New regulations severely restrict US travel and trade

The US government has published detailed amendments to its Cuba sanctions policy, tightening commercial relations, travel and trade with Cuba.

The regulations issued on November 8 by the US Departments of State, Treasury and Commerce, implement measures outlined by President Trump on June 16 this year in Miami (see Cuba Briefing June 19, 2017). They also follow from his Presidential Security Memorandum on ‘Strengthening the Policy of the United States Toward Cuba’ which reversed the direction of US relations with Havana.

In outline, the new regulations:

- Ban persons subject to US jurisdiction from engaging in direct financial transactions with entities and sub-entities identified on a ‘Cuba Restricted List’;

  - List a wide range of entities under the control of, or acting for or on behalf of, the Cuban military, intelligence, or security services or personnel;
  - include the Mariel special development zone and its container terminal and over 80 hotels, travel agencies, shops, facilities and products;
  - accept that US commercial activity in place prior to the listing of any entity or sub-entity will continue to be authorised, as will most previously arranged travel;
  - establish through the Bureau of Industry and Security (BIS) of the Department of Commerce a general policy of denial of applications for licenses to export or re-export items for use by entities and sub-entities on the Cuba Restricted List;
  - observe that BIS is simplifying and expanding its license exception that authorizes certain license-free exports to the Cuban private sector;
  - amend OFAC’s definition of the term ‘prohibited officials of the government of Cuba’ to include additional names; and
  - notes the restricted list will periodically be updated in the Federal Register and that some exemptions apply the new rules.

The new regulations change substantially US travel restrictions by ending individual people-to-people travel, and are intended, the US government says, to ‘improve’ the statutory ban on US tourism to Cuba. Specifically, they require:
• All people-to-people non-academic educational travel be conducted under the auspices of an organisation subject to the US jurisdiction that specifically sponsors such exchanges to promote people-to-people contact;
• All such travellers be accompanied by a person subject to US jurisdiction who represents the sponsoring organisation;
• US citizens engaging in authorized educational travel to do so under the auspices of an organisation that is subject to US jurisdiction and are required to be accompanied by a person subject to US jurisdiction from the sponsoring organization, unless the traveller is the authorised representative;
• Each traveller to engage in a full-time schedule of activities that result in meaningful interaction with individuals in Cuba; and
• Such activities to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people’s independence from the Cuban authorities.

The new rules also make clear that the use of casas particulares, paladares, and purchases from cuentapropistas are considered authorised activities. However, US travellers will be expected to ‘engage in additional authorised support for (such) Cuban people activities’.

Among the eight pages of blacklisted enterprises are several Cuban rum companies, but not Havana Club. The listings also include the new Manzana de Gomez luxury shopping mall in Havana, many hotels in Havana and around Cuba, the tourism agencies Crucero del Sol and Gaviota Tours, a number of marinas and shops, and various manufacturers, for example of soft drinks.

The effect of the new regulations is seemingly designed to create enormous uncertainty and confusion for US citizens with regards to what is and is not allowed, about where to visit, what to say to whom, and where to eat, drink and sleep. This is because the listings of hotels and products, and the instructions on people to people contact appear idiosyncratic, and in some cases almost impossible to interpret responsibly. The only ‘safe’ mode of travel in future that is not subject to OFAC scrutiny will be by US cruise ships with onshore visits guided by and accounted for to OFAC by US citizens.

Although not stated, the most likely outcome of the new rules will be to end any hope by US companies for new business, unless they can prove they already have contractual arrangements in place. This includes companies such as Caterpillar and John Deere. The new regulations will likely exacerbate the already declining interest from US companies in doing business with Cuba, as demonstrated during the 2017 Havana International Fair (FIHAV), which saw the participation of just 13 US companies.

While it remains to be seen how closely the US Departments of State, Treasury and Commerce will enforce the regulations on US visitors and companies, the announcement of the regulations mark a significant roll-back from the normalization process initiated by President Obama, leaving Cuba-US relations at their lowest ebb since the George W Bush administration.

The original documents containing detailed guidance can be found at:

• https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_fact_sheet_11082017.pdf
• https://www.state.gov/e/eb/tfs/spi/cuba/cubarestrictedlist/275331.htm

**Cuba says new measures a serious setback**

Cuba has said that the new measures announced on November 8 by the US State, Treasury and Commerce Departments confirm “the serious setback” in bilateral relations between Cuba and the US.
Speaking to the media following the publication of the detailed regulations implementing the Trump Administration’s Cuba policy, Josefina Vidal, the Director General of the US Division of the Cuban Foreign Ministry, said that the measures tightened the embargo and regulations prohibiting US citizens travel to Cuba.

Mrs Vidal described the list of 179 state entities and sub-entities, with which direct financial transactions by US companies and individuals are prohibited as “arbitrary”. She confirmed that Cuba expected the new regulations to harm the Cuban economy.

The objective of Washington’s new regulations, Mrs Vidal said, is to hurt tourism and the island’s economy and its state and non-state actors, while affecting US citizens, the only people in the world, she observed, not allowed to freely travel to Cuba.

She also noted that the measures will mean that US business will lose out to its competitors on attractive opportunities in Cuba, before going on to suggest that other actions were “unashamedly subversive”. Among the new requirements for ‘people-to-people’ visits she observed are ‘meaningful interaction with individuals in Cuba’, support for civil society in Cuba, and the promotion of ‘the Cuban people’s independence from the Cuban authorities’.

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**Cuba**

- **Cuba headed for record tourist year.** The Cuban Ministry of Tourism (MINTUR) has reported that despite hurricane disruptions, it surpassed 1m visitor arrivals by early November, and is consequently predicting more than 4.7m arrivals by the year’s end. It also noted that following intense post hurricane repair activity, tourist facilities in Cayo Santa Maria, Cayo Coco and Cayo Guillermo, located in Cuba’s central-north region, reopened operations on November 1. Canada continues to be the leading tourist market, accounting for 34% of total arrivals.

- **No ‘opposition’ figures among municipal election candidates.** Cuban opposition figures have told Reuters that they failed to obtain any nominations as candidates for forthcoming municipal elections. Several hundred dissidents reportedly sought nominations, some though organised groups such as Otro18. None however made it to the list of 27,221 candidates whose names will go forward for voters to choose between. The municipal elections are the only part of Cuba’s electoral system in which voters have direct participation. Those elected subsequently participate in internal polls and processes. These will end with a new national assembly in February which will in turn vote for an individual to replace President Castro, who has said he will step down in April 2018 as head of government.

- **Granma’s director replaced.** Pelayo Terry Cuervo, the Director of Granma, the official voice of the Cuban Communist Party, has been relieved of his post. Although still describing him as a compañero, a front-page announcement in Granma said: ‘due to errors committed in the fulfilment of his responsibilities’, the Party Directorate had decided to dismiss him. The current Deputy Director, Oscar Sánchez Serra, is to act as Director until a replacement is appointed. Speaking recently at a Workshop on Models of Management of the Cuban Media, Cuba’s First Vice President, Miguel Diaz-Canel, reportedly urged the Cuban media to improve their performance. Other speakers had said that it was no time for error or experimentation in the development of a new communications policy (Cuba Briefing November 6, 2017).

- **Support for agricultural response to drought.** The UN World Food Programme (WFP) is to undertake an initiative in Cuba to improve food security in the light of the recent drought particularly in eastern Cuba. The
WFP said that it will put in place on an experimental basis a scheme that enable farmers to identify vulnerabilities to drought and then obtain information on what should be done to mitigate its impact. Other parts of the programme involve improved surveillance and involve meteorological and hydrological experts monitoring and recording drought events.

- **Botanical gardens planned for all provinces.** Cuba is to establish botanical gardens in all its provinces to contribute both to the conservation of its flora and to provide leisure centres for citizens and visitors. Currently, only four of Cuba’s 16 provinces do not have such gardens. Nora Hernandez, the head of Cuba’s Botanical Gardens National Network, told the Cuban news agency ACN that conservation through such gardens was vital as 50% of the country’s flora is under threat.

- **Cuba joins UNESCO executive board.** Cuba has been elected to the Paris based UNESCO Executive Board for the period 2017-2021. Cuba is one of the six Latin American and Caribbean board members. The others are Venezuela, St Vincent, St Lucia, Jamaica, and Grenada.

- **Unprecedented shark attack off north coast.** The Cuban media have reported an unprecedented shark attack off the eastern beach resort of Guardalavaca, in Holguin. The reports said that it resulted in the death of a 22-year-old man who had been about three meters from the shore.

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**United States**

- **Cruise companies major beneficiaries of US travel to Cuba.** The US-Cuba Economic and Trade Council has estimated that scheduled sailings to Cuba by three major US cruise companies between 2017 and 2019 will result in around US$623m in total revenue if the ships are operating at maximum capacity. The Council said that of this around US$64m will remain in Cuba in tourist related expenses for land transportation, excursions, restaurants, and the purchase of products to take home such as cigars. The analysis which was based on 286 calls to Cuba by Norwegian, Carnival and Royal Caribbean related to a maximum 0.46m passengers traveling sailings to Cuba. It said that in addition it estimated that the Cuban government would receive US$19m in port taxes.

- **Participation by US at FIHAV17 significantly diminished.** Reports in the international media say that just 13 US companies took stands at FIHAV 2017, suggesting that US interest in doing business with Cuba is diminishing. Reuters quoted Jay Brickman the Vice President of Crowley Maritime as saying “I’ve never seen it this deserted. People have really gotten discouraged, and feel they maybe should be investing their time someplace else.” The reports said that US companies were finding it too difficult doing business in Cuba because of the Trump administration’s new regulations and the difficulties associated with the slow and bureaucratic Cuban decision making process. In contrast, China had its largest ever delegation at the fair and Spain took five pavilions.

- **Deere hoping to export tractors.** Deere, the Ohio based tractor company, has said that it expects to start shipping tractors to
Cuba later this month subject to testing by the Cuban Agricultural Ministry to ensure that the equipment meet local needs and conditions. According to a company spokesman, if successful Deere expect to ship over the next four years tractors from its mainly smaller 5,000 and 7,000 series tractors, and associated implements. The machinery sent to Cuba will be mainly used in the dairy, row-crop and fruit and vegetable sectors. It follows an announcement that a Puerto Rico based Caterpillar dealer will open a distribution centre at Mariel and a Chinese company YTO will establish a tractor assembly plant there (Cuba Briefing November 6, 2017)

Europe

- **EU Ambassador sees bilateral relations having new momentum.** The European Union’s Ambassador to Cuba, Alberto Navarro, has said that the Political Dialogue and Cooperation Agreement between the EU and Cuba, which came into force on November 1, will enable the relationship to become ‘more serious and mature’.

  In an interview with Granma, Mr Navarro said that he expected that bilateral ties would now take on a new momentum. He said that a political dialogue will be held at least every two years, and that an EU-Cuba Council, will be co-chaired by the Cuba’s Foreign Minister, Bruno Rodriguez, and the European High Representative, Federica Mogherini, with the 28 EU member states participating as observers. He said that the topics to be discussed would include multilateralism, international law, climate change, conflict prevention according to Granma. Human rights will also be an important agenda item.

  The EU Ambassador said that the agreement would give continuity in its cooperation programmes with Cuba on which the EU had spent €120m between 2008 and 2017. Programmes presently underway, he said, related to food security, renewable energy, sustainable agriculture, technical training, and disaster preparation and response.

  The framework agreement also formalises political dialogue and strengthens cooperation in trade, development and culture. Although the document must be ratified by EU governments it is being provisionally implemented. The negotiations for the agreement which was signed in December 2016 began in April 2014. With its signing the EU Common Position which introduced political conditionalities into the relationship and effectively froze progress, came to an end.

  Granma also quoted Ambassador Navarro as saying that the EU’s 28-member states had repeatedly condemned the US embargo, because ‘it is a violation of the fundamental human rights of the Caribbean people’ and ‘is an illegal and immoral policy, contrary to international law’. “More is achieved through dialogue than with isolation (...) The European Union believes in building bridges, not in building walls,” Mr Navarro observed.


- **France discusses co-operation on environmental matters.** Cuba’s Minister of Science, Technology and Environment, Elba Rosa Perez, has met in Paris with the French Minister of State for Ecological and Inclusive Transition, Brune Poirson, to discuss cooperation on Cuba’s 'Tarea Vida' state plan to address climate change, and environmental and climate change related research projects,

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Russia

- **Chair of Defence Committee calls for restoration of bases in Cuba.** In an interview with the Russian government linked multi-media platform Sputnik, Viktor Bondarev, the Chairman of the Russian upper house's Defence and Security Committee, has said that Russia should consider the restoration of a military presence in Cuba to protect the "interests of international security" against "intensified US aggression."
Speaking about relations between Moscow, and what he described as its “historical partners” Hanoi and Havana in relation to the international landscape, he said: “I believe under the condition of increased tension in the world and frank intervention in the internal affairs of other countries — Russia's historical partners — our return to Latin America he noted that Russia's presence in Cuba before 2002 helped deter the US from encroaching into territories, which Moscow considers within its sphere of interests.

Other Russian reports says that Mr Bondarev comments came shortly after the first deputy chairman of the same parliamentary committee, Frants Klintsevich, had urged the reopening of Russian bases in Cuba. Russia’s military and presence in Cuba ended in 2002 when its electronic monitoring and intelligence gathering facility in Cuba at Lourdes, was closed. Russia however regularly uses naval and air facilities in Cuba for transatlantic operations, activities off the US east coast, and into the Caribbean basin and South Atlantic.

In 2016 two Russian parliamentarians in the Duma (lower house), Valeri Rashkin and Sergei Obujov, wrote to the Russian President Vladimir Putin, the Russian Foreign Minister Sergei Lavrov and Defence Minister Sergei Shoigu calling on them to consider the restoration of bases in Cuba and Vietnam.

- **Record number of visitor arrivals.** Cuba has so far received a record number of Russian tourists this year. According to TASS the Russian news agency some 80,000 Russians visited Cuba up to October 24, with numbers expected to reach 0.1m by the year’s end. The reports said that following the introduction of direct flights between St Petersburg and Varadero and high season charters which begin in November the number of Russian visitors to Cuba is expected to increase to 0.1m by the years end.

- **Workhorse Antanov-2 being assembled in Cuba.** A report on Cuban television has said that Cuba is now assembling completed Russian built AN-2 aircraft, a durable single-engine mass-produced multiple use bi-plane mainly used for crop spraying, vector control, fumigation, and cargo lifting to remote locations. Cuba’s, Chief inspector of its National Air Services Company, Ariel Ortega, said that the new versions of the aircraft are superior to previous models and undergo rigorous testing in Russia before being shipped in containers. They also undergo further testing in Cuba and certification before being put into service. In the past some older Russian built aircraft operating in Cuba had a poor safety record. The reports suggested that the new equipment would also be used to serve the tourism sector.

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**The Americas**

- **New CARICOM-Cuba trade agreement to spur inter regional trade.** A new trade agreement signed between CARICOM and Cuba is expected to significantly expand the opportunities for inter-regional trade with Cuba.

The agreement, which was signed during a recent meeting of CARICOM’s Council for Trade and Economic Development (COTED) held in Georgetown Guyana, will see duty free access expanded to cover more than 320 items, including CARICOM exports of meat, fish, dairy products, fruits, vegetables, beer, rum, cement, soap and apparel. In return CARICOM will grant duty free access to 50 Cuban products including fish, pharmaceutical products, fertilisers and articles made of iron and steel, and electrical machinery and equipment and spare parts. CARICOM will also offer differentiated treatment on 22 items through the phased reduction of duty on Cuban imports by the more developed countries in CARICOM (the Bahamas, Suriname, Trinidad, Jamaica and Barbados).

Speaking following the signing of the agreement, CARICOM’s secretary-general, Irwin LaRocque, said that signing what is the second Cuba -CARICOM trade said that it marked a deepening of the trade and economic relations and provided further opportunities for the region’s private sector.

The new accord is the second trade agreement to be signed between Cuba and CARICOM. The first was signed in 2000. Cuban reports suggested that the new agreement also offers opportunities for investments in manufacturing for the CARICOM market.