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Those With Preferential Access To Obama Administration Seek From Trump Administration What They Couldn't Get. Really? Yes.

Time To Shift From Relational To Transactional?

Game Of Chicken Using Repelling Magnets

Brilliant To Focus Upon FAR

On 18 July 2017, an event in Washington DC made use of eight (8) Republic of Cuba nationals who are licensed to engage in some of the 200+ categories of government-authorized self-employment in the Republic of Cuba.

The primary focus of the event was to sway the Trump Administration to limit the reach of its regulatory and policy revisions expected to be implemented in September 2017. *In so doing, however, they unmasked the reason for another agenda.*

The Honorable Jeff Flake (R- Arizona) and The Honorable Patrick Leahy (D- Vermont), members of the United States Senate, and an advocacy/lobbying organization chose to shield the reason for a component of the necessity for such an event: their failures with the Obama Administration.

These Members of Congress along with others from both chambers- Democrat, Republican, Independent and advocates and lobbyists, (above the radar and below the radar) had eight (8) years of the Obama Administration (including twenty-five (25) months from 17 December 2014 when the official rapprochement was announced by Presidents Barack Obama and Raul Castro) during which they enjoyed ***preferential access to officials of the Obama Administration***- within The White House, the United States Department of State, United States Department of Commerce, United States Department of Justice, and United States Department of the Treasury **and** ***preferential access to officials of the Castro Administration***- Ministry of Foreign Affairs, Ministry of Foreign Trade, Ministry of Interior, Revolutionary Armed Forces, and Chamber of Commerce. The numbers of exchanges (public and undisclosed) in Washington DC and in Havana was counted in the hundreds.

Now, along with lessening the impact of to-be-revised regulations and policies, they seek from the Trump Administration new regulations and policies- what they failed to obtain from the Obama Administration when there was a stated desire from The White House for full-throttled engagement and these individuals had their emails responded to within minutes.

They want continued political (financial) support to perpetuate this malpractice; to support their livelihood and relevance. The support should be *decapitated*.

There mustn't be a repeat of the same mistakes by the same individuals. United States companies should not listen to advice from those who failed to obtain more (including the most basic commercial requirements) when they should have been able to do so and now want to be supported and paid to prevent changes to what they failed to secure while promoting their unique access to and influence of officials in Washington DC and Havana.

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If change is desired, why are these individuals determined to maintain the most illusory pathway? These are the brilliant political strategists who squandered twenty-five months seeking legislative remedies- which were never going to happen, rather than seeking regulatory remedies- which should have been easy to obtain given the self-promoted unique access to the Obama Administration which was claimed by these individuals.

The narrative becomes more absurd when the letter they created and sent under the signatures of the eight Republic of Cuba nationals to the United States Department of State, United States Department of the Treasury and United States Department of Commerce includes the following passages:

- *“Third, we recommend greater flexibility for Cubans wishing to open bank accounts in the United States. Many Cuban entrepreneurs purchase goods and services in the United States to help run their businesses. Cubans are legally permitted to open bank accounts in the U.S., but there are restrictions on the allowable transactions, and limited and uncertain account services, impairing businesses in both countries.”*
- *“Expand the allowable transactions for Cubans holding bank accounts in the U.S. to include business-related transactions including the acquisition of goods for business use.*
- *Do not close, and allow access to U.S. bank accounts held by Cubans when the Cuban individual is not present in the U.S.*
- *Make public statements clarifying the intent of the Administration to allow Cubans to open bank accounts in the U.S. (limiting risk for banks).”*

There is value in what the letter requests. That’s not the issue. The issue is to not permit the history to be obscured by the present.

For twenty-five months, the Obama Administration and the government of the Republic of Cuba engaged in **commercial malpractice**. That neither party modeled for an 8 November 2016 election outcome other than a victory for the nominee of the Democrat Party was both a preventable and catastrophic failure. *Where was the forward-thinking (evaluating the impact of the unexpected) political intelligence in Washington DC and in Havana? What were Members of Congress, advocates, lobbyists, and diplomats talking about?*

What the Trump Administration seeks to do is a direct result of what the Obama Administration did not do in terms of expanded regulations and issuance of licenses; and what the Castro Administration did not do in terms of enlarging the portfolio of opportunities for United States companies.

What the Obama Administration did (and partially didn’t) with the purported support from some Members of Congress, advocates and lobbyists; if the supporters were unable to obtain these easily digestible (and critically important) regulatory/policy changes, what value (access) do they have with the Trump Administration?

- authorize only two commercial agricultural imports- coffee and charcoal; there was no statutory limitation as to number.
- 50% of what was required for direct correspondent banking- Republic of Cuba government-operated banks were not permitted to have accounts with United States-based

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- banks, but United States-based banks were permitted to have accounts with Republic of Cuba government-operated banks. Result was continuation of an inefficient and expensive three-country process to send and receive funds relating to authorized transactions. One small United States bank located in the state of Florida has an account with a Republic of Cuba government-operated bank; to send and receive funds, transactions use a Panama-based bank, which receives revenues from the transactions.
- limited removal of international financial transaction restrictions (complete removal would have encouraged large-scale banking and credit card/charge card/debit card activity; three United States banks have authorized their Mastercard-branded products. No Visa. No American Express. No Discover).
- two meetings about the 5,913 certified claims in 2,923 days (766 days if calculated from 17 December 2014).
- Cabinet Secretaries disagreeing about whether their delegations could include representatives of United States companies.
- more than *two hundred* (200) representatives of the United States government visited the Republic of Cuba during the final twenty-six months of the Obama Administration—including the President, First Lady, Second Lady and six (6) members of the Cabinet; and more than *one hundred* (100) representatives of the government of the Republic of Cuba visited the United States during the same period.

Although permitted by regulations and policies implemented during the Obama Administration and thus far *uninterrupted* during the Trump Administration, the government to the Republic of Cuba has not permitted United States companies to have:

- representative offices (other than airlines)
- retail stores
- distribution centers
- assembly facilities
- manufacturing operations
- ferry services (even on a trial basis)
- permit United States companies to directly export to the 200+ categories of licensed businesses?

Each of these activities are authorized by 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.

Why aren't Members of Congress and advocates and lobbyists holding public events in Havana with representatives of the *National Assembly of People's Power* to seek support from the government of the Republic of Cuba and its citizens to make changes to regulations and policies which would make easier and make permanent direct engagement with United States companies? Because, they will argue, pressure, transparency and enlightenment are not effective tools in Havana; whatever they have been and continue to use in Havana and in Washington DC haven't been effective and sustainable tools.

Members of Congress, United States government officials, advocates and lobbyists who spent twenty-five months attending self-congratulatory cocktail parties, meetings (public, undisclosed

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and secret), conferences (including exclusive use of facilities at The White House), hearings, and media events are responsible for the *fragility* of the presence in the Republic of Cuba by United States companies.

By focusing upon interacting with those with whom they agreed, they neglected to listen to voices with historical commercial perspective, with a not unexpected result.

There remain too many licenses and authorizations issued by the OFAC, BIS, and United States Department of State that have yet to be implemented- and the validity of some licenses may expire before what could have been will have been.

The most callous example of political duplicity by some Members of Congress, advocates and lobbyists relate to introducing legislation to change the *cash-in-advance* payment requirement of the Trade Sanctions Reform and Export Enhancement Act (**TSREEA**) of 2000 which re-authorized the direct export of food products and agricultural commodities from the United States to the Republic of Cuba. Since the first exports in December 2001, more than **US\$5.4 billion** in food products and agricultural commodities have been exported from the United States to the Republic of Cuba on a cash-in-advance basis.

Two questions have never been answered: **1)** Why have no United States companies or financial institutions publicly stated that they would, if permitted by United States law, provide payment terms to a Republic of Cuba government-operated entity? **2)** Why has the government of the Republic of Cuba refused to state what payment terms it would seek- 30 days, 60 days, 90 days, 180 days, 365 days, 720 days?

Until these questions are answered, those in the United States supporting a change to TSREEA and the government of the Republic of Cuba are engaging in a game of ***Chicken*** using repelling magnets- they will neither align nor collide.

There are opportunities to advocate for restraint by the Trump Administration. To do so, however, requires tri-partisan and transparent negotiations with those who seek an expansive use of regulations and policies.

A thirty-three-plus (33+) month history by some advocates and lobbyists ***insulting, belittling, and admonishing as irrelevant*** those Members of Congress (and officials of the Trump Administration, including the President) with whom they disagree is unlikely to create an atmosphere within which anything would be accomplished. Many of these advocates and lobbyists have become toxic.

The Trump Administration is ***brilliant*** in focusing its attention toward entities controlled directly or indirectly by the Revolutionary Armed Forces (FAR) of the Republic of Cuba because no chairman, chief executive officer, or president of a substantive (especially publicly-held) United States company will publicly profess a desire/preference to work with a military-controlled, but civilian operated entity (company). No executive wants to participate in a non-military-focused press conference surrounded by individuals wearing uniforms (or who are known to have uniforms in their closets).

So, what to do? *First*, United States companies should jettison the activities of outside advocates and lobbyists; *Second*, employees (not outside representatives) should directly, and quietly, meet with Members of Congress- specifically the six (6) of Cuban descent, three (3) in the United States Senate and three (3) in the United States House of Representatives; and *Third*, meet with representatives of the Trump Administration, with a focus upon the National Security Council

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(NSC) and National Economic Council (NEC). United States companies can directly influence the deciders.

Important to remember (and not exaggerate) that the current universe of United States-based companies with engagement outside of TSREEA-related transactions and Cuban Democracy Act (CDA) of 1992-related transactions (healthcare product exports) with Republic of Cuba government-operated entities (companies) is approximately *fifty (50)*, not including travel agents and tour operators. Also, those United States companies with licenses who have not implemented them will need to be public with their intentions as some of the issued licenses are for significant and supportable activities unrelated to the transportation, housing and guiding of visitors to the Republic of Cuba.

The focus of the meetings should be to present and then defend each Republic of Cuba government-operated entity (including any FAR-affiliated entity (company)) which the United States company deems essential to maintain its current and profitable operation(s), whether that engagement consists of exporting to, importing from, providing services to, or receiving services from a FAR-affiliated entity (company).

The successful argument will *place value on disruption rather than accommodation and maintenance of the status quo*; an acknowledgment that engagement with an entrenched adversary (FAR) will require patience.

United States corporate interests having a role during the Republic of Cuba's continuing transitions and successions, yes, plural, is a limited means of providing a visible reminder to at least some of the 11.3 million citizens of the Republic of Cuba that commercial, economic and political change is inevitable.

The government of the Republic of Cuba has less commercial and economic elasticity to forestall permitting, whether officially or through unofficial seepage, individual activities which some in the leadership (and next-highest levels) want to delay.

The focus should be upon encouraging the Trump Administration to permit disruption rather than inflicting penalties- both upon United States companies and Republic of Cuba nationals.

The commercial landscape portrait that may be required to be attractive to the Trump Administration may be simultaneously repugnant to the Castro Administration. This may be the current bilateral cost of commerce.