

Trading With Cuba in a New Era
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Mr. Chairman and Members of the Commission, thank you for the opportunity to discuss the effects of US restrictions on Cuban imports. I will focus on services, having background in that field. And since imports require exports, I will include these in my commentary.

The Cuba-US relationship is being shaken by seismic change. The President's decisions announced in December ignited a firestorm. While there is no question that the Castro regime has denied the essential rights of man to its people, making a fresh start is imperative.

I "met" Fidel Castro during the WTO's second Ministerial Conference in Geneva in 1998, at a plenary session that President Clinton also addressed. The difference in the delegates' reception of each was stark: Castro was given a standing ovation by a large number of them, Clinton got polite applause with scattered catcalls.

The Cubans have benefited for decades from a narrative that cast them as the oppressed facing off against a global behemoth. That narrative has been snuffed by the Administration's statements and its recent actions: Cuba is now in a posture of defense of its continued restrictions on expression, assembly and mobility (as we see in our effort to establish full diplomatic representation).

The US is now in command of this relationship and must use its new leverage to secure change, on many fronts.

Some argue that any opening to Cuba, even tourism, strengthens the regime. [A Senator argued recently that anyone who stays in a Cuban hotel is helping the government, as hotels are state-owned.]

In 1975 I wrote testimony for then Treasury Secretary Simon, justifying the US waiver of Jackson-Vanik restrictions on US trade with Romania, then a Soviet satrap. It would be hard to argue that that action extended the life of the Ceausescu regime by a day.

Cuba was one of the original 23 signers of the 1947 General Agreement on Tariffs and Trade (GATT). As a GATT member, it also became a member of the World Trade Organization (WTO) and related instruments like the General Agreement on Trade in Services (GATS) when the “final act” of the Uruguay Round was adopted in Marrakech in 1995.

The GATS was of course one of the great achievements of the Uruguay Round, for the first time applying the rule of law, agreed by all WTO members, to the single largest element of global trade: services.

It is striking that, unlike many other countries at the same level of growth, Cuba took a large number of obligations to *open* its trade. Cuba has for example committed to a legal undertaking that foreigners can own up to 49% of a Cuban investment.

Most WTO members with a similarly weak level of development, such as the Central American Republics, took very few commitments in the Uruguay Round, sometimes as low as 5% of all possible GATS commitments.

Though Cuba has made rather extensive services commitments there is no independent analysis of the extent to which it may have implemented them. Periodic Trade Policy Reviews are an essential element of WTO members' obligations as a member of the organization. These are regularly conducted to determine a member's adherence to its commitments and to WTO rules -- *that is, for all WTO members except Cuba. Cuba is the only WTO member to have successfully resisted its obligations to participate in a TPR, even though it is regularly pressed to do so.*

The US should insist as an element of its opening to Cuba that Cuba take part in regular Trade Policy Reviews as all other WTO members do. The US should also make clear that Cuba conduct itself as a better citizen of the organization. Cuba has spoken up in the WTO, often in alliance with other obstructionists like Venezuela, Bolivia and Nicaragua. They almost blocked the Trade Facilitation Agreement reached at the WTO Ministerial in Bali last year, demanding language condemning the US embargo. In a consensus-based organization the objections of just a few can have effect well beyond their real influence.

A Service Economy with Little to Sell Abroad

By force majeure the Cuban economy is seventy-five percent a service economy. Most service economies go through a long evolution first dominated, as in the US, by agriculture, then manufacturing, then services.

Cuban socialist economics and the embargo have forced Cuba down a wholly different path, with an economy not surprisingly dominated by government services (health, education, etc.), by commodities (nickel, cobalt and sugar), and other non-

tradable services, for a GDP of \$63 billion or about \$6,000 per capita. [For contrast, the per capita income of Mississippi, the “poorest” of US States, is about \$20,000.]

According to Hufbauer and Kotschwar, there is “no recorded services trade between the United States and Cuba.” They cite estimates that US services exporters are missing out on potential sales of \$1.6 billion to Cuba and Cubans are missing out on possibly \$0.9 billion sales to the US.¹

It is often noted that Cubans are the most literate population in Latin America. Some 90% of Cuban secondary school age children is enrolled in school. This has led to underemployment in Cuba and also to a very big surplus of medical doctors.

So Cuba has become a major world trader in health services, providing about 40,000 doctors in a number of countries. [In GATS parlance this is mode 2 of the supply of services, or “consumption abroad”.] It is a mainstay of the Cuban economy, because these medical services are paid for by remittances (from the Governments of Venezuela and Brazil for example) to the Cuban Government.

Medical services probably provide little room for added export income, but the inflow of visitors to Cuba, just plain tourism, certainly can grow hugely. The US should make it much easier for Americans to visit Cuba, and these visits should be unrestricted. The idea of “purposeful visits” is a thin veneer of probity to placate the few who oppose the needed changes in US-Cuba relations--you can’t go to Cuba to have fun, you can only go to get educated.

Oilfield Services are an exceptionally promising source of employment, training and income for Cubans. Cuba is proceeding to develop its resources, but there is a serious conundrum posed by the US embargo. Cubans, and the oilfield services companies, wish to apply the highest environmental standards to these activities: standards now maintained by the US. These highest standard service providers cannot however be used in these Cuban drilling operations because of the embargo. This is a sector where the President should very soon modify US practice. The payoffs from this action could have a greater impact on Cuban prosperity than most changes in most other sectors.

The embargo enforces an inequity in safe offshore drilling practices. Parity in the quality of drilling safety will greatly benefit the US economy and environmental protection, particularly in Florida and the East Coast.

Business process services are now a dominant element of global services trade. Cuba committed in its GATS schedules to having no restrictions [except for

¹ Hufbauer, Gary Clyde; Kotschwar, Barbara (2014-05-05). Economic Normalization with Cuba: A Roadmap for US Policymakers (Policy Analyses in International Economics) (Kindle Locations 2136-2145). Institute for International Economics, U.S.. Kindle Edition.

movement of natural persons] on services like software implementation, systems analysis, and programming and maintenance services, among others. Under normalized conditions, US firms have the right to source these services in Cuba. Were Congress to lift the embargo, these obligations would have full force and effect. Cuba's ethnic relationships with the US mainland could lead to a massive use of its business process services, when they become globally competitive.

Telecommunications and computer and related services are the backbone of the new global economy, yet the vast majority of Cubans remain unplugged and Internet illiterate. The US Administration has amply expressed a desire to change this state of affairs but US telecom and Internet companies are unable to move ahead because of Cuban resistance to liberalization and all that that implies for connecting its people with the outside world. Here once again the ball seems to be in Cuba's control.

Investment.

Foreign investment stimulates exports. Investment agreements, like Bilateral Investment Treaties (BITs) provide a large measure of assurance to foreign investors, for example against expropriation and other risks. Cuba has signed 61 bilateral investment treaties. They have not stimulated foreign investment to any great degree, which provides a clue to foreign investors' assessment of Cuba's economic prospects under prevailing policies. In 2011, there were 245 joint ventures in Cuba. Total FDI stock in 2012 was a mere \$427 million. It is reported that new joint ventures are slow to be approved, perhaps because foreign invested firms might compete with state enterprise. However, under Cuban law, most sectors are open to foreign investment.

The US must begin to plan for an agreement with Cuba which will assure the rights of investors and others who wish to do business there.

Conclusion

Normalizing our commercial and political relationships with Cuba will be a long process requiring several stages of Congressional action. One of these is to grant Permanent Normal Trading Relationship (PNTR) status to Cuba, that is, to eliminate Jackson-Vanik. As you know obtaining PNTR for China and Russia was a very long and very difficult road. In both cases these countries underwent years (almost 2 decades in the case of Russia) of negotiation to gain access to the WTO and thus to bring themselves into compliance with most of the WTO's trade rules.

This important "pre-negotiation" is missing in this case as Cuba is already a WTO member. *Thus it is solely the task of the United States to raise Cuba's trade and investment and intellectual property and other practices affecting commerce to a global standard, sufficient to convince the Congress to remove the legal barriers that now stand in the way of normalization of our relations.*

A number of observers have cautioned about the threat of a rapid dismantling of Cuba's current system of state control and state enterprise in the kind of free for all

that resulted in massive corruption the case of Russia. What might be done to ensure a different outcome? Cuba lacks a body of law and institutions for enforcement against corruption. But there are model international corruption and criminal law treaties that could be used to prevent a “Russified” transition. Again we must seek to build the rule of law against corruption, just as we are doing to build implementation of the rule of law in trade and investment.