police and military officers as well as forty passengers in a fleeing tugboat rammed by Cuban vessels). Castro had responded to these incidents by accusing Washington of encouraging the illegal acts and threatening to stop playing the role of a border guard for the United States. When he made good on his threat, the greatest exodus since the 1980 Mariel boatlift was under way.

With congressional elections and a gubernatorial

race in Florida looming in November, in the midst of the strongest wave of anti-immigrant sentiment since the 1920s, the exodus soon became a problem for the United States. Initially, the policy of open arms was maintained; an increasing number of Cuban rafters rescued by the Coast Guard were brought directly to the United States. It soon became clear that there was no end in sight and the numbers would be overwhelming if the exodus were allowed to run its course.

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In 1993, the number of rafters had averaged ten a day. In the twelve days in 1994 before Castro opened the floodgates, that number had already increased by more than tenfold to 118 per day. By the time Attorney General Janet Reno (18 August) and President Bill Clinton (19 August) had announced the end of the “open door” policy and stated that rafters would be detained indefinitely at the U.S. naval base at Guantánamo Bay, an average of 550 rafters were being picked up daily. Had this rate remained unchanged, there would have been two hundred thousand Cuban arrivals on Florida’s shores in a single year—an event almost twice the size of the traumatic Mariel exodus. In fact, the number might have been much greater, because it turned out that the rafter exodus was just getting started on 19 August. This is the context in which the Clinton administration, under extreme pressure from Florida officials, made the decision to abandon a long-standing policy of welcoming Cubans to U.S. shores.

What is remarkable is that, unlike the change in Cuban policy, the announced change in U.S. policy had no visible effect on the behavior of rafters. Indeed, the number of rafters increased markedly after the announcement. Once Cubans had a few days to absorb and test their own government’s new policy, the number of rafters increased by a factor of ten from the level immediately prior to Castro’s action, reaching 1,189 on 20 August. And, despite several days of bad weather which sharply reduced departures, the rafters kept coming, with an average of 1,306 arriving daily between 20 August and 8 September, the day before the immigration agreement was signed.

If sustained, these numbers would have meant the arrival of more than 475,000 Cubans per year in Florida if the previous immigration policy had still been in effect. An influx of nearly half a million Cubans in one year would have had social, politi-

### Fact Sheet: Cuba-U.S. Migration Accord

Released by the Bureau of Western Hemisphere Affairs  
U.S. Department of State, August 28, 2000

#### Cuba-U.S. Migration Accord

- The United States and Cuba have engaged in periodic discussions on migration since 1980.
- In September 1994 the United States and Cuba agreed to direct Cuban migration into safe, legal and orderly channels, and to regularly review the migration situation and implementation of the accords.
- The U.S. committed to process a minimum of 20,000 Cuban migrants each year.
- Cuba pledged to discourage irregular and unsafe departures.
- Under a May 1995 companion accord, the United States began returning Cubans interdicted at sea or entering the U.S. Naval Base at Guantánamo Bay who did not have a well-founded fear of persecution if returned.
- Interdicted Cubans who can demonstrate a well-founded fear of persecution are resettled in third countries.
- For its part, Cuba agreed to take no action against the returnees as a consequence of their attempt to immigrate illegally. The U.S. Interests Section monitors Cuban compliance with this provision by visiting the returnees throughout Cuba.
- Since the 1994 Joint Communique, we have met roughly twice per year in order to ensure smooth implementation of the accords.
- An illustrative list of issues discussed at recent Migration Talks includes: Cuban exit permits, Cuban fees for migration related services, repatriations, the Special Cuban Migration Program, and alien smuggling. This list is not exhaustive.

cal, and fiscal consequences for the state and the nation that would have dwarfed the trauma of Mariel. Admittedly, the peak level of migration would probably not have been maintained and the actual number of arrivals might have been considerably less than half a million. Nevertheless, U.S. officials (especially those in Florida who had experienced Mariel firsthand) knew that a massive influx within a short time would have been entirely possible.

Meanwhile, the U.S. government soon realized that it still had a problem. The new policy had proven ineffective in stemming the flow of rafters,

### The Cuban Adjustment Act

#### Public Law 89-732, November 2, 1966, as Amended

SEC. 1. That, notwithstanding the provisions of section 245(c) of the Immigration and Nationality Act the status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least one year, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission for permanent residence as of a date thirty months prior to the filing of such an application or the date of his last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States.

SEC. 2. In the case of any alien described in section 1 of this Act who, prior to the effective date thereof, has been lawfully admitted into the United States for permanent residence, the Attorney General shall, upon application, record his admission for permanent residence as of the date the alien originally arrived in the United States as a nonimmigrant or as a parolee, or a date thirty months prior to the date of enactment of this Act, whichever date is later.

[Section 3 amended § 13 of Pub. L. 89-236 (8 U.S.C. 1255(c)); omitted as executed.]

SEC. 4. Except as otherwise specifically provided in this Act, the definitions contained in section 101(a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

SEC. 5. The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States on or before the effective date of the Immigration and Nationality Act Amendments of 1976.

who were setting forth in numbers too large to be accommodated in the Guantánamo Bay naval base. Efforts to arrange "safe haven" for these people in third countries were largely unsuccessful.

### STRIKING A BARGAIN

On 9 September 1994, Washington and Havana made a deal on immigration. The Cuban government agreed to discourage rafters using mostly persuasive (rather than coercive) means. The U.S. government agreed not to allow Cuban rafters to enter the United States and to provide twenty thousand visas a year for Cubans to immigrate to the United States legally. Unlike the U.S. policy of internment in the Guantánamo Bay naval base, Cuban efforts to stop the flow were almost completely successful. On 13 September, the Cuban government began to enforce the agreement. On 14 September, only four rafters were picked up by the Coast Guard, and on 15 September there were none.

Migration is one of the few weapons in the Cuban arsenal in its long-standing conflict with the United States. Through the Mariel boatlift, the Cuban government had shown that it could use the medium of migration to turn its own domestic crisis (involving would-be emigrants who had occupied the Peruvian embassy in Havana) into a domestic crisis for the United States.

The threat of a repetition in 1994 brought the United States to the negotiating table and got Cuba twenty thousand visas (see box on the migration accord). The United States ultimately had to recognize that it could not solve the migration problem without Cuban cooperation. However, Cuba fell far short of its maximum objectives, which initially had included a demand for one hundred thousand visas a year. Cuba also wanted to parlay its leverage in the context of the crisis into a concession by the United States on Cuba's perennial demand—negotiations over the entire range of U.S.-Cuban disputes leading to normalization of relations and a lifting of the embargo.

Although Cuba failed to gain these maximum objectives, the twenty thousand visas did represent the attainment of a long-sought goal. The Cuban government had long charged that the U.S. government had failed to live up to a 1984 immigration agreement calling for the issuance of up to twenty thousand visas a year. That language clearly did not obligate the United States to issue any specific number of visas, but Cuban behavior suggests that the Cuban government may have believed otherwise when it signed the agreement. In the context

### The New Migrants

Except for refugees interned in the Guantánamo Bay naval base during the rafter exodus who were eventually allowed into the country, most Cubans entering the United States since 1994 have arrived by regular means under the provisions of the U.S.-Cuban agreement. They have constituted a "quiet migration" that has nevertheless led to a partial "re-Cubanization" of Miami, a city that had been transformed by an influx of Central and South Americans in the 1980s.

Post-1994 Cuban immigrants have represented a relatively diverse cross section of Cuban society, because the economic crisis in Cuba has hit everyone and the visa lottery has made migration to the United States more widely available. The main motive for migration appears to be the desire to satisfy basic material needs, and the migrants' disaffection with the Cuban system derives most directly from its inability to meet these needs.

of its economic crisis and with the bargaining chip provided by the rafter crisis, Havana tried to up the ante in 1994 but eventually settled for its original goal.

In order to control Cuban migration, the United States was forced to negotiate, change its immigration policies vis-à-vis Cuba, and concede a unique immigration privilege to an enemy state. At the same time, Washington succeeded, at least in the short run, in uncoupling its immigration policy from its overall Cuba policy and in resolving the immediate rafter crisis while maintaining, and indeed reinforcing, its policy of economic pressure.

The September 1994 agreement left unsolved at least one immediate and pressing problem: the fate of the tens of thousands of Cubans interned in the Guantánamo Bay naval base. Increasingly, it became clear that the most practical choice was to allow them to come to the United States. Conditions in the base were inadequate, morale among the refugees was deteriorating, the military was unhappy with the situation, exiles in the United States wanted the Cubans to come, and third countries had agreed to take only a small number.

Allowing the Guantánamo Bay Cubans into the United States forthwith would have broken the immigration agreement and sent a signal to the Cuban population that the "open door" was back regardless of what the U.S. government said. The solution was to enter into a new agreement with Cuba, signed in 1995, under which the Guantánamo Bay Cubans would be allowed into the United States but any Cubans intercepted at

sea by the United States from then on would be returned directly to Cuba. Cuba agreed not to retaliate against returnees. Since then, the majority of Cubans interdicted have been returned to the island (or to the Bahamas if they are intercepted after leaving that island chain). (There is an exception for the relatively small number of cases in which Cubans can prove to U.S. authorities that they have a credible fear of persecution.)

### TROUBLE AT SEA

Although the new policy initially worked well in that it drastically reduced the number of unsafe and unauthorized entries and increased the flow of safe and legal immigration, a major problem emerged after a few years. By the late 1990s, the relatively tight seal against irregular migration by sea that had been achieved after the summer of 1994 began to break down.

Attempted sea crossings had never stopped completely, but they had dropped drastically in the wake of the 1994 U.S.-Cuban agreement. After 1997, however, such migration attempts again began to increase significantly. The number of "maritime arrivals" (Cubans who elude the Coast Guard and land in Florida) increased by more than ten times from fiscal year 1996 (209) to FY 1999 (2,254). What happened?

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**[T]wenty thousand visas a year are hardly enough to satisfy all of Cuba's would-be emigrants.**

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The new U.S. policy was designed to discourage irregular migration through a combination of opening up legal immigration routes via a visa lottery and closing off illegal immigration routes through enforcement. However, twenty thousand visas a year are hardly enough to satisfy all of Cuba's would-be emigrants. Indeed, more than five hundred thousand Cubans applied for the most recent visa lottery. Moreover, not all of the twenty thousand visas specified in the agreement are available in the lottery. Although the exact number varies from year to year, several thousand of the twenty thousand visas go to refugees and family-sponsored immigrants. The remaining visas are distributed through the lottery.

Consequently, as Cubans discovered after only a few years, the chance of winning a visa in any given lottery is small, with the odds worsening as the number of applications rises. Consider the following hypothetical example: If five hundred thousand would-be emigrants sign up each year for

## Disposition of Cuban Migrants Interdicted by the Coast Guard

Fiscal Year	FY95	FY96	FY97	FY98	FY99	FY2000
Cuba	123	242	224	374	1,126	650
INS/USBP	14	49	30	61	94	112
Bahamas	0	70	87	390	341	225
Guantánamo	368	28	80	78	58	28
Other	2	22	0	0	0	0
<b>Total</b>	<b>507</b>	<b>411</b>	<b>421</b>	<b>903</b>	<b>1,619</b>	<b>1,015</b>

Source: U.S. Coast Guard.

a lottery offering fifteen thousand visas per year, it would take thirty-three years for all of them to be admitted to the United States. In fact, there are indications that the number of potential emigrants is larger than five hundred thousand.

Cubans' awareness of the long odds against success in the legal-entry route was a likely factor in 1997-1999's rise in attempts to enter the U.S. by sea. At the same time, Cubans who had arrived in the United States by raft in the early 1990s were acquiring the economic means required to assist the emigration of their relatives left behind on the island—namely the thousands of dollars needed to pay smugglers. A final motivating factor may have been the interpretation by the U.S. Immigration and Naturalization Service (INS) that Cubans eluding the Coast Guard and arriving on U.S. shores were covered by the Cuban Adjustment Act and were entitled to receive work authorization almost immediately.

Alien smugglers with fast boats increased the ability of Cubans to elude the Coast Guard during the late 1990s. Thus, in FY 1998, the number of Cubans interdicted by the Coast Guard exceeded the number who arrived on shore, but that situation was reversed in FY 1999.

A sense of creeping crisis developed in southern Florida in the late 1990s, heightened by such incidents as the dramatic voyage of Elián González and the tragic death of his mother. Could another rafter crisis be in the works?

So far, a massive rise in Cuban arrivals has not materialized. Indeed, maritime arrival and interdiction data for FY 2000 suggest a leveling off in this type of migration, probably resulting from enforcement actions by the U.S. and Cuban governments against smugglers and the high fees charged by the latter. Maritime arrivals dropped from 2,254 in FY 1999 to 1,820 in FY 2000. The number of Cubans

interdicted also dropped, falling from 1,619 in FY 1999 to 1,015 in FY 2000. However, the number of Cubans eluding the Coast Guard in FY 2000 again exceeded the number interdicted. The ratio of maritime arrivals to interdictions was 0.51 in FY 1996, 0.30 in FY 1997, 0.68 in FY 1998, 1.39 in FY 1999, and 1.79 in FY 2000. In other words, although fewer Cubans attempted the sea crossing in FY 2000 than in FY 1999, those who braved the voyage were more likely to succeed in eluding capture. The average annual number of Cubans arriving plus those being interdicted in FY 1999 and FY 2000 was very close to the average number of rafters in FY 1991-1993 before the policy of interdiction and return was put in place. In this sense, at least, events have come full circle.

### CHANGING ATTITUDES

Some observers have seen in the U.S.-Cuban immigration agreements of 1994 and 1995 the “end of exile” or the last step in a journey “from welcomed exiles to illegal immigrants.” “The new immigration policy,” writes Cuban-born sociologist Lisandro Pérez, “is a far cry from a situation in which Cuban migration was not only welcomed but encouraged.”

There is a general consensus that the unqualified “open door” policy began to change in 1980 as a result of the social and political repercussions of the Mariel boatlift. At that time, the precedent had been set of repatriating some Cubans, namely the “excludables” who had never been officially admitted to the United States because of criminal activity in Cuba or after entering this country. But it was only in 1994, in the midst of the massive rafter influx, that the policy of allowing entry to non-criminal Cubans fleeing by sea was suddenly abandoned. And it was not until the subsequent

1995 agreement that the policy of routinely repatriating Cubans was instituted.

There has been a corresponding change on the Cuban side, specifically an attempt to cast emigration more in economic than political terms. This is a distinct step away from an earlier time when those who chose to leave were routinely labeled traitors to the fatherland, worms, or scum. No *actos de repudio* have accompanied the migrants of the 1990s, and if they leave legally most are welcome to return for visits, bearing dollars. Wags have commented that with the economic crisis in Cuba, emigrants have been transformed from *traidores* (traitors) to *trae dólares* (literally, “bring dollars”). Thus, in the post-cold war period, immigration from Cuba to the United States has a new profile. But as the Elián González affair made clear, it has hardly lost its political significance.

#### WHITHER IMMIGRATION POLICY?

Under its current policy, the United States thus far has succeeded in keeping the unauthorized flow of Cuban immigrants within manageable levels (in the low thousands per year) while uncoupling Cuban immigration policy from other aspects of policy toward Cuba.

However, the policy has inherent contradictions and exacts real costs. The wet-feet/dry feet policy, which finds its basis in the Cuban Adjustment Act, encourages dangerous voyages resulting in loss of life, promotes alien smuggling, and sets the stage for confrontations between migrants and the Coast Guard. (Between January and March 2001, for example, four Cubans presumed to be attempting to enter the United States or involved in human smuggling were found dead at sea or on shore as a result of blunt trauma. A federal task force is investigating the deaths.) The policy of economic embargo increases migration pressures, which makes border enforcement more difficult. There have even been some charges that Radio Martí, an official U.S. government station broadcasting to Cuba, at times has aired programming that, explicitly or implicitly, encourages unauthorized migration.

The U.S. government may decide that it can continue to live with these costs and contradictions and muddle through with measures such as cracking down on alien smuggling. Other options short of a revision of Washington’s overall Cuba policy include the following:

- increasing legal immigration from Cuba;
- amending or abolishing the Cuban Adjustment Act so that Cubans arriving on shore would be subject to the same disposition as those inter-

dicted at sea (i.e., returned to Cuba in most cases).

It is unlikely that the United States can open the legal migration route wide enough to satisfy Cuban migration aspirations, but a somewhat wider door combined with a single set of rules for Cubans attempting to enter by sea might be helpful in the long run. Modifying the Cuban Adjustment Act would be politically difficult as long as Fidel Castro remains in power. Moreover, subjecting Cubans who had reached shore to deportation would lead to the development of an undocumented Cuban population, with all its attendant problems.

A more ambitious approach would combine immigration measures with a broader reform of Cuba policy. Attempting simultaneously to break the Cuban economy and stop unauthorized immigration will always have less than perfect results. As long as the governments of the United States and Cuba have hostile relations, the Cuban government will keep the migration card in reserve for use when it sees fit. Lifting or significantly easing the embargo might not reduce migration pressures immediately, but eventually could lead to a situation in which a significant number of Cubans had attractive economic options other than emigration, such as work in an expanded tourist sector.

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**[M]igration pressures would not disappear in the immediate aftermath of . . . political change in Cuba.**

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Many observers would argue that a solution should not be expected before the end of the Castro regime, a transition toward democracy, and the institution of a market economy in Cuba. That may be true, and such developments might be desirable on other than immigration grounds, but migration pressures would not disappear in the immediate aftermath of such a political change in Cuba. The Dominican Republic has had a democratic government, a market economy, and high rates of economic growth for some time without any visible change in its legal and undocumented migration to the United States. The Cuban economy has just undergone the worst crisis suffered by any Latin American economy in memory and is still far from recovering even to the less-than-ideal levels of the 1980s. Moreover, reorganizing the economy on a capitalist basis would probably mean that hundreds of thousands of workers would be laid off.

In the immediate future, the governments of Cuba and the United States both have reasons to maintain the current immigration agreements.

Chaotic emigration is incompatible with Cuba's attempt to become a major tourist destination and its efforts to attract foreign investment. Moreover, an emigration event can evolve into a political crisis, as happened in East Germany in 1989 and could have happened in Cuba if the 5 August 1994 uprising on the Havana waterfront had spread. In addition, the Cuban government has an interest in holding up the immigration agreements as a model of how the two governments could cooperate to their mutual benefit. From the U.S. standpoint, there is nothing to be gained in risking another Mariel or rafter crisis. Although anti-immigration sentiment has cooled with the long economic boom, a surge of unauthorized Cuban immigrants would likely heat up things once more.

Although both governments have an interest in maintaining the current immigration agreements, each government has various grievances regarding immigration that are deployed for propaganda purposes and sometimes discussed during the semiannual bilateral immigration talks.

The main Cuban complaint is that U.S. policy contradicts the agreement by encouraging unauthorized migration through the Cuban Adjustment Act and showing leniency toward those who steal or hijack vessels.

On the U.S. side, Secretary of State Madeleine Albright lodged a formal protest with the Cuban government on 8 July 2000, charging that Cuba obstructs safe, legal, and orderly migration. The complaints included "arbitrary and routine denial of exit permits to persons with approved U.S. immigration documents, including denials of permits to family members of persons deemed by Cuba to be 'defectors.'" The Department of State also cited "unfair obstacles to migration faced by medical personnel." Another complaint involved "the requirement that Cubans pay an exorbitant \$550 exit fee for the right to migrate to the United States (compared to an average annual wage in Cuba of \$144)." Finally, the U.S. government lamented "Cuba's refusal to use the semiannual Migration Talks process to resolve these and related issues."

Yet, neither the Cuban nor the U.S. grievances are currently grave enough to bring about a breakdown in the agreements in the foreseeable future. Surely, migration issues could be more easily resolved in an improved climate of U.S.-Cuban relations, but at present the prospects for such a development are unclear.

There is no sign of radical reform or an imminent regime change in Cuba, a necessary condition for normalization of relations under the Helms-Burton

### Cubans Receiving U.S. Immigration Visas Under the 1994 U.S.-Cuban Agreement\*

Fiscal Year	Number
1995	25,838**
1996	20,006***
1997	20,048***
1998	20,787***
1999	24,149
2000	20,566****

\*Number of visas approved in a given year regardless of when or whether they were used for travel.

\*\*Includes backlogged cases.

\*\*\*Includes credit of 5,000 per year for 1994 Cuban rafters entering from Guantánamo.

\*\*\*\*As of August 21, 2000.

Source: U.S. Department of State.

Act. Recent events in Congress demonstrate that change in U.S. policy toward Cuba is slow, uncertain, and sometimes more apparent than real. Although many observers thought that the Elián González case would precipitate a major change in the embargo (an easing of restrictions affecting food, medicine, and travel), in practical terms what Congress approved in 2000 represents, at most, a pinprick. The Nethercutt Amendment allows the sale of food and medicine to Cuba, but it also forbids U.S. public or private lenders to finance deals, making it unlikely that much trade will actually take place.

However, that pinprick is the result of deeper forces that have been gathering for some time and generating pressure for change, pressure that is likely to continue to mount in the coming years. Resistance to fundamental change in Cuba policy also remains strong in Congress and other quarters, however, and therefore predicting which side will prevail in the immediate future remains little more than a guessing game.

At some point, U.S. immigration policy regarding Cuba will be normalized, along with U.S. relations with that nation. That will mean the end of the Cuban Adjustment Act and the special migration relationship. But that day has not yet appeared on the horizon, and so, for now at least, the Cubans are (still) coming.

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