

# U.S.-Cuba Trade and Economic Council, Inc.

## New York, New York

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**4 October 2018**

**Current State Of Play: United States-Republic Of Cuba Trade & Investment Relations**

**Cuba Business Club**  
**9:00 am to 6:00 pm**

**Villa VALMER**  
**Avenue Corniche Président John Fitzgerald Kennedy**  
**13007 MARSEILLE**

**PREPARED REMARKS (subject to editing)**

**John S. Kavulich**  
**President**

*Good afternoon....*

My four (4) most important messages to you:

**First**, United States companies want to engage with the Republic of Cuba.

**Second**, the Republic of Cuba is reluctant to engage with United States companies.

**Third**, the Trump Administration has decimated the interest by United States companies towards the Republic of Cuba.

**Fourth**, United States companies are not optimistic for any near-term to medium-term expansion of the commercial, economic or political bilateral relationship.

United States laws, regulations and policies do authorize United States companies to engage in a substantive range of exporting, importing and the provision of services. Obviously, the range of opportunities are constricted- and United States companies generally prefer to determine their survivability in terms of identifying and engagement with markets rather than their local, state or federal government determining their destiny.

What is the United States commercial relationship with the Republic of Cuba? **Sixty** (60) companies with a limited presence in Cuba; there nine (9) sales offices (five airlines, two travel agencies, and distribution facility in ZED Mariel (controlled by the Revolutionary Armed Forces of the Republic of Cuba (FAR)),

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managed by the *Territory of Puerto Rico*-based distributor for Illinois-based equipment manufacturer **Caterpillar Inc.**), one (1) healthcare product joint venture (also located in ZED Mariel), and no assembly or manufacturing operations. Connecticut-based **General Electric Co.** due to its acquisition of France-based **Alstom**, has undertaken a multi-million-dollar valued power generation project for which it is being paid to perform. General Electric has a certified claim against the Republic of Cuba valued at US\$5.9 million registered with United States Foreign Claims Settlement Commission (USFCSC).

The sixty (60) United States companies have combined global revenues of US\$1 trillion and employ 2,000,000 worldwide.

Since 2001, approximately **ninety-five** (95) companies have exported more than US\$5.8 billion in agricultural commodities and food products to the Republic of Cuba.

Since 2003, United States companies have exported approximately US\$25 million in healthcare products to the Republic of Cuba including medical equipment, medical instruments, medical supplies and pharmaceuticals.

For the period 2016 through 2019, the three-largest United States cruise lines (Florida-based **Carnival Corporation & PLC**, Florida-based **Royal Caribbean Cruises, Ltd.** and Florida-based **Norwegian Cruise Lines Holdings**) and some smaller companies have announced more than 375 sailings; potentially delivering more than 624,000 passengers to the Republic of Cuba. The companies could earn more than US\$834 million in gross revenues- and US\$89+ Million would be spent in the Republic of Cuba by passengers; and port fees to the Republic of Cuba of approximately US\$23 million.

In conjunction with and independent of the cruise line activities, United States airlines will earn gross revenues of approximately US\$800 million from transporting passengers to/from Florida in conjunction with the cruises and for other visits to the Republic of Cuba by individuals subject to United States jurisdiction; with an additional US\$200 million going to hotels & restaurants located in Florida.

Some United States airlines have relinquished their routes to the Republic of Cuba citing low demand, high operating costs, and fare competition. Then, some other air carriers have sought those routes and requested new routes. The Trump Administration has approved those new routings with a hope that its policies will result in fewer flights.

More than 3,000 representatives of United States companies- sole proprietorships, consultants, partnerships; small, medium and large; privately-held and publicly-held; organizations, associations, co-operatives, groups- if you can think of a type of business, then it has probably visited the city of Havana since 17 December 2014. Some visited with official invitations; most on their own.

Thus far, the Republic of Cuba has responded by focusing upon Obama Administration initiatives that will bring it revenue with the least depth of footprint in the Republic of Cuba by United States companies.

**So how does it look since 17 December 2014 when The Honorable Barack Obama, President of the United States, and H.E. General Raul Castro, President of the Republic of Cuba, addressed their respective nations to discuss the commercial, economic and political re-engagement?**

When President Obama addressed the nation in December 2014, he wore a dark suit, stood at a podium, and for fifteen minutes (*using 2,283 words*) shared with specificity what he wanted to do to, with, and for the citizens of the Republic of Cuba.

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 (*using 682 words*).

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*Those Presidential Optics mattered....*

Other than permitting a substantial increase in the number of visitors to the Republic of Cuba, and thus earning significant revenues, there has been no embrace (or authorization) for most of the commercially-focused initiatives offered through the Office of Foreign Assets Control (**OFAC**) of the United States Department of the Treasury, Bureau of Industry and Security (**BIS**) of the United States Department of Commerce and United States Department of State (**OLA**- Office of Legal Advisor)- unless they primarily focus upon hospitality and travel:

- Maryland-based **Marriott International** is managing one property, the *Four Points Sheraton Havana*, and has announced that the *Hotel Inglaterra* in Havana will be under its management in December 2019- three years behind schedule; a third property management opportunity vanished without explanation. As a result of a series of mergers and acquisitions during the last fifty-eight (58) years, a US\$63 million certified claim against the Republic of Cuba for assets (including land) initially made by New York-based International Telephone & Telegraph Corporation (ITT), which became ITT Sheraton, then acquired by Connecticut-based **Starwood Hotels & Resorts Worldwide** which was itself was acquired in 2016 by Marriott International which can use this value as a means to secure opportunities within Cuba; and a provision within the Libertad Act (“*Helms-Burton*”) of 1996 permits Marriott International to settle, sell, rent, lease, barter or obtain short-term, medium-term, long term or permanent disposition. In 2016, the OFAC granted a license(s) to Starwood Hotels & Resorts Worldwide to manage three properties owned by Republic of Cuba government-operated entities.
- California-based **Airbnb** is managing reservations for approximately 23,000 residences in the Republic of Cuba.
- New York-based **Verizon**, Texas-based **AT&T**, Kansas-based **Sprint** and Washington-based **T-Mobile** have roaming agreements in the Republic of Cuba.
- A recently-announced joint venture (in conjunction with clinical trials of a therapeutic) located within ZED Mariel to develop pharmaceuticals relating to the treatment of cancer with **Roswell Park Comprehensive Cancer Center** from my hometown of Buffalo, New York. ZED Mariel is controlled by the Revolutionary Armed Forces of the Republic of Cuba (**FAR**).
- Texas-based **American Airlines**, Georgia-based **Delta Air Lines**, New York-based **JetBlue Airways**, Texas-based **Southwest Airlines** and Illinois-based **United Airlines** are operating regularly-scheduled flights to cities in the Republic of Cuba. Four (4) airlines have ticket offices in Havana; one airline, Jet Blue Airways, has two. In 2016, eight (8) airlines requested 3.4 million seats from the authorized 1.2 million passenger seats for the 110 daily United States-Republic of Cuba routes. The 3.4 million was nearly the total number of visitors to the Republic of Cuba from throughout the world in 2016.
- In August 2016, Switzerland-based **Nestle**, through its New York-based Nestle Nespresso subsidiary, began importing to the United States “*Cafecito de Cuba*” capsules. A journey for the coffee beans of 10,000 miles (Republic of Cuba-Switzerland-United States) rather than hundreds of miles (Republic of Cuba-United States) ... The Republic of Cuba was sending a message to United States-based companies; watch, but don’t participate.

## What Hasn’t the Republic of Cuba Done With United States Companies?

- Ferries await authorization

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- Authorization for a wide variety of United States companies to open offices has yet to materialize
- United States companies continue to await permission to export products directly to independent businesses in the Republic of Cuba.
- A proposal remains under consideration, more than two years after initially proposed, to establish a wholesale distribution center in Havana.
- One Alabama-based company has waited more than two (2) years to deliver agricultural equipment that was ordered by a Republic of Cuba government-operated entity.

The United States business community is in this place precisely because the Obama Administration and Castro Administration *believed in inevitability rather than uncertainty. And this place is frustrating. And this place is unnecessary.*

Each government expected their respective negotiation platforms to remain afloat until 12:00 pm on 20 January 2017 rather than 3:00 am on 9 November 2016. They didn't prepare for Mr. Donald Trump to become President-Elect Donald Trump. They only prepared for President-Elect Hilary Clinton.

*Companies always model for the results that want and for the results they do not want. Neither the Obama Administration nor the Castro Administration modeled for what they did not want.*

With respect to the interests of the United States business community, the Obama Administration and Castro Administration were reckless. They should have permitted more commerce so there would be strong commercial roots immune from interruption. And now we have the Trump Administration.

The Obama Administration should have lessened restrictions upon the use of the U.S. Dollar by the Republic of Cuba for its international transactions; should have authorized Direct Correspondent Banking (DCB)- rather than one-way accounts; should have done something relating to certified claims settlements; and should have permitted more than coffee and charcoal to be imported to the United States for commercial sales.

Noticeable, however, the Trump Administration has not impeded meetings between representatives of the United States Department of State and their counterparts at the Ministry of Foreign Affairs; nor have meetings been disrupted with respect to other bilateral issues. Diplomatic travel visas continue to be issued; and the Trump Administration was criticized by its allies in the United States Congress for permitting too many officials to accompany H.E. Miguel Diaz-Canel, President of the Republic of Cuba, to the United Nations General Assembly (UNGA) in New York City in September 2018. Republic of Cuba government-operated *Prensa Latina's* Washington, DC bureau was permitted to re-open. And, while in New York City at a meeting with United States business representatives, H.E. Miguel Diaz-Canel, President of the Republic of Cuba, intimated that he might return to the United States, not to New York City, but to Washington DC. A cryptic message.

The Trump Administration believes that lessening support from Venezuela and increasing inability of countries making payment for services provided by Republic of Cuba nationals will force the Republic of Cuba to make further changes.

The (relatively) slow-motion implosion of the Bolivar Republic is an unwelcomed catalyst for the Diaz-Canel Administration to absorb changes that it would not engage within the context of a voluntary program.

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Note that as the Republic of Cuba is meaningfully responsible for the endurance of the Maduro Administration in Caracas, the Diaz-Canel Administration could leverage that influence to assist the Duarte Administration in Colombia and the Trump Administration in bringing stability to Venezuela.

However, a result of a re-stabilized Venezuela is increased oil production which would benefit Venezuela- and the People's Republic of China and Russian Federation to whom Venezuela is substantially indebted; and would benefit the Republic of Cuba by lessening rationale for necessary changes to its commercial, economic and political infrastructure. Those necessary changes are primarily a result of decreased (and inconsistent) commercial and economic benefits received during the last five (5) years from Venezuela.

A prosperous Venezuela and a stable Republic of Cuba would be challenges for the Trump Administration. Global oil prices would likely decrease, but stabilize from increased oil production in Venezuela as there would be greater dispersion among producers- thus competition. Lower oil prices would benefit the Republic of Cuba, and the People's Republic of China; not so much the Russian Federation.

The Trump Administration has been brilliant (*which doesn't mean that the United States business community is supportive*) with its focus upon the role of the military throughout the economy of the Republic of Cuba. No United States company executive wants to be interviewed on television explaining why their company prefers to be in business with a country where the military controls the economy.

United States companies are prepared for increased restrictions upon transactions and relationships with entities controlled by the Revolutionary Armed Forces of the Republic of Cuba (**FAR**): Enterprise Administration Group (**GAESA**) and its subsidiaries including, but not limited to *Gaviota* (tourism).

## Being Used As Bait

**United States companies are under no illusion as to their role in today's Republic of Cuba.** They appreciate, but do not approve of being proffered as bait to entice companies from European Union (EU)- member countries and other countries.

The Republic of Cuba encourages United States companies to *want to be in the Republic of Cuba*- and to say so in public. However, the Republic of Cuba *does not necessarily want United States companies operating in the Republic of Cuba*.

Examples include the first agreement to export coffee from the Republic of Cuba through the United Kingdom (where the coffee beans had previously been shipped) then to Switzerland rather than to United States-based companies who had for many years expressed an interest. There was an export of charcoal from the Republic of Cuba to the United States- ironically brokered by the United States-based attorney for the United States citizen whose reckless behavior and subsequent imprisonment in the Republic of Cuba disrupted most of the Obama Administration's time in office; executives of United States companies were appalled by the optics of that transaction process. Other opportunities have gone unanswered.

United States companies have licenses from the OFAC and BIS and authorizations from the OLA which remain unannounced, unimplemented, and unpublicized. Executives are concerned about being used as the subject of a Presidential Tweet or mention during a Presidential Speech.

Despite the repeated introduction of legislation in the United States Congress which, if enacted into law, would remove prohibitions upon the provision of payment terms for the sale of agricultural commodities and food products to the Republic of Cuba, there have been no financial institutions or companies which have publicly said what payment terms they would provide to Republic of Cuba government-operated **Alimport** (under the auspice of the Ministry of Foreign Trade of the Republic of Cuba- **MINCEX**) which contracts for most United States exports and other Republic of Cuba government-operated entities.

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That's a problem and a (not the) reason there has been no legislation that has become law in more than 6,500 days- that's almost eighteen (18) years. However, during the last eighteen (18) years, more than US\$5.8 billion in agricultural commodities and food products have been exported from the United States to the Republic of Cuba on a "*cash in advance*" basis.

Note that United States exporters did not want payment terms when the last legislation (**Trade Sanctions Reform and Export Enhancement Act of 2000- TSREEA**) was moving through the United States Congress in 1999 and 2000 which ultimately re-authorized the direct export, on a payment of cash-in-advance basis, of agricultural commodities and food products; they preferred the security from cash payments even if the requirement resulted in less sales; they were keenly aware of a risk of payment default and what the result would be for overall commercial and political engagement from the report of a default. Unfortunately, the TSREEA also specifically prohibited individuals subject to United States jurisdiction from visiting the Republic of Cuba for the purpose of tourism. It was an unfortunate, and likely avoidable compromise by a Member of the United States Congress.

## United States Exports & Imports

Of 232 global export markets for food products and agricultural commodities from the United States, since 2001 the Republic of Cuba has ranked from **25<sup>th</sup> to 60<sup>th</sup>**. That's impressive.

*Why doesn't the Republic of Cuba doesn't purchase rice from the State of Arkansas?* Because government of Vietnam-owned companies provide the Republic of Cuba with up to two years to pay for rice; and some Republic of Cuba government-operated companies generally request from one year to three years to make payments for most imports. No United States company will provide those payment terms.

United States export (product and service) opportunities to the Republic of Cuba have expanded from food products and agricultural commodities to telecommunications equipment and services, agricultural and construction equipment, power generation machinery, almost any product for the direct use by an independent business and (quasi) private cooperative, and provision of micro-credits. However, the Republic of Cuba has yet to authorize United States companies to directly export products or services to independent businesses.

Equipment manufacturer Illinois-based **Deere & Company** has offered to provide financing for its exports to the Republic of Cuba; that is a first such public offering by any United States company.

Import opportunities from the Republic of Cuba remain limited to software, coffee, charcoal, music, artwork, informational materials, crafts, and items produced by the self-employed and independent businesses.

## Foreign Subsidiary Opportunities

United States companies have explored the use of export credit and export guarantee programs of countries within which they have foreign subsidiaries, Canada for example.

At present, this limited focus is primarily towards the export of products to the Republic of Cuba that are authorized by the United States government, but have issues relating to the provision of long-term financing, such as those for power generation projects.

## Direct Foreign Investment (DFI)

In the United States individuals in government or at companies vie to be the last signature on a document that authorizes a project- so that they might gain the most credit for the project.

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In the Republic of Cuba, the general rule is to avoid being the last signature on a document- because that person may be held accountable for the project... they “*made it happen.*”

Important to appreciate the view of DFI from the perspective of the Republic of Cuba, today’s Republic of Cuba.... DFI is not regarded as a means to change the Republic of Cuba; it is permitted as a means to sustain the Republic of Cuba, to preserve the Republic of Cuba.

During the last twenty-five (25) years, when the presence of DFI has fulfilled its need to provide foreign exchange, the Republic of Cuba has throttled-back its impact.

Today, however, as the Republic of Cuba can no longer depend upon the financial largess of Venezuela; and the governments of Russia, Iran, and China are incapable of replacing the billions of dollars in annual value that’s been provided by Venezuela and to a lesser extent by countries on the continent of Africa, since the signing of a discount oil agreement in 2000, DFI is a *beast that must now be embraced, albeit reluctantly.*

For United States businesses, there is a prospect of 11.3 million consumers residing 93 miles south of Key West, Florida, who have one of the *highest awareness’s and preferences* for United States brands of any non-English-speaking country.

President Obama may have been the last lifeguard to save the Republic of Cuba from retaining the status quo. He provided a twenty-five-month (25) lifeline valued at a potential US\$12 billion in earnings and savings to the Republic of Cuba. He was disruptive. *He required little and some would argue nothing from the Republic of Cuba.*

## **Certified Claimants- 30 of 5,913 Can Make The Difference**

Neither the Obama Administration nor the Castro Administration focused upon the difficult issues and, as a result, the foundation for what is known as “*the embargo*” has not shifted. The Trump Administration and the Diaz-Canel Administration could change that lack of resolve.

From 17 December 2014 through 20 January 2017, there were two (2) meetings in more than 700 days where the issue of the 5,911 certified claims was discussed- two meetings. And, at the end of first meeting, a second meeting was not scheduled. And, at the end of the second meeting a third meeting was not scheduled. And, the meetings were discussions rather than negotiations. The Obama Administration reported that the issue of the certified claims was a “*high priority.*”

With a publicly established timetable for completion and publicly established benchmarks to manage progress. United States companies, and not only certified claimants, would applaud this effort as the foundation for United States statutes, regulations and policies are constructed upon the issue of the certified claims. The Republic of Cuba would also gain mightily as a result- from governments and countries with whom it seeks commercial, economic and political value- specifically European union (EU)-member countries. With a settlement of the certified claims, there truly would be a reason for non-United States-based companies to believe that competition from United States-based companies would be more than a marketing strategy by the Republic of Cuba. The Trump Administration wants to make deals; settling the issue of the certified claims is precisely the type of legacy deal that is attractive to the Trump Administration and should be attractive to the Diaz-Canel Administration. Be bold.

If the Republic of Cuba wants to move the bilateral relationship forward, then the Diaz-Canel Administration should propose directly to the Trump Administration that each country appoint a negotiating team and immediately commence negotiations, not discussions, to settle the issue of the certified claims- and only the certified claims. The issue of the certified claims will not simply vanish if ignored.

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There were 8,821 claims of which 5,913 awards certified by the United States Foreign Claims Settlement Commission (USFCSC) are valued at US\$1,902,202,284.95. The USFCSC permitted interest to be accrued in the amount of 6% per annum; the current total value is approximately US\$6 billion to US\$8 billion. *Thirty (30) United States-based companies hold 56.85% of the total value.*

The Republic of Cuba seeks from US\$134 billion to US\$933 billion for damages it believes were inflicted by United States laws, regulations and policies from 1962 onward; the United States seeks from US\$1.9 billion to US\$8 billion for expropriated assets (beginning with an oil refinery). *Can there be a negotiation when the parties are potentially US\$925 billion apart?*

A certified claims settlement should be based upon the payment of 100% of the value of each certified claim. Even with a full settlement based upon principal and interest, the annual rate of inflation has substantially diminished the value of each certified claim.

Opportunities for settlement include, but are not limited to, debt-for-equity swaps and substitution investments (one structure for another; one piece of land for another, etc.). In combination with or separately from compensation formats, the Republic of Cuba could provide transferable values to the certified claimants including:

- Income tax holidays
- Import duty exemptions
- Reduced energy rates
- Property tax credits
- Earned income tax credits

The Republic of Cuba should consider hosting a multi-day Certified Claimant Settlement Forum- and any certified claimant who desires to return to the Republic of Cuba marketplace and has a proposal would be welcomed; and all proposals would be subject to a thirty (30) day yes-or-no response.

Given the lack of progress, the Trump Administration might step aside and authorize a Certified Claims Committee (using the thirty (30) largest certified claimants) to directly negotiate a certified claims settlement with the Republic of Cuba; or, as the Libertad Act (“*Helms-Burton*”) of 1996 permits, create individual private settlements amongst themselves and the Republic of Cuba.

Some certified claimants have pondered asking the Obama Administration to retain **Mr. Kenneth Feinberg**, a New York, New York-based attorney specializing in mediation and alternative dispute resolution, who served as *Special Master for the September 11<sup>th</sup> Victim Compensation Fund and TARP Executive Compensation; Administrator of the BP Deepwater Horizon Disaster Victim Compensation Fund*; and retained to assist in the Michigan-based **General Motors** recall response and compensation for Volkswagen owners. Mr. Feinberg, who could be appointed as a Special Envoy, appreciates the singular importance of deadlines.

## What’s Truly Important?

The legacy of the Diaz-Canel Administration should not be that it attempted to preserve what could not be preserved; its legacy can be having removed the foundation upon which conflict with the United States is based- and as a result, dismantle a significant component, not *the* component of hardship inflicted upon the citizens of the Republic of Cuba.

The Obama Administration initiatives towards the Republic of Cuba helped to expand the desire of citizens to communicate with one another, inside and outside of the Republic of Cuba, with family and friends; and increased both the desire and the opportunities for independent (self-employed) commerce.



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During the coming years, the Republic of Cuba will increasingly find a magnetism from the United States that will be impossible to reject- and the forces created by the desire of youth, equipped with the means to communicate within the country and outside of the country- principally to the United States, will result in societal schisms that will require careful management.

The Republic of Cuba continues to struggle with the definition of success- how much may a person make and retain and disperse? Must there be a limitation upon earnings; a level at which the government will seek to mandate, regulate, legislate so that citizen equality is forcibly maintained.

The Republic of Cuba will restrain economic prosperity for its citizens if the perceived result from re-engagement with the United States government, and United States companies, and United States citizens (focused upon *South Florida* and *Northern New Jersey*) means increased uncertainty in commercial, economic and political control.

The Republic of Cuba is continuing 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 use all means to seek commercial, economic and political change within the Republic of Cuba. *Not regime change, rather change of behavior by the regime.*

*Any re-engagement with the United States results in uncertainty... the Republic of Cuba dislikes uncertainty.*

The Republic of Cuba often believes that it need not make any changes, concessions, repatriations or reparations. It does, and it will.

We hear often that for the Republic of Cuba, the reason for a limited response to the Obama Administration initiatives was and remains “*the embargo.*” Granted, there are statutory and regulatory impediments to a “*normalized*” relationship.

However, the question for the Republic of Cuba is to what extent will the people of the country be denied opportunities solely because not all bilateral issues have been resolved?

There is no sugar-coating of the impact of United States policies, regulations and laws- they are comprehensive and exterritorial and unlikely to be removed as a package; they will be lessened in pieces; that’s the political reality.

The relationship between the United States and the Republic of Cuba has never been about a moment; its been about a series of moments. Awaiting a moment is futile.

### **Which leaves us where?**

The initiatives proposed and implemented by President Obama (some of which were unsuccessfully attempted by predecessors) were designed to tear at the social fabric of the Republic 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 or labor) and those who have not.

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

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The private restaurants- or paladares, have become cathedrals representing the demise of the Republic of Cuba's Socialist model. The owners and the workers want more and are willing to work to get more. Socialism does not provide them with everything that they need or want or aspire to have.

There are entrepreneurial Republic of Cuba nationals, mostly young, who are using the revised landscape as incubators for their talents- initiate, develop, and then for some, they believe the only means to flourish is to leave the country. These individuals know that they have talent- that their talent may be expressed, to limits.... They want more.

## Where We're Headed?...

The Obama Administration used *visitors as an army, airlines as an air force, cruise ships as a navy and, to a lesser extent thus far, companies as marines* to create a beachhead in the Republic of Cuba that can't be pulled or pushed off the island- either by political forces in the United States or in the Republic of Cuba.

In Internet terms, The Obama Administration wanted to create "***CubaLegacy 2.0***"- too big to roll back, too visible to hide, too collaborative, too many participants to remove, too bilateral to untangle. President Obama wanted to bring change to the Republic of Cuba far more and far faster than the Republic of Cuba wanted change to arrive in the Republic of Cuba.

H.E. Excellency General Raul Castro, then-President of the Republic of Cuba wanted, and now H.E. Excellency Miguel Diaz-Canel, current-President of the Republic of Cuba, wants to withstand (almost) everything that is coming his direction, yet find a means to gain value from it and not be perceived as rejecting it by governments and companies that are needed to fund what the Republic of Cuba believes it requires; a complex series of juggling maneuvers.

The Republic of Cuba will never have a more energetic negotiating partner than they did in President Barack Obama. *There were lost opportunities in Washington and in Havana.* The Republic of Cuba was hoping to wait-out the Obama Administration until the transition to the expected Clinton Administration. And now there is the Trump Administration.

## The Next Months (Or Years) ...

One member of the United States Senate is, today, the most influential Member of the United States Congress relating to the Republic of Cuba- The Honorable **Marco Rubio** (R-Florida). He is of Cuban descent. Senator Rubio is the chairman of the Subcommittee on Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues of the Committee on Foreign Relations of the United States Senate. He is thinking about the next opportunity to run for president of the United States; his first effort in 2016 having been unsuccessful. The second-most influential member of the United States Senate with respect to the Republic of Cuba is The Honorable **Robert Menendez** (D-New Jersey), who is also of Cuban descent. The third-most influential member of the United States Senate with respect to the Republic of Cuba is The Honorable **Ted Cruz** (R- Texas), who is also of Cuban descent. They represent three percent (3%) of the one hundred (100)-member United States Senate. If the Republican Party retains control of the United States Senate as a result of the 6 November 2018 elections, The Honorable James E. Risch (R- Idaho), will become Chairman of the United States Senate Committee on Foreign Relations. Senator Risch was not supportive of Obama Administration initiatives relating to the Republic of Cuba.

**If the Democrat Party gains control of the United States Senate**, Senator Robert Menendez likely (should he be re-elected one 6 November 2018) will become chairman of the Committee on Foreign Relations of the United States Senate. Senator Menendez was not supportive of Obama Administration initiatives relating to the Republic of Cuba. The Honorable **Benjamin Cardin** (D- Maryland) would likely

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become chairman of the Subcommittee on Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues of the Committee on Foreign Relations of the United States Senate. Senator Cardin supported Obama Administration initiatives relating to the Republic of Cuba.

**If the Democrat Party gains control of the United States House of Representatives**, The Honorable Ed Royce (R- California) chairman of the Foreign Affairs Committee of the United States House of Representatives, who is retiring, would likely be replaced by The Honorable **Eliot Engel** (D- New York), the ranking Democrat member who was supportive of Obama Administration initiatives relating to the Republic of Cuba. The Honorable **Christopher Smith** (R- New Jersey) would likely become the ranking Republican on the Foreign Affairs Committee; Representative Smith was not supportive of Obama Administration initiatives relating to the Republic of Cuba. The Honorable **Paul Cook** (R- California), chairman of the Western Hemisphere subcommittee would likely be replaced by The Honorable **Albio Sires** (D- New Jersey), the ranking Democrat member who is of Cuban descent and was not supportive of Obama Administration initiatives relating to the Republic of Cuba.

Regardless of which political party controls which chamber of the United States Congress, the Trump Administration will likely pursue commercial, economic and political policies, through the use of regulations and other processes, which will be influenced by the Republican party, especially with respect to the Republic of Cuba. *The OFAC, BIS and OLA will continue to be weaponized.*

A new Senior Director for Western Hemisphere Affairs at the National Security Council (NSC) in The White House is The Honorable **Mauricio Claver-Carone**, a highly competent and skilled political operative... who is of Cuban descent. His role in shaping the United States relationship with the Republic of Cuba should not be undervalued and ignored at one's peril.

An amendment to what is known as the "*Farm Bill*" is expected to soon be enacted into law. The amendment, authored by The Honorable **Heidi Heitkamp** (D- North Dakota), a member of the United States Senate (who polls indicate may lose her re-election effort on 6 November 2018), was made likely (and ironically) to be included in the legislation specifically due to efforts by Senator Marco Rubio. The amendment will permit United States taxpayer funds to be used for United States Department of Agriculture (USDA) programs managed by independent organizations for agricultural commodity and food product promotion in the Republic of Cuba. Senator Rubio added language to prohibit any of the USDA funds from being directed to any FAR-owned/controlled/affiliated entity.

Legislative history has shown the Republic of Cuba to be a low-value commodity; to be traded away in most instances because it lacks importance. The legislative calendar is littered with Members of Congress pronouncing they would not permit legislation unrelated to the Republic of Cuba to proceed unless issues relating to the Republic of Cuba were resolved. In the end, no Member of Congress was going to seek to hold appropriation or other legislation of national importance because of the Republic of Cuba.

Prudent to again remember that the last change in United States law relating to the Republic of Cuba was more than **6,500** days ago- nearly eighteen (18) years.

### **Final Observations...**

United States companies are not delusional with respect to the construct within which they observe and analyze the Republic of Cuba; they are generally sober in appreciating the complex and often, from their perspective, self-defeating decision-making process and resulting decisions by the Republic of Cuba relating to the interests of United States companies.

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There will be a significant presence in the Republic of Cuba by United States companies. The current government of the Republic of Cuba will seek to limit that presence; and they will likely succeed. Successor governments of the Republic of Cuba will have neither the political desire nor commercial interest to do so.

*Thank you.*