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Cuba Finance, Infrastructure & Investment Summit
Understanding Cuba Investment and Financing Opportunities (www.momentumevents.com)
Presentation: 9:00 am to 9:45 am
Convene Conference Center
32 Old Slip
New York, New York

DRAFT OF PREPARED REMARKS (subject to editing)

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John S. Kavulich
President

Good morning…..

President Obama & President Castro Can Do More...
Who Has Leverage? Chum To Lures. Legislation/Advocacy.

When President Obama addressed the nation in December 2014, he wore a dark suit, stood at a podium, and for fifteen minutes shared what he wanted to do to, with, and for the 11.3 million citizens of Cuba residing along the 800-mile archipelago.

When President Castro addressed his nation the same day, he wore a military uniform, sat at a desk, and spoke with vagueness for five minutes.

Optics matter.

President Obama solidified a legacy- he took a chance, mended country relationships, removed some imagery issues, and created focuses upon United States policy towards Cuba, Cuba policy towards the United States, and the commercial, economic and political landscape existing within Cuba. Which leaves us where?

The initiatives proposed by President Obama (some of which were unsuccessfully attempted by predecessors) are designed to tear at the social fabric of Cuba; with a goal of recreating a middle class and a professional class abridged by the 1959 Revolution… a challenging landscape today defined by those who have (through earnings or remittances) and those who have not.

President Obama's message… *Create your worth as opposed to the government of Cuba determining your worth. Be what you can, what you want... not what you're told to be*.

So what has the government of Cuba agreed to or done since December 2014:

- Re-establish diplomatic relations
- Re-open its embassy in Washington, DC
- Authorize the re-opening of the United States Embassy in Havana
- Continue to decrease food product/agricultural commodity purchases authorized by the Trade Sanctions Reform and Export Enhancement Act (TSREEA) of 2000; down approximately 44% during the last eleven months
- Increase healthcare product purchases authorized by the Cuban Democracy Act (CDA) of 1992. Healthcare product exports (cash-only with verification requirements) permitted by the CDA have increased nearly **fourfold** thus far in 2015 compared with 2014.
- Authorize a direct correspondent banking agreement with Florida-based Stonegate Bank
- Authorize a roaming agreement with New York-based Verizon Wireless
- Resumption of direct long-distance telephone service through New Jersey-based IDT Corporation
- Not disrupt the in-country and out-of-country operations of California-based Airbnb
- Discuss the re-establishment of regularly-scheduled commercial airline service (Civil Aviation Agreement)
- Agree to a (limited) resumption of United States Postal Service operations
- And permit a substantial revenue increase from United States visitors (charter flights, pleasure craft, general aviation aircraft, and third-country transit). Thus far in 2015, United States visitors to Cuba, who have the highest net profit margin per person of any visitor to the country, have increased approximately 39%.

And what has the government of Cuba not (or perhaps not yet) agreed to or done since December 2014:

- Authorize ferry services
- Authorize United States companies to export products directly to the 200+ categories of licensed independent businesses
- Authorize use of credit cards (although this has substantial compliance issues for United States financial institutions; New York-based MasterCard has removed its "*block*" on credit cards issued by United States financial institutions using its brand)
- Authorize United States companies to have an operational presence (including hiring Cuban nationals, obtaining office space, establish bank accounts)
- Authorize United States businesses to engage in loan and lease programs to licensed independent businesses
- Confirm itineraries for all commercial vessels operating people-to-people programs
- Purchase communications/telecommunications equipment or permit the provision of internet services (California-based Google & Facebook), although there are security, pricing and sourcing reasons not to purchase the equipment or permit the provision of such services
- Respond in a timely manner to inquiries from United States companies

Since December 2014, the government of Cuba has successfully marketed to the world changes by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury and Bureau of Industry and Security (BIS) of the Department of Commerce.

The aspirational interest (purported or actual) of the United States business community is **chum** exhibited to governments, financial institutions, agencies (especially those which provide export credit guarantees) and companies.

Visits to Cuba by Members of Congress, Governors, trade organization members, advocacy group supporters, company representatives, and sole proprietors have increased….None have resulted in payments by Cuba for any of the newly-authorized exports from the United States.

Using the new and revised OFAC and BIS regulations announced in September 2015, the government of Cuba has embarked on a far more ambitious and consequential marketing campaign- and the United States business community has morphed from chum to individual sector lures. From ladled out of a bucket to artfully displayed in a tackle box.

Despite the resistance from the government of Cuba, President Obama should propose to remove existing regulatory restrictions upon Cuba using the United States Dollar for international transactions; the restrictions create burdens for United States companies.

The President should also propose dates for visits to Cuba by the **Secretary of Agriculture**, **Secretary of Commerce** (who visited earlier this week), **Commissioner of the U.S. Food and Drug Administration** and **Director of the National Institutes of Health**.

However, the proposals need to be conditioned upon the government of Cuba authorizing United States companies to engage with the new and revised OFAC and BIS regulations issued during the last eleven months.

There is expectation amongst some observers that increasing visits to Cuba by high-level officials of the United States government will create pressures upon the government of Cuba by current substantive commercial partners- they will urge the government of Cuba to re-engage with the United States so that they may see a more timely and meaningful financial return on their commercial dealings. Eleven months has passed with no demonstration of urgency by the government of Cuba.

What the United States may perceive as "***pressure with a smile***" is perceived by the government of Cuba as weakness and as bait to be used to hook interest from other countries- at the expense of the United States.

And the government of Cuba has reiterated, most recently through statements by President Castro and Minister of Foreign Affairs Rodriguez, that before a normalized relationship will exist, reparations valued between US$100 billion and US$1 trillion need settled, the land upon which the United States naval base at Guantanamo Bay must be returned, and there are other issues.

The "*goal posts*" are shifting…. Ironic that throughout decades the United States was accused of constantly adding terms to the list of requirements prior to the normalization of relations between the two countries. In some respects, the government of Cuba has placed an embargo upon the United States.

President Castro is unlikely to view as necessity the concept of quid pro quo as President Obama has little leverage.

The Obama Administration has voiced opposition to existing laws which form a basis for "***the embargo***"- CDA, Libertad Act and TSREEA. The Obama Administration removed Cuba from the Sanctions List. The Obama Administration re-established diplomatic relations, re-opened the United States Embassy in Havana and permitted the government of Cuba to re-open an embassy in Washington, DC.

President Obama is unlikely to rescind existing OFAC and BIS regulations or return Cuba to the Sanctions List or close the respective embassies; and threats to go no further with expansive efforts are of little impact. The President wishes to visit Cuba in 2016. No secret. He may cancel a visit that was not requested.

While the Obama Administration may wish to **condition** a visit by the President to further changes in the commercial, economic and political landscape within Cuba, the government of Cuba recognizes that President Obama's desire to visit Havana is exponentially greater than the host country's believing that a visit is required to further its global interests- during and subsequent to President Obama's time in office.

The only materially impactful means for the United States to currently influence the bilateral timetable of the government of Cuba is to harness, corral, the governments of Argentina, Brazil, Canada, China, France, Germany, Iran, Russia, Spain, United Kingdom, Venezuela and Vietnam whose respective domestic considerations outweigh the value of constricting their mostly newly-energized commercial relationships (thus far more announcement than operational) with Cuba. That's not going to happen.

If President Obama is not prepared to arrive aboard Air Force One at Jose Marti International Airport in Havana and view a commercial, economic and political landscape unchanged or nominally changed with respect to his initiatives of December 2014 through September 2015, then he should not visit Cuba.

Irrespective of initiatives implemented by President Obama, the government of Cuba remains unlikely to permit a United States business presence as envisioned by President Obama.

Such would be disruptive, create unreasonable expectations amongst the citizens (both those residing in Cuba and those residing in the United States), be costly, and be unwelcome.

With **Venezuela's** increasing commercial and economic challenges, its financial support for the government of Cuba is lessening; and other countries are unlikely to replace the billions of United States Dollars flowing since 2000.

Thus, the government of Cuba is in a period of cautiousness and a full-on re-engagement with the United States is problematic as the policy of the United States remains to seek commercial, economic and political change within Cuba. Any re-engagement with the United States results in uncertainty… the government of Cuba dislikes uncertainty.

The government of Cuba neither trusts the intentions of United States companies nor the intentions of the United States government.

Regardless of the receptiveness by the government of Cuba, the Obama Administration has issued expansive regulations during the last eleven months; and plans to issue new regulations and to revise existing regulations in an ever-more expansive manner.

Will the OFAC license Maryland-based Marriott Corporation to manage a hotel located in Cuba? If they ask, probably in 2016. Will Illinois-based John Deere be permitted to export farm

products to government of Cuba-operated entities rather than entities relatively independent of the government of Cuba? Probably yes in 2016.

There will likely be an expansion of imports from the limited list within the new initiatives- if there are manageable political issues entangling the two countries.

- Modest imports of specialty-market products including organic sugar, organic coffee, organic chocolate and confections, each of which might find venues such as ***Whole Foods Market or Trader Joe's***.
- Tobacco (cigars) and alcohol (rum).
- Nickel and cobalt imports will be debated.
- Healthcare research relationships will increase as will possible marketing opportunities for Cuba-produced healthcare products.

On September 18th 2015, President Obama's new and revised regulations from the OFAC and BIS resulted in:

1. An evisceration of legislative efforts within the United States Congress; and
2. A reallocation of funding resources away from Washington, DC-based advocacy organizations working in support of the legislative efforts

United States-based companies are viewing the "***end the embargo***" landscape during the remaining months of the Obama Administration as exclusively a focused exercise upon the issuance of new regulations and the revision of existing regulations.

There is <u>little value in funding legislative efforts</u> when there is unlikely to be legislation enacted into law before January 20th 2017. Some advocacy groups have begun tacking their focus from the 114th United States Congress to the 115th United States Congress and to the next occupant of The White House; that's not going to work- too many unknowns and too few resources better directed elsewhere. Members of Congress may see their efforts to obtain contributions from United States-based companies lessen or evaporate.

There are unlikely to be statutory changes in United States law relating to Cuba until at minimum 2018, the retirement of President Castro as that moment fulfills a provision of the Libertad Act which conditions a government which does not include President Castro or former President Fidel Castro. This could change, but that would require the government of Cuba to not only authorize, but embrace initiatives offered by President Obama.

Another <u>intended or unintended consequence</u> of September 18th 2015, Members of Congress and advocacy groups have reversed their **2015 mantra** that the United States must do more to obtain more from the government of Cuba and have re-adopted the 2001 to 2014 perspective that the government of Cuba needs to change its policies and its laws and its regulations to authorize United States-based companies to commercially engage; and reverse the decline of food product and agricultural product cash-only imports permitted by the TSREEA- made more efficient through regulatory changes and revisions since December 2014.

If the government of Cuba continues to respond to each overture as "***good, but not enough***," consequences must alight from Members of Congress and representatives of United States business, "***We don't need Cuba today as much as Cuba may wish to believe or have others believe***."

Thank you.