RESOLVING THE PAST AND INVENTING THE FUTURE:
U.S. Relations with Cuba

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On Monday, July 20, 2015, the United States and Cuba formally reestablished diplomatic ties for the first time since 1961. Onlookers cheered as Cuban Foreign Minister Bruno Rodríguez Parrilla raised his country's blue, red, and white-starred flag at the newly designated embassy in Washington, D.C.

Cuba's economy will greatly benefit from the projected increase in American travel and financial investments. Already Cuban microentrepreneurs are catering to food and hospitality needs, creating a flourishing ground-floor services market. However, before the full potential of Cuba's resources and economy can be unlocked, two major barriers stand in the way. The Helms-Burton Act still blocks any large-scale U.S. investment and construction from taking place. And Cuba needs to address claims by U.S. nationals for property seized by the Castro regime. Removing both barriers will be tricky but is accomplishable.

CURRENT RELATIONS

The opening of diplomatic channels represents a small, but significant, step on the path to full normalization of political and business relations.

On December 17, 2014, U.S. President Barack Obama and Cuban President Raúl Castro announced the beginning of a process to normalize relations between Cuba and the United States. The U.S. Department of the Treasury and U.S. Department of Commerce responded by issuing revised travel and trade regulations in January 2015. These measures eased travel restrictions; allowed United States airline services and travel agents to operate in the country; raised the limit on remittances to Cuba; permitted Internet and mobile phone companies to export equipment and establish services in Cuba; relaxed banking restrictions between the two countries; and authorized the export of building materials, equipment, and tools with the stated goal of strengthening the nascent Cuban private sector.

Obama and Castro had their first face-to-face meeting at the Summit of the Americas in Panama on April 11, 2015, marking the first such meeting between U.S. and Cuban heads of state since the two countries severed their ties in 1961. And in May 2015, the United States removed Cuba from the U.S. list of state sponsors of terrorism, setting the stage for the normalization of diplomatic relations on July 20.

ENVISIONING A FUTURE

Cuba's hospitality and food sectors have seen the most immediate benefit from the January 2015 regulations

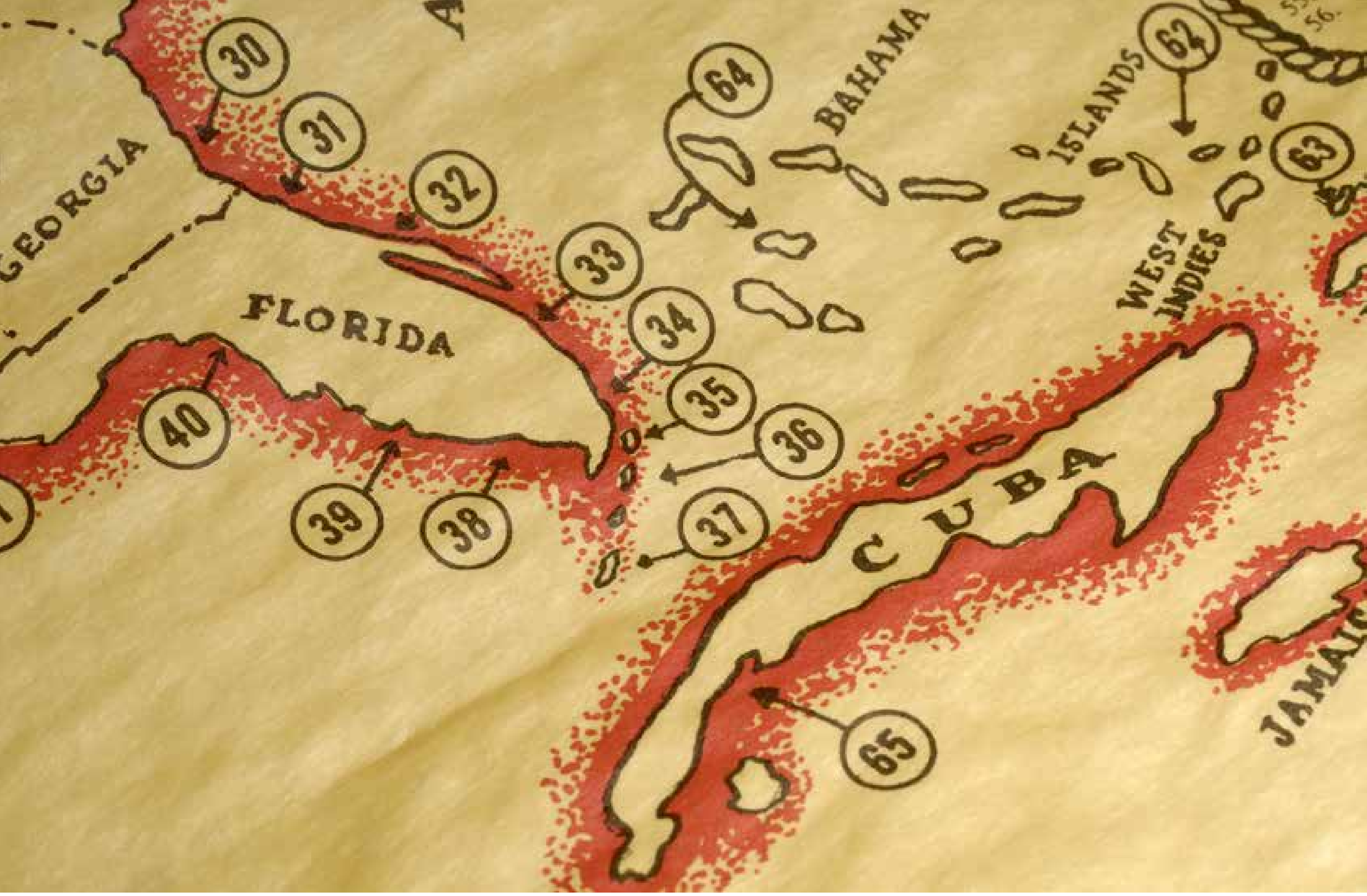
Cubans hold U.S. and Cuban flags as the U.S. flag is raised over the U.S. Embassy in Havana on August 14, 2015. Photo: Adalberto Roque/AFP/Getty Images

relaxing restrictions on travel to and trade with Cuba.

When I first traveled to Cuba in 2004, the government still ran the hotels and restaurants that catered primarily to tourists, and Cubans were precluded from renting their private rooms to tourists. Cubans themselves could not afford the government-run restaurants, hotels, and grocery stores priced for tourists. So they exchanged goods and services informally through what they referred to as the black market (*mercado negro*). For example, many enterprising locals sold *cajitas* (boxes of rice, beans, and often-unidentifiable meat) from their personal kitchens for $1 each.

Beginning in 2010, Raúl Castro implemented reforms to promote the growth of the private sector in Cuba. Those reforms, coupled with the money flowing into Cuba as a result of the normalization process, have vastly changed the private-sector economy in Cuba. A report by the Brookings Institution predicts that as many as 2 million enterprising Cubans (40 percent of total employed persons) can be counted as private-sector employees, including artists, restaurateurs, bed and breakfast operators, and farmers who own or lease their private plots.

Now, thousands of privately owned restaurants called *paladares* have opened across Cuba. These restaurants operate out of small storefronts, converted mansions, and



Vintage trade route map

rustic homes, offering a variety of food from traditional Cuban to Russian, Spanish, Vietnamese, and other ethnic cuisines—far beyond the simple *cajita*. The bed and breakfast market has also exploded, and a number of websites allow tourists to connect with available listings.

This flourishing market of local products and services is supported by remittances, bank access, and supplies that became more readily available by the January 2015 regulations. It has enabled many Cubans to take their economic well-being into their own hands. And they've done so in a way that preserves Cuba's unique spirit, focusing on hospitality and food that is served in charming buildings by welcoming hosts.

To date, the private sector expansion has been led by small-scale, locally initiated projects. Large-scale projects requiring U.S. investments are still precluded by the two major barriers.

MOVING BEYOND THE BARRIERS

The first major barrier to the full normalization of political and business relations between the two countries is the remaining U.S. trade embargo. To lift the embargo in its entirety will require legislative changes to the Cuban Democracy Act (CDA), which prohibits sales of goods to Cuba by the subsidiaries of U.S. corporations abroad; the Cuban Liberty and Democratic Solidarity Act (Helms-Burton Act), which wrote the embargo into law; and the Trade Sanctions Reform and Export Enhancement Act, which bans tourist travel. Notably, the Helms-Burton Act specifies that the embargo should remain in place until Cuba makes commitments to free elections, the legalization of multiple political parties, the release of all political prisoners, and respect for human rights, commitments that are unlikely to occur any time soon.

But there is hope that this trade barrier will fall: notwithstanding the Helms-Burton Act's requirements, U.S. public opinion favors ending the embargo. According to a February 2015 Gallup poll, 59 percent of Americans favored ending the embargo, as compared to 29 percent opposed. These sentiments are echoed by President Obama, who has called on Congress to end the embargo. And, recently, several bills have been introduced in Congress seeking to dismantle the embargo. If public pressure, particularly in an election year, favors full relations with Cuba, we could see a dismantling of the trade embargo within a matter of years, not decades.

The second major barrier is the resolution of past property claim disputes. Prior to the Cuban revolution, U.S. financial interests included 90 percent of Cuban mines, 80 percent of its public utilities, 50 percent of its railways, 40 percent of its sugar production, and 25 percent of its bank deposits. These properties were all commandeered and nationalized by Fidel Castro, following his rise to populist power. These outstanding claims present a barrier not only to the repeal of the embargo, but also to a favorable business climate for international investment. Resolution of the claims is essential to a trust between the nations, especially with respect to private investment—no sane financier wants to build a new bottling plant in a place where he or she might lose ownership of the asset.

The U.S. Department of Justice established a Foreign Claims Settlement Commission for American citizens and companies whose properties were confiscated. In the 1960s, the commission vetted and approved 5,913 claims worth $1.9 billion (roughly $8 billion in today's dollars). The purpose of the commission's certifications was to serve as a basis for future negotiation of a claims settlement with the government of Cuba. Neither the U.S. Department of Justice nor U.S. Department of State has commented on the status of negotiation with Cuba over these adjudicated claims. But with the present challenges to the U.S.-Cuba embargo, the time for negotiation is now.

Notably, the $8 billion in adjudicated claims doesn't include the claims of thousands of Cuban Americans whose private property was confiscated when they fled to the United States. Cuban exiles who became naturalized U.S. citizens are eligible for compensation for lost property under the Helms-Burton Act. The Department of State estimates there could be as many as 200,000 such claims, totaling billions of dollars. In return for settling the various claims, Cuba has asked for two major concessions of its own: repayment for damages caused by the trade embargo (estimated by Cuba's government at $117 billion) and the return of Guantánamo to Cuban sovereignty.

Both the United States and Cuba would benefit politically and economically from a full normalization of relations. But they cannot move forward without first resolving the past. While the Cuban government likely cannot afford to pay the amounts determined by the commission, perhaps the claimants could agree to more creative terms—for example, property, other assets, tax breaks, or other incentives on future investments if and when the U.S. embargo is lifted.

Moreover, with the full normalization of relations on the horizon, it is hoped that the two nations can resolve the remaining conflicts in a way that respects each other's cultural differences, and allows Cuba—despite opening borders to trade and tourism—to maintain the nostalgic charm that has defined the nation for generations.

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