

# **Hemispheric Relations and Security**

The View from Capitol Hill

By

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## Summary

*Congress may write the laws, but it is up to the Administration, the President and its agencies, to execute the policies that affect every citizen.*

– White House Staff member.

This study focuses on the relationship of the United States with its American neighbors in the post World War II period. After an introduction and general historical overview of Latin American policy from 1945 to the present, the monograph will concentrate on how the Executive and Legislative branches have formed foreign policy in response to the threat to the Western Hemisphere in the post-Cold War era. The case study will focus on Cuba, specifically through the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996.

Since the end of World War II, the United States has placed global concerns ahead of purely regional issues. This foreign policy stems mainly from the United States position as a world *super-power*. This has also affected how the U.S. has viewed events in its “backyard”—the Western hemisphere---a region often ignored until events require (re)action for the U.S. to maintain its world position. Thus, U.S. foreign policy has centered around reconciling democratic institutions while protecting U.S. security and economic concerns in the region. The Cold War concept of “threat, war and subversion” has been supplanted by that of “partnership, synergy, and cooperation” with the demise of the Soviet Union.<sup>1</sup> The U.S. no longer has a single focus, that of combating an imminent threat from one source. Thus, key U.S. hemispheric interests currently center around economic trade and investment, transnational security threats such as drug trafficking and environmental issues, and massive Latin American migration to the United States. Interestingly, these matters are important as they also impact on domestic issues.

The President has been the dominant force in making Latin American policy since 1945, often times without consulting Congress. For example, under the Bush and Clinton Administrations, the United States has maintained a strong bi-partisan foreign policy towards hemispheric security in Congress, something lacking for over thirty years<sup>2</sup>. In emphasizing strong democracies in the region, the United States encourages countries to resolve their own affairs rather than soliciting U.S. support. Additionally, U.S. domestic policy is often the reason for foreign policy, often times a knee-jerk reaction to certain crisis situations. A recent example would be that of Congress which reacted quickly to Cuba shooting down a U.S. private plane which violated Cuban airspace. Congress swiftly passed the LIBERTAD/Helms-Burton Act, which sought to punish Cuba for this deed. This Act has sparked fierce condemnation from the world community and its full implementation has been repeatedly suspended by the President.

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<sup>1</sup> Jean Grugel and Anthony Payne, “A Matter of Deconstruction,” *Hemisphere*, v.7, no. 2, p. 7.

<sup>2</sup> However, bi-partisanship arguably was present in the Executive branch as presidents, Democrat and Republican alike, strove to the common goal of keeping Latin America safe from communism despite different methods used.

**Certifico que he leído este  
Trabajo de Investigación y lo  
encuentro aceptable en  
cuanto a contenido científico y  
lenguaje.**

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fecha

**AUTORIZACION**

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## **NOTA ACLARATORIA**

Las opiniones emitadas en el presente trabajo son de la exclusiva responsabilidad de la autor y no representan la posicion del CID.



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## **DEDICATION**

**This monograph is dedicated to my fiancé Steve Grogan. His emotional support, interest in the topic, and editorial suggestions to this monograph were invaluable.**



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# Chapter 1

## Introduction

### 1. Enduring Misconceptions

The United States has been a major historical influence in the region due to its economic strength and global sway. Yet, there are important differences which have led to mutual misunderstandings between the U.S. and the rest of the hemisphere over the years<sup>3</sup>. Unlike Latin America, the United States has a strong Anglo-French heritage, with the majority of Americans hailing from Europe. The United States is also physically closer to Europe given the expanse of the region. For example, Washington is closer to Moscow than Buenos Aires, although it is often thought of as being closer to Latin America because they are located in the same hemisphere. Witness a 1982 visit through Central and South America by President Ronald Reagan. He toasted “the people of Bolivia” at a State dinner. Unfortunately, at the time he was in Brazil. He attributed his *faux pas* to the fact that his next stop was Bolivia. Actually, Colombia was his next stop; Bolivia was not part of the trip. On his return to the United States, Reagan was asked what he had learned from his five-day tour. He replied, “You’d be surprised. They are all individual countries.”

English-speaking Americans are taught that the Americas are two separate entities. Webster’s English Language dictionary also differentiates North America and South America as two separate continents. Not so for the Spanish and Portuguese speaking societies of the hemisphere. They consider the Americas to be one continent. They also have a better general knowledge of the overall region. Reagan’s statement reflects the common ignorance of the average U.S. citizen in distinguishing national differences of its southern neighbors.<sup>4</sup> Though ignorant in this aspect, these same citizens can distinguish between different European nations—language, culture and cuisine—which are an ocean away.

Why does this misperception exist and how might it affect the United States’ relations with Latin America?

### 2. Misperceptions Origins: Congress and U.S. Foreign Policy

U.S. foreign policy towards Latin America involves reconciling democratic ideals with the protection of national security and domestic politics. During the Cold War, the United States sought to maintain an independent Latin America and minimize Soviet (its rival super-power) influence in the arena. Like a pendulum, U.S. international policy swings between isolationism and disregard to

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<sup>3</sup> For the sake of limiting discussion and scope of this monograph, Canadian/U.S. relationships will be basically ignored except when discussing the Helms-Burton/Libertad Act, later in this paper.

<sup>4</sup> Even nationally prominent newspapers, such as the Washington Post are prone to misidentify the region. In a 11 April 1997, Section A article on Helms-Burton, the Post stated that “Canadian and Spanish” executives were denied visas. In actuality, it was Canadian and Mexican executives.

interventionism, often with short memories in the United States yet long memories in Latin American nations. It has been shaped by domestic concerns and interest groups that feel the U.S. government has not adequately protected its national security. This has given birth to political scientists coining the term *intermestic*, from *international* and *domestic*<sup>5</sup>. Witness Californians approving Proposition 187 in November 1994 by a three to two ratio. The Proposition barred illegal immigrants from receiving publicly funded health services, except in emergencies, and prevented children from receiving public education at the schools. Proposition 187 demonstrated how policy issues –such as immigration--penetrate and divide U.S. society and politics both nationally and internationally.<sup>6</sup>

Proposition 187 was a mere outgrowth of Congress attempting to set U.S. Foreign Policy and has taken a more pro-active approach to Latin America since the 1980s. For example, North Carolina Republican Senator Jesse Helms, Chairman of the Senate Foreign Relations Committee, has focused his foreign policy interests in two principal areas: reimbursement for seized/nationalized U.S. properties in foreign countries and human rights. He is the architect of the Helms-Burton Act, an Act driven by domestic issues, which will be examined in this monograph.

### 3. Beyond Misperceptions: International Corruption and Foreign Policy

Domestic political concerns have also led Congress to increase its focus on how corruption and drug trafficking in the hemisphere impact U.S. foreign policy. These issues were addressed internationally at the Summit of the Americas 1994 which labeled illegal drug and related criminal activities as serious threats to the societies and free-market economies of the Hemisphere. The Summit sought to redress the problem with 13 steps and called for a hemispheric counter-drug strategy for the Twenty-first Century. These hemispheric security issues were again addressed at the Defense Ministerial of the Americas which was held in Williamsburg, Virginia in July 1995. Yet, no easy solution surfaced.

The U.S. lack of confidence in its neighbors and the continuous trans-border problems affects how Congress formulates international policy, particularly in cross-border issues such as counter-drug operations, trade protection and economic aid. Traditionally, the United States has used economic aid to implement U.S. international policy. However, extensive use of this tool has produced a negative effect. Some Latin American countries are perceived as just wanting aid, yet incapable of managing it due to extensive government corruption. Government corruption raises questions of the effectiveness of traditional U.S. aid, questions which are not easily answered. The *Wall Street Journal*, 17 JAN 97, stated that corruption watchdog **Transparency International** ranks Venezuela as the most corrupt country in the Americas with political corruption and inefficiency. Yet, Venezuela is one of the oldest democracies in Latin America.

<sup>5</sup> According to former White House official Richard Feinberg (May 1996), domestic groups particularly influence policy when it involves human rights policy, immigration policy and trade policy, where the private sector is influential.

<sup>6</sup> U.S. Congressman Dana Rohrabacher, R-California, inspired the grassroots movement and was the principal spokesman for Proposition 187. A member of the U.S. House of Representatives International Relations Committee, his INTERNET home page states that he is a strong spokesman for human rights and democracy around the world.

#### **4. Relationship Significance**

Despite self-perceived similarities with Europe, the United States has rejected the concept of full-scale war as a political instrument with its neighbors and has used economics as the way to approach issues in the area. Witness the numerous attempts that the U.S. has used economic sanctions and embargoes as tools of international diplomacy. This emphasis also accents the difference between the U.S. and its hemispheric neighbors. The Latin American colonial heritage produced a different racial and cultural heritage to include class divisions which are not found in the United States and thus a different perspective on relationships and situations.

The United States is interested in the North-South relationship for three key reasons: national security, economic, and political issues. National security is extremely important given the geographic proximity of Latin America. Should an external threat enter the region, it would affect all neighboring countries, to include the United States. Thus, the United States has promoted stable, democratic governments in the region in order to further national needs, sometimes to the detriment of other countries needs. In fact, the U.S. created our contemporary understanding of “Latin America and the Caribbean” as a region in order to focus its Cold War foreign policy. This concept has not changed in the post-Cold War order. The U.S. needs a stable hemisphere in order to maintain its world position as the remaining “super-power.” Economically, the United States interests encompass two central points: strategic resources and trade/investment. The Americas contain many important minerals and less costly labor which are significant. As evidenced by recent free-trade agreements, two-way trade between countries and investment in these countries is an important issue particularly as the world becomes smaller due to technology. Politically, there are many links and associations between Latin America and the United States which are important for regional stability and peaceful co-existence. All of these reasons have been important from the early 1800s to present-day.

## Chapter 2

# HISTORICAL INTERESTS

### 1. Pre-World War II

The Monroe Doctrine in 1823 is typically cited as the *beginning* of U.S. interest in Latin America. It identified the United States with the independence of the region and defined Latin America as part of the U.S. sphere of influence.<sup>7</sup> Likewise, it provided a basis for excluding European influence in the hemisphere.<sup>8</sup> The United States became actively (and physically) involved in Latin America after the Spanish-American War of 1898 until President Franklin Delanor Roosevelt (FDR) withdrew U.S. military troops from Latin America and instituted the *Good Neighbor* policy.

### 2. World War II to Clinton Administration

With the end of World War II, outside threats to the Western Hemisphere seemed non-existent. Many Latin American leaders expected that the United States would focus on assisting their American neighbors. However, the U.S. foreign policy attention focused elsewhere as it pursued national interests of security and economic well-being and strove to contain the Cold-War threat of communism. The U.S. did not see an immediate security threat in the region and for the most part ignored the Western Hemisphere unless it noted an impending crisis.

In the Cold War era, two schools dominated the U.S. attitude and policies towards its neighbors throughout the Cold-War era, reformers and realists. Reformers or interventionists believed that U.S. policy should promote democracy, social reform and human rights. The realists or isolationists believed that the U.S. could do little to change conditions in Latin America and should instead focus on basic security issues and support the “friendly” i.e. non-communist countries.<sup>9</sup>

The Inter-American Treaty of Reciprocal Assistance or the Rio Pact (TIAR) was created in 1947 to deter external threats. This pact, plus the creation of the Organization of American States (OAS) in 1948 provided political and economic stability in the region. Yet, despite these agreements, a U.S. foreign policy document had **no** chapter on Latin America as the State Department had not studied regional problems until three years into the Truman Administration (1948). This lack of attention prevailed for about 30 years; if there were no burning crisis in the Americas, it would be virtually ignored until a crisis or perceived threat occurred.

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<sup>7</sup> Harold Molineu, U.S. Policy Toward Latin America: From Regionalism to Globalism (Colorado: Westview, 1986), p. 7.

<sup>8</sup> It could also be argued that the Monroe Doctrine promoted a paternalistic role by the United States to the region as it became the protector of the region, one which essentially has not changed over time.

<sup>9</sup> Robert Freeman Smith, The Caribbean and the United States (New York: Twayne Publishers 1994), p. 29.

### Harry S. Truman (1945 - 1953)

Despite the apparent indifference by the Truman Administration, the United States pursued a coherent Latin American policy of expanding U.S. influence in the region by preventing communism and promoting trade and investments. From 1945 until 1950, “reformers” influenced the United States’ Latin American foreign policy in order to develop a cohesive, democratic region. One of the key elements was denial of arms and military equipment to dictatorial regimes. Interestingly, the negative economic element from this policy is precisely what led to its demise. By refusing to allow the sales of military equipment in the region, the military sales industry was hurt economically in the U.S. while other countries benefited from the suddenly *open* market that was hungry for sales. Since arms and military equipment contracts were quite lucrative, the U.S. rescinded the policy in order to allow domestic companies to compete for the sales.

After June 1950 and the Korean War, the Cold War became more influential in all aspects of U.S. foreign policy as *realism* took root. The vision of “threat, war, and subversion” in Latin America predominated U.S. foreign policy. The United States worked with Latin American military regimes to stop Communism entering in this hemisphere.

The United States associated its credibility as a super-power with control of its own hemispheric community. No incident in Latin America was too insignificant or inconsequential to draw U.S. attention. However, Latin America did not share this vision. Hemispheric interests often didn’t coincide, particularly when speaking about security interests. This was such an example: the U.S. was concerned about a Soviet foothold in the hemisphere; Latin America felt it irrelevant.

### Dwight D. Eisenhower (1953 - 1961)

In Congress, bipartisan support for U.S. policy drew to a close in the 1950s. Democrats and Republicans no longer shared a common perception of the world. The congressionally dominant conservative wing of the Republican party wanted to win the presidential election in 1952, but could not win on domestic issues. Therefore, they exploited perceived foreign policy failures (a.k.a. Communism) and expanded it from strict anti-Soviet to a broader anti-Communist crusade. This strategy paid well as the Republicans were in power for the next eight years with the Eisenhower Administration.<sup>10</sup>

Historians usually portray Dwight Eisenhower’s Administration as maintaining Truman’s policies of building a stable hemisphere and promoting trade. Limited U.S. intervention occurred in Latin America as capital flow into Latin America doubled and food shipments tripled. However, the Eisenhower administration did not hesitate to use covert forces against communism.<sup>11</sup> The United Fruit Company was concerned about the possibility of Guatemala’s Arbenz government nationalizing their interests in Guatemala. Through personal ties, they convinced the U.S. that the Arbenz government

<sup>10</sup> John Spanier, American Foreign Policy since World War II (12<sup>th</sup> ed.; Washington DC: Congressional Quarterly Inc., 1992), p. 81-82.

<sup>11</sup> Beginning with the Eisenhower administration, the CIA became the lead U.S. agency in implementing and promoting democracy, albeit covertly, in the hemisphere for the next two decades.

was run by Communists. The presence of Czech weapons in the country proved that it was a “beachhead for Soviet penetration” in the region. After intense lobbying by the United Fruit Company, Eisenhower responded in 1954 by using the Central Intelligence Agency (CIA) to implement his [containment] policy through direct intervention as seen in Guatemala. He justified the use as a preventative security measure in order to prevent the Communists from gaining a foothold in the hemisphere.<sup>12</sup>

Continued concern about Soviet expansion in Latin America manifested itself in the United States reaction regarding Cuba. Although the United States facilitated the collapse of the Batista regime in Cuba, it considered Fidel Castro’s leadership as a significant setback. When Castro turned to the Soviet Union for support, it was viewed as Communism “gaining a toehold” near the United States. On 28 March 1960, Castro publicly rejected Cuba’s obligations under the Rio Treaty of 1947 and broke with the Inter-American system. In January 1961, Eisenhower broke formal relations with Cuba, a situation which remains today. In addition to a security issue, that of Communism, it had economic impact. Castro expropriated U.S. companies and never reimbursed the injured parties.

#### John F. Kennedy (1961 - 1963)

President Kennedy proposed the Alliance for Progress in order to fight the incursion of communism in Latin America. This policy involved a massive infusion of dollars tied to a popular government and stimulation of economic, social and political growth for the masses through self-initiative of the recipient country. It was marginally successful. Kennedy was determined to contain and defeat Castro-style guerrilla movement in Latin America. Communism was not to spread. Concerning Cuba, he authorized the Bay of Pigs operation and Operation Mongoose in order to remove Castro, but failed.<sup>13</sup> In 1962, he confronted the USSR over Soviet missiles in Cuba, which were believed directed against the U.S. Despite hopes for its success, very little remained of Kennedy’s Alliance for Progress after the following Administration.

#### Lyndon B. Johnson (1963-1969)

President Johnson focused his presidency on a domestic reform agenda--the Great Society--- although his attention was eventually consumed by the Vietnam War. He envisioned the United States battling Communism in this hemisphere and took a hard line to combat it. When Panamanian President Roberto Chiari demanded renegotiation of the 1903 Canal Treaty, Johnson “refused to knuckle under to a ‘banana republic’ the size of St. Louis.” He did not consider the Latin American countries to have the same world influence as the United States or European countries. Nonetheless, he sent his hard-line, anti-Communist Assistant Secretary of State for Latin American Affairs, Thomas Mann, for talks regarding the Panama Canal. However, President Johnson refused to hold formal discussions and ignored the negotiations publicly proposed by representatives of the Organization of American States.

<sup>12</sup> Smith, op. cit., p. 40.

<sup>13</sup> Operation Mongoose was a terrorist sabotage campaign conducted by the U.S. against Cuba.

He did not give much credit to the OAS capability, scoffing that it “couldn’t pour piss out of a boot if the instructions were written on the heel.”<sup>14</sup>

Johnson’s Administration faced a critical Cold War intervention in May 1965. Over 20,000 U.S. troops landed in the Dominican Republic in order to prevent Communism in that country and protect U.S. regional interests. Bearing in mind the situation in Cuba, Johnson explained, “the American nations *cannot, must not and will not* permit the establishment of another Communist government in the Western hemisphere.”

Congress appeared in some ways to be a bystander as the President forged U.S. regional foreign policy. During the 1960s and early 1970s, Congressional interest in Latin America waned as it sought to deal with events surrounding the Vietnam War. As recently as 1970, there were only three Congressional Staffers in both the House and Senate and just one analyst in the Library of Congress who fully followed events in Latin America.<sup>15</sup> However this was to change. The Vietnam War affected U.S.-Western hemisphere policy with the tacit domestic agreement to avoid “another Vietnam” closer to home. Congress passed the **War Powers Act**. This Act required the President to receive explicit Congressional approval to send and keep troops overseas in an area of combat beyond ten days.

#### Richard M. Nixon (1969 - 1974)

Through the Nixon Administration, the United States adopted a lower profile in Latin America and announced the Good Partner policy. Latin America was Nixon’s realm of expertise. He wanted to emphasize economic cooperation rather than hemispheric brotherhood.<sup>16</sup> His Secretary of State, Henry Kissinger, took a low-key approach to Latin America and focused instead on opening relations with the Soviet Union and China.<sup>17</sup> Nixon and Kissinger were both concerned that an Allende victory in Chile would mean a Marxist victory which would align with Moscow and Havana. According to Nixon, “if Allende should win, and with Castro in Cuba,” you will have in Latin America a red sandwich. Eventually it will all be red.”<sup>18</sup>

President Nixon and Secretary of State Kissinger were determined to run foreign policy from the White House. Consistently, Kissinger bypassed the bureaucracy responsible for the technical details of foreign affairs to include officials from the Central Intelligence Agency and the Departments of State, Treasury and Defense. For Kissinger, Stanley Hoffman

<sup>14</sup> Robert Dallek, *The American Style of Foreign Policy* (New York: Alfred A. Knopf, 1983), p. 238.

<sup>15</sup> David W. Dent, ed., *U.S.-Latin American Policymaking: a reference book* (Connecticut: Greenwood Press, 1995), p. 363.

<sup>16</sup> Former President Richard Nixon’s interest in foreign policy continued long after his presidency. He wrote, spoke, gave interviews and traveled, and continued to contribute to foreign policy by advising his successors until his death. He advised President Bill Clinton the most extensively in the one year that he lived of Clinton’s term. Nixon also remained close to fellow Republican Senator Robert Dole whom he felt was much more seasoned in the foreign policy than Nixon’s successors given his long Senate experience.

<sup>17</sup>The thawing of relations with China presented a hemispheric dichotomy for Nixon’s administration as it wooed a Communist country yet worried about Communism within the Western Hemisphere.

<sup>18</sup> Dallek, op. cit., p. 277.

writes that the responsibility of the U.S. bureaucracies was two-fold: to provide data for the decisions he and the President would make, and to carry out these decisions.<sup>19</sup>

In the 1970s, traditional concerns of security and military power gave way to concern about world-wide human rights issues. Here, Congress took the lead. In 1973, Congress stressed the importance of human rights beginning with linking legislation with economic assistance. The Harkin Assistance Act (1973, 1974) and the Harkin Amendment (1975), for example, stated that the President should deny any economic or military aid to foreign governments which persecuted citizens for political purposes.<sup>20</sup> The first sanctions from this amendment were applied against Chile, 1973, despite resistance from the Nixon Administration. Yet, as time transpired, if military sales or economic aid to Latin America were threatened, Congress usually provided convenient loopholes to protect U.S. interests. And, should the exemptions expire or requirements tighten, interested business parties would lobby Congress in order to maintain their immunity so they could continue to do business.<sup>21</sup>

#### Gerald Ford (1974 - 1977)

Aside from the issue of negotiating the status of the Panama Canal with Panama, Latin America drew little attention from the White House during the presidency of Gerald Ford. And, regarding the Canal, substantial treaties were negotiated and treated by his successor, Jimmy Carter, who renewed importance of U.S. relations with Latin America.

#### James “Jimmy” E. Carter (1977 - 1981)

President Carter considered himself versed in inter-American affairs given his interest and wide-travel in the region prior to assuming the presidency.<sup>22</sup> He believed that the Republican party had damaged hemispheric relations and thus sought to establish a special policy towards Latin America. In fact, his first two years focused on non-national security issues. Carter’s first foreign policy decision was to order resumption of negotiations with Panama over the canal. He relentlessly pressured senators to support the canal treaty, believing passage would initiate a new era of inter-American harmony.<sup>23</sup>

Following the Congressional lead, President Carter emphasized human rights as a key issue of his foreign policy. However, the public regarded this emphasis as detrimental to formulating U.S. policy and viewed the Carter Administration as indecisive which led to a void of policy in areas such as Nicaragua. Yet at the same time, U.S. relations with Cuba became more cordial as 1960s travel restrictions on U.S. citizens were relaxed. Meanwhile, the CIA’s power was weakened by public exposure of covert operations, rumors of assassinations of foreign leaders, and budgetary cuts.

#### Ronald Reagan (1981 - 1989)

<sup>19</sup> Dallek, op. cit., p. 273.

<sup>20</sup> Molineu, op. cit. p. 223

<sup>21</sup> Ibid. p. 144.

<sup>22</sup> In fact, he is the only president interested in Latin American politics, history and culture, interests about which he has maintained throughout his post presidential career.

<sup>23</sup> Dent, Op. Cit. p. 264.

The Reagan Administration revived an outdated Cold War rationalization and invoked a hard-line approach against Communism. Reagan's and his advisors' premise was that the Soviet goal of global expansion of communism had not changed. In Nicaragua, the Sandanistas were considered communists, thus unreliable and untrustworthy, and would foment revolution throughout Central America. The administration poured assistance into El Salvador to combat the communist threat. The CIA became revitalized with its budget nearly doubling within four years in order to better support the Reagan Administration. Reagan reinstated travel restrictions to Cuba. He invoked an analogy of "another Cuba" in order to convince Congress that Nicaragua presented a threat to the hemisphere. However, in light of Vietnam lessons learned, Congress took a more moderate approach. House Speaker Jim Wright often criticized Reagan's Central American policy and cited the refusal of Nixon, Ford, Carter and Reagan to adhere to the War Powers Act. Congress became unwilling to trust Reagan's restraint in Central America.<sup>24</sup> This distrust caused the Reagan Administration to use covert actions and "weapons for aid" operations. An example of resulting problems would be that of *Iran-contra* in which the Executive branch tried to carry out its foreign policy regarding Central America without the knowledge or consent of the Legislative branch.

President Reagan purged the State Department's Latin American bureau because of lack of concordance with his view of the region<sup>25</sup>. He insisted that free trade was the answer for development in Latin America. He encouraged the countries to develop economic initiatives rather than depend on U.S. aid. This vision laid the ground work for his proposal of a Caribbean Basin Initiative in February 1982 which would promote economic stability and growth in the Caribbean and Central America (excluding Cuba). However, Reagan left most of the Latin American issues in the hands of his Secretaries of State Alexander Haig and George Schultz, having little interest in South America. Espousing that authoritarian regimes were preferable to totalitarian, he repeatedly praised General Pinochet of Chile.

### George Bush (1989 - 1993)

The last Cold War president, George Bush was also the last to draw his war perspectives from the World Wars. Collapse of the European communist system caused the Bush administration to reassess U.S. policies in Central America. After reconciliation with Congress within weeks of his inauguration, he forged a new peace doctrine towards El Salvador and Nicaragua. With United States intervention in Panama (Operation Just Cause) in 1990, the U.S. maintained its interest and presence in Latin America. Operation Just Cause was launched because of U.S. domestic interest. The U.S. public was aghast at the events surrounding Noriega and his presidential electoral rigging in Panama. Furthermore, belief abounded that the U.S. should continue to safeguard the canal. Personally interested in the events and affronted by Noriega's posturing, President Bush ordered a military invasion and (unlike his predecessor) remained at the center of decision making regarding the capture of Noriega.

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<sup>24</sup> Molineu, op. cit., p. 223.

<sup>25</sup> John M. Goshko (1987), "Clout and Morale Decline: Reaganites' Raid on the Latin Bureau," **Washington Post** (26 April): 1.

With the Enterprise of the Americas, the Bush administration proposed a distinct plan for the development of the hemisphere in the post-Cold War era. It used existing trends to formulate a new agenda. This initiative was later espoused by the Clinton Administration and became the basis for what is known as the North American Free Trade Agreement (NAFTA).

### **3. Clinton Administration and Latin American Foreign Policy**

Throughout the Cold War years, U.S. policy towards Latin America consistently displayed strong presidential bipartisanship in keeping Latin America from the clutches of communism. With the advent of a new era marked by the fall of the Berlin Wall during the Bush Administration, U.S. policy towards Latin America lost the strong anticommunist national security focus. Relations between the United States and the rest of the Americas are considered to be closer than they have been for many years. This change may be due in part to Latin America playing a more assertive role in world politics such as UN peace-keeping missions and economic agreements. Issues such as economic (debt repayment), trade (NAFTA), environmental, hemispheric cooperation, and human rights have been integrated into every aspect of current U.S. diplomacy.

In 1992, President Clinton came to office alleging that domestic policy was more important than foreign policy, a sentiment which was echoed again in the 1996 campaign. This belief may have resulted from his prior focus on domestic issues as a State governor, or perhaps the cessation of the Cold War, which changed traditional security concerns. This conviction was reflected by his actions. During his over-four years in office, he has not visited Latin America.<sup>26</sup> The President's attitude contributed to the isolationist mood throughout the country. However, this same president has emphasized trade issues, humanitarian missions, limited use of force (Haiti, Bosnia) and strongly supported the United Nations (even calling for payment of arrears beginning in FY97) over the course of his term. Furthermore, in the May 1996 FY97 International Affairs Budget Statement before the House Appropriation Committee, Secretary of State Warren Christopher stated that one of the most dramatic changes he has observed over Clinton's four years was the erasure of the line between domestic and foreign policy. He added that the Clinton Administration "recognizes that our strength at home is inseparable from our strength abroad" when meeting transnational security challenges.

Clinton's international experience was broadened with Haiti, which was inherited from the previous administration. Haiti was a problem which caused several policy reversals as Clinton strove to formulate a Haitian policy. The Administration supported Haitian President Jean-Bertrand Aristide with a pledge of potential military support despite Aristide's anti-American stance solely because Aristide had received two thirds of the popular vote. In order to make it a U.S. national interest, Clinton cited a drug connection which foreign policy experts viewed as improper.<sup>27</sup> U.S. troops permitted Haiti to hold free and fair elections which were followed up by support towards economic reconstruction.

<sup>26</sup> Roger Noriega, The LIBERTAD/Helms Burton Act, Inter American Defense College oral presentation, Washington DC, 8 April 1997.

<sup>27</sup> Monica Crowley (1996). *Nixon Off the Record* (New York: Random House), p. 208-209.

Other Clinton initiatives in Latin America included the Summit of the Americas, held in Miami, Florida in December 1994. This Summit, proposed by President Clinton, demonstrated the new hemispheric attitude of “partnership, synergy, and cooperation.” He stated that its goal was “to create a whole new architecture for the relationship between the nations and the peoples of the Americas, to ensure that *dichos* become *hechos*, that words are turned into deeds”<sup>28</sup>

This is evidenced in the first paragraph of the Declaration of Principles which stated:

“...elected Heads of State and Government of the Americas are committed to advance the prosperity, democratic values and institutions and security of our Hemisphere. For the first time in history, the Americas are a community of democratic societies. Although faced with differing development challenges, the Americas are united in pursuing prosperity through open markets, hemispheric integration and sustainable development”<sup>29</sup>

The cited paragraph directed member states to work through appropriate bodies of the OAS in order to accomplish these goals and called on the OAS and Inter-American Development Bank to assist countries in implementing their pledges. Of note is that it invited Non-Governmental Organizations (NGOs) to participate and cooperate with national and regional efforts. The Plan of Action was divided into four categories:

- Preservation of Democracies;
- Promotion of Economic Integration and Free Trade;
- Elimination of Poverty and Discrimination; and
- Development and Environmental issues.

Interestingly, these categories strongly reflect the United States regional interests. The Summit of the Americas was followed up by regional meetings and Defense Ministerial summits which focused on shared issues. These commitments help position the U.S. to become an even more dynamic hub through economic power in the 21<sup>st</sup> century.

In the 1996 presidential elections, the isolationism experts observed that the presidential candidates could not win on foreign policy issues as the nation was focused on domestic problems. Subsequently, the two principal candidates, Clinton and Dole, did not concentrate on international issues, rather on domestic items that would impact on voters. History has shown that when a presidential candidate errs on a foreign policy issue, it impacts negatively on election results, such as was the case for former President Jimmy Carter. Clinton is seen as a centrist internationalist who is well-equipped to stand up to isolationist pressures in both parties. This was emphasized when he won the 1996 elections, even in states that were traditionally Republican.

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<sup>28</sup> G. Philip Hughes (1996), *More Than a Passing Fad*, Hemisphere, vol. 7, no. 2, p. 2.

<sup>29</sup>Inter American Defense College, Summit of the Americas Declaration and Plan of Action, 1994, p. 1 .

## Chapter 3

### U.S Foreign Policy Formulation:

### President or Congress?

*The President is the sole organization of the federal government in the field of international relations.*

--Supreme Court decision, U.S. vs. Curtis Wright

#### 1. The President

How does the United States formulate and implement U.S. Latin American policy? The president has primary responsibility and is the lead force. As shown in Chapter 2, the Executive branch, headed by the president, has often carried out actions without the advice nor consent of Congress or the U.S. public. In fact, the Executive branch has found ways to work around Congress since 1810 when the “secret service fund” was created. Even one of the Founding Fathers, President Thomas Jefferson, believed that at times the president had to protect the country by breaking laws enacted by an ill-informed or malevolent Congress.<sup>30</sup>

As mentioned earlier, since the advent of the Cold War in 1945 until 1990, U.S. presidents assigned the highest priority to keeping Latin America safe from communism. Despite this non-partisan priority, the foreign policy process is bureaucratic at best. It is accountable to the people through Congress and may be reviewed by the Judicial branch. Policy-making includes information gathering, conceptualization, articulation, legislative passage and budgeting, implementation, and post-implementation analysis and feedback.<sup>31</sup> Executive branch agencies are geared towards supporting the president in these capacities. Of the many Executive branch agencies, several have jurisdiction of Latin American Affairs as part of their responsibility (see table 3.1). They are to advise the president on Latin American issues and also represent the president before international organizations such as the Organization of American States.

The president sets foreign policy. This right is conferred or implied by the Constitution and subsequent documents. As Commander-in-Chief of the Armed Forces, he may wage war. The president is mandated to make international treaties “by and with the advice and consent of the Senate” provided that two-thirds of the Senators present concur. However, he can sign Executive Agreements with Chiefs of State. In the case of Executive Orders, Congress is excluded from the process of decision making, thus having to catch up after the fact. The president appoints the Secretary of State, Secretary of Defense, Ambassadors, Director of Central Intelligence and other key foreign policy personnel. Furthermore, as invoked by Eisenhower over Cuba and with Bush and Clinton regarding the military government of Haiti, the president may grant, withhold, and even withdraw formal recognition of foreign states.

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<sup>30</sup> Smith, op. cit., p. 68.

<sup>31</sup> Dent, op. cit. P. 291.



<b><u>Executive Branch Personnel with Jurisdiction over Latin American Affairs</u></b>
National Security Council Staff
Bureau of Inter-American Affairs (ARA)
Permanent Mission to the OAS
Assistant Secretary of Defense for Inter-American Affairs (ASD/ISA)
Department of Commerce
Department of Treasury
Agency for International Development
U.S. Information Agency
Department of Defense: <ul style="list-style-type: none"> <li>• Deputy Assistant Secretary of Defense for Inter-American Affairs</li> <li>• Joint Chiefs of Staff, J5</li> <li>• U.S. Army</li> <li>• U.S. Navy</li> <li>• U.S. Air Force</li> <li>• U.S. Southern Command (Panama/Miami)</li> <li>• U.S. Atlantic Command (Norfolk, Jurisdiction over Caribbean until 1 June 1997)</li> <li>• Defense Security Assistance Agency</li> </ul>

Table 4.1 <sup>32</sup>

Paramount among the formal advisory entities to the president is the National Security Council (NSC). Flexible in its role to meet each administration's demands, the NSC helps the president coordinate domestic, foreign and military policies. Statutory members are the president, vice president, secretary of state and secretary of defense with two advisory members, the director of central intelligence and the chairman of the Joint Staff. The assistant to the president for national security affairs (i.e. the national security advisor) coordinates the NSC staff and advises the president. Much of the NSC expertise derives from staff which is detailed from the State Department, Defense Department and CIA. The NSC is structured along regional and functional lines. The Latin American Affairs office is one of the six regional units. The director of this small office is well-versed in Latin America and works closely with the assistant secretary of state for inter-American affairs, Congress, the Bureau of Inter-American Affairs and the Defense Department. By working with the NSC, these entities are able to bring an issue more easily to the attention of the president by cutting through bureaucracy.<sup>33</sup>

It has been said that the U.S. has no permanent enemies, only permanent principles. During his first year in office, President Clinton placed democracy in Latin American countries as the linchpin of U.S. foreign policy.<sup>34</sup> His rationale was that democracies rarely wage war on each other as they have similar goals and are also reliable trading partners. Thus, it behooved the U.S. to promote this stability. Although Clinton succeeded in getting NAFTA passed during his first year in office, his first two years

<sup>32</sup> Dent, op. cit. p. 227.

<sup>33</sup> Christopher C. Shoemaker, (1989) *Structure, Function and the NSC staff: An Officer's Guide to the National Security Council*, Carlisle, PA: US Army War College, Strategic Studies Institute.

<sup>34</sup> Dent, op. cit., p. 464.

were marked by hesitation and vacillation in the foreign policy realm due to his lack of international experience and confidence. Furthermore, the public did not trust in his ability in foreign affairs. Clinton had to deal with an antagonistic Congress and strong media criticism. However, during his following two years, his foreign policy was more praised than criticized by press and public.

Secretary of State Albright clarified Clinton's foreign policy for his second term during her Senate Foreign Relations Committee hearing when waiting for confirmation. She stated that the administration planned on building on the 1994 Summit of the Americas to strengthen judicial and other political institutions. Furthermore, it would continue to promote free trade initiatives and economic integration in order to combat poverty.

## **2. Congress**

Since the Vietnam War and questionable Executive Branch interventionist activities in Latin America (Allende in Chile, Guatemala, Irangate/Nicaragua Contras), Congress has become less willing to accept presidential dominance over U.S. Latin-America Policy.<sup>35</sup> Classified information has been and continues to be a divisive factor in the relationship between Congress and the Executive Branch. The House and Senate Intelligence Oversight Committees were created in Congress to oversee The Intelligence Community. The House Committee on International Relations has a wider purview of the Executive Branch. (see inset). Congress needed to exert some control over classified extraterritorial operations. However, classified information is usually collected by Executive Branch agencies in order to assist the president in making informed decisions and policy. Given its sensitive nature, dissemination is restricted to a need-to-know basis even within the Executive Branch in order to avoid compromise of methods and information. Therein lies the problem.

Congress is a different branch with different responsibilities and accountabilities. Thus, members of the Executive Branch may believe that classified information has even a greater possibility of compromise if released to Congressional members. An example of Congressional compromise and Executive Branch reaction was reported in December 1996 by the Washington Post regarding Richard Nuccio.<sup>36</sup> The Director of Central Intelligence stripped State Department official Richard Nuccio of his security clearance because he gave classified information to a member of the House Intelligence Committee who made it public.

The U.S. House of Representatives Committee on International Relations has jurisdiction over 17 areas to include:

- (1) Relations of the U.S. with foreign nations generally.
- (2) Acquisition of land and buildings for embassies and legations in foreign countries.
- (3) Establishment of boundary lines between the U.S. and foreign nations.
- (4) Export Controls, including nonproliferation of nuclear technology and nuclear hardware.
- (5) Foreign loans.
- (6) International commodity agreements (other than those involving sugar).
- (7) International conferences and congresses.
- (8) International education.
- (9) Intervention abroad and declarations of war.
- (10) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
- (11) Protection of American citizens abroad and expatriation.
- (12) United Nations organizations
- (13) Trading with the enemy.

And special oversight functions with respect to customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations and international fishing agreements.

<sup>35</sup> Dent, op. cit., p. xxiv.

<sup>36</sup> Thomas Lippman and Jeffrey Smith, [A Chief Upholds Removal of State Department Official's Clearance](#), (Washington Post: 6 DEC 96) p. A29, col. 1. Nuccio, a senior adviser to the Assistant Secretary of State for Inter-American Affairs, stated that he had come forward because CIA had failed to brief Congress as required by law and he had given false information to Congress based on CIA's refusal. CIA officials argued that the information had been disclosed previously under established procedures to congressional oversight panels. According to the press report, CIA officials were alarmed that Nuccio's action might inspire other government officials to make similar disclosures of information to Congress whenever they decide it is unethical to their own values.

### 3. The President and Congress: Accountability

Since the Vietnam War, Congress has sought to make the president more accountable through legislation. In 1981, the Reagan administration approved aid for anti-Communist guerrillas in Central America. Because of Congressional concern about actions by CIA operatives, on 8 December 1982, House Intelligence Committee Chairman Edward Boland moved to prohibit use of any U.S. funds to overthrow the Nicaraguan government. This was the first of five Boland Amendments which sought to “encumber, but not kill President [Reagan]’s program.” As Richard Perle, former Assistant Secretary of Defense explained: “For the Congress, it was far better to put less than half a tank of gas in the President’s car and leave it to *him* to explain why *his* policy never made it home rather than completely reject his proposal.”<sup>37</sup> The Third Boland Amendment, in October 1984, specified that no government funds could be spent on behalf of the Contras by CIA, Department of Defense or agencies involved in Intelligence activities.

The Congressional role is to make laws or legislation. It is not subservient to any Executive Branch agency (to include the CIA). Nor is Congress immune towards Executive desires when formulating U.S. foreign policy. Congress legislates in broad language, setting certain goals and instructing the Administration to work out the details. When Congress passes legislation the president has the power to sign the bill into law or to veto it. Should the president veto a bill, he needs to explain his reasons to Congress within 10 days. Congress may then try to override his veto and enact the bill into law.

The 1973 War Powers Resolution was envisioned as strengthening Congress’s role in foreign policy. Congressional committees were expanded (see Table 4.2) to provide extensive participation by members. Despite extended interests and focuses, setbacks occurred. The advances under President Carter slowly diminished during Reagan. Congress was often bypassed by the White House or seen as servile. Congress can still be strongly influenced by the president, particularly those members of his political party. For example, in May 1988, the House Intelligence Committee presented a surprise amendment which proposed allowing the CIA to undertake *ad hoc* secret initiatives without accountability. The amendment sought to lift restrictions on covert activity, but was defeated by 214 to 190 votes.<sup>38</sup>

Although Congress was at odds with the Reagan Administration, this changed under President Bush. In 1990, Congress and the Administration agreed on overall objectives of the US in Latin America in the spirit of bipartisan foreign policy as discussed in Chapter 2. Since the Vietnam War, the Democrat and Republican Party foreign policy strategies have reversed. The Republicans assumed the role of interventionist whereas the Democrats became unwilling to use force to support foreign objectives. The Democrats concern with social welfare issues spilled over into the international arena and they became more sympathetic to left-wing parties. According to political scientist John Spanier,

<sup>37</sup>Richard Perle, “America’s Failure of Nerve,” *US News & World Report*, 10 August 1987, p. 32.

<sup>38</sup> House Speaker Jim Wright upheld that when the President made a proposal—for example, regarding aid to Central American *Contras*--it would be referred to the appropriate committee which would review it and report their recommendation to the House. Due process would occur, albeit rapidly, with Congress being able to oversee, modify or alter the proposal.

Democrats were committed to multilateralism and advocated working through the United Nations (UN) or OAS. On the other hand, Republicans preferred to act unilaterally and viewed alliances and multilateral organizations as restraints on U.S. interests. However, Congress, which has a long institutional memory, continued to mistrust presidential motives and sought to harness presidential foreign policy power. Witness President Clinton's first term in which Republican Senator Dole proposed that the president be required to get congressional authorization to deploy troops.

#### **4. The Congress and Money: More Leverage:**

Congress can also affect the Executive Branch operations through approval of the federal budget. Since 1984, the U.S. international affairs spending has fallen by 51 percent in real terms. The total amount now spent constitutes just 1.2 percent of the federal budget.<sup>39</sup> At a time new horizons and international relations, the Congress pared down the State Department budgets, to the point of paralyzing overseas operations while trying to force the balanced budget act.<sup>40</sup> Every president defends foreign aid whereas Congress, thinking of domestic issues, ignored demoralization caused by budget cuts in the foreign service to include impacting on international relations. President Clinton has stated that the U.S. international affairs budget is "well below what we need to assure that we can achieve our foreign policy objectives."

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<sup>39</sup> For three decades, the U.S. led the developed countries in International Affairs spending; in 1997 the U.S. ranks last when it comes to a percentage of the GNP.

<sup>40</sup> Budget cuts since 1993 have reduced State Department by over 2000 employees since 1993 with another 500 by the end of FY97. This has caused smaller bureaus and Embassies in addition to closure of 30 Embassies and the loss of senior expertise.

<b>Congressional Jurisdiction over Latin America: Committees and Subcommittees</b>
<u>U.S. Senate</u>
Committee on Agriculture, Nutrition, and Forestry <ul style="list-style-type: none"> <li>• Subcommittee on Domestic and Foreign Marketing and Product Promotion</li> </ul>
Committee on Armed Services <ul style="list-style-type: none"> <li>• Subcommittee on Regional Defense and Contingency Forces</li> </ul>
Committee on Banking, Housing and Urban Affairs <ul style="list-style-type: none"> <li>• Subcommittee on International Finance and Tourism</li> </ul>
Committee on Commerce, Science and Transportation <ul style="list-style-type: none"> <li>• Subcommittee on Foreign Commerce and Tourism</li> </ul>
Committee on Finance <ul style="list-style-type: none"> <li>• Subcommittee on International Trade</li> </ul>
Foreign Relations Committee <ul style="list-style-type: none"> <li>• Subcommittee on Western Hemisphere and Peace Corps Affairs</li> </ul>
Judiciary Committee <ul style="list-style-type: none"> <li>• Subcommittee on Immigration and Refugee Affairs</li> </ul>
Committee on Labor and Human Resources
<u>Select Committees</u>
Select Committee on Intelligence
<u>Joint Committees</u>
U.S. Interparliamentary Group—Mexico
<u>U.S. House of Representatives</u>
Committee on Agriculture <ul style="list-style-type: none"> <li>• Subcommittee on Foreign Agriculture and Hunger</li> </ul>
Committee on Appropriations <ul style="list-style-type: none"> <li>• Subcommittee on Foreign Operations, Export Financing and Related Programs</li> </ul>
Committee on Armed Services <ul style="list-style-type: none"> <li>• Subcommittee on Military Installations and Facilities</li> </ul>
Committee on Banking, Finance and Urban Affairs <ul style="list-style-type: none"> <li>• Subcommittee on International Development, Finance, Trade and Monetary Policy</li> </ul>
Committee on Energy and Commerce
Committee on Foreign Affairs <ul style="list-style-type: none"> <li>• Subcommittee on Western Hemisphere Affairs</li> <li>• Subcommittee on Economic Policy, Trade and Environment</li> <li>• Subcommittee on International Security, International Organizations and Human Rights</li> </ul>
Committee on Government Operations <ul style="list-style-type: none"> <li>• Subcommittee on Legislation and National Security</li> </ul>
Committee on the Judiciary <ul style="list-style-type: none"> <li>• Subcommittee on International Law, Immigration and Refugees</li> </ul>
Committee on Merchant Marines and Fisheries
Committee on Ways and Means <ul style="list-style-type: none"> <li>• Subcommittee on Trade</li> </ul>
Permanent Select Committee on Intelligence

Table 4.2<sup>41</sup>

With no unifying, far reaching foreign policy theme articulated by the Clinton Administration, foreign policy is driven by domestic politics and politicking to win constituents for the next election. Congress has stated that it has a strong bi-partisan cooperation. With the Republicans taking control of the Congress for the first time in over 40 years, Congress became more active, more partisan and more willing to defy the president than ever before in a post war period.<sup>42</sup> The strong 1995 Republican *Contract with America* found only some electoral promises met, the most noted disappointment being the balanced budget act. Under Speaker of the House Gingrich, Democrats were swept along with the agenda as Congress sought to accomplish its goals. Despite claims of bipartisan action, one of the major impediments in Congress is the Democrat dislike of Gingrich. The degree to which Congressional actions sway or direct U.S. foreign policy require careful examination.

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<sup>41</sup> Dent, op. cit. P. 365-366.

<sup>42</sup> *104<sup>th</sup> Congress Ushers In New Era of GOP Rule*, 1995 Congressional Quarterly Almanac, p. 1-3.

## Chapter 4

### CUBA AND THE HELMS-BURTON ACT:

#### Congress Holds Sway

*We do not have a cookie-cutter approach to policy. China is a world power....Cuba is an embarrassment to the Western Hemisphere.*

--- U.S. Ambassador Madeleine K. Albright<sup>43</sup>

The 1959 Cuban revolution has dominated the U.S. policy towards Latin America for over three decades. Indeed, the U.S. has maintained a 37 year trade embargo against Cuba as a central tenant of U.S. hemispheric security. Although tense relations had relaxed between 1970 and 1980, President Reagan revived the vision of Cuba as the source of the armed conflict in Central America during his Administration. He placed primary foreign policy responsibility under the Executive Branch and toughened the U.S. stance against Fidel Castro. During his administration, the Cuban American National Foundation (CANF) formed. CANF, an extreme anti-Castro lobby group, focused on the acquiescence of Congress to President Reagan's Cuban policy.<sup>44</sup> With over 1.5 million Cuban-Americans in the United States, primarily in Florida and New Jersey, the CANF continued to strongly influence over U.S. Cuban policy for over 15 years in both the White House and on Capitol Hill.

In the following Administration, President Bush saw no imminent threat and returned Cuba policy from the Executive Branch to the Congress. However, the CANF continued to weigh in on U.S. foreign policy towards Cuba by mobilizing public opinion in Florida over immigration issues and increasing enmity towards Castro. Traditionally Republican voters, Cuban-Americans influence policy through the CANF's Free Cuba Political Action Committee and funding to Congress. In the past, CANF provided substantial political donations to Democrat Robert Torricelli (New Jersey) who sponsored the **Cuban Democracy Act** (1992). This bill, also known as the Torricelli Bill, tightened trade sanctions on Cuba<sup>45</sup>. Cuban-American funds also provided support to Bush and Clinton campaigns, further influencing U.S.-Cuba policy through domestic issues.<sup>46</sup>

While Cuban-American concerns can influence Congress, they can also influence the President. Since 1992, the U.S. government has licensed over \$130 million in private humanitarian aid to Cuba— food, medicine and telecommunication agreements. President Clinton has shown a strong interest in the Cuban-American sector of U.S. society throughout his administration. Consistently wrestling with Cuban immigration policies, things came to a head when thousands of refugees fled for the United States (and U.S. Naval Station at Guantanamo Bay). The refugees were detained. After talks with Castro, Clinton announced that it would admit a last group of 20,000 Cuban refugees from Guantanamo but

<sup>43</sup> Michael Dobbs(1996), *With Albright, Clinton Accepts New U.S. Role*, **Washington Post** 8 December. A1.

<sup>44</sup> Dent, op. cit. p. 386.

<sup>45</sup> New Jersey is the state with the second highest concentration of Cuban-American voters; Florida is the first.

<sup>46</sup> Dent, op. cit. p. 387.

would return any future Cuban boat people. By detaining and returning the Cuban refugees, Clinton reversed a 28 year preferential treatment policy for Cuban refugees and caused concern in the Cuban American community. This accord sent a strong message to the CANF that its influence in the White House policy making had ended and that the Administration had taken a step towards improved relations with Havana. Nonetheless, the CANF retains a strong presence on Capitol Hill.

Congressional interest in U.S. policy traditionally peaks immediately before Florida voters go to the polls and in 1996---with three senators vying for the Republican presidential nomination--- was no exception. Economic concerns and strong democratic emphasis, in addition to domestic concerns, were instrumental in the development of the One Hundred Fourth Congress' H.R. 927 entitled "Cuban Liberty and Democratic Solidarity (**LIBERTAD**) Act of 1996" which is commonly referred to as the **Helms-Burton Act**. Senator Jesse Helms (R-NC), Chairman of the Senate Foreign Relations Committee, has maintained a strong interest in human rights, in confiscated U.S. property in Latin American, and in reimbursement to injured U.S. parties since 1972. He delayed numerous ambassadorial appointments and economic assistance to Central America during the Bush and Clinton administrations because of ideological differences and disagreements over the direction of the U.S.-Latin American policy.<sup>47</sup> The co-author of the Act was Representative Dan Burton (R-IND), Chairman of the House International Relations Subcommittee on Western Hemisphere Affairs. A harsh critic of Castro and co-sponsor of the bill was Representative Torricelli (D-NJ), who was running for senator in New Jersey, a state with a heavy Cuban-American population. Torricelli opined that the measure would allow corporations to profit by theft of American property and make a few dollars, but at the cost of entering the United States.

The LIBERTAD proposal first surfaced in 1995 with much opposition. The bill was designed to increase pressure on Castro by making it more difficult for U.S. firms to import products made with exports of Cuban sugar. It also proposed to deny visas to officials from foreign firms that purchased properties expropriated from U.S. citizens by Castro. In addition, it proposed that Cuban American claimants could file suits in the U.S. to seek damages from companies that knowingly purchased such properties. Several corporate giants such as Kraft and Boise-Cascade had gone to Capitol Hill to argue against the bill. U.S. companies felt that the bill would hurt their chances of compensation by encouraging claimants to file, although Helms emphasized that the \$50,000 property claim threshold would limit lawsuits. Gary Jarmin, Chairman of the US-Cuba Foundation (a Republican organization) opined that the bill was a scam to pay off wealthy Cuban land barons.<sup>48</sup> In order to build support in the Senate, Helms agreed to narrow some import restrictions and to authorize an exchange of news bureaus. With the presidential primaries looming, Senate majority Leader Bob Dole reiterated his anti-Castro credentials and endorsed the bill.

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<sup>47</sup> Helms blocked 18 Ambassadorial nominations in order to gain leverage for his proposal to reorganize the State Department in 1995. He also delayed ratification of START II and the Chemical Weapons Convention, both arms-control treaties.

<sup>48</sup>This would bode well during U.S. elections, as the beneficiaries would probably support members backing the bill.

On 24 February 1996, the Cuban Air Force shot down two civilian planes piloted by *Brothers to the Rescue* some 18 miles off the island nation's coast<sup>49</sup>. Prior to this action, the Clinton Administration had generally opposed toughened economic sanctions against Cuba and in fact had signed an accord regulating migration between the two countries in 1994. With the U.S. elections looming in the background, President Clinton announced tough sanctions against Cuba in reaction to the shootdown. He stopped charter flights between the two countries and restricted movements of Cuban diplomats within the U.S. He ordered Radio Martí to expand its reach in order to inform Cubans of the incident and sought compensation for the families of the killed aviators. Finally, he vowed to promptly reach agreement with Congress on the pending Helms-Burton LIBERTAD legislation to enhance the Cuban embargo which occurred within the month.

The LIBERTAD Act was signed into law on 12 March 1996 by President Clinton, despite the advice of many of his advisors. It has raised much protest throughout Europe, Latin America and Canada because it is seen as moving the embargo from a bilateral arena to a multilateral one. The purposes of the Act are to increase economic pressure on Havana and discourage foreign investment in expropriated properties (from U.S. nationals) in Cuba. Although the law went into effect on 16 July 1996, Title III provisions have been postponed on grounds of "U.S. national interest".<sup>50</sup> These provisions allow Cuban-Americans the right to file lawsuits in U.S. courts against foreign companies that use property confiscated by Havana after the 1959 revolution. Articles 10 and 34 of the OAS Charter establish that every American state has the duty to respect the rights enjoyed by every other state in accordance with international law, and that individual member states should refrain from actions or measures that would adversely affect development of other member states. These articles have been cited before the OAS general assembly in order to request the Inter-American Judicial Committee (IAJC) examine the validity of the LIBERTAD Act amidst outraged cries that the Act seeks to obstruct international trade and investments by third countries. The IAJC legal committee ruled that the LIBERTAD Act does indeed violate the sovereign right of nations to govern companies in their territories. Mexico and Canada initiated a formal trade complaint under the terms of the NAFTA.

Additionally, the 15-nation European Union opened dispute procedures in the World Trade Organization (WTO) and threatened to retaliate against U.S. companies. Despite previous strong U.S. support for the WTO adjudication of international trade disputes, the U.S. has refused to accept WTO jurisdiction, invoking "national security exemption". The Clinton administration claimed that the LIBERTAD Act was not a trade law, instead it was merely a measure to enhance U.S. security. But, the Europeans forged ahead and planned to file their first brief of 14 April 1997. On 11 April 1997, the Clinton administration and the EU agreed to postpone the WTO case for six months, until 15 October 1997.

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<sup>49</sup> Brothers to the Rescue is a Miami-based Cuban-American organization which frequently searches Cuban waters for refugees escaping to the U.S.

<sup>50</sup> The President has the authority to suspend Title III for renewable periods of up to six months and also may suspend the right to file lawsuits for renewable periods of up to six months once Title III came into effect.

At the signing of the LIBERTAD/Helms-Burton Act, more than 650 foreign companies were in Cuba; a total direct investment of \$2.1 billion. The United States' first punitive action was after a 45-day warning in July 1996 against Canadian mining company Sherritt International. State Department denied the senior corporate officials and their immediate families entrance to the U.S. in September 1996. The second sanctioned company was another NAFTA partner, Mexico's Grupo Domos which announced that it would press ahead with attracting new partners for further ventures in Cuba. Since both companies were NAFTA trading partners, it remains to be seen whether enforcement of the LIBERTAD/Helms-Burton Act could become one of the biggest threats to U.S. trade relations with our allies.

On the humorous side of the Helms-Burton Act, Mexican television viewers have met Burton Helms, a marketing advertising creation. An archetypal ugly American, he talks loudly, butchers the Spanish language and assumes that Mexicans will accept that he knows what is best for them as he is from the U.S. Lately, he has been serenading viewers with his love for Mexico, oblivious to cultural sensitivities. It has been highly successful in stirring up nationalism.

The **LIBERTAD/ Helms Burton Act** took discretionary power from the President and gave it to Congress regarding trade with Cuba. It reduced the presidential ability to conduct foreign policy by placing more power to Congress. It codified existing Executive Orders and regulations that imposed trade embargoes; neither of which can be lifted or modified without Congressional approval.

## Chapter 5 Conclusion

Responsibility for foreign policy lies chiefly with the Executive and secondarily with the Legislative Branch. The President sets the agenda and formulates policy. Congress legitimizes, implements and evaluates foreign policy. Both are elected by the U.S. population. National, state and local elections validate approval of their actions in office. However, with an eight year term limit, the Presidency lacks the continuity which can be found in Congress. Non-governmental organizations to include lobby groups represent special interests and influence the foreign policy agenda. However, the system of checks and balances between the two branches has Congress an enhanced role in areas that are affected by domestic politics. This mix produced the coinage of the word *intermestic*. Indifferent and uninterested in Latin America, the U.S. population pursues primarily economic gain rather than idealistic goals. Thus, they will push their elected representatives, particularly in Congress, to track their interests. A few strong lobby groups, with strong economic backing, determine policy. Policy is also set by elected officials seeking re-election, as could be argued in the case of the LIBRETAD/Helms-Burton Act, which appears to be closely associated with things intermestic.

Added into the political equation is the distinction between the Democrat and Republican party ideologies. With the importance of party doctrines, the Presidency will maintain a bipartisan tradition, and Congress will probably continue to disagree along party lines, as diversity is what makes politics interesting.

The U.S.-Latin American national security concerns since 1945 can be divided into two distinct periods; Cold War and post-Cold War. During the Cold War, national security focused on containing Communism. As envisioned by George Keenan, The U.S. propagated democracy outside of its borders. As applied to Latin America, containment was an ends that justified U.S. focus on Cuba and the rest of America. Otherwise, the United States focused elsewhere (Europe, Asia). In the post-Cold War period, national security has focused on the one remaining Communist country in the region – Cuba—and has redefined national security as dependent on economic security. There is no cohesive long-term political policy when it comes to other areas of Latin America, just reactionary politics. Despite the importance of environmental and human rights issues, economics drives U.S. foreign policy in the region. Only recently, with the Summit of the Americas and Free Trade Agreements has long range strategy appeared to have been considered. However, with the partisan politics and no clear enemy, the United States will continue to put domestic concerns first, concerns that then spill over into the international arena.

In the past, the United States has been suspected of trying to control the entire hemisphere and through a “father knows best” approach. As Latin America moves to a stronger economic position, this will change. Nonetheless, U.S. politics are still examined minutely for motives. As long as the United States maintains its *superpower* status, its foreign policy (or lack of one) will continue to be scrutinized and criticized.

As for implications of the LIBERTAD/Helms-Burton Act, after a retaliatory act of signing it into law, President Clinton has continued to suspend the controversial Title III. Protests will continue from NAFTA trading partners and the European Union (EU) who claim that Washington is using economic leverage to force other countries to isolate Castro. However the United States considers the law to be a domestic one with international implications. Thus LIBERTAD is not open to WTO or other jurisdictions. It is unclear what long term effects the LIBERTAD Act will have, particularly should Castro leave office. However, it does underline the importance of international economic trade in the post-Cold War era and the degree to which the U.S. Congress may use its leverage to affect commerce.



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