



CUBA-2010: A JOURNEY BACK IN TIME WITH A BRIGHT FUTURE

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1. CUBA: COUNTRY OVERVIEW

A Brief Summary of Recent Pertinent History (from 1959 to date)

The enactment of the Agrarian Reform Law of 1959, land “reform” legislation that resulted in the nationalization of large estates and companies by the Cuban Government, not only resulted in mistrust -- but also 50 years of a severed relationship -- between the United States and Cuba. Since many of the nationalized lands and corporations belonged to U.S. shareholders, the U.S. government, on their behalf, demanded compensation for all nationalized lands. When these demands were not met, the U.S. Congress responded in 1962 by enacting Public Law 87-535 to amend the Sugar Act of 1948. The amendment resulted in a reduction of Cuba’s total sugar quota from 96% to 57.77%¹ and affected the Cuban import quota for brown sugar, resulting in a corresponding reduction of 7,000,000 tons². Additionally, Section 401 of the Tariff Classification Act of 1962³ (76 Stat. 78; 19 U.S.C. § 1351) was enacted, denying Cuba Most Favored Nation (MFN) status in trade, and cancelling applicable tariff preferences for Cuba.

Moreover, when Cuba aligned with the Soviet Union during the Cold War, in 1962, President John F. Kennedy signed an Executive Order imposing a blockade⁴ and trade restrictions, and, following the Cuban Missile Crisis, imposed travel restrictions in 1963⁵. On July 8, 1963, the Cuban Assets Control Regulations (31 C.F.R. Part 515)⁶ were issued, under the Trading with the Enemy Act (50 U.S.A. App. 5 *et seq.*)⁷, in response to the Cuban government’s decision to host Soviet nuclear weapons. Under these restrictions, Cuban assets in the U.S. were frozen and the existing restrictions were further imposed.⁸ U.S. foreign policy toward Cuba has varied somewhat in scope during Presidential administrations, but the Helms-Burton Act in 1996 characterized what would become over a decade long U.S. embargo toward Cuba.

Miscellaneous Information about the Country

(as of October 2009, according to <http://fita.org/countries/cuba.html>)

- i. Population and Society: Cuba is an island nation, located just 90 miles from the Florida Keys, with a population of about 11.25 million people, of which approximately 70% is urban and 30% rural.⁹ It is a multi-racial society, predominantly Spanish speaking with widespread English

¹ Cuba versus Blockade: Cuban People’s website, (2009), <http://www.cubavsbloqueo.cu/Default.aspx?tabid=749>

² United States Embargo Against Cuba, (2009), http://en.wikipedia.org/wiki/United_States_embargo_against_Cuba

³ United States International Trade Commission, General Rules of Interpretation, at p. 6,

<http://www.usitc.gov/tata/hts/archive/9410/941GN111.PDF>

⁴ Cuba versus Blockade: Cuban People’s website, (2009), <http://www.cubavsbloqueo.cu/Default.aspx?tabid=749>

⁵ United States Embargo Against Cuba, (2009), http://en.wikipedia.org/wiki/United_States_embargo_against_Cuba

⁶ Office of Foreign Assets Control, U.S. Department of the Treasury, Cuba: What You Need To Know About The U.S. Embargo, <http://www.treas.gov/offices/enforcement/ofac/programs/ascii/cuba.txt>

⁷ Cuba versus Blockade: Cuban People’s website, (2009), <http://www.cubavsbloqueo.cu/Default.aspx?tabid=749>

⁸ United States Embargo Against Cuba, (2009), http://en.wikipedia.org/wiki/United_States_embargo_against_Cuba

⁹ The Federation of International Trade Association, *Introduction, Country Overview (2009)*, <http://fita.org/countries/cuba.html>

comprehension, mandatory free public education through High School and free university education for qualified individuals. The Cuban population is highly educated. For this reason, investors willing to operate in Cuba may also want to consider Cuba as a “back office” or “call center” opportunity, and a possible alternative to Eastern Europe or India. While, in the past, alternative lifestyles were not accepted in Cuba, the situation has drastically changed in the past few years¹⁰. At present, gays and lesbians are welcomed in Cuba and are even sought after as evidenced by advertisements seeking to attract their business.

- ii. Demographics and Religion: Cuba is a racially diverse society with a notable history of religious tolerance. The majority of the Cuban population is of European origin (around 65%), more than 10% of the Island's population is of African origin, 1% of Chinese origin and 22% is of mixed ethnicity. Spanish is the official language. The literacy rate is about 99.8%. English, of course, is also spoken. Eighty per cent of Cubans were Catholic before the revolution.¹¹ There is a modest Muslim population and a small Jewish population as well. Though the exact statistical number cannot be reached due to lack of data, it is estimated that anywhere from 300 to 7,000 (0.03%) of Cuba's population is Muslim¹², and about 1,500 (0.015%) of the population is Jewish¹³.
- iii. Type of State and Political Climate: Socialist Communist State.¹⁴ Reportedly, in the political arena, there is an increasing amount of open dissent. Among certain segments of the Cuban populace, Fidel Castro's political ideas are perceived as a “failed experiment”. Reportedly, many Cubans are tired of Communism and long for economic independence. Additionally, Cubans look forward to a transition from a centralized economy to one that is subject to a form of “managed capitalism.”
- iv. Type of Economy: “Country with middle income (lower middle income) GNP in USD by inhabitant: 990. Socialist planned economy. Extremely dependent on tourism and the exports of raw materials.”¹⁵ The Cuban Government, however, has recently begun to experiment with leasing certain retail services to state employees¹⁶. For example, in Cerro, taxi cabs are being leased to taxi drivers, and in Central Havana, and 10 de Octubre,

¹⁰ *Cuba's free sex changes mark break from past*, <http://www.msnbc.msn.com/id/35800405/from/ET> (AP, March 10, 2010)

¹¹ *Id.*

¹² Islam in Cuba, http://en.wikipedia.org/wiki/Islam_in_Cuba

¹³ History of the Jews in Cuba, http://en.wikipedia.org/wiki/Jews_in_Cuba

¹⁴ The Federation of International Trade Association, *Introduction, Country Overview (2009)*, <http://fita.org/countries/cuba.html>

¹⁵ The Federation of International Trade Association, *Introduction, Country Overview (2009)*, <http://fita.org/countries/cuba.html>

¹⁶ <http://www.reuters.com/article/idUSTRE6294P020100310> (Reuters, March 10, 2010)

beauty parlors are being leased as cooperatives to their employees¹⁷. The Cuban Government has recently started efforts to invest in the reconstruction of Little Havana. This area is beginning to feature retail stores, *e.g.*, fashion boutiques, which were non-existent in the past. These stores, however, are oriented to tourists and they cannot sell their products to Cubans who cannot afford their wares.

- v. Industrial Sectors: The primary sector agriculture employs 20% of the population. The main agricultural products are sugar and sugar cane (12.5 billion tons of sugar cane were produced in 2005), representing a third of the cultivated surface area. Significant industrial activity occurs in agricultural products processing and in cement and agricultural machinery production. Investors willing to invest in the agricultural sector in Cuba should note that nearly all types of crops are grown in Cuba. Additionally, Cuba has significant mineral resources. Nickel exports are the country's highest foreign currency earner. The country also has other mineral deposits such as gold (1.55 million ounces of gold) and copper (3 deposits). The service industry employs more than 63% of the active population. The growth of this sector increased dramatically from 2004 to 2005 (2,319,334 foreign visitors in 2005, representing a 13.3% increase over 2004).¹⁸ In particular, it is noteworthy that Cubans lack, and increasingly demand, more varied and higher quality lifestyle products, such as hardware, sinks, and other types of home and bathroom supplies (nearly 1.3 million Cubans do not have them). As for the tourism industry, it is one of the most prominent and fastest growing economic sectors in Cuba.
- vi. Currency: There are two types of official currencies in Cuba: the Cuban Convertible Peso (CUC), which was introduced in Cuba in November 8, 2004 as part of an effort by the Cuban financial authorities to remove all foreign currencies from circulation and to offer an alternative to U.S. dollars; and the Cuban Peso (CUP), which is the currency in which Cuban workers usually receive their wages.

US dollars need to be converted into CUCs at a present exchange rate of about \$1.2 for 1 CUC. CUCs are usually the only currency accepted in tourist-related establishments, such as hotels, restaurants and in the so-called "dollar shops."

It is difficult for Cuban workers to purchase goods with CUCs since they usually cannot amass enough CUPs to convert them into CUCs. CUPs, however, are generally accepted for basic goods such as food, medicines and may be used to acquire agricultural industry supplies. Additionally, Cubans are generally provided with food stamps or vouchers that can be

¹⁷ *Id.*

¹⁸ The Federation of International Trade Association, *Introduction, Country Overview (2009)*, <http://fita.org/countries/cuba.html>.

exchanged for food. Only the most highly paid Cuban workers, *i.e.*, those employed in certain “exceptional positions” (*e.g.*, celebrities, artists, professional sports, etc.) can amass CUCs or dollars. Otherwise, Cubans are relegated to using CUPs.¹⁹

¹⁹ Cuba Currency and Money Guide, <http://www.cubacurrency.com/>

2. TRADE: As noted above, trade between the U.S. and Cuba is severely limited by an Embargo imposed by various U.S. laws.²⁰

The Embargo

i. Helms-Burton Act

The Helms-Burton Act, also known as the *Cuban Liberty and Democratic Solidarity (“Libertad”) Act of 1996* (“the Act”),²¹ was enacted in response to the shooting down of two U.S. civilian planes by Cuban MIG fighters. The Act strengthened an already existing embargo against Cuba that had been in effect since 1960. Sec. 3, entitled “purposes of the Act”, states that the Act is intended:

- to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;
- to strengthen international sanctions against the Castro government; and
- to provide for the continued national security of the United States in the face of continuing threats from the Castro government of: terrorism; theft of property from United States nationals by the Castro government; and political manipulation of the desire of Cubans to escape that results in mass migration to the United States.²²

ii. United States Trade Relations with Cuba prior to the Embargo

Before 1959, the United States was Cuba's most important trading partner, a natural development due to their geographic proximity. Throughout the 1950's Cuba's exports amounted to \$780.4 million while imports reached \$277.4 million. Sugar was by far the dominant commodity that Cuba exported to the United States prior to the embargo.²³ Tobacco and rum remain actual exports.

iii. Effects of the Embargo on Current Trade between the United States and Cuba

The current embargo between the United States and Cuba affects millions of dollars in trade between the two countries. According to a study by the U.S. International Trade Commission, the embargo costs American firms a

²⁰ To review general economic and trade sanctions against Cuba, please visit the website of the Office of Foreign Asset Control (OFAC), <http://treas.gov/offices/enforcement/ofac/programs/cuba/cuba.shtml>

²¹ Title 22, §§ 6021-6091 of the U.S. Code

²² The State Department web site, *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (2001)*, <http://www.state.gov/www/regions/wha/cuba/helms-burton-act.html>

²³ José Alvarez, *Cuban Agriculture Before 1959: The Political and Economic Situations*, University of Florida, The Institute of Food and Agricultural Sciences (IFAS), <http://edis.ifas.ufl.edu/fe479>

total of \$700 million to \$1.2 billion per year²⁴. Farmers in Texas and neighboring states would be among the biggest potential beneficiaries of normalized trade between the U.S. and Cuba. One study by Texas A&M University estimated that Texas ranks fifth among states in potential farm exports to Cuba, with rice, poultry, beef and fertilizer being the likely top exports²⁵. The American Farm Bureau estimates that Cuba could eventually become a \$1 billion agricultural export market for products of U.S. farmers and ranchers. The embargo also reportedly stifles another \$250 million in potential annual exports of fertilizer, herbicides, pesticides and tractors.

iv. Other Countries' Trading relationships with Cuba

According to www.cia.gov, Cuba's top four export partners in 2008 were Canada (27.8%), China (26.6%), Spain (10.1%) and the Netherlands (5.5%). Cuba's principal exports are/were sugar, nickel, tobacco, medical products, citrus, coffee and fishing products. The country's top four import partners in 2008 were Venezuela (30%), China (11.9%), Spain (10.1%) and Canada (6.4%). Cuba's primary imports are/were petroleum, food, machinery and equipment and chemicals.²⁶

Joint-venture opportunities are increasing as Cuba in *e.g.*, hotel and resort development, other hospitality based initiatives and initiates oil exploration in, among other areas, the Gulf of Mexico, which is within 50 miles of certain parts of Florida. In 2009, Russia signed contracts with Cuba securing oil exploration rights in Cuba's economic zone in the Gulf²⁷. Cuba also will be working with the Spanish oil firm Repsol, India's Oil & Natural Gas Co., and Norway's StatoilHydro. In addition, Cuba's national oil company plans to partner with oil companies from Venezuela, Malaysia, Vietnam, China, Canada, and Brazil in order to further its oil exploration²⁸. Moreover, China will aid Cuba with a \$1.1 million irrigation project in the Guantanamo province. "This project, including funding from a donation promised by China in 2007, aims to help restore drainage and irrigation systems in the east of the island to improve productivity . . . [and] includes the supply of trucks, tractors, trailers and other equipment"²⁹.

Trade Sanction Reform and Export Enhancement Act of 2000 (the "TSRA")

The TSRA (22 U.S.C. § 7201)³⁰ changed the U.S.-Cuba trade relationship by enacting certain exceptions from U.S. sanctions for agricultural and medical exports. The

²⁴ Daniel Griswold, *Four Decades of Failure: The U.S. Embargo against Cuba* (2005), CATO Institute, http://www.cato.org/pub_display.php?pub_id=10921

²⁵ *Id.*

²⁶ [CIA](http://www.cia.gov/library/publications/the-world-factbook/geos/countrytemplate_cu.html) - The World Factbook, *Central America and Caribbean: Cuba*, www.cia.gov/library/publications/the-world-factbook/geos/countrytemplate_cu.html

²⁷ Russia to Drill for Oil off Cuba, BBC, <http://www.freerepublic.com/focus/news/2304149/posts>

²⁸ Cuba Plans New offshore Drilling in Search for Big Oil Finds in the Gulf of Mexico, US News & World Report, www.usnews.com/news/energy/articles/2009/02/03/cuba-plans-new-offshore-drilling

²⁹ [AFP Asian Edition](http://www.afp.com), December 28, 2009, *China to aid Cuba with 1.1 million dollar irrigation project*

³⁰ <http://uscode.house.gov/download/pls/22C79.txt>

TSRA re-authorized the direct commercial (on a cash basis) export of food products (including branded food products) and agricultural products (commodities) from the United States to the Republic of Cuba. All such transactions must be licensed (bundling under one license is permitted), and the transactions must be paid for in cash and before the goods are exported. The ban on U.S. imports from Cuba was not changed by this legislation.³¹

Selected United States Export Statistics for Cuba 2001-2009:³²

- Total U.S. sales/trade to Cuba exceeded \$2.8 billion;
- Food stock losses due to a hurricane led to almost \$1.25 billion in cash purchases by Cuba of U.S. food and farm commodities from December 2001 to April 2006;³³
- The U.S. was the source of 27% of Cuba's food and agricultural product imports in 2008; and
- The top ranking U.S. agricultural product exports to Cuba include corn, wheat, chicken, soy and rice.

Free Industrial Trade Zones

Free industrial trade zones (FITZ) have been set up to encourage foreign investors to do business in Cuba. In general, businesses located with the FITZ are exempt from: 1) income tax on corporate profits; 2) employment taxes, and 3) customs duties on goods exported from, or imported for use within, the FITZ³⁴. Specifically:

- Products and materials enter and leave the zones duty free;
- Companies in the FITZ that make product(s) do not pay profit and payroll taxes for twelve years and are 50% tax exempt for an additional five years;
- Service-oriented companies in the FITZ are tax-exempt for five years and 50% tax-exempt for an additional three years;
- Companies making products within the FITZ can send 25% of their products to the domestic market duty free; and
- All products with 50% or more value-added in the FITZ can enter the domestic market free of duty.

All FITZ workers are provided to FITZ companies by, and are under contract with, government-operated agencies, and the government establishes the minimum wage

³¹ United States Department of Agriculture, Foreign Agricultural Service, Trade With Cuba (2008), <http://www.fas.usda.gov/itp/cuba/cuba.asp>

³² U.S.- Cuba Trade and Economic Council, Inc., <http://www.cubatrade.org>

³³ CRS Report for Congress, *Exempting Food and Agricultural Products from U.S. Economic Sanctions: Status and Implementation*, <http://cnie.org/NLE/CRSreports/06Jul/RL33499.pdf>, at p. 2

³⁴ The Federation of International Trade Association, *Cuba, Doing Business*, http://www.fita.org/countries/cuba.html?ma_rubrique=investissement

for the FITZ. The companies can, on a case-by-case basis, establish their own employment offices, and provide employees with U.S. Dollar bonuses.

Recent Relaxation of Certain Restrictions upon Trade with Cuba

- i. In response to President Obama's initiative of April 13, 2009, the U.S. Treasury Department's Office of Foreign Assets Control OFAC amended the Cuban Assets Control Regulations ("CACR") to promote greater contact between separate family members in the United States and Cuba and to increase the flow of remittances and information to the Cuban people.³⁵ Specifically, amendments were made to:
 - Authorize all transactions, including, but not limited to, payments incident to the provisions of telecommunications services between the U.S. and Cuba, the provision of satellite radio or satellite television services to Cuba or the entry into and performance under roaming service agreements with telecommunications service providers in Cuba by a telecommunications service provider that is a person subject to US jurisdiction;³⁶ and
 - Authorize all transactions ordinarily incident to the exportation of agricultural commodities, medicine or medical device items from the U.S. or the re-exportation of 100% U.S.-origin items from a third country, to any person within Cuba.³⁷

ii. The Omnibus Appropriations Act 2009 (Pub. L. 111-8, 123 Stat. 524)

Authorizes, by general license, travel to, from, or within, Cuba for the marketing and sale of agricultural and medical goods.³⁸

³⁵ The United States Department of Treasury, Office of Foreign Assets Control, Amendments to Cuban Assets Control Regulations: 31 C.F.R. Part 515, Cuba: Revisions to Gift Parcel and Baggage Restrictions, Creation of License Exception for Donated Consumer Communications Devices and Expansion of Licensing Policy Regarding Telecommunications, 74 Fed. Reg. 172 45985-45986 (Sept. 8, 2009) (15 C.F.R. Parts 736, 740 and 746)

³⁶ Cuban Assets Control Regulations, 74 Fed. Reg. 172, 46000-46003 (Sept. 8, 2009) (31 C.F.R. 515). While these transactions are prospectively authorized, regulations have yet to be issued to effectuate this policy.

³⁷ *Id.* at 46005-46007

³⁸ The United States Department of Treasury, Office of Foreign Assets Control, *Guidance on Implementation of Cuba Travel and Trade-Related Provisions of the Omnibus Appropriations Act 2009*, http://www.treas.gov/offices/enforcement/ofac/programs/cuba/omni_guide.pdf, at pg. 2

3. IMMIGRATION

Foreign nationals traveling to Cuba (except U.S. citizens)

- i. ***Cuban Business Visas***: are issued for 30 days and may be extended by an additional 30 days in some circumstances. Although visa exemptions apply to some countries, all business visitors, without exception, must have a visa to visit Cuba. Like short-term business visit visas mandated in other countries, a Cuban business visa is required for individuals who make short-term business trips to Cuba to engage in activities such as attending meetings or conferences. Visas of this kind do not permit their holder to work in Cuba.³⁹
- ii. ***Cuban Tourist Visas or Tourist Cards***: are issued for an initial period of thirty days. They are valid for a single visit and must be used within 180 days of being granted. In some circumstances, the 30-day duration may be extended by an additional 30 days. Tourist visas are a temporary immigration service designed for those wishing to take a holiday in Cuba. Tourist visa holders must depart Cuba on or before their visa's expiration date, and have no right to remain in Cuba after that date. Tourist visas do not permit their holder to engage in any employment, paid or unpaid, while in Cuba.⁴⁰
- iii. ***Processing Times***: In Cuba, immigration services require a valid passport to be submitted with every visa application and a range of additional supporting documentation may be required. Tourist visa card applications must include evidence of return or onward travel tickets plus proof of accommodation, which can be fulfilled through a hotel booking. Where applicants are traveling to Cuba to conduct business, details of the business contact in Cuba must be provided and the application must contain letters from both the candidate's employer in their country of residence and a letter of invitation from the relevant Cuban organization. These documents should specify who will be responsible for the financial support of the applicant during his time in Cuba and must establish the purpose and duration of the trip.⁴¹
- iv. ***Certain Country-Specific Visa and Legal Issues***: A tourist visa card ("visa de tarjeta del turista") (TVC) is necessary for travelers from most nations. It can be purchased at the airport in Cuba on arrival, however, it should be noted that many airlines will require a valid TVC before they will permit a traveler to board a flight to Cuba. A TVC may be purchased at the Cancun, Mexico airport by an outbound traveler from that location. A TVC is usually valid for 30 days and can be extended once for another 30 days at

³⁹ Cuba Visa, 2009, http://www.globalvisas.com/worldwide_visas/cuba_visa.html

⁴⁰ *Id.*

⁴¹ *Id.*

any immigration office in Cuba - beyond this travelers must have a record of a ticket for a flight out of Cuba within the extended visa period. Canadians are the exception from the above requirement, as they are entitled to remain in Cuba for 90 days from their arrival date, and may then also apply for a 90-day extension. Travelers' passports must be valid through a date not less than six months past the end of his or her planned return. Please note that if departing from the UK, travelers must have TVC's BEFORE boarding the plane. Regular tourists who renew their 30 day visas are eligible to depart the country (to any destination) and return immediately, thereby enjoying a further 60 days (30 days plus a 30 day extension) in Cuba. Travelers who desire to stay with friends or family in Cuba must go within two days after arrival with their intended host to an immigration office and pay 40 CUCs for a 30 day family visa. Visa periods and other concerns follow: Citizens of Antigua and Barbuda (28 days), Barbados (28 days); Benin, Bosnia and Herzegovina, CIS (except Ukraine and Uzbekistan), Dominica, Grenada (60 days); Liechtenstein (90 days), Macedonia, Malaysia (90 days), Mongolia, Montenegro (90 days); Namibia, Singapore, Slovakia, Saint Kitts & Nevis, Saint Lucia, Saint Vincent and the Grenadines, Serbia (90 days); and Turkmenistan (30 days without a visa).⁴²

U.S. Citizens traveling to Cuba

<http://www.treas.gov/offices/enforcement/ofac/programs/cuba/cuba.shtml>

- i. ***Entry/Exit Requirements:*** All U.S. citizens traveling to Cuba need to obtain a license prior to travel. In addition, a valid passport is required for entry into Cuba. The Cuban government also requires that the traveler obtain a visa prior to arrival.
- ii. ***Travel Limitations and Other Pertinent Information:***⁴³
 - ***Safety and Security:*** The security environment in Cuba is relatively stable, supported by a strong, but less overt, military and police presence throughout the country; At present, there is no evidence of anti-Americanism in Cuba, nor military or police pressure in the Island.
 - ***Medical Facilities and Health Information:*** Medical care in Cuba does not meet U.S. standards;
 - ***Traffic Safety and Road Conditions:*** Reports suggest that accidents involving motor vehicles are now the leading cause of accidental death in Cuba. Taxis are available in busy commercial and tourist areas;

⁴² Cuba, Visas and Legal Issues, <http://wikitravel.org/en/Cuba>

⁴³ U.S. Department of State, Cuba, Country Specific Information, http://travel.state.gov/travel/cis_pa_tw/cis/cis_1097.html

- **Consular Access:** U.S. citizens are encouraged to carry a copy of their passport with them at all times so that, if questioned by local officials, proof of identity and U.S. citizenship is readily available. The original documents should be kept in a secure location, preferably in a safe;
- **Currency Regulations:** As mentioned in Section 1, above, since November 2004, the U.S. dollar has not been accepted for commercial transactions. The CUC is the dominant convertible currency in Cuba. Additionally, U.S. travelers to Cuba should be aware that since the 1990's, U.S.-issued debit and credit cards are not accepted in Cuba. Therefore, U.S. travelers should be prepared to use alternative methods of payment while they are in Cuba.
- **Exportation of Accompanied Baggage:** Authorized travelers to Cuba are limited to 44 pounds of accompanied baggage per traveler unless a higher amount is authorized by a specific license from OFAC or the Department of Commerce's Bureau of Industry and Security;
- **Items Brought Back from Cuba to the U.S.**⁴⁴: If U.S. travelers return from Cuba with goods of Cuban origin, such goods, with the exception of informational materials, may be seized at Customs' discretion [Section 515.204 of the Regulations⁴⁵]. Cuban cigars and rum are routinely confiscated at U.S. ports of entry. Purchasing Cuban cigars and rum in a "duty-free" shop at the Havana Airport does not exempt such items from seizure by U.S. Customs. There are no limits on the import or export of informational materials [Section 515.206 of the Regulations⁴⁶]. Informational materials such as books, films, tapes and CDs are statutorily exempt from regulation under the embargo and may be transported freely; however, blank tapes and CDs are not considered informational materials and may be seized; and
- **Registration/Embassy Location:** The U.S. Interests Section represents American citizens and the U.S. Government in Cuba, and operates under the legal protection of the Swiss government.

iii. **Types of Licenses**⁴⁷

General licenses may be granted to the following categories of travelers, who are permitted to spend money to travel to Cuba and to engage in other transactions directly incident to the purpose of their travel, without the need to obtain a specific license from (OFAC):

⁴⁴ Office of Foreign Assets Control, U.S. Department of the Treasury, Cuba: What You Need To Know About The U.S. Embargo, Title 31, Part 515 of the C.F.R.

<http://www.ustreas.gov/offices/enforcement/ofac/programs/ascii/cuba.txt>

⁴⁵ Office of Foreign Assets Control, U.S. Department of the Treasury, Part 515 -- Cuban Assets Control Regulations, [Section 515.204], http://www.access.gpo.gov/nara/cfr/waisidx_09/31cfr515_09.html

⁴⁶ *Id.* at § 515.206

⁴⁷ U.S. Department of State, Cuba, Country Specific Information, http://travel.state.gov/travel/cis_pa_tw/cis/cis_1097.html

- ***U.S. persons with close relatives*** (any individual related to a person by blood, marriage, or adoption who is no more than three generations removed from that person or from a common ancestor with that person) who are nationals of Cuba and persons who share the same dwelling as a family with the person who has the relatives in Cuba may currently travel to Cuba once per 12 months for an unlimited length of stay. (According to the CACR, third country nationals who reside in Cuba are considered to be Cuban nationals.) For additional trips to Cuba, a specific license may be issued.
- ***Journalists and supporting broadcasting or technical personnel*** (regularly employed in that capacity by a news reporting organization and traveling for journalistic activities).
- ***Official government travelers on official business.***
- ***Members of international organizations of which the U.S. is also a member*** (traveling on official business).
- ***Full-time professionals, whose travel transactions are directly related to research in their professional areas***, provided that their research: 1) is of a noncommercial, academic nature; 2) comprises a full work schedule in Cuba; and 3) has a substantial likelihood of public dissemination.
- ***Full-time professionals whose travel transactions are directly related to attendance at professional meetings or conferences in Cuba*** that are organized by an international professional organization, institution, or association that regularly sponsors such meetings or conferences in other countries. An organization, institution, or association headquartered in the U.S. may not sponsor such a meeting or conference unless it has been specifically licensed to sponsor it. The purpose of the meeting or conference cannot be the promotion of tourism in Cuba or other commercial activities involving Cuba, or to foster production of any biotechnological products.

Travelers who do not qualify for a general license may be eligible for a specific OFAC license if their travel falls under one of the following categories:

- ***Specific Licenses to Visit Close Relatives in Cuba*** who are non-Cuban nationals.
- ***Travelers wishing to visit a family member in Cuba who is authorized to be in Cuba***, but is not a national of Cuba or a third country national residing in Cuba, may be granted a specific license by applying directly to OFAC.

Specific Licenses for Educational Institutions may be issued by OFAC to authorize travel transactions related to certain educational activities by students or employees at U.S. undergraduate or graduate institutions. Such licenses must be renewed after a period of one year. Once an academic

institution has applied for and received such a specific license, the following categories of travelers affiliated with that academic institution are authorized to engage in travel-related transactions incident to the following activities without seeking further authorization from OFAC:

- ***Undergraduate or graduate students participating in a structured educational program lasting at least 10 weeks*** as part of a course offered at a U.S. undergraduate or graduate institution. Students planning to engage in such transactions must carry a letter from the licensed institution, stating: 1) the institution's license number; 2) that the student is enrolled in an undergraduate or graduate degree program at the institution; and 3) that the travel is part of an educational program of that institution.
- ***Persons conducting noncommercial Cuba-related academic research in Cuba for the purpose of qualifying academically as a professional*** (e.g., research toward a graduate degree). Students planning to engage in such transactions must carry a letter from the licensed institution, stating: 1) the institution's license number; 2) that the student is enrolled in a graduate degree program at the institution; and 3) that the Cuba research will be accepted for credit toward that graduate degree.
- ***Undergraduate or graduate students participating in a formal course of study lasting at least 10 weeks at a Cuban academic institution***, provided that the Cuban study will be accepted for credit toward a degree at the licensed U.S. institution. A student planning to engage in such transactions must carry a letter from the licensed U.S. institution, stating: 1) the institution's license number; 2) that the individual is a student currently enrolled in an undergraduate or graduate degree program, or a full-time permanent employee at the institution; and 3) that the Cuba-related travel is part of a structured educational program of that institution that will last at least 10 weeks.
- ***Persons who are regularly employed in a teaching capacity at a licensed U.S. undergraduate or graduate institution and who plan to teach part or all of an academic program at a Cuban academic institution lasting at least 10 weeks***. An individual planning to engage in such transactions must carry a letter from the licensed institution, stating: 1) the institution's license number; and 2) that the individual is regularly employed by the licensed institution in a teaching capacity.
- ***Cuban scholars teaching or engaging in other scholarly activities at a licensed college or university in the United States***. Licensed institutions may sponsor such Cuban scholars, including payment of a stipend or salary. The Cuban scholar may remit all such stipends or salary payments back to Cuba.
- ***Full-time employees of a licensed institution organizing or preparing for the educational activities described above***. An individual engaging

in such transactions must carry a letter from the licensed institution stating: 1) the institution's license number; and 2) that the individual is regularly employed by the institution.

Specific Licenses for Religious Organizations

Specific licenses may be issued by OFAC to religious organizations to authorize individuals affiliated with the organization to engage in travel transactions under the auspices of the religious organization. Applications by religious organizations for such licenses should include examples of the religious activities to be undertaken in Cuba. All individuals traveling pursuant to a religious organization's license must carry with them a letter from the licensed organization citing the number of the license and confirming that they are affiliated with the organization and are traveling to Cuba to engage in religious activities under the auspices of the organization.

Other Specific Licenses

Specific licenses may be issued by OFAC, on a case-by-case basis, authorizing travel transactions by the following categories of persons in connection with the following activities:

- ***Humanitarian Projects and Support for the Cuban People*** – 1) Persons traveling in connection with activities that are intended to provide support for the Cuban people, such as activities of recognized human rights organizations; and 2) persons whose travel transactions are directly related to certain humanitarian projects in or related to Cuba that are designed to directly benefit the Cuban people. Licenses authorizing transactions for multiple trips over an extended period of time are available.
- ***Freelance Journalism*** – Persons with a suitable record of publication who are traveling to Cuba to do research for a freelance article. Licenses authorizing transactions for multiple trips over an extended period of time are available for applicants demonstrating a significant record of freelance journalism.
- ***Professional Research and Professional Meetings*** – Persons traveling to Cuba to do professional research or to attend a professional meeting that does not meet the requirements of the relevant general license (described above). Licenses authorizing transactions for multiple trips over an extended period of time are available.
- ***Religious Activities*** – Persons traveling to Cuba to engage in religious activities that are not authorized pursuant to a religious organization's specific license. Licenses authorizing transactions for multiple trips over an extended period of time are available.
- ***Public Performances, Athletic or Other Competitions, and Exhibitions*** – Persons traveling to participate in a public performance, athletic or other competition or exhibition. The event must be open for attendance, and, in relevant situations, participation by the Cuban public, and all

profits from the event, after costs, must be donated to an independent nongovernmental organization in Cuba or a U.S.-based charity with the objective, to the extent possible, of benefiting the Cuban people.

- ***Amateur or semi-professional athletes or teams traveling to participate in Cuba in an athletic competition held under the auspices of the relevant international sports federation.*** The athletes must have been selected for the competition by the relevant U.S. sports federation, and the competition must be one that is open for attendance, and, in relevant situations, participation by the Cuban people.
- ***Activities of Private Foundations or Research or Educational Institutions*** – Persons traveling to Cuba on behalf of private foundations or research or educational institutions that have an established interest in international relations to collect information related to Cuba for noncommercial purposes. Licenses authorizing transactions for multiple trips over an extended period of time are available.
- ***Exportation, Importation, or Transmission of Information or Informational Materials*** – Persons traveling to engage in activities directly related to the exportation, importation, or transmission of information or informational materials.
- ***Licensed Exportation*** – Persons traveling to Cuba to engage in activities directly related to marketing, sales negotiation, accompanied delivery, or servicing of exports of health care products or other exports that may be considered for authorization under existing Department of Commerce regulations and guidelines with respect to Cuba or engaged in by U.S.-owned or controlled foreign firms.

i. License Application Process

Persons wishing to travel to Cuba under a specific license should send a letter specifying the details of the proposed travel, including any accompanying documentation, to the Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, D.C. 20220 or visit <https://cubatravel.ofac.treas.gov/> to fill out an online License Application.

4. EMPLOYMENT AND LABOR LAWS

Main Employment Laws and Regulations

i. Constitution of the Republic of Cuba of 1992

The Constitution of the Republic of Cuba of 1992 (Cuban Constitution) sets forth the political, social and economic principles of the state of Cuba. The Constitution defines Cuba as a socialist state of workers,⁴⁸ and recognizes the Communist Party of Cuba as the “highest leading force of society and of the state”.⁴⁹ The State guarantees, by means of the Constitution, that every man or woman who is able to work will have the opportunity to have a job.⁵⁰ In the labor and employment area, the Constitution enumerates “fundamental rights, duties and guarantees” that are bestowed upon, owed by, and extended to, all Cuban citizens.

ii. Labor Code of 1984 (Law No. 49)

The Labor Code of 1984 (Labor Code) was enacted by the National Assembly of Cuba on December 28, 1984, and has been frequently amended thereafter. The Labor Code, and the different rules and regulations that complete it, govern the general aspects and conditions of employment in Cuba. The Labor Code covers the following aspects of the employment relationship: (i) basic principles of employment; (ii) employment contracts; (iii) working hours and leisure time; (iv) salaries and other types of remuneration; (v) rules of employment; (vi) employment discipline; (vii) occupational health and safety; (viii) woman labor; (ix) teenager labor; (x) technical training; (xi) collective bargaining; (xii) employment disputes resolution; (xiii) social security, and (xiv) employment inspections.

iii. Social Security Law (Law No. 105)

Law No. 105 on Social Security (Social Security Law) is the main piece of legislation defining the benefits that are covered under the Cuban Social Security System. This Law, which became effective on January 22, 2009, and Social Security regulations, provide the legal framework that governs old-age, disability and survivor benefits; sickness and maternity benefits; and work-related injuries benefits.

It is worth noting that in Cuba, as in other totalitarian countries, laws may intentionally be drafted vaguely and broadly thereby enabling the State to apply its own judgment and interpretation about their meaning and application when enforcing them. Reportedly, there may be discrepancies between the rights legally guaranteed and those that can be asserted in practice. Thus, some rights expressly recognized (*de jure*) by

⁴⁸ Cuban Constitution, article 1.

⁴⁹*Id.*, article 5.

⁵⁰*Id.*, article 9.

Cuban laws may be disregarded in reality (*de facto*). For this reason, employers and investors seeking to do business in Cuba should be aware of these circumstances and be prepared for the potential unpredictability that may result from the Cuban state's exercise of its ample discretion in how it construes and enforces laws.

Additional Caveat: Laws in Cuba may be amended and changed by the periodic issuance of “Decretos Ley” (executive orders) and “Resoluciones” (regulations). Therefore, in assessing the business implications of legal issues in Cuba, business persons are advised not only to consider the effect of existing laws, but also to gauge the impact of any relevant “Decretos Ley” and “Resoluciones” in order to verify that the text or applicability of existing laws (or parts thereof) has not been amended or repealed.

Conditions of Employment

Chapter VII of the Cuban Constitution provides a list of “fundamental rights, duties and guarantees”, which are the pillars that inspire the Labor Code and, in general, the essence of Cuban labor and employment laws.

Among these “fundamental rights, duties and guarantees”, it is worth pointing out the following:

- *Work in a socialist society is regarded as a right and a duty; unemployment is officially eliminated, and workers are required to participate in “nonpaid voluntary work”.⁵¹*
- *All workers have the right to rest, which is guaranteed by an eight-hour workday, a weekly rest period and annual paid vacations.⁵²*
- *Social Security is guaranteed to disabled, sick workers and the elderly.⁵³*
- *There is a guaranteed right to protection, safety and hygiene on the job and compensation or retirement for work-related injuries.⁵⁴*
- *Free medical and hospital care is guaranteed.⁵⁵*
- *Education is a guaranteed right.⁵⁶*
- *Freedom of speech and of the press “in keeping with the objectives of socialist society” and rights to assembly, demonstration and association” are also guaranteed.⁵⁷*

Despite all these guarantees, however, Article 62 provides that “none of the freedoms which are recognized for citizens can be exercised contrary to what is

⁵¹ *Id.*, article 45

⁵² *Id.*, article 46

⁵³ *Id.*, articles 47 and 48

⁵⁴ *Id.*, article 49

⁵⁵ *Id.*, article 50

⁵⁶ *Id.*, article 51

⁵⁷ *Id.*, articles 53 and 54

established in the Constitution and by law, or contrary to the existence and objectives of the socialist state”.

Article 62 of the Cuban Constitution confers upon the State the liberty to decide whether rights asserted under the Constitution may be declared contrary to the objectives of the socialist state. Thus, Cuban workers who try to assert their rights under the laws of Cuba may be subject to the State’s “unlimited discretion”.⁵⁸

*Additionally, although Cuba has ratified several of the International Labor Organization’s (ILO) Conventions, the Country is still criticized by the ILO, as well as by other entities that purportedly monitor state compliance with human rights laws, and for systematic violations of labor rights. These organizations keep encouraging Cuba to adhere to international human rights standards. The most frequently alleged ILO convention violations are of ILO Convention 95, on the Protection of Wages; Convention 87, on Freedom of Association and Protection of the Right to Organize; Convention 29, on Forced Labor; Convention 111, on Discrimination in Employment and Occupation; and Convention 89, on the Right to Unionize and Engage in Collective Bargaining.*⁵⁹

As noted above, one of the basic tenets of the Cuban system, which is constitutionally recognized, is that every person has the right to a job and that the State has the obligation to provide jobs for anyone who is able and wants to work. In Cuba, employment is not left to the market’s dynamics. *Rather, the State develops special programs to enhance opportunities for certain groups that find special difficulties in gaining access to employment, including women, disabled workers and other “disadvantaged” workers, such as those recently released from prison.*

The overwhelming majority of Cubans work in state owned enterprises. Private companies are subject to various restrictions (*e.g.*, they must obtain a license, they are subject to strict regulations and strong taxation, etc.) and must be issued special licenses. For example, all employees are to be allegedly covered by employment contracts and collective bargaining agreements, which should delineate their job rules and specifications.

*In case of termination, employers must comply with certain notice requirements.*⁶⁰ *Likewise, the laws provide for specific causes and reasons for termination, and set forth the procedures that employers have to follow.*⁶¹ In this regard, the Labor Code provides a list of violations and infractions that may trigger the application of disciplinary actions (including termination of employment) depending on the nature and severity of the infraction, the personal circumstances and background of the employee, and the damages caused by the violation.⁶²

⁵⁸ Aldo M. Leiva, *Cuban Labor Law: Issues and Challenges*, Cuba in Transition- ASCE 2000, 481, 486 (2000)

⁵⁹ Maria C. Werlau, *Foreign Investment in Cuba: The Limits of Commercial Engagement*, Cuba in Transition- ASCE, 456, 478(1996); <http://www.ilo.org/ilolex/english/convdisp1.htm>

⁶⁰ *See, for example*, Labor Code, article 54-56.

⁶¹ Debra Evenson, *Workers in Cuba: Unions and Labor Relations*. Institute of Employment Rights - Comparative Notes 7. 17 (2003)

⁶² Labor Code, articles 158 and 159

Salaries in Cuba are regulated by the Ministry of Labor and Social Security (“Ministerio de Trabajo y Seguridad Social” or MTSS) based on categories of work and skills. The current monthly salary averages 414 CUP (currently less than U.S.D. 20).⁶³ Salaries in the public sector are generally lower than those received by production workers or tourism industry employees, who receive tips in addition to their base salaries. It is important to note that jobs which allow tipping (e.g., taxis, wait staff, tour guides, etc.) are highly sought after and may have a material effect on earnings and lifestyles. For example, the tips received by workers in the tourist industry (taxi drivers, workers at home, restaurants, a.k.a. “paladares,” etc.) account for a substantial disparity between the total income earned by workers in the tourist industry and those employed by state-owned enterprises. Comparatively, salaries in Cuba are generally exceedingly low, and in many cases, are perceived by many to be insufficient for subsistence. It must be noted, however, that most Cubans pay very little for housing, and receive free education (mandatory through high school), health care and subsidized food. Thus, the purchasing power of Cuban employees, at least for life essentials, may be somewhat greater than it may appear by just applying a simple rate of conversion to their minimum wage. Moreover, Cuban workers who are employed by for profit enterprises may receive limited bonuses based on productivity, efficiency or improved quality, and these bonuses may be twice as much as a worker’s monthly income.⁶⁴

Since Raul Castro replaced his brother Fidel as Cuba’s President in February 2008, certain measures have been adopted as part of an effort to increase the productivity of workers in Cuba. President Raul Castro has warned that high levels of governmental subsidies are unsustainable unless productivity increases.⁶⁵ In support of this policy, the MTSS has expressed that salary caps must be eliminated in all state enterprises in order to increase workers’ productivity⁶⁶ Otherwise, it is very difficult for employers to motivate their employees. Additionally, labor legislation has been amended⁶⁷ to permit multiple employment in the state sector and paid part-time positions for university students, “with the aim of stimulating production, enabling income growth and addressing issues raised by the aging of the population”.⁶⁸

As a further step to stimulate productivity and re-launch the Cuban economy, the Cuban Government under Raul Castro has recently substituted the daily free-lunch that was being provided to some State employees for an increase in those employees’ salary of 15 CUP (an increase of more than 50%). This measure has been described to be “of huge symbolic import”, since it has been considered to be the first step towards the “abandonment of Fidel Castro’s half-Century effort to forge a “new man” in Cuba by limiting individual reward in favor of all-embracing social provision, with the state imposing its choice of consumption as well as of production.” Additionally, Raul

⁶³ Canadian Press, February 11, 2009

⁶⁴ DEBRA EVENSON. *LAW AND SOCIETY IN CONTEMPORARY CUBA* (2d ed. 2003); Debra Evenson; *Workers in Cuba: Unions and Labor Relations*. Institute of Employment Rights - Comparative Notes 7. 20-21 (2003)

⁶⁵ Canadian Press, February 11, 2009

⁶⁶ South Florida Sun-Sentinel, June 12, 2008

⁶⁷ Decree-Law 268, passed in June 2009, which amends labor regulations.

⁶⁸ Inter Press Service (English), August 31, 2009

Castro's Government is considering the possibility of cutting the distribution of free staples among the Cuban population as a means of putting pressure on incentives to work harder toward raising wages, and thus productivity. Taken together, these initiatives reflect how Raul Castro, after replacing his elder brother as Cuba's president, may be determined to face the realities and challenges posed by, and the opportunities within, the Cuban economy.⁶⁹

The Social Security System⁷⁰

i. Coverage

The Social Security System provides coverage to all wage earners. There are "special systems" providing specific coverage for armed forces personnel, interior ministry staff, self-employed persons, artists, and members of agricultural cooperatives. Additionally, the Social Welfare System ("régimen de asistencia social") provides coverage to individuals who are unable to work and cannot be supported by any family member.

ii. Contributions

The Social Security System is funded by the contributions of self-employed people, employers and the government. Contributions vary according to the entity that makes them and are indicated below:

- ***Insured person:*** None.
- ***Self-employed person:*** 10% of declared earnings; certain artists contribute 12% of declared earnings.
- ***Employer:*** 14% of gross payroll.
- ***Government:*** Finances the cost of burial services and any deficit, and guarantees minimum pensions. The Government contributes as an employer.

There are no minimum or maximum monthly earnings for contribution purposes. The contributions above finance old-age, disability and survivor benefits; sickness and maternity benefits; and benefits due to work-related injuries.

iii. Types of Benefits

- ***Old-age benefits, Disability and Survivors***

Old-age retirement pensions can be paid after a service period of 30 years. Ordinary retirement age is 65 for men and 60 for women, except

⁶⁹ The Economist, October 8, 2009, *The demise of the free lunch*

⁷⁰ All data provided under this section, except for "old-age" benefits data, was last updated in March 2008. Data has been obtained from the following publication: *Social Security Programs Throughout the World: The Americas, 2007* (released March 2008), <http://www.ssa.gov/policy/docs/progdesc/ssptw/2006-2007/americas/index.html>. Please note that this data and information predates the Social Security Law (Law No. 105), effective January 22, 2009.

for those who have worked at least 12 years in dangerous conditions, who can retire 5 years earlier.

The monthly old-age pension is equal to 60 percent of the average earnings in the highest 5 of the last 15 years, for the first 30 years of services, plus 2 percent for each additional year, up to a maximum of 90 percent of the average earnings. Additionally, old-age pensioners who return to work past the ordinary age of retirement after a minimum of 30 years of service, receive a 2 percent increase in their pensions for each year they continue working. The law encourages these returning older workers to change to certain jobs. Therefore, those who chose a different job receive a pension and earn a full salary while they work.⁷¹

In order to receive a disability pension, the insured must be assessed with a partial, total, or severe disability by the Expert Medical Labor Commission. The full pension is paid if the insured is assessed as physically or mentally incapable of work. Disability pensions are not replaced by the old-age pension at pensionable age. These pensions are not payable abroad.

The survivor pension may be granted if the deceased was a pensioner at the time of death or employed 6 months before the date of death. Eligible survivors are a widow (under certain circumstances), a needy widower (under certain circumstances) aged 65⁷² or older or disabled, orphans younger than age 17 or disabled, and needy parents.

If the deceased was employed at the time of death, the eligible dependents have the right to receive a one-time lump-sum provisional pension equal to 100% of earnings in the month after the death. If the deceased was a pensioner, then the provisional pension is equal to 100% of the deceased's pension. Thereafter, the survivor pension equals 70%, 85%, or 100%, of the deceased's pension for one, two, or three or more dependent survivors, respectively. The pension has to be split equally among all eligible dependents. The maximum pension for a working widow is equal to 25% of the survivor pension. Free burial services are provided by the government for all residents of Cuba.

Access to uncensored internet use and cellular telephones, etc. is also now available to those who can afford it. The consequence of such

⁷¹ Old-age benefits data has been obtained from the following publication: *U.S. Social Security Administration: International Update, February 2009* (released February 2009). Includes updated data introduced by Law No. 105 on Social Security, effective January 22, 2009.

⁷² Age requirements have been updated in accordance with Law No. 105 on Social Security effective January 22, 2009.

newly available access to information will no doubt drive even further Cuban interest and motivation in enhancing their lifestyles.

– ***Sickness and Maternity***

Cash sickness benefits and maternity benefits may be granted to employed persons, members of agricultural cooperatives, armed forces personnel, interior ministry staff, self-employed persons, and artists. Medical benefits are guaranteed to all residents of Cuba.

Sickness benefits equal 60% of average daily earnings in the last 6 months or 50% of earnings if the person is hospitalized. The benefit is paid after a 3-day waiting period (there is no waiting period if the person is hospitalized) and until the corresponding medical certification expires, with some exceptions.

The maternity benefit is equal to 100% of earnings and is paid for 6 weeks before and 12 weeks after the expected date of childbirth. Beginning 12 weeks after the birth, the benefit is equal to 60% of earnings if the mother is unable to work as the result of having to care for the child. The benefit is paid until the child is 1 year old, or earlier, if the mother returns to work.

– ***Work-Related Injuries***

Benefits for work-related injuries may be provided to employed persons, civilian personnel of the armed forces and interior ministry, self-employed persons, artists, and members of agricultural cooperatives. There is no minimum qualifying period to obtain the benefits, but the insured must be employed when the disability begins. The benefit is equal to 80% of the insured's earnings or 70% of earnings if the person is hospitalized. The benefit is paid from the first day of disability until medical certification expires (with certain exceptions) or until a permanent disability pension is payable.

Selected Labor Law Issues

i. Organizing and Unionization

Since the Cuban Workers Central (“Central de Trabajadores Cubanos” or “CTC”) was founded in 1939, it has been the only national organization representing unions that is officially recognized in Cuba. Until 1992, the Cuban Constitution recognized the CTC as the sole and official representative of Cuban workers. Such mention, however, was eliminated in the amendments to the Constitution of 1992.

*Membership in the CTC is voluntary and open to any worker. The CTC is funded by monthly dues paid by its members, which are paid to local union officials and not automatically deducted from salaries.*⁷³

The CTC expressly recognizes in its by-laws its adherence to the principles of the Communist Party of Cuba, which in turn is recognized by the Cuban Constitution as “the highest guiding force of the society and the State”.⁷⁴ This close relationship between the CTC and the party that controls the government has reportedly resulted in the CTC’s perceived lack of independence.⁷⁵ The fact that CTC members must be members of the Communist Party “narrows the scope of workers’ rights in Cuba”.⁷⁶ In short, 99% of Cuban workers are unionized and controlled by the CTC, which, in turn, is controlled by the Cuban Government, which “de facto” sets the workers’ wages. Thus, wages in Cuban are not freely negotiated, but are instead set by the Government.

Cuba’s Constitution of 1992 has eliminated references to the CTC as the official national organization of Cuban workers. The Labor Code still makes specific reference to the CTC, but it does not state, however, that it is the only recognized national federation of trade unions.⁷⁷ The Cuban Constitution expressly recognizes the rights of assembly, demonstration and association. However, despite all these allegedly recognized rights, the ILO still maintains that Cuba is in violation of Convention 87 on the Freedom of Association and Protection of the Rights to Organize.

Notwithstanding the foregoing, the right to strike does not appear in the law, nor does it seem to be permitted in practice. Turning to the right to collective bargaining, which is discussed in the next section, while this “right” is legally recognized, several commentators have observed that *true* collective bargaining does not occur in Cuba because “labor agreements with state-run enterprises are not subjected to negotiation.” Moreover, “official labor unions are controlled by the State and therefore do not oppose these violations of internationally-recognized labor rights”.⁷⁸

ii. Collective Bargaining Agreements

⁷³ Debra Evenson, *Workers in Cuba: Unions and Labor Relations*, Institute of Employment Rights - Comparative Notes 7. 5-6 (2003)

⁷⁴ Constitution of the Republic of Cuba of 1992, article 5

⁷⁵ Efen Cordoba, *Labor Conditions in Revolutionary Cuba*, Modern Slavery: Labor Conditions in Cuba. ICCAS Occasional Paper Series, University of Miami (2000): “The CTC is not a legitimate worker’s organization, but an appendage of the government and the Communist Party. It has never been a forum for open discussion, criticism, proposals, or alternatives to the official line”

⁷⁶ Ambassador Anthony C.E. Quainton, *Toward Best Business Practices for Foreign Investors in Cuba*. Cuba Transition Project, Institute For Cuban & Cuban-American Studies of the University of Miami (2000)

⁷⁷ Debra Evenson, *Workers in Cuba: unions and labor relations*, Institute of Employment Rights - Comparative Notes 7. 5 (2003)

⁷⁸ Aldo M. Leiva, *Cuban Labor Law: Issues and Challenges*, Cuba in Transition- ASCE 2000, 481, 487 (2000).

A survey conducted in September 2007 by the MTSS and the CTC showed that “collective bargaining agreements do not play a role in relations among management, workers and union.” The survey evidenced that “workers are not aware of the fact that their grievances with management can be taken to higher authorities and that managers that violate the law can be prosecuted”.⁷⁹ These survey findings suggest that at this point workers in Cuba may not actually have the right to bargain collectively in Cuba.

Occupational Safety and Health Laws

- The Cuban Constitution: “the state guarantees the right to protection, safety and hygiene on the job by means of the adoption of adequate measures for the prevention of accidents at work and occupational diseases”.⁸⁰
- The Labor Code regulates the rights and duties of employers and employees regarding safety and health in the workplace.⁸¹
- *According to the applicable health and safety laws and regulations, employees have the right to refuse to work in working conditions that would place their lives at risk. Moreover, employers that violate safety and health legal requirements may be disciplined and even subjected to criminal penalties.*
- *Due to the economic crisis in Cuba, it may be difficult for employers to obtain personal protective equipment (PPE), such as masks, helmets, goggles, etc, which are legally required.*⁸²

Workers in Foreign Investment Enterprises

Foreign Companies Can Only Hire Cuban Employees through the Empleado Nacional

- When the current Law No. 77 on Foreign Investment was near approval in September 1995, the CTC rejected proposed provisions that would have permitted foreign investors to directly hire Cuban workers for their enterprises. Rather, the CTC proposed that all hiring must be made through a Cuban employment agency. This measure was ostensibly aimed at avoiding an intensification of income inequality among Cuban workers, which is contrary to the principles of the Cuban Socialist System. The CTC’s proposals were finally captured in the final text of the Law, and, thus, ***with the exception of high-level administrative***

⁷⁹ Cuba News 1, September 15, 2008

⁸⁰ Cuban Constitution, Article 49

⁸¹ Labor Code of 1984, Chapter VII: “Occupational Health and Safety”

⁸² Debra Evenson, “*Workers in Cuba: Unions and Labor Relations*”, Institute of Employment Rights- Comparative Notes 7.18 (2003)

posts, foreign companies cannot directly hire workers in Cuba, but must hire Cuban employees through a special employment entity called “empleadora nacional”.

- *The empleadora nacional receives payments for workers’ compensation from the foreign investors in U.S. dollars, but remunerates Cuban employees by paying them their salaries in Cuban pesos. The Cuban government reportedly confiscates more than 90 percent of the salary paid by foreign investors to the workers.*⁸³

The Empleadora Nacional has its own employee selection criteria, which may be at odds with foreign employers’ general hiring practices or their headquarters’ local legal requirements.

- *Various studies report that the empleadora nacional selects employees on the basis of their political affiliation and background. The government screens the employees’ “labor record” (“expediente laboral”) and their “cumulative school record” (“expediente acumulativo escolar”), which allegedly present information regarding the workers’ “revolutionary commitment.” Thus, foreign investors may not always have access to the most talented employees, but only to those who are most outwardly supportive of the Cuban state.*

The hiring system currently in place has both advantages and disadvantages for foreign investors.

- *On one hand, the partnership with the Cuban state makes it very easy to hire, fire and control workers. The Cuban state deals with the employees, even in the event of employment litigation, which is also handled by the Cuban government.*
- *On the other hand, however, foreign investors may be exposed to negative publicity in the form of accusations that they are accessories to labor rights violations.*⁸⁴
- *Foreign investors frequently try to alleviate the allegedly harsh working conditions of the Cuban employees by providing them with small baskets (“jabitás”) of soap, toothpaste, fruit, vegetables and other goods, to supplement their low salaries.*⁸⁵

Cuban Workers Prize Employment in the Tourist Sector:

⁸³ EFE World New Service, on July 30, 2009, echoes the comments of Carlos Montaner and George Plinio, director and executive producer, respectively, of the documentary *Under Cuban Skies-Workers and Their Rights*. George Plinio states that the government confiscates 97 percent of the salary paid by foreign investors to the workers in hotels and in the exploration and production of nickel. “The investor pays the government about 500 euros (\$704) per worker per month and the government, in turn, turns over less than \$20 to the employee”

⁸⁴ Jerry Haar, *Condiciones de trabajo y el derecho laboral en Cuba*, Movimiento Sindical Independiente de Cuba, Revista LUX (Sept. 2003)

⁸⁵ Ambassador Anthony C.E. Quainton, *Toward Best Business Practices for Foreign Investors in Cuba*, Cuba Transition Project, Institute for Cuban & Cuban-American Studies of the University of Miami (2000)

- Cuban workers may prefer jobs in the private sector, and in the tourist industry, in particular, as such workers are more highly compensated than their counterparts in state-owned companies. However, it may be more difficult to obtain jobs in the tourist industry, since such jobs may be reserved for the “good revolutionaries”.⁸⁶ Moreover, “workers in [the tourist] sector are subject to longer probationary periods and work hours, more irregular schedules, shorter periods for challenging disciplinary decisions, [have] no right of appeal through usual judicial and administrative channels. In addition, there is a prohibition against conduct that “might tarnish the exemplary moral and social image” such as criticizing the national tourism enterprise or any government agency in the presence of tourists”.⁸⁷

Independent Contractors (Self-Employed Workers)

Legalization of Self-Employment

- *When the Soviet Union collapsed in 1991, Cuba was left without its main economic benefactor and trading partner. This had strong repercussions on Cuba’s economy because both imports and exports were dramatically reduced. Cuba’s gross national product (GNP) underwent an estimated 40 percent decline from 1989 and 1993. During this period, named the “Special Period in Time of Peace,” Cuba implemented a series of reforms to promote the recovery of the economy, including the legalization of self-employment, the holding of dollars, and foreign investments in Cuba; and the reorganization of the agricultural industry.*

Permissible Self-Employed Activities

- *The government created a list of permissible self-employed activities. In September 1993, a decree reportedly allowed more than 100 new self-employed occupations and, thus, the number of self-employed rapidly increased. Although the Cuban government was not comfortable with the Cuban economy’s turn towards capitalism, the state nonetheless reaped the benefits of self-employment in the form of reduced unemployment rates, increased tax collections, and participation in the dollar economy.*
- *Main Activities:*
 - Street Food Vendors*
 - Home Restaurants, a.k.a. “paladares”*
 - Private Room Rentals to Tourists*

⁸⁶ *Id.*

⁸⁷ Maria C. Werlau, *Foreign Investment in Cuba: The Limits of Commercial Engagement*, Cuba in Transition-ASCE -1996, 456, 472, (1996)

Handicrafts sales in urban markets

Transportation: bicycle taxis, and others

Restrictions and Limitations Imposed on This Sector After the Initial Spread of Self-Employment:

- The government instituted income taxes, significantly raised the cost of licenses, collected high monthly fees for “paladares” and room rentals to tourists; limited supplies and financing, and imposed regulations that limited competition with state enterprises (e.g., it prohibited self-employed workers from hiring employees to help them with work, except for food services), etc.⁸⁸

Even though self-employment is subject to the above-noted restrictions, Cubans still try to obtain licenses to operate as self-employed workers, since it is more lucrative for them than working in the state industry. Self-employment is considered the beginning of the liberalization of the Cuban market. The future, however, is uncertain for this sector.⁸⁹

5. FOREIGN INVESTMENT IN CUBA⁹⁰

Permitted Economic Sectors for Foreign Investment

Cuba treats foreign direct investment as a complement to national efforts to increase economic and technological development. The purposes of foreign investment include searching for new markets abroad, competitive technologies and long-term financing.⁹¹ In 1995, the Cuban National Assembly passed Law 77, entitled the Foreign Investment Act (“Law No. 77”). ***Law No. 77 permits foreign investment in all Cuban economic sectors except for health services, public education and the armed forces.***⁹² As for the armed forces, however, *foreign investment is permitted in the commercial system operated by the armed forces.*⁹³

⁸⁸ Philip Peters, *Cuba's Small Businesses: Taking a Wild Ride*, Beyond Transition, the Newsletter About Reforming Economies of the World Bank Group (2001)

⁸⁹ Benjamin Smith, *The Self-Employed in Cuba: A Street Level View*, Cuba in Transition-ASCE (1999); Jerry Haar, *Condiciones de Trabajo y el Derecho Laboral en Cuba*, Movimiento Sindical Independiente de Cuba, Revista LUX, (Sept. 2003)

⁹⁰ Currently, U.S. laws and regulations prohibit "U.S. persons" (entities organized under U.S. law; employees, regardless of nationality, of U.S. companies; individual U.S. citizens or permanent residents; persons physically present in the U.S., and entities "owned or controlled" directly or indirectly by a "U.S. person") from dealings in Cuban property, or investing in Cuba (including activities in support of licensed trade), with the exception of the limited relaxation of certain restrictions permitting licensed agricultural, medical or telecommunications trade, and trade concerning certain "informational" materials as noted in Section 2, above.

⁹¹ Ministry of Foreign Investment and Economic Cooperation (“MINVEC”), Foreign Investment in Cuba, <http://74.125.93.132/search?q=cache:DPwq0vuiIBsJ:emba.cubaminrex.cu/Portals/113/foreign%2520investment%2520in%2520Cuba,%2520an%2520overview.doc+%22foreign+direct+investment+in+cuba%22&cd=6&hl=en&ct=clnk&gl=us>

⁹² Law No. 77, article 10

⁹³ *Id.*

Three Forms of Foreign Investment

*Foreign investment in Cuba may take the form of a joint venture, international economic-association contract or wholly foreign-owned company.*⁹⁴

- ***A joint venture*** is a legal entity that includes one or more Cuban parties and one or more foreign investors, and has a legal status distinct from that of any one of the parties to it. This investment form can set up its own domestic or international offices, representations, branch offices or affiliates.⁹⁵ In a joint venture, a foreign investor's ownership stake is capped at a maximum of 49% whereas the Cuban party is required to retain at least a 51% ownership stake. Currently, most of the joint ventures in Cuba are located in Varadero (a dedicated tourist area) and are focused on hotels and other tourist establishments.
- ***An international economic-association contract*** is not an independent legal entity separate from each of the contracting parties. Generally, an international economic-association contract is set up to accomplish the objective of carrying out an activity permitted by law. The contracting parties are free to stipulate terms and conditions as long as they are in compliance with the authorized objective and relevant legislation. Each contracting party needs to make separate contributions⁹⁶, although capital stock is not required. In addition, the contract shall include the proportion of tax payments and profit distribution plan.⁹⁷
- ***A wholly foreign-owned company*** is a company formed exclusively with foreign capital. The foreign investor, a foreign individual or a foreign corporation, operates the company, enjoys certain legal rights and is liable for all legal obligations described in the authorization.⁹⁸

Negotiation and Authorization of Foreign Investment

The Cuban government plays a substantial role in overseeing the foreign investment process. ***Generally, negotiation is the first step in setting up a form of foreign investment.***

- ***Joint Ventures:*** the initial contract is generally negotiated between a Cuban party and a foreign partner.⁹⁹
- ***International Economic-Association Contracts:*** Law No. 77 requires a foreign investor to negotiate with a Cuban investor every aspect of the

⁹⁴ *Id.*, article 11

⁹⁵ *Id.*, article 13

⁹⁶ *Id.*, article 19: "For the purposes of this Act, contributions are defined as the following: a) Freely convertible currency; b) Machinery, equipment or other physical or tangible goods; c) Intellectual property rights and other rights over intangible goods; d) Property rights over personal items and real estate, and other rights over these, including usufruct and surface rights; and e) Other goods and rights."

⁹⁷ *Id.*, article 14

⁹⁸ *Id.*, article 15

⁹⁹ Evenson, Debra, "*Law and Society in Contemporary Cuba*", 253 (2d ed. 2003)

investment proposal, including the economic feasibility, the respective payments, the form of the management and administration, and the legal documents needed for its formalization.¹⁰⁰

- ***Creation of a wholly foreign-owned company:*** a foreign investor must analyze its business plan and negotiate its terms with the competent Cuban entity indicated by the Ministry of Foreign Investment and Economic Cooperation (“MINVEC”).¹⁰¹

After negotiation, an investment request should be presented to MINVEC for its initial determination about whether the proposal should be submitted to the Executive Committee of the Council of Ministers for approval.¹⁰²

- ***Joint Ventures and International Economic-Association Contracts:*** the written request should be presented jointly by the foreign investor and the Cuban investor.¹⁰³
- ***Wholly Foreign-Owned companies:*** the written request should be presented jointly by the foreign investor and the corresponding Cuban entity.¹⁰⁴
- Further, the investment requested should be presented with the formalities prescribed by the statute.¹⁰⁵
- After MINVEC accepts the investment request, it presents the request for consultation to all corresponding governmental agencies and institutions to obtain their report on matters for which they are responsible.¹⁰⁶

Then MINVEC shall submit all relevant documentation and its evaluation to the Executive Committee of the Council of Ministers or Government Commission.¹⁰⁷

Finally, the Executive Committee of the Council of Ministers or Government Commission determines whether to approve the foreign investment.¹⁰⁸

- The decision approving or denying the foreign investment shall be made within a period of 60 days from the date on which the request is submitted.¹⁰⁹

The Executive Committee of the Council of Ministers has the exclusive authority to authorize the foreign investment in the following circumstances:

¹⁰⁰ Law No. 77, article 20

¹⁰¹ *Id.*

¹⁰² *Id.*, articles 22-23

¹⁰³ *Id.*, article 23

¹⁰⁴ *Id.*, article 22

¹⁰⁵ *Id.*, articles 22-23

¹⁰⁶ *Id.*, article 23

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

- total investment in excess of then 10 million U.S. dollars;
- wholly foreign-owned companies;
- investment by a foreign state;
- investment in public services such as transportation, communications, aqueducts, electricity, or for the construction or exploitation of public work;
- investment in the exploitation of a natural resource, investment in connection to the transference of state property or real estate, and
- investment in the armed forces' commercial system.¹¹⁰

The Government Commission has authority to authorize foreign investments not determined by the Executive Committee of the Council of Ministers.¹¹¹ The authorization specifies:

- the conditions upon which investment is granted; and
- the objectives and time of the period of the form of the foreign investment.¹¹²

Upon the request by the parties, MINVEC can clarify the conditions of the authorization.¹¹³

Security and Guarantees for Investors

*Law No. 77 expressly states that the foreign investment in Cuba enjoys full protection and provides for guarantees against the expropriation of foreign investment except "for reasons of public good or in the interest of society."*¹¹⁴ In case of expropriation, the investor shall be compensated in freely convertible currency in an amount equal to the commercial value established by mutual agreement. If there is no agreement on the amount of the compensation, the value of the foreign investment to be expropriated shall be determined by an organization with internationally recognized prestige in the assessment of the business assets, which is authorized by the Ministry of Finance and Prices and agreed upon by all parties and the MINVEC.¹¹⁵

*The period of time authorized for the operation of each joint venture, international economic-association contract, or wholly foreign-owned company can be extended by the same authority that authorized the entities, as long as it is requested by the interested parties before the end of the period. However, if the period is not extended, the foreign investment business shall be liquidated and the foreign investor shall be paid in freely convertible currency.*¹¹⁶ The foreign investor in an international

¹¹⁰ *Id.*, article 21

¹¹¹ *Id.*

¹¹² *Id.*, article 24

¹¹³ *Id.*, article 25

¹¹⁴ *Id.*, article 3

¹¹⁵ *Id.*

¹¹⁶ *Id.*, article 4

economic-association contract may, subject to the consent of all parties and government authorization, transfer or sell its share or portion of its share of the enterprise to the state or a third party. Similarly, the foreign investor in a wholly foreign-owned company may, subject to government authorization, at any time transfer or sell its share or portion of its share of the enterprise to the state or a third party.¹¹⁷ *The corresponding price to be paid to the foreign investor in the cases of liquidation, transfer or sale of its share shall be established by mutual agreement or determined by a recognized international organization as in the case of expropriation.*¹¹⁸

The foreign investor in Cuba has the right to transfer abroad in freely convertible currency, free of taxes or any fee related to such transfer, the net profits or dividends obtained from the investment and compensation paid as a result of expropriation, liquidation, and transfer or sale of its share. Foreign citizens who are working in a foreign investment enterprise and are not permanent Cuban residents have the right to transfer abroad the income they have received.¹¹⁹

¹¹⁷ *Id.*, article 6

¹¹⁸ *Id.*, article 7

¹¹⁹ *Id.*, article 8

6. TAX

Tax categories and tax rates

Entities subject to taxation:

- *Generally, joint ventures, foreign investors and Cuban investors who are parties to international economic-association contracts are required to pay income tax, employment and social security taxes, customs duties and other payments, land transportation tax and documents tax if they are not in the FITZ discussed above.*¹²⁰

Tax rates:

Income taxes

- Generally set at a rate of 30% of net taxable income.
- *Net Income Reinvested in Cuba:* in circumstances deemed to be in the national interest, the Executive Committee of *the Council of Ministers* may exempt all or part of the tax on such net income.
- *Net income Earned From the Exploitation of Renewable or Nonrenewable Natural Resources:* the income tax rate can be as high as 50% of net taxable income.
- There are no taxes on personal income derived from the business's profits by foreign investors.¹²¹

Employment and Social Security Taxes

- set at a rate of 11% of net taxable income and the social security taxes are at a rate of 14% of net taxable income. Both tax rates are applied on the total wages and other income from any source received by taxpayers.¹²²

Finally, wholly foreign-owned companies are required to pay taxes in accordance with the current Cuban tax legislation.¹²³

¹²⁰ *Id.*, article 38

¹²¹ *Id.*, article 39

¹²² *Id.*

¹²³ *Id.*, article 40

7. REAL ESTATE INVESTMENTS

Acquiring Ownership and Other Property Rights

Law No. 77 allows foreign investment in real estate and foreign investors may acquire ownership and other property rights over the real estate.¹²⁴ The investments in real estate are limited to: 1) housing and other structures dedicated to private residence or tourism activities of persons who are not permanent residents in Cuba; 2) housing of offices of foreign companies, and 3) real estate development for use in tourism.¹²⁵ The above real estate purchase or transfer is governed by the terms and conditions set forth by the foreign investment authorization and current legislation.¹²⁶

Repatriation of assets to those who left Cuba and/or whose assets were nationalized by the Castro Government will be a daunting challenge in Cuba, especially if the U.S. embargo is lifted. In this situation, the Cuban Government will have to either (i) deny the claims of those who demand the repatriation of assets; (ii) bring a resolution to pay the owner; or (iii) arrange an agreement between current occupants and the owner.

8. THE LEGAL SYSTEM

The Cuban government is divided into legislative, judicial and executive branches.

Judiciary: there are three levels of courts in Cuba: the People's Supreme Court, the People's Provincial Courts and the People's Municipal Courts.¹²⁷

- *The People's Supreme Court:* The highest judicial branch of government, consisting of a President, a Vice-President, and *professional* and *lay* judges. All judges of the Supreme Court are elected by, and accountable to, the National Assembly which is the highest legislative branch.¹²⁸
- *People's Provincial Courts and the People's Municipal Courts:* All provincial and municipal judges are elected by the relevant provincial and municipal Assembly.¹²⁹
- *Civil Law Country:* Cuba is a civil law country whose written codes, rather than common law case precedents, are the source of law.¹³⁰

¹²⁴ *Id.*, article 16

¹²⁵ *Id.*

¹²⁶ Law No. 77, article 17

¹²⁷ Matias F. Travieso-Diaz, "The Laws and Legal System of a Free-Market Cuba: A Prospectus for Business", at p. 53 (1997)

¹²⁸ About Cuba, http://www.voyagehone.com/edutourstocuba/cuba/cuba_legal.html; Government, Legal System and Economy, <http://www.cubacuban.com/info/economygovt.shtml>

¹²⁹ *Id.*

¹³⁰ Ray Michalowski, World Factbook of Criminal Justice Systems: Cuba, <http://www.ojp.usdoj.gov/bjs/pub/ascii/wfbcjcb.txt>

- *Litigation*: There are no jury trials in Cuba and many trials are open to the public.¹³¹

- *Professional Judges*

Professional judges are elected for unlimited terms, and may serve until they are no longer physically able, removed by the electoral body that elected them, or voluntarily retire. To become a professional judge, a candidate must meet age and citizenship requirements, demonstrate good moral character and have the requisite years of experience as a practicing lawyer. Communist party membership is not a prerequisite to becoming a judge.¹³²

- *Lay Judges*

Lay judges in Cuba serve in all levels of, and try almost all of the cases in, the judicial system. Lay judges are elected by the corresponding legislative body but only for a term of five years. Individuals who serve as lay judges may also be employed simultaneously in other fields. A lay judge, however, may only serve a maximum of 30 days a year.¹³³

- *Bufetes Colectivos*

In Cuba, all legal services are provided through collective law offices called Bufetes Colectivos. In order to practice law, a lawyer has to join one of the Bufetes Colectivos. The national Organization of Bufetes Colectivos (ONBC) is responsible for overseeing the network of collective law offices.¹³⁴

- *New Independent Law Offices*

Cuban law does not permit independent or private legal practices. In order to attract more foreign investment, however, since the early 1990s Cuba has permitted the establishment of new law offices in Cuba that provide legal assistance to foreign investors. Permitted services include obtaining approval of foreign investment deals, counseling about compliance with Cuban business laws, resolving contract disputes, providing intellectual property protection, addressing immigration issues for foreign workers, as well as rendering legal assistance to foreigners in criminal, matrimony or divorce cases. Most of these law offices are located in Havana. Additionally, foreign law firms may establish branch offices only in the Duty Free Zones in Cuba, but even within them, their attorneys may not appear in court or before tribunals or administrative

¹³¹ Cuba-Judicial system, <http://www.nationsencyclopedia.com/americas/cuba-judicial-system.html>

¹³² Legal Profession in Cuba, [http://en.wikipedia.org/wiki/legal_profession_\(cuba\)](http://en.wikipedia.org/wiki/legal_profession_(cuba)); Evenson, Debra, “*Law and Society in Contemporary Cuba*”, at p. 59 (2d ed. 2003).

¹³³ *Id.*; *Id.* at 60-61

¹³⁴ *Id.*; *Id.* at 71-73

bodies. Finally, outside the Duty Free Zones, only Cuban lawyers may render professional services to foreign investors.¹³⁵

CONCLUSION

This report is based upon public records, research and source materials and personal observations (from an on-the-ground perspective).

¹³⁵ *Id.*; *Id.* at 86