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John S. Kavulich
President

Good afternoon....

Is Cuba doing something? Yes, it is.

Can Cuba do more? Yes, it can.

Should Cuba do more? Yes, it should.

I have included Cuba in my portfolio of countries for more than twenty-five years; with the U.S.-Cuba Trade and Economic Council created twenty-three years ago....

In my recent years, I have worked vigilantly to expose ignorance, willful or otherwise, relating to Cuba. There are far too many individuals and organizations whose reference points have 17 December 2014 as their foundation; and an equally challenged number who believe that historical perspective and analysis and details too often interfere with political agendas.

Coupled with metastases by advocacy groups transforming into tour guides, and the result has been far too many chasing too little reality.

Media releases, soundbites, rote phrases and ends-justify-the-means methodologies are not the foundations for a meaningful bilateral relationship between the United States and any country.

Today, the relationship between the United States and Cuba is much about intersections, parallel tracks, peaks and valleys.

And the belief, the expectation, that the re-emerging commercial, economic and political relationship has both space for inspiration and aspiration. It's not an easy journey.

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.

Why? Because of the presence of United States companies prior to 1959 and the more than two million individuals of Cuban descent who reside in the United States, primarily in Florida and New Jersey. These friends and family have and will continue to influence the purchasing decisions of those who reside in Cuba.

Remittances to Cuba, the majority of which originate in the United States and are delivered through Western Union amongst other companies or individuals (mules), were estimated at US\$2 billion to US\$3 billion in 2015.

An anecdote. Three years ago, a friend of mine who lives in Florida and has relatives in Cuba was asked to send a cellular telephone to Havana- any device, however old, would due. Last month, the friend received another request- for another cellular device.... But, not just any cellular device, a smartphone, an iPhone7.

What does this mean? There is a segment of the population in Cuba, primarily in Havana which accounts for approximately 20% of the country's residents- but majority of purchasing power, who want more than they have now.

From our perspective, the initiatives of President Obama have helped to create this environment; so he deserves the credit.

From the government of Cuba's perspective, the initiatives of President Obama have helped to create this environment; so he deserves the blame.

The challenge for my friend was providing basic necessities to his relatives was understood- they needed money, medicine, clothing... but now there is a demand for the latest technology... rather than basic necessities. This is a transformational moment.

Despite inspirational and aspirational statements, Cuba will continue to morph from what it is- an entity which functions as it does primarily due to the financial largess of others, to a commercial, economic and political model encompassing components of Vietnam, Canada, China, Russia, Spain, France and the United States.

During the coming years, Cuba will increasingly find a magnetism from the United States that will be impossible to reject- 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.

It's not the young people in Cuba who will object to change. It is not the old people in Cuba who will object to change. It is those of middle-age whose careers have been constructed and sustained by slow-walking change and preventing change... because it jeopardizes their domestic power bases.

The government of Cuba struggles 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 maintained.

If all of President Obama's initiatives are permitted by the government of Cuba, there will be further exacerbation of fissures between white Cubans (primarily of Spanish descent) and black Cubans (primarily of African descent). Havana will further solidify commercially, economically and politically

as the fulcrum upon which the remainder of the country revolves. Santiago de Cuba, the second-largest city at the eastern tip of the country- with a majority Afro-Cuban population, may be left behind.

Cuba is continuing a period of cautiousness and a full-on re-engagement with the United States is problematic as the policy of the government of the United States remains to use all means to seek commercial, economic and political change within Cuba.

The government 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.

Any re-engagement with the United States results in uncertainty... The government of Cuba dislikes uncertainty.

Important to appreciate that the dictionary and thesaurus that is used by the United States is not the same dictionary and thesaurus used by the government of Cuba... That's why the United States Department of State may use the term "*negotiation*" to describe a meeting while the Ministry of Foreign Affairs of Cuba will use the term "*discussion*" to describe the same meeting- and in this instance, the Cubans are generally correct.

Haves And Have Nots... Yet

Cuba of today is eerily similar to a reality television program- and not a good one; if there is a good one.

Viewers are being entertained with visits by President Obama, Kardashians, Rolling Stones, Madonna, cast of Fast and Furious; a stream of celebrities- famous, infamous, shouldn't be.

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 Havana since 17 December 2014.

Important to note that not all of these visitors traveled with a business visa; some did not bother; some were frustrated by the processing delay. Not all met with officials of the government of Cuba or with representatives of Cuba government-operated companies.

Some, rather most, did not spend time in advance of their visit researching whether an opportunity for their company existed. They simply wanted to go.

This is a problem.

That there are 11.3 million people living on top of an 800-mile archipelago is undeniable. That these people need to be clothed and fed and provided energy is undeniable. That they need to communicate is undeniable; some will argue inalienable.

But, these undeniabilities quickly come up against reality- the reality of what Cuba can afford and what Cuba wants to afford. How the government of Cuba defines success and how those it governs define success has and will continue to be a challenge.

The Self-Employed

Today, the government of Cuba reports approximately 1.5 million individuals out of a workforce of approximately 5.0 million to 5.4 million who are in some way self-employed; representing approximately 27% of the country's total workforce.

- According to the government of Cuba, as of July 2016 there were 504,600 (not including private farms and agricultural co-operatives) citizens have registered and obtained licenses to operate as independent businesses (*cuentapropistas*) in approximately 201 authorized categories- from restaurants (approximately 1,800) and 10,000 home-based **Airbnb** operations (some families have more than one location) to hair salons and barber shops and clowns to car repair and software development to interior design and seamstress to grooming of dogs and cats to tutors and bricklayers to plumbers. The government of Cuba reports that these 1.5 million individuals represent approximately 6% of total tax revenue.

A note about hair salons- in the United States, when you visit a salon, they will use certain brands to shampoo your hair and they will have certain brands for you to purchase. In Cuba, regulations restrict hair salons to providing services- they may not sell product. And, they purchase the brands that are used on customers from the same retail stores and at the same price as their customers. There are no wholesale product options.

Approximately 11% of licenses are for the sale of food products; 10% for transportation of cargo and passengers; 10% for residence rentals; and 5% agents who sell telephone/cellular usages cards.

There are 452 non-agricultural cooperatives- primarily retail, food service, services, construction, transportation, industrial, energy, and accounting.

Of the total self-employed, 155,605 are categorized as “youth” and 154,756 are women. 83,538 are salaried workers whose [government] workplaces have authorized self-employment. And 62,043 are pensioners.

- There may be as few as 20,000 “*small businesses*” and 20,000 “*micro*” businesses (a food stall, etc.). We truly don’t know the accurate numbers.... For example, if a private restaurant has ten employees, the government reports that as 11 *cuentapropistas*.
- There are approximately 325,000 private agricultural co-operatives.
- There are approximately 500,000 unlicensed self-employed.

Not all of the 500,000 obtain their income solely from their private enterprise- some continue to work at government-operated entities.

The private restaurants- or paladares, have become cathedrals representing the demise of the Cuban Socialist model. The larger ones have ten, twenty or thirty tables, employing sometimes up to fifty people; and there are examples of groups owning multiple properties. 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 Cubans, 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.

There is a meaningful difference between today and the decades of the 1980’s, 1990’s, and 2000’s.... then, many young people believed that neither they nor their parents would ever see irreversible changes during their lifetimes... Now, they are seeing changes, believe the changes are irreversible, and, most significantly, believe that changes will continue.

It has been this development that the Obama Administration has encountered and sought to counter with opportunities.

We hear often that for the government of Cuba, the reason for a limited response to the Obama Administration initiatives is “*The Embargo*.” Granted, there are statutory and regulatory impediments to a “*normalized*” relationship.

However, the question for the government 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 policy, regulation and law- they are comprehensive and extraterritorial and unlikely to be removed as a package; they will be lessened in pieces; that’s the political reality.

Thus far, the government of Cuba has responded by focusing upon those Obama Administration initiatives that will bring it revenue.

United States Exports

Since December 2001, thirty-five (35) ports in the United States- from Virginia to Florida to Alabama to Louisiana and Texas have been the transit point for more than 4.6 million metric tons of food products and agricultural commodities exported from the United States to Cuba.

The value of those exports? More than US\$5.2 billion and all on a payment of cash in advance basis, as required by United States law. The best year was 2008 with US\$710 million and the worst year was 2015 with US\$170 million.

Of 232 global export markets for food products and agricultural commodities from the United States, Cuba has ranked from 25th to 60th.

What has the United States exported? Poultry, Soy products, Corn, Calcium Phosphates, Pork, Beef, Rice, Cotton, Wood, Wheat, Newsprint, Brewing Dregs, and products found in supermarkets.

Why doesn’t Cuba purchase more rice from Arkansas? Because government of Vietnam-owned companies provide Cuba with two years to pay for rice; and some Cuba government-operated companies generally request from one year to three years to make payments. No United States company will do that.

A reason for no changes having been made to the “*cash-in-advance*” payment provisions of the Trade Sanctions Reform and Export Enhancement Act (TSREEA)... Neither companies no banks have been public with what payment terms they would provide to Cuba, today’s Cuba, if payment terms were permitted. A reminder that United States exporters did not want payment terms when the legislation was moving through the United States Congress in 1999 and 2000.

However, do not under-appreciate the desire by United States companies not to be regulated and restrained by statutes relating to the export of products and services to Cuba. While companies may not always be realistic as to opportunities within Cuba, they believe any decision by management (on behalf of shareholders) to create risk relating to Cuba- providing payment terms or capital, should be theirs and not because of United States law.

The primary reasons for the cumulative reduction in United States exports to Cuba during the last ten years?

- lack of foreign exchange due to commercial and economic decisions by the government of Cuba which lessen its ability to earn foreign exchange.

- financial largess by the governments of Venezuela and China lessens the interest of the government of Cuba to purchase products from the United States, regardless of cost, quality, or delivery considerations.
- re-emergence and/or continuation of import relationships (barter, substantial credits, political motivation) with the governments of Brazil, Canada, Argentina, Vietnam, Mexico, Spain, Canada, Russia, Iran, New Zealand, and France amongst other countries.
- preference to purchase products from government-controlled entities, which provide more favorable payment terms and less publicity when payment terms are not honored, which is expected given the lack of foreign exchange of the government of Cuba.
- efforts (which had been successful, but had lessened in their effectiveness) by the government of Cuba to increase the motivation of United States-based companies, organizations, state and local government representatives, and Members of the United States Congress to be more visible in their lobbying efforts for changes in United States policy, law, and regulations.

Cuba has also become a small export market for healthcare products (medical equipment, medical instruments, medical supplies and pharmaceuticals). From 2003 through this year, the total value is US\$13.1 million.

Ironically, given the initiatives by President Obama, since his inauguration exports of food products and agricultural commodities have decreased from US\$528.4 million in 2009 to US\$170.5 million in 2015; thus far in 2016, at US\$137.3 million, they have decreased 10% for the first seven months of the year.

However, healthcare product exports from the United States to Cuba in 2009 were US\$85,000.00; and in 2015 were US\$4.8 million. Thus far in 2016, exports were US\$2.1 million.

Since 2015, the Obama Administration has created, within five rounds of regulatory directives, an expansive landscape authorizing exports and imports of products and services.

The import opportunities remain limited to software, coffee, music, artwork, informational materials, crafts, and items produced by independent businesses.

The export opportunities have expanded from food products and agricultural commodities to telecommunications equipment and services, almost any product for the direct use by an independent business, and provision of micro-credits. However, the government of Cuba has yet to authorize United States companies to directly export products or services to independent businesses.

An increasing number of United States companies are exploring the use of export credit and export guarantee programs of countries where they have foreign subsidiaries. I can add to this later.

Foreign Subsidiary Opportunities

An increasing number of United States-based companies are exploring the use of export credit and export guarantee programs of countries within which they have foreign subsidiaries.

At present, this 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.

To be eligible for these programs, regardless of country, the foreign subsidiary must be more than an office and more than importing parts, technology, or know-how from the United States (or other countries) and then seeking support to export products from the subsidiary to the Republic of Cuba.

The primary goal for any government export supporting entity is to use taxpayer funds to support products substantially created/assembled within their borders; by their citizens... not as a primary assist to United States-based companies and their shareholders.

The host country will be evaluating the content of what is to be exported- as will the United States government through the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury and the Bureau of Industry and Security (BIS) of the United States Department of Commerce.

For example, Montreal, Canada-based Export Development Canada (EDC) "is Canada's trade finance agency, providing financing and insurance solutions locally and around the world to help Canadian companies of any size respond to international business opportunities. As a profitable Crown corporation that operates on commercial principles, EDC works together with private and public-sector financial institutions to create greater capacity for Canadian companies to engage in trade and investment." To contact the EDC: 1-888-434-8508 or visit www.edc.ca.

The Republic of Cuba page at the EDC: <http://www.edc.ca/EN/Country-Info/Pages/Cuba.aspx>

Canada Account is used to support export transactions which the EDC is unable to support, but which are determined by the Minister for International Trade to be in Canada's national interest. This is usually due to a combination of risks, including the size of the transaction, market risks, EDC's country capacity, borrower risks, and/or the financing conditions.

We negotiate, execute and administer these transactions on the same basis as Corporate Account activities but the risks are assumed by the Federal government. Before we enter into a Canada Account transaction, we require authorization from the Minister for International Trade, with the concurrence of the Minister of Finance. Transactions exceeding \$50 million or those of a sensitive nature are, in practice, approved by Cabinet.

How the EDC assisted Ottawa, Canada-based Intelcan Technosystems Inc. with a civil aviation project in the Republic of Cuba:

<http://www.edc.ca/EN/Knowledge-Centre/Success-Stories/Pages/intelcan.aspx>

Direct Foreign Investment (DFI)

The largest source of Direct Foreign Investment (DFI) is Canada-based Sherritt Corporation which includes, or has included mining (nickel plus cobalt), natural gas, electricity, oil exploration, telecommunications, hotels, produce, and real estate. The total value of its DFI since the 1994 exceeds US\$1 billion.

During the last twenty-five years, the government of Cuba has changed its laws and regulations and policies relating to DFI; generally creating an environment more favorable to companies. However, the calculus remains heavily imbalanced in favor of the government- land ownership remains restricted, hiring remains complex, dual currencies remain problematic, lack of transparency and promptness in decision-making remain frustrating.

For perspective, 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.

In 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.*"

And, in Cuba today, a project with a company from outside of the country, and particularly from the United States, is most certain to receive political scrutiny- and political interference.

For these reasons, and others, DFI remains low and generally is sourced from companies in countries where the government of those countries provide guarantees- or the source of the DFI is a government or government-operated company.

Last December, representatives of the Group of Creditors of Cuba and of the government of Cuba agreed arrangement that reduced debt of US\$11.1 billion to US\$2.6 billion; and provided the government of Cuba with eighteen (18) years to make repayments. Some of the debt may be converted to equity for new DFI projects.

The Group of Creditors of Cuba includes Australia, Austria, Belgium, Canada, Denmark, Finland, France, Italy, Japan, the Netherlands, Spain, Sweden, Switzerland and the United Kingdom.

Last month, the Prime Minister of Japan visited Cuba and agreed to forgive approximately US\$1.17 billion in debt- or 75% of total current debt- on top of previous debt-reduction agreements that went mostly unfulfilled. Japan-based Mitsubishi Corporation, Marubeni Corporation, Mitsui & Co., and Hitachi all have a presence in in Havana. Sumitomo Corporation has operated in Cuba since 1974.

The governments of France and Spain and China (another US\$4 billion write-off of debt) and United Kingdom have also continued to forgive debt owed by Cuba... The taxpayers in these countries generally end up paying for this generosity.

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

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

Today, however, as 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 since the signing of a discount oil agreement in 2000, DFI is a beast that must now be embraced, albeit reluctantly.

As for paying what is owed... my longtime colleague, Mark Entwistle, a former Ambassador of Canada to Cuba, was quoted offering *"For smaller companies that are living from account receivable to account receivable... Cuba's probably not your place."*

He shared that companies need to appreciate patience with transactions; while Cuba government-operated importers may delay payments, they generally won't renege on them. *"Some of the foreign business guys don't really understand the... payment regime, and don't have the patience to wait it out and to see it through."*

The delay for Cuba to maximize its potential is primarily due to two reasons-

- Cuba is not importing at a level for a vibrant economy of 11.3 million citizens and
- Cuba is not exporting at a level for a vibrant economy of 11.3 million citizens.

For each of these reasons, much, though not all, for the lack of vibrancy rests with commercial, economic and political decisions taken by the government of Cuba. United States laws, regulations and policies too have a negative effect upon DFI.

What about DFI from the United States? Thus far limited to the equipment imported, some of which was sourced outside of the United States, by hotels and airlines that are or will operate in Cuba. United States companies continue to be used as bait to obtain commerce from non-United States-based companies.

Cuba's Ports

Cuba has 3,570 miles of coastline. There are 70 ports, 31 of which have cargo operations. The ports are generally deep, protected harbors with narrow entrances and generous anchorage.

The port system can accommodate 150,000-ton oil tankers, accept modern roll-on, roll-off vessels, discharge all types of grain and fertilizers in bulk, handle 40-foot containers in gantry cranes... and dock up to six submarines.

The Port of Havana has three primary harbors; but closed its container terminal and transferred operations to Mariel in 2014. It remains active in general cargo, dry bulks and liquid bulks, and has increasing cruise ship activity. It's heavily polluted; with water entering remaining for eight days. It has a water depth of 12.8 meters (42 feet) due to a tunnel under the entrance to the port dredging deeper is an unlikely option.

Since 2013, an increasing number of vessels from the United States and other countries have been calling at the port in Mariel, located approximately forty (road) miles from Havana. Mariel is being managed by Singapore-based PSA International.

This container terminal sits within the 180-square-mile Special Development Zone of Mariel (ZEDM) and the facility currently has 2,300 feet of jetty and four quay cranes which can accommodate 13,000 TEU Neo-Panamax vessels. Total current annual capacity of Mariel is approximately 800,000 TEU's.

Brazil-based Odebrecht was the primary contractor for the Mariel port and special zone project. Approximately US\$682 million in primary financing was provided by the National Bank of Economic and Social Development (BNDES) of Brazil. Institutions in China and Venezuela also provided financing.

Two new rail-mounted gantry cranes from Shanghai, China, arrived in September for installation. Currently, the port has an average of one train per day.

In 2014, Mariel handled 160,000 twenty-foot equivalent TEU's; and 330,000 TEU's in 2015. The estimate for 2016 was 360,000 to 370,000 TEU's.

But this year will likely be similar to 2015 due to an economic contraction- low commodity prices for exports (nickel plus cobalt, citrus, tobacco, sugar, seafood, coffee, etc.), declining discounted oil imports from Venezuela, and declining payments by countries for medical/educational services all resulting in a decrease in imports.

Infrastructure at Mariel remains a challenge. Lack of warehousing. Operational issues- warehouses are open less than sixteen hours per day- they need to be open twenty-four hours a day.

In 2019, the plan is to add 300 meters (984 feet) of quay (KEY) at Mariel. Long-term development includes an additional 1,400 meters (4,593 feet) of quay- for a total of 1.5 miles of quay and a total annual potential of 3 million TEU's.

The government of Cuba views Mariel as a future "*hub & spoke*" for Caribbean Sea-area countries; but, this goal will remain a goal for many years.

A purpose of the ZEDM is to substitute imports with locally-manufactured products and then export any surplus to regional markets, including to the United States.

The government of Cuba has approved companies from Mexico, Belgium, Spain, and the United Kingdom for operations within the ZEDM focusing upon logistics, food, chemicals, and personal care products.

The 500 Cuban nationals who work in the ZEDM can earn up to US\$600.00 per month- compared to the US\$25.00 per month average for most Cuban nationals.

Another goal of the ZEDM and for Cuba is to develop a low-cost workforce to add value to products transiting the Panama Canal. I am skeptical that Cuba will be a low-cost opportunity for companies due to the connectivity with the United States- and the desire to be rewarded at parity with their relatives, friends, colleagues, and competitors in the United States.

The Port at Mariel has many “coulds” ...but....

There remain issues impacting Cuba, United States ports, United States exporters, and cargo shippers.

A primary issue is a provision within the 1992 Cuban Democracy Act. The “*180-day rule*” which prohibits vessels that call at a port in Cuba from calling at a port in the United States for 180 days, unless licensed by the United States Secretary of the Treasury.

Creating a general license for the 180-day provision of the CDA will not, by itself, remedy the imperfections that exist by law, regulation and policy.

And while there would be benefit to Cuba, specifically, to Mariel, because more shippers would include Cuba in their schedules, there are potential consequences for United States ports and shippers from increased competition.

The current US-Cuba bilateral relationship, as evidenced by the 180-day provision, is unnatural and unsustainable and unwise for it maintains an abnormal competitive environment.

Pondering a fully-integrated Cuba is not mythology; it's coming and United States ports and shipping companies should have a transition rather than a moment to prepare.

What Has To Happen & The Competition

For Mariel to become a fully-functional and profitable transshipment point, United States laws and regulations and policies will need to be changed. And, Cuba laws and regulations and policies will need to be changed.

Within five years after the removal of all legal, regulatory and policy impediments to United States-Cuba bilateral commercial activities, there are economic models suggesting 20 million tons of dry cargoes moving in both directions.

Currently, shipping company alliances impact decisions to include Cuba in routes- vessels owned by or operated by NYK Line, K Line, MOL, and South Korea-based companies value their operations in the United States more than operations in Cuba. If the vessels are insured by a United States-based company, those are additional considerations.

While Mariel becoming a widely-acceptable transshipment point might provide value for ports in the United States, such as Port Everglades, Florida, and Tampa, Florida, it could negatively impact Kinston, Jamaica; and place pressures upon the Freeport Container Port in the Bahamas and the port of Caucedo in the Dominican Republic- both of which are making substantial investments in their respective infrastructures to accommodate Neo-Panamax vessels.

Representatives at Mariel believe that if their facility has made dredging investments and will continue to make dredging investments, there would be less reason for ports in the United States to make those investments and, thus, the funds could be saved or invested elsewhere.

Those statements set-up the crucial discussion about the United States and Cuba- specifically about ports in the United States and ports in Cuba....

Is a change in United States laws, regulations and policies that would create competition from ports in Cuba going to be helpful to United States exporters and United States importers and United States ports or be harmful to each?

Presently, on the United States east coast, few ports can accommodate Neo-Panamax vessels; and debate continues relating to required investments and investments for servicing Post-Panamax vessels.

Ports with plans to accommodate larger vessels include: Jacksonville, Savannah, and New York (requiring the platform of Bayonne Bridge to be heightened).

United States ports will not relinquish commercial opportunities easily- and certainly not to benefit Cuba or any other country in the Caribbean Sea-area.

So how does it look since 17 December 2014 when Presidents Obama and Castro 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 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).

Optics mattered....

During the last 658 days, there have been visits to Cuba by President Obama and seven members of the Cabinet, including four cabinet secretaries; more than one hundred and seventy representatives of the United States government; and more than ninety representatives of Cuba have visited the United States. And, six governors and many Members of Congress have visited during this period.

Other than permitting a substantial increase in the number of visitors to Cuba, and thus earning significant revenues, there has been no embrace (or authorization) for most of the commercially-focused initiatives offered through the United States Department of the Treasury and United States Department of Commerce unless they focus upon hospitality:

- Carnival is operating cruise itineraries to multiple ports in Cuba.
- Starwood Hotels is managing one property and will be managing two additional properties.
- Airbnb is managing reservations for 10,000 residences in Cuba.
- Booking.com is offering reservations services for eight hotels in Cuba.
- Verizon, AT&T, and T-Mobile have roaming agreements in Cuba.
- Eight airlines led by Alaska, American (which will have 210 employees in Cuba), Delta, JetBlue, Southwest and United are or will be operating regularly-scheduled flights to cities in Cuba. Both American Airlines and JetBlue will have ticket offices in Havana- but not in the locations they preferred- they wanted to be downtown; they will be in the suburb. Important to note that the United States Department of Transportation (USDOT) has authorized approximately 1.2 million passenger seats for the 110 daily US-Cuba routes; less than the 3.4 million requested by airlines.

And, 3.5 million is the approximate total number of visitors to Cuba in 2015. Issues of capacity abound.

- In August 2016, Nespresso, of Switzerland, began importing to the United States “*Cafecito de Cuba*” capsules. A journey of 10,000 miles rather than hundreds of miles... Cuba was sending a message.

The re-establishment of commercial flights was a transformative moment. Passengers using the charter flights had to endure a journey to Cuba, perhaps on an American Airlines aircraft paid for by a third party who then sold tickets in order to repay American Airlines; the aircraft would have an American Airline crew, but that is where the comfort ended.

Sometimes, tickets would be need to be paid for in cash; they often would not be refundable or changeable (because one charter operation would not necessarily honor travelers from another charter operation), the schedules would be inconvenient, the airfares would be high, the customer service would be terrible, and the benefits non-existent.

Today, a traveler may use frequent flyer miles for a ticket, earn miles for the flight, upgrade to first class, select seats in advance, access airport lounges, use credit cards, make changes to reservations, obtain refunds, make a complaint and obtain a resolution, find lower ticket prices, and, most importantly, do it all using the Internet. Earning something from traveling to somewhere is an important component of today’s traveler profile.

Where charter flights reinforced an aura of restriction, illegitimacy, forbidding, stress; the re-establishment of regularly-scheduled commercial airline service welcomes consistency, comfort, normalcy and accountability.

There will be increased accountability to the passenger in the form of improved passenger service at Cuba’s immigration, customs and airport facilities.

United States airlines will be changing Cuba; Cuba will not be changing United States airlines.

There have been and will continue to be enormous infrastructure challenges within Cuba that will severely impact the country’s ability to absorb the new arrivals; changing this reality will take years, not months.

Starwood Hotels & Resorts Worldwide has an interesting journey to Cuba....

As a result of a series of mergers and acquisitions during the last fifty-seven years, a US\$51,128,927.00 claim initially made by New York-based International Telephone & Telegraph Corporation (ITT) is now controlled by Stamford, Connecticut-based **Starwood Hotels & Resorts Worldwide** (2015 revenues exceeded US\$5.7 billion), which was acquired in September by Bethesda, Maryland-based **Marriott International** (2015 revenues exceeded US\$14 billion); both companies can use this value as a means to secure opportunities within Cuba.

In 2016, the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury granted a license(s) to **Starwood Hotels & Resorts Worldwide** to manage properties owned by Cuba government-operated entities located in Havana.

The properties are Gran Caribe-owned Hotel Inglaterra; Habaguanex-owned Hotel Santa Isabel and Hotel Quinta Avenida (re-branded as Four Points by Sheraton Havana on 27 June 2016). The Hotel Quinta Avenida is owned by Cuba government-operated Gaviota SA, under the auspice of Grupo de Administración Empresarial (GAESA), which is controlled by the Revolutionary Armed Forces of Cuba (FAR).

During the more than 100 days since Sheraton began managing the Quinta Avenida, the property continues to have perhaps the most restrictive reservations and payment procedures for a property in Cuba- even though the OFAC does not require such policies. And, the property's internet site states that it will not accept any United States-issued credit cards, even though Stonegate Bank and Banco Popular de Puerto have authorization from the OFAC and the government of Cuba.

Now for a Six Degrees Of Separation Moment....

Here's a little anecdote about the intersection of business and politics...

- The Speaker of the House of Representatives, Paul Ryan, would like to prevent United States companies from engaging with companies in Cuba that are controlled by the military- that means Gaviota which impacts Starwood Hotels & Resorts Worldwide, now owned by Marriott International.
- Paul Ryan was the vice presidential running mate of Mitt Romney in 2012
- Mitt Romney is on the Board of Directors of Marriott International
- William and Richard Marriott are two of the Republican Party's major financial supporters
- **Marriott International** which owns nineteen brands (including Chevy Chase, Maryland-based Ritz-Carlton) confirms its discussions with Cuba government-operated companies to identify property-management opportunities within Cuba.

On the other side of the pond... Denham, United Kingdom-based **InterContinental Hotels Group PLC** (2015 revenues exceeded US\$1.8 billion) manages more than 5,028 hotels (742,000 rooms) in nearly 100 countries.

The company is the owner of a US\$4,637,898.30 claim against the government of Cuba certified by the United States Foreign Claims Settlement Commission (USFCSC) under the auspice of the United States Department of Justice.

The claim is for compensation due to the loss of its management contract of then **National Hotel of Cuba (Hotel Nacional de Cuba)**. The management contract commenced on 1 August 1955 and was to terminate on 21 November 1989. The lease was intervened by the government of Cuba on 10 June 1960.

The Libertad Act of 1996 (also known as "Helms-Burton") authorizes individuals and companies subject to United States jurisdiction/law to engage in direct negotiations with the government of Cuba to settle claims certified by the USFCSC.

As I previously mentioned, in December 2015, the government of the United Kingdom participated in an agreement signed between members of the Paris Club of Creditor Nations and the government of Cuba that reduced debt from US\$11.1 billion to US\$2.6 billion which will be repaid over an eighteen-year period. With debt, in some instances, becoming equity for projects.

So, could the Hotel Nacional de Cuba return to the InterContinental portfolio or become a Ritz-Carlton? Perhaps.

Staying with hotels for a moment...

- In 2015, the rack rate for the Hotel Mercure Sevilla Habane (operated by Paris, France-based AccorHotels) located in Havana, was US\$120.00 per night (with buffet breakfast)
- At the beginning of 2016, the rack rate was US\$180.00 per night (with buffet breakfast)

- In the fall of 2016, the rack rate will be US\$280.00 per night (with buffet breakfast)
- These rack rate changes represent a 133% increase in twelve months. Important to note that the rack rate is not the rate that most guests pay- but it does reflect what the government of Cuba believes guests should pay for the experience and the effect of supply versus demand- a very capitalist perspective.

Might there be a negative result in that the customer experience has not improved 50%, 56% or 133%? There should be a concern about reputational damage from a perception of price-gouging... and creating a negative social impact upon employees who are Cuban nationals who know what the hotel is earning and what they are earning.

Melia Cohiba and Melia Habana, hotels located in Havana that are managed by Palma de Mallorca, Spain-based Melia Hotels International, have also increased rack rates and room rates substantially, as have the hotels Saratoga (rack rate nearing US\$500.00 per night), Parque Central, Nacional (up to US\$500.00 per night), Capri, Inglaterra, Telegrafo, Plaza and Presidente. A room at the Habana Libre (the former Havana Hilton) was reported as high as US\$450.00 per night; it should be US\$99.00.

The increase in room rates at hotels located throughout Havana are primarily impacting visitors subject to United States jurisdiction, as restrictions implemented by the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury upon individual and group itineraries necessitate Havana-based land and sea arrivals/departures amongst other activities.

Oh, and please remember that there are **twelve categories** of authorized travel to Cuba; and “*tourism*” is not one of them...

Individuals subject to United States law have the highest net profit margin of any visitor to Cuba- the hotel rates we pay are higher, there is a surcharge to exchange United States Dollars to Convertible Pesos; and this surcharge was in retaliation of regulations imposed by the United States relating to Cuba’s use of the United States Dollar for international transactions. President Obama has eliminated the restrictions on most United States Dollar transactions, but the government of Cuba has declared that banks are yet to make the change.

A previous surcharge for telephone rates was in retaliation to a decision by the Clinton Administration to award for civil judgements funds that were to have been preserved for use by certified claimants.

A substantial increase in hotel room rates without a corresponding increase in the quality of hotel services is unsustainable and inadvisable.

An opinion from a hotel industry executive: “... *the incumbent hotels will take advantage of the short-term supply and demand imbalance while new hotels will obtain their fair-market share; the aging properties will be forced to upgrade (and improve guest experience) to survive or decrease their rates.*”

The rate increases are **unsustainable** because with an increase in cruise ship activity, visitors will be able to have the services that they desire, are comfortable with, and equate with value, without feeling taken advantage of by either Cuba government-operated properties or properties managed by companies located outside of Cuba.

Some owners of homes that are licensed to host guests, Casa Particulars, have increased pricing per night from 60% to 100% during the last twelve months. The rates are generally from US\$27.00 to US\$100.00 per night. Guests are generally more forgiving to owners of private residences as there is a belief that supporting private enterprise is worth the sometimes difference between price and value.

With the implementation of regularly-scheduled commercial airline service between the United States and Cuba, there will also be opportunities for travelers to make day-trips and avoid hotels.

The rate increases are **inadvisable** because a substantial increase in gross revenues and lack of corresponding increase in the guest experience, or the salaries of Cuba nationals who work at the property, does nothing to encourage the government of Cuba to make changes to the operations of its hospitality sector; rather, the hospitality sector is at risk of becoming another revenue stream to redirect to other priorities of the economy with property maintenance neglected based upon a belief that regardless of the guest experience the demand for hotel rooms is sustainable so pricing can continue to increase irrespective of corresponding quality issues.

There may be an interesting development on the horizon.... The hotels managed by non-Cuba government companies have noticed a decrease in guests at their restaurants- with visitors generally only eating those meals (usually breakfast) that are included in their rate... They will then seek to dine in private restaurants (paladares) where the food is almost universally better. A solution? Some of the non-Cuba-based hotel management companies are reviewing the possibility of bringing privately-owned restaurants into the hotels, in a similar way that hotels do in Las Vegas, Nevada. Of course, the government of Cuba may not be too interested in promoting a non-government controlled solution.

What Hasn't Cuba Done Yet?

During the last twenty-two months, Cuba has received more than US\$1 billion in additional gross revenues and additional savings as a direct result of the initiatives created by the Obama Administration. What hasn't the government of Cuba yet to do with United States-based companies?

- There are other cruise companies that await authorization (Cuba has sacrificed more than US\$50 million by only permitting one cruise line to operate; the decision was about control- which was more important than economic benefit)
- Ferries await authorization
- Imports of products from the United States continue to decrease
- Authorization for United States companies (other than airlines) to open offices has yet to materialize
- Proposals for a distribution center and tractor assembly facility have not been approved
- United States companies continue to await permission to export products directly to independent businesses in Cuba.

Important to note that since the Obama Administration initiatives were announced, there were only **two** commercial projects that sought to have an operational presence in Cuba where the focus was not hospitality and not companies providing free services or donations. Neither have been approved.

There was **one** contract issued to a United States company to export **one** piece of agricultural equipment; it has yet to be delivered.

In the meantime, Cuba has awarded contracts for:

- Cellular communications to companies in China (Haier among others)
- Airport renovations and management to companies in France and Turkey

- Power generation (winds, solar, biomass, natural gas) contracts to companies in, among others, UAE, Russian, Spain and United Kingdom (a US\$165 million biomass project with financing from China- and which makes Shanghai Electric the majority shareholder in the project; and a solar project in negotiation). Cuba assembled approximately 60,000 solar panels in 2015 using technology and components from China. Russia has announced an intention for fifty-five projects valued at US\$4 billion to be completed by 2020.... But, financing has not yet been confirmed by the EXIAR, the Russian governments export agency.

Significant that these various country contracts were awarded to companies where those companies have the financial backstop of their respective governments; or, the companies themselves are government-controlled.

Cuba's bilateral trade with China will exceed US\$2.2 billion in 2016, an increase of approximately 50% from 2015. And, China has provided a US\$300 million bio-tech fund.

Which leaves us where?

The initiatives proposed and implemented 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 Where We Are Headed?

The Obama Administration has 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 Cuba that can't be pulled or pushed off the island- either by political forces in the United States or in Cuba. The armada is digging in; not quite with a permanent foundation, but closing in....

In Internet terms, The Obama Administration is creating CubaLegacy 2.0- too big to roll back, too visible to hide, too collaborative, too many participants to remove, too bilateral to untangle... The perfect presidential legacy vehicle.

President Obama wants to bring change to Cuba far more and far faster than President Raul Castro wants change to arrive in Cuba. For both men, the issue is legacy.

President Castro wants to withstand everything that is coming his way, 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 government of Cuba requires; a complex series of juggling maneuvers.

Running out of time.

President Barack Obama and President Rail Castro are running out of time to engage with each other.

The government of Cuba will never have a more energetic negotiating partner than they do in President Obama. Does not matter who wins the presidential election in November.

The government of Cuba will continue to maintain that it will never, on behalf of its citizens, *surrender* socialist principles, never *negotiate* socialist principles.

But, socialism costs money; a lot of money. The government of Cuba neither has the funds nor can obtain the funds to maintain its current definition of socialism.

The definition of socialism will be defined by the amount of resources directed from the government of Cuba to socialist institutions, which are inefficient.

The government of Cuba will need to choose between a socialism where efficiencies and personal successes are capped to arbitrary levels; and where few have what many desire. Or, choose a type of socialism where rationing doesn't exist, constraint of initiative is relaxed and youth is embraced rather than feared.

The government of Cuba is depending upon the increase in visitors from the United States resulting in additional net revenues which may then be directed towards maintaining socialism... but those revenues won't be enough to maintain the status quo.

The Remaining 100 Days

The United States business community has increasing concerns that the Obama Administration does not appreciate the enormity of the impact of the dwindling days until Inauguration Day upon Cuba-focused initiatives.

Since 2014, there have been legislative initiatives to disrupt the engagement begun by President Obama. Since 2014, there have been legislative initiatives to expand the engagement begun by President Obama. What do these legislative initiatives have in common... *failure*.

There will be no changes to United States statutes relating to Cuba during the remaining days of the Obama Administration; there were never going to be any changes to the Cuban Democracy Act (1992), Libertad Act (1996) or Trade Sanctions Reform and Export Enhancement Act (2000) given the political dynamic existing during the final two-years of this two-term president. There were unavailed opportunities when the President's party controlled the United States Congress from 2009 to 2011.

Prudent to remember that the last change in United States law relating to Cuba is sixteen years this month. Opponents to further changes in United States law have twenty-four years of precedent (1992, 1996, 2000); and they have prevented statutory changes in the last 667 days (since 17 December 2014) during which the President of the United States has sought to make Cuba a significant component of his two-term (eight-year) legacy.

Legislative history has shown 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 Cuba to proceed unless issues relating to 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 Cuba.

Issues of Constitutional prerogative also have a history of being victimized by political considerations.... I do not suggest that the following examples serve as a rudder in the decision-making process, but recognizing the context may have value.

In 1992, President George H.W. Bush maintained that he would not sign into law the Cuban Democracy Act (CDA) legislation that was moving through the United States Congress because it infringed upon the constitutional authority of the executive branch to conduct foreign policy. In the fall of that year, then-Arkansas Governor Bill Clinton shared during a speech in Miami, Florida, that if he won the election, he would sign the CDA into law. President Bush signed the legislation into law.

In 1996, President Bill Clinton maintained that he would not sign into law the Libertad Act (Helms-Burton) legislation that was moving through the United States Congress because it infringed upon the constitutional authority of the executive branch to conduct foreign policy. In the spring of that year, after

two civilian aircraft were shot down by the Revolutionary Armed Forces of Cuba (FAR), he signed the legislation into law.

In 2000, President Bill Clinton maintained that he would not sign into law the Trade Sanctions Reform and Export Enhancement Act (TSREEA) legislation that was moving through the United States Congress because it infringed upon the constitutional authority of the executive branch to conduct foreign policy. In the fall of that year, he signed the legislation into law.

Legislation currently considered by the United States Congress may well result in a “*path forward*” balance in order to obtain support from opponents- and that equilibrium could include unintended, but predictable consequences- a limitation upon United States companies as to which entities within Cuba are authorized for commercial engagement (i.e., military-affiliated).

And, during the last twelve months, United States-based companies have continued efforts to repulse the impact of some members of the Obama Cabinet, Washington, DC-based advocacy groups and their supporters seeking to inject politics into the commercial process.

Specifically, encouraging by ignorance the United States Department of Commerce and United States Department of Agriculture to limit actions on behalf of companies in a blundering effort to gain support for legislative initiatives (I can speak to this further later if you wish); while the United States Department of State and United States Department of Transportation eventually moved forward, and expansively, with supporting companies. Simply stated, the departments of Commerce and Agriculture view, by their words, the actions of the departments of State and Transportation as violating United States law.

For the Obama Administration, the use of regulatory authority was always the only efficient pathway for creating changes to the commercial, economic and political bilateral landscape with Cuba.

The Obama Administration focus must be upon departing at 12:00 pm on 20 January 2017 with only statutory impediments remaining throughout this bilateral landscape. In this way, all that can be done will have been done.

There may be non-Cuba considerations that will stifle additional regulatory changes- the importance of hearings for a nominee to the United States Supreme Court and approval of the Trans-Pacific Partnership (TPP).

As a result, the government of Cuba will need to reconcile with the reality of opportunities available for engagement or continued posturing about what statutes remain in place as reason(s) for awaiting any further deepening of commercial relationships.

The Obama Administration does plan to issue changes to existing regulations and issue new regulations before 20 January 2017. That’s the good news.

However, all parties need time to adjust, adapt, accept and implement.

The Obama Administration does not seem to appreciate the importance for United States companies and the government of Cuba to have sufficient time for regulations to be vetted by legal counsel, dissected to determine if they are viable, and then if possible implemented.

Regulators at departments and agencies throughout the United States government are generally paralyzed during the first months (or year or more) of any new Administration as they await placement of political appointees for policy guidance.

This freezing of decision-making would be heightened due to the political sensitivities of anything relating to Cuba in 2017 as the anticipation focuses upon 24 February 2018, the retirement of President Castro- and how to entice changes by him during his final months in office or await and provide

incentives to his successor, First Vice President of the Council of State of Cuba, Miguel Diaz-Canel, who was born in 1960. That is what the United States Congress will be analyzing.

And, if the government of Cuba were to host (again) a naval presence by the Russian Federation... then we all know the likely response by the next occupant of The White House and Members of the United States Congress.

President Obama should go all in; the government of Cuba has not fully reciprocated, is not fully reciprocating and is unlikely to fully reciprocate to a depth which would balance the Obama Administration initiatives with the Castro Administration responses. The choice is awaiting what will not arrive or finishing the task as forcefully as possible.

The successor to President Obama will unlikely be focused upon regulatory changes certainly at the beginning, and likely through the beginning of their term in office. And, with President Castro retiring on 24 February 2018, there may well be an incentive to withhold regulatory changes until a successor is in place and governing.

So, President Obama should leave only for his successor the shepherding of a legislative agenda.

What Would Be Helpful?

- Authorize all commercial activity under a general license from the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury and Bureau of Industry and Security (BIS) of the United States Department of Commerce, including Direct Foreign Investment (DFI)
- Issue a general license from the OFAC for all vessels pursuant to the 180-day provision of the Cuban Democracy Act (CDA) of 1992
- Authorize all transactions with Cuba government-operated companies
- Authorize all imports under general license
- Authorize all exports under general license
- Authorize Cuba government-operated financial institutions to have accounts with United States-based financial institutions for the purpose of correspondent activities
- File motions to dismiss unwarranted civil judgements against Cuba
- Announce specific progress for the settlement of the 5,913 claims certified with the Foreign Claims Settlement Commission (FCSC) within the United States Department of Justice

The mathematics are simple, the fewer days remaining in the Obama Administration, the fewer days for United States companies to make the greatest advantage of the initiatives implemented since 17 December 2014. It's time to be practical rather than political.

It's easy to believe that we have everything that Cuba needs and everything that Cuba wants and that Cuba has the money to pay for everything. It is not that simple. This is a journey, not an errand. Being inspired is the easy part; being rationally aspirational requires diligence and patience.

Thank you.