

# A Look at U.S.—Cuban Relations: Past, Present and Future



# WELCOME

# A Look at U.S.—Cuban Relations: Past, Present and Future



## **Presenters:**

**Miguel Fraga, First Secretary**  
**Embassy of the Republic of Cuba**

**Paul Johnson, Co-Chair**  
**United States Agriculture Coalition for Cuba (USACC)**

**David Townsend, Of Counsel**  
**Dorsey & Whitney LLP**

# US-CUBAN RELATIONS



# Opening questions.



- **What do you know about Cuba?**
- **Would you like to visit Cuba?**
- **Do you consider that Cuba and the United States can have normal relations?**
- **Have you been in Cuba?**



# US-CUBAN RELATIONS

The long and complex process toward the normalization.

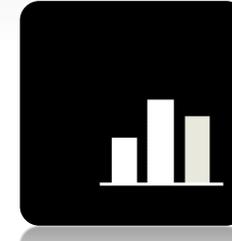


**“Cuba stands ready to develop respectful and civilized relations with the U.S. government on the basis of sovereign equality and mutual respect. This is the will of the Cuban people and we know this is a shared aspiration by most U.S. citizens and, particularly, by Cubans living there.”**

**Cuban President Miguel Díaz-Canel Bermúdez  
General Debate of the 73rd Session of the UN General Assembly, 09/26/2018**



# Cuba: Polling Data.



## SHIFTING ATTITUDES of Cuban-Americans in Miami

1991



2016

14% SUPPORT

Lifting the  
U.S. Embargo

63% SUPPORT

45% SUPPORT\*

Easing Travel  
Restrictions

74% SUPPORT

20% SUPPORT

Restoring  
Diplomatic Relations

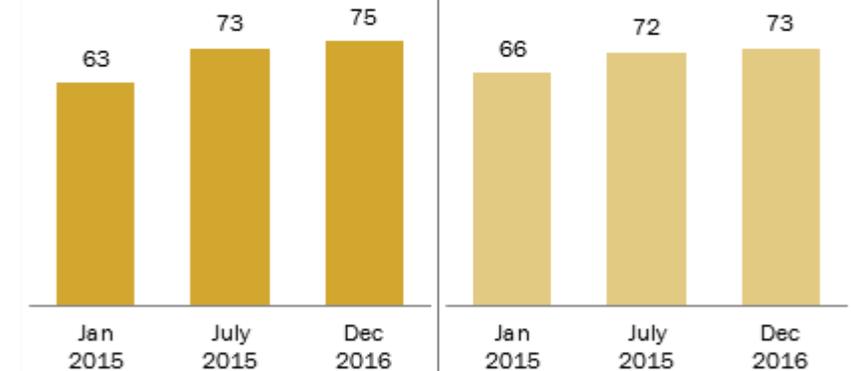
69% SUPPORT

\*Supported easing restrictions for Cuban-American person-to-person travel only

## Public remains supportive of renewed U.S. diplomatic ties with Cuba, ending the Cuban trade embargo

% who approve of U.S. re-establishing diplomatic relations w/ Cuba

% who favor U.S. ending trade embargo against Cuba



Source: Survey conducted Dec. 1-5, 2016.

PEW RESEARCH CENTER

Source: <https://cri.fiu.edu/events/2016/the-2016-fiu-cuba-poll/cuba-poll-web.pdf> 11/14/2016

Source: <http://www.pewresearch.org/fact-tank/2016/12/13/americans-still-favor-ties-with-cuba-after-castros-death-u-s-election/>

# The economic, commercial and financial blockade.



The application of the blockade has caused damages for over **\$134 billion** dollars. **\$4.3 billion** in the last year.



Health: More than **87 million** dollars



Education **2.832.830**

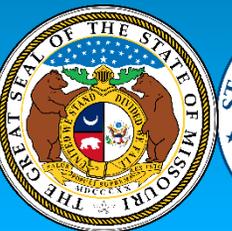


Culture **35.314.000**

Voting Started		11/1/2017	1:00:46 PM
<b>Item 42 Draft Resolution A/72/L.2</b>			
<b>Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against</b>			
+ AFGHANISTAN	+ CAMEROON	+ FRANCE	+ KYRGYZSTAN
+ ALBANIA	+ CANADA	+ GABON	+ LAO PDR
+ ALGERIA	+ CENTRAL AFR REP....	+ GAMBIA	+ LATVIA
+ ANDORRA	+ CHAD	+ GEORGIA	+ LEBANON
+ ANGOLA	+ CHILE	+ GERMANY	+ LESOTHO
+ ANTIGUA-BARBUDA	+ CHINA	+ GHANA	+ LIBERIA
+ ARGENTINA	+ COLOMBIA	+ GREECE	+ LIBYA
+ ARMENIA	+ COMOROS	+ GRENADA	+ LIECHTENSTEIN
+ AUSTRALIA	+ CONGO	+ GUATEMALA	+ LITHUANIA
+ AUSTRIA	+ COSTA RICA	+ GUINEA	+ LUXEMBOURG
+ AZERBAIJAN	+ COTE D'IVOIRE	+ GUINEA-BISSAU	+ MADAGASCAR
+ BAHAMAS	+ CROATIA	+ GUYANA	+ MALAWI
+ BAHRAIN	+ CUBA	+ HAITI	+ MALAYSIA
+ BANGLADESH	+ CYPRUS	+ HONDURAS	+ MALDIVES
+ BARBADOS	+ CZECH REPUBLIC	+ HUNGARY	+ MALI
+ BELARUS	+ DEM PR OF KOREA	+ ICELAND	+ MALTA
+ BELGIUM	+ DEM REP OF CONGO	+ INDIA	+ MARSHALL ISLANDS
+ BELIZE	+ DENMARK	+ INDONESIA	+ MAURITANIA
+ BENIN	+ DJIBOUTI	+ IRAN (ISLAMIC REP...)	+ MAURITIUS
+ BHUTAN	+ DOMINICA	+ IRAQ	+ MEXICO
+ BOLIVIA (PLURINAT...)	+ DOMINICAN REP...)	+ IRELAND	+ MICRONESIA (FS)
+ BOSNIA-HERZEGOV...)	+ ECUADOR	+ ISRAEL	+ MONACO
+ BOTSWANA	+ EGYPT	+ ITALY	+ MONGOLIA
+ BRAZIL	+ EL SALVADOR	+ JAMAICA	+ MONTENEGRO
+ BRUNEI DARUSSAL...)	+ EQUATORIAL GUINEA	+ JAPAN	+ MOROCCO
+ BULGARIA	+ ERITREA	+ JORDAN	+ MOZAMBIQUE
+ BURKINA FASO	+ ESTONIA	+ KAZAKHSTAN	+ MYANMAR
+ BURUNDI	+ ETHIOPIA	+ KENYA	+ NAMIBIA
+ CABO VERDE	+ FIJI	+ KIRIBATI	+ NAURU
+ CAMBODIA	+ FINLAND	+ KUWAIT	+ NEPAL
			+ NETHERLANDS
			+ NEW ZEALAND
			+ NICARAGUA
			+ NIGER
			+ NIGERIA
			+ NORWAY
			+ OMAN
			+ PAKISTAN
			+ PANAMA
			+ PAPUA NEW GUINEA
			+ PARAGUAY
			+ PERU
			+ PHILIPPINES
			+ POLAND
			+ PORTUGAL
			+ QATAR
			+ REP OF KOREA
			+ REP OF MOLDOVA
			+ ROMANIA
			+ RUSSIAN FED...
			+ RWANDA
			+ SAINT KITTS-NEVIS
			+ SAINT LUCIA
			+ SAINT VINCENT-GR...
			+ SAMOA
			+ SAN MARINO
			+ SAO TOME-PRINCIPE
			+ SAUDI ARABIA
			+ SENEGAL
			+ SERBIA
			+ SEYCHELLES
			+ SIERRA LEONE
			+ SINGAPORE
			+ SLOVAKIA
			+ SLOVENIA
			+ SOLOMON ISLANDS
			+ SOMALIA
			+ SOUTH AFRICA
			+ SOUTH SUDAN
			+ SPAIN
			+ SRI LANKA
			+ SUDAN
			+ SURINAME
			+ SWAZILAND
			+ SWEDEN
			+ SWITZERLAND
			+ SYRIAN ARAB REP...
			+ TAJIKISTAN
			+ THAILAND
			+ THE FYR MACEDONIA
			+ TIMOR-LESTE
			+ TOGO
			+ TONGA
			+ TRINIDAD-TOBAGO
			+ TUNISIA
			+ TURKEY
			+ TURKMENISTAN
			+ TUVALU
			+ UGANDA
			+ UKRAINE
			+ UNITED ARAB EMIR...
			+ UNITED KINGDOM
			+ UNITED REP TANZA...
			+ UNITED STATES
			+ URUGUAY
			+ UZBEKISTAN
			+ VANUATU
			+ VENEZUELA (BOLIV...
			+ VIET NAM
			+ YEMEN
			+ ZAMBIA
			+ ZIMBABWE
+ IN FAVOUR:191	- AGAINST:2	X ABSTENTION:0	

\*At current prices.

# US-CUBA





# Cuba at a Glance

## Key Trading Partners



### EXPORTS (2016):



**27.7%**



**14.2%**



**11%**

### IMPORTS (2016):



**22.7%**



**15.4%**



**11%**



**229 business delegations visited Cuba with 2428 members.**

**23 trade agreements have been signed and there are several about to be signed.**

**Relations have been maintained with 25 business associations, especially with the US Chamber of Commerce.**

**90 US companies with 240 businessmen and 4 state representatives attended the Havana Fair in November 2016.**

# The Economic Impact of Tightening U.S. Regulations on Cuba.

Engage **CUBA**  
COALITION

4-year economic impact of

## REVERSING CUBA POLICIES



**\$6.6 BILLION**

cost to U.S. economy

**12,295 JOBS AFFECTED**

TRAVEL INDUSTRY

**\$3.5 BILLION**

10,154 JOBS

MANUFACTURING

**\$929 MILLION**

1,359 JOBS

REMITTANCES

**\$1.2 BILLION**

782 JOBS

**CANCELLED**



**2017** 619 523 trips of Americans to Cuba  
**2018** September: + 400 000 trips of Americans

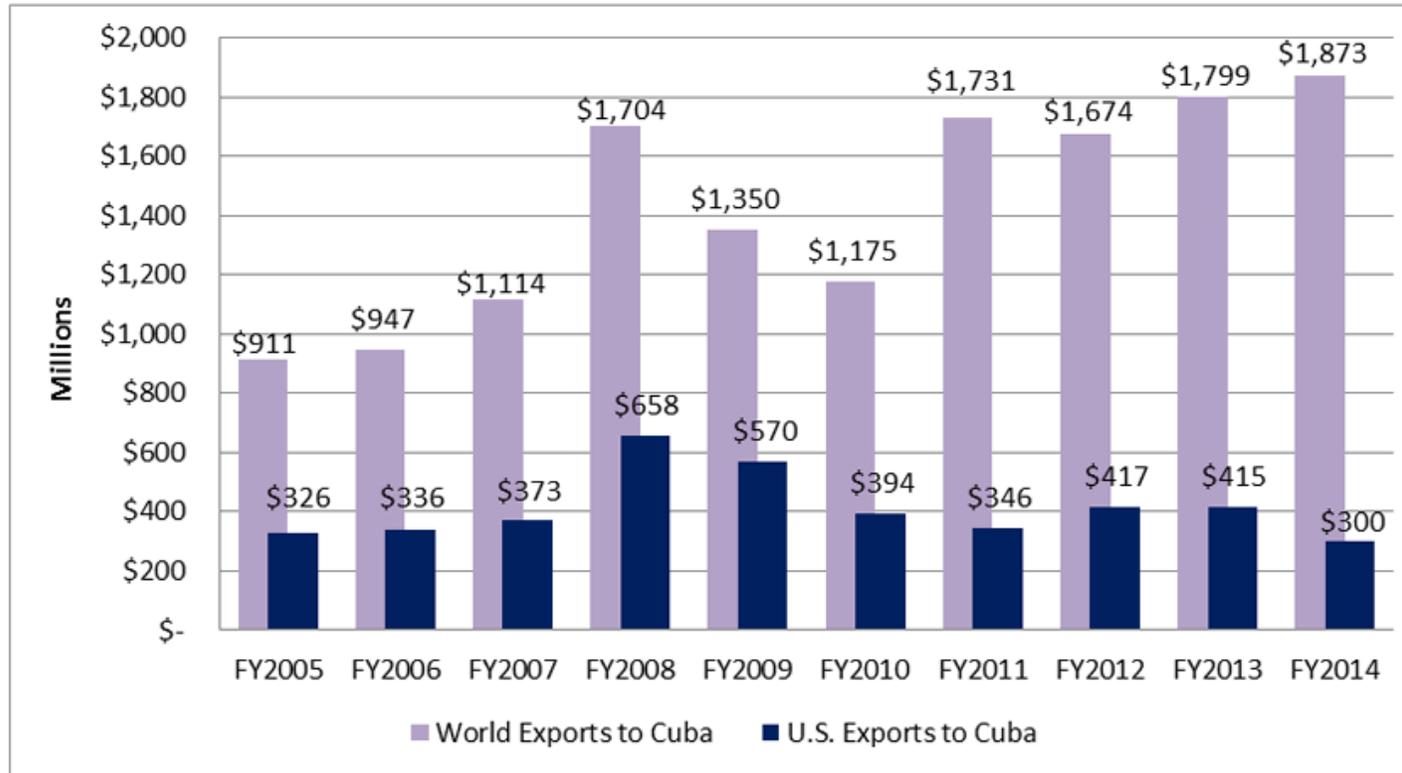
Source: <https://www.engagecuba.org/press-releases/2017/6/1/trump-reversing-cuba-policy-would-cost-66-billion-over-12k-jobs>



# U.S. Agricultural Exports to Cuba



World and U.S. Agricultural Exports to Cuba – 2005-2014 (FY)



Source: FAS Global Agricultural Trade System, Global Trade Atlas

**According to the World Food Programme, Cuba imports between 70 to 80% of its food.**

**In FY 2008, U.S. agricultural exports to Cuba reached \$658 million. However, by the end of FY 2014, they had fallen by more than half, to \$300 million. Yet, at the same time, global agricultural exports to Cuba have doubled over the past decade to more than \$2 billion.**

# U.S. Agricultural Exports to Cuba



**MINNESOTA** A MIXED BASKET FROM THE FROSTY NORTH

**2016 AG SALES TO CUBA: \$0**

**POTENTIAL AG SALES TO CUBA: \$47 MILLION to \$119 MILLION**

Minnesota's Top 10 Agriculture Products (2016, in millions of \$)

Rank	Commodity	Sales
1	Corn	4,465
2	Soybeans	3,497
3	Hogs	2,276
4	Cattle and calves	1,846
5	Dairy Products	1,606
6	Turkeys	912
7	Sugar Beets	554
8	Wheat	367
9	Potatoes	166
10	Broilers	141

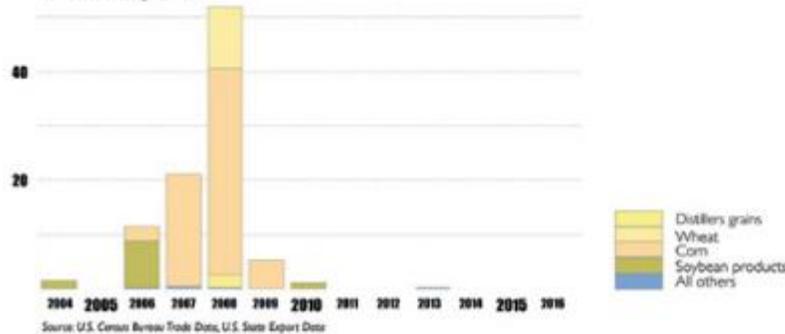
Source: USDA/ERS Farm Income and Wealth Statistics

Minnesota's Top 10 Agriculture Products (2015, in millions of \$)

Rank	Commodity	Sales
1	Soybeans	1,611
2	Feeds	770
3	Corn	699
4	Pork	669
5	Soybean meal	409
6	Vegetable oils	254
7	Dairy Products	242
8	Processed grain	238
9	Wheat	208
10	Beef and veal	165

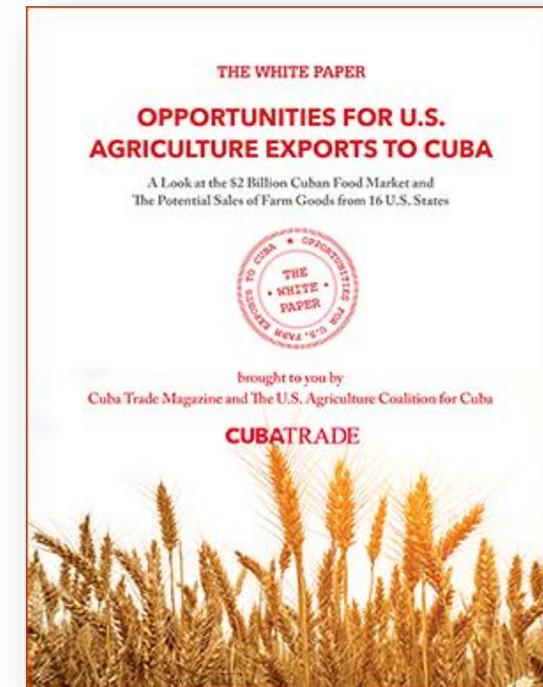
Source: USDA Economic Research Service; USDA Foreign Agricultural Service (Global Agricultural Trade System)

MINNESOTA AGRICULTURAL EXPORTS TO CUBA 2004-2017  
In millions of dollars



**MINNESOTA has sold only about \$93 million worth of food to Cuba since 2004, according to the USDA.**

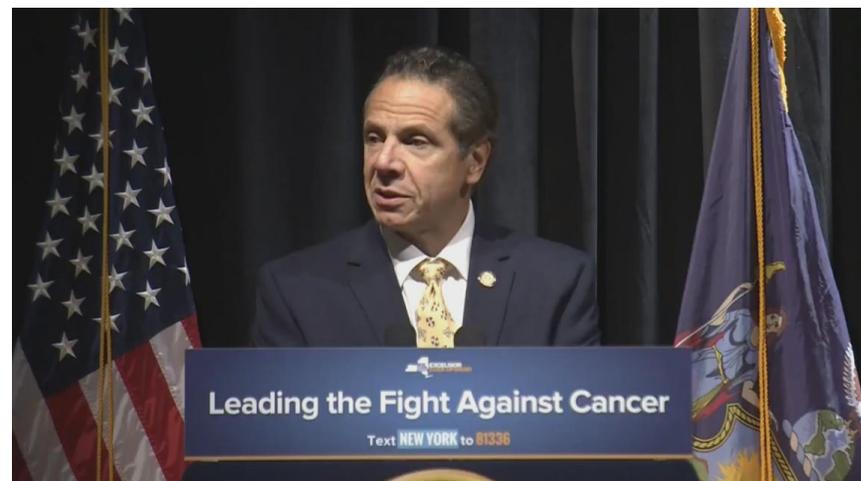
**SEPTEMBER / OCTOBER 2017**



Source: <http://www.cubatrademagazine.com/>



**September 26, 2018- BUFFALO, N.Y. — Governor Andrew M. Cuomo today announced Buffalo-based Roswell Park Comprehensive Cancer Center has formed Innovative Immunotherapy Alliance S.A., the first-ever biotech venture between the U.S. and Cuba. The announcement marks a significant milestone of progress following Governor Cuomo’s landmark trade mission to Cuba in April 2015, where he facilitated this historic partnership between Roswell Park and the Center for Molecular Immunology. This historic step will advance the research and development of new cancer medicines that may prolong and enhance survival for thousands of U.S. patients.**



**This new joint venture gives Roswell Park access to CIMAvax-EGF and three additional cancer drugs — unique approaches to treating some of the most deadly and burdensome cancer types both in the U.S. and globally — for U.S. patients and researchers.**

For more information, please see [roswellpark.org/cimavax](http://roswellpark.org/cimavax).

# CUBA: Portfolio of opportunities for foreign investment. 2017-2018



**SUMMARY  
OF BUSINESS  
OPPORTUNITIES**



#USCuba

# Final thoughts.



AMERICAN  
UNIVERSITY  
WASHINGTON, D.C.

**“So, let us not be blind to our differences--but let us also direct attention to our common interests and to the means by which those differences can be resolved. And if we cannot end now our differences, at least we can help make the world safe for diversity. For, in the final analysis, our most basic common link is that we all inhabit this small planet. We all breathe the same air. We all cherish our children's future. And we are all mortal.”**

**Commencement Address at American University, June 10, 1963**



# US-CUBAN RELATIONS

Thank you.



Minnesota





# Overview of U.S. Economic Sanctions on Cuba

**By Dave Townsend, Of Counsel**  
**Dorsey & Whitney**

# Key Points on Cuba Sanctions

1. All transactions between the U.S.-Cuba are prohibited unless authorized
2. By statute and regulations, authorizations are limited and conditional
3. As a result, U.S. exports to Cuba and service-related transactions are limited
4. Obama administration changes to Cuba sanctions were repealed in part, but not entirely, by the Trump administration
5. Opportunities remain for U.S. persons to do business with Cuba

# Basic Prohibitions of Cuban Sanctions

- **Traded Goods**
  - Exports/imports to/from Cuba generally prohibited
  - Includes shipments from third countries in many instances
- **Services/Currency/Travel:** Transactions between the United States and Cuba are prohibited
- **Technology:** Release of technology to Cuba or Cuban nationals is generally prohibited unless the technology is publicly available or otherwise not subject to U.S. export controls and sanctions
- **Facilitation:** U.S. persons cannot avoid Cuban sanctions by referring Cuban business opportunities to third countries or other persons not subject to sanctions against Cuba

# Notable Aspects of Cuban Sanctions

- **Only Congress Can Repeal Cuba Sanctions:** Congressional codification of sanctions means that significant liberalization would require statutory repeal by Congress
- **Extraterritoriality:** Cuba sanctions apply to foreign subsidiaries of U.S. companies
  - Trading with the Enemy Act (TWEA) applies to non-U.S. Entities
  - Ex: If a U.S.-EU joint venture sells to Cuba, even without U.S.-person involvement, the transaction violates the CACR
  - Other OFAC sanctions have limited application to non-U.S. entities, although Iran sanctions now penalize U.S. companies for transactions by owned/controlled subsidiaries
- **Travel:** TWEA-based sanctions apply to travel – other sanctions programs generally do not
- **Dual Jurisdiction:** General licenses and specific licensing policies under regulations administered by Office of Foreign Assets Control (OFAC) (services/currency/travel) and Bureau of Industry and Security (BIS) (goods/technology)

# Key Authorizations for Cuba Transactions

- **Agriculture/Food (BIS License Exception)**
  - Limited to certain agricultural commodities that are export control classification number (ECCN) EAR99, shipped within 12 months of signing contract, and requires notification to BIS
  - Cannot include prohibited Cuban entities
  - Doesn't apply to foreign subsidiaries or transactions not subject to EAR.
  - Limited payment terms
- **Medical Devices/Medicine (Policy of Approval of Licenses):** Limited to EAR99 items for a restricted scope of end uses (e.g., not for human rights abuses, reexport, biotech production)
- **Telecommunication (BIS License Exception):** Generally limited to those items that will benefit Cuban people rather than the Cuban government or Cuban communist party

# Obama Administration Changes to Cuba Sanctions

- **Support for the Cuban People** (15 CFR 740.21):
  - Independent Economic Activity: Authorizes transactions to Cuba that are used by Cuban private sector or for use by non-sanctioned Cuban individuals
  - Civil Society: Authorizes donations or temporary exports of items for activities, research or professional meetings related to scientific, archaeological, cultural, ecological, educational, historic preservation or sporting use
  - Improving Communications: Authorizes export of items that improve the flow of information such as for use of internet, media, news organizations, private sector use of communications
  - Temporary exports for certain items for the installation, servicing or repair of items that were sent to Cuba under a license or license exception
- **Travel**: Significantly expanded authorization for travel to Cuba
- **Medical Research and Cuban-Origin Pharmaceuticals**: Authorizes joint research with Cubans and transactions to gain FDA approval for Cuban-origin pharmaceuticals

# Trump Administration Rollback of Changes

## 1. Sanctions on Cuban Military, Intelligence, Security Services

- State Department list of Cuban entities associated with certain elements of the Cuban military, intelligence and security services
- Does not apply to entities 50% or more owned/controlled by those entities, which is a departure from OFAC policy relating to Specially Designated Nationals (SDNs)
- Includes GAESA, CIMEX, GAVIOTA, rum companies, soft-drink manufacturers, hotels

## 2. Scale Back of Permissible Travel

- Requires sponsoring organization
- Requirements of full time schedule for travel authorized under certain licenses
- Although these are significant, the Trump administration has left many of the Obama administration Cuba changes in place

# Travel Authorizations Remaining in Place

- **12 Types of Travel Authorized:**
  - (1) family visits; (2) official government business; (3) journalistic activity; (4) professional research/meetings; (5) educational activities; (6) religious activities; (7) public performances, clinics, workshops, athletic and other competitions/exhibitions; (8) travel related to transactions authorized by the license exception for support for the Cuban people; (9) humanitarian projects; (10) activities of private foundations or research or educational institutes; (11) travel related to the exportation, importation, or transmission of information or informational materials; and (12) travel related to certain authorized export transactions
  - Each travel authorization contains conditions and requirements to meet the terms of the OFAC license
- **Certain Transactions Incident to Travel:** Transportation, living expenses in Cuba, importation of certain Cuban merchandise, remittances, payments for the same
- **Travel Services Authorized:** OFAC has authorized carrier, banking, lodging, safety-related aviation services to travel authorized by the general licenses

# Other Notable Licenses

- **Business Presence Authorized:** OFAC general license for business/physical presence in Cuba for telecommunications providers, internet-based services, travel and carrier services, and exporters of goods that are licensed or exempt
- **Physical Presence Authorized:** OFAC general license for physical presence in Cuba for news bureaus, education entities, religious organizations, and certain private foundations, research organizations and those engaged in non-commercial activities
- **Humanitarian Projects:** Wide variety of humanitarian projects designed to help Cuban people are authorized under OFAC regulations
- **Importation of Goods Produced by Cuban Entrepreneurs:** U.S. persons can engage in transactions to import certain goods from Cuban entrepreneurs if the U.S. importer can demonstrate that the Cuban entrepreneur operates independently from the Cuban government
- **Financial Transactions:** OFAC permits banks to provide financial services for activities that are licensed

# Data on U.S. Exports to Cuba\*

- **2017:** \$282 million
- **2018:** Down 5.8% year-to-date versus 2017 (roughly a year after Trump administration changes)
  - 90-99 percent of exports are agricultural goods
  - Remainder of U.S. exports to Cuba are: (1) Insecticides; (2) Aircraft Parts; (3) Phosphates; (4) Medical instruments
- USITC on Impediments to Cuban Trade, Pub. 4591 (2016): \$1.4 billion in expected trade if the United States lifted the Cuba embargo, key impediments under the U.S. embargo currently are:
  - Restrictions on marketing funds from USDA or U.S. industry
  - Payment restrictions
  - Travel/investment restrictions

*\*These figures do not include shipments of non-U.S.-origin items or cross-border services*

# Compliance Challenges for U.S. Companies

- **Foreign Subsidiaries of U.S. Companies**
  - Global trade compliance programs must ensure that non-U.S. affiliates and persons are aware of, and adhere to, Cuban sanctions
  - General licenses have different scope between U.S. and non-U.S. persons, companies must confirm those differences are operationalized to be consistent with U.S. law
- **Due Diligence on Licensed Transactions:** Are all conditions of the license met?
  - Ambiguity in general licenses (who is independent of Cuban government?)
  - Lack of information about potential customers
- **Risks:** Some companies continue to avoid Cuba because of risks inherent in transacting with Cuba
  - Sanctions can quickly change, and without advanced public notice
  - Banks may decline to handle authorized transactions
  - Inadvertent missteps in complying with license conditions and burdens of compliance

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# THANK YOU