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Three Largest US Cruise Lines Could Deliver 185,000+ Passengers During 100+ Sailings To Cuba In 2017/2018; More Than US\$210 Million In Gross Revenues; US\$31+ Million In Cuba Including Port Fees Of US\$6+ Million.

US Airlines Gross Revenues From Transporting Passengers To/From Florida In Conjunction With The Cruises Could Exceed US\$70 Million; Potential US\$3.6 Million To Hotels & Restaurants.

Do The CEO's Know What Others Don't Know? Or, Walking A Proverbial Plank?

US\$974 Billion & 2,000,000

Despite uncertainty about changes to Republic of Cuba policy and regulations by the Trump Administration, during the last three months each of the three largest United States-based cruise lines have increased the number of itineraries (sailings) for 2017/2018, increased the size of ships dedicated to the sailings, and increased the marketing expenditures for the sailings.

United States air carriers seeking United States-Republic of Cuba route authorizations in 2016 from the United States Department of Transportation (USDOT) sought approximately 300% of what capacity was realistic for the existing marketplace. The strategy of airlines was to create a predatory, cannibalization, survival-of-the-fittest environment with the belief that many would desire, but only a few would prevail and have resources to operate short-to-medium term less-than-breakeven schedules. Thus far in 2017, airlines have reduced schedules, reduced size of aircraft, and two air carriers have opted out of the marketplace. The expansion of cruise line schedules, which require passengers to travel to Florida, are a backstop for the airlines enabling a partial offset to a lack of profitability on some routes: those most profitable are Florida-Cuba-Florida as approximately 2 million individuals of Cuban descent reside in Florida.

With more than 100+ announced itineraries for 2017/2018, and new itineraries expected (in addition to 2017/2018 itineraries announced by smaller cruise companies), and vessels ranging from 684-passengers to 2,052-passengers, gross revenues to the three largest cruise companies may exceed **US\$210 million**. Vessel port charges in the Republic of Cuba may exceed **US\$6 million**. The **185,000+** passengers could spend approximately **US\$25 million** (approximately **US\$140.00** per person in expenditures and organized/non-organized excursions) in the Republic of Cuba, including cost(s) for tour(s), meals (both government-operated and privately-operated), ground transportation (privately-operated classic car tours), sundries and souvenirs (including spirits, coffee, tobacco, artwork and crafts).

Do they know what others don't know? Or, are they walking a proverbial plank? Are the three CEO's: Mr. Frank J. Del Rio (Norwegian Cruise Lines Holdings Ltd), Mr. Arnold W. Donald (Carnival Corporation & plc) and Mr. Richard D. Fain (Royal Caribbean Cruises Ltd) presenting a dare to the President of the United States or enticing the President's corporate salivary gland?

In 2016, the three cruise lines combined operated a fleet of approximately **144** vessels, managed approximately **14** brands, earned approximately **US\$28.8** billion in gross revenues, and employed approximately **218,000** men and women. Each company has its United States headquarters in Miami, Florida.

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Are the decisions of the CEO's based upon direct or implicit authorization (encouragement) from the Trump Administration? Or, are they using a traffic light as their guide: currently it's green and has not changed to yellow, so no reason to presume it's going to become red.

Has the Trump Administration decided to lead from behind? Will the presumed corporate-DNA inhabiting the measured souls of the Secretary of Commerce (The Honorable Wilbur Ross), the Secretary of State (The Honorable Rex Tillerson), Secretary of the Treasury (The Honorable Steven Mnuchin), Secretary of Transportation (The Honorable Elaine Chou) and Director of the National Economic Council (The Honorable Gary Cohn) prevail?

There has been discussion of a Presidential Commission to create a trifurcated strategy: **A)** What to do until 24 February 2018 (the inauguration of H.E. Miguel Diaz-Canel, First Vice President of the Republic of Cuba as President of the Republic of Cuba) **B)** What to do upon his inauguration and **C)** What should the bilateral relationship resemble by 20 January 2021.

As for the question relating to the greater good: There is a reasonable calculation that the commerce-embracing Trump Administration will not disrupt most existing Republic of Cuba-focused commercial activities by the forty-seven-plus (47+) United States companies who in 2016 had combined global gross revenues of approximately **US\$974 billion and employed approximately 2,000,000 men and women throughout the fifty states and other countries.** The government of the Republic of Cuba could improve the formidableness of the existing bilateral commercial landscape by unilaterally accepting more of what has been proposed by United States companies- that concert program has been seeking an audience for more than two years.

Since December 2001, more than one hundred-and-fifty (**150**) United States-based companies have exported a total of **US\$5.3 billion** in agricultural commodities and food products directly from the United States to the Republic of Cuba on a cash-in-advance basis as required by the Trade Sanctions Reform and Export Enhancement Act (**TSREEA**) of 2000. Approximately **US\$18** million in healthcare products have been directly exported from the United States to the Republic of Cuba under provisions of the Cuban Democracy Act (**CDA**) of 1992; healthcare product exports within provisions of the CDA are not subject to cash-in-advance requirements.

There continues to be an expectation by some in the United States business community that the Trump Administration will be reactive in its policy and regulatory implementation focused towards the Republic of Cuba. However, changes to policy and regulations could just as easily be *contemplative, emotive, impulsive, proactive and reflexive.*

The United States business community should be prepared more for a series of moments rather than for implementation of a strategy. The bilateral relationship between the United States and the Republic of Cuba has long been defined as a series of moments rather than one event. This is not a binary process.

How the Trump Administration managed the response to a recent event in **Syria** is instructive. Some in Washington DC predict a return to majority-party management orthodoxy by The White House; that's a far too simplistic perspective- the Trump Administration needs to remain disruptive and unpredictable and muscular and believing in the value of the moment because that is what fuels the personality of the current occupant of the Oval Office and the daily information cycle.

The challenge for the government of the Republic of Cuba is how to define-in-advance a statement they may make or action they may take so it will not be defined as a provocation resulting in a

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negative response from the Trump Administration. The effort is made additionally problematic due to the fluidity with which the Trump Administration may define (and refine) its vocabulary and the increasingly problematic economic and commercial conditions impacting the Republic of Cuba.

Fueling the proactive (and reactive) narratives is the (generally) uncharacteristic and relative communal whispering-near-silence by the two United States Senators from the state of Florida, The Honorable Marco Rubio (R), who is of Cuban descent, and The Honorable Bill Nelson (D); along with the three members of the United States House of Representatives who are of Cuban descent and represent districts in Florida from where the cruise lines operate- The Honorable Ileana Ros-Lehtinen (R), The Honorable Mario Diaz-Balart (R) and The Honorable Carlos Curbelo (R) along with their symbiotic compatriot The Honorable Debbie Wasserman-Schultz (D). **NOTE:** They are supported by two members of the United States Senate: The Honorable Robert Menendez (D- New Jersey) who has a focus upon the return from the Republic of Cuba to the United States of fugitives, and The Honorable Ted Cruz (R- Texas); both are of Cuban descent and New Jersey has the second-largest population of individuals of Cuban descent in the United States.

These elected officials may be going deep.... Because they are not hyper-critical in the public domain about a lack of changes thus far to United States policy and regulations toward the Republic of Cuba in no measure equates to their level of opposition which remains high-voltage and high-wattage although not brilliantly illuminated. They are awaiting a moment to strike and the bilateral history suggests that there will be an opportunity. ***There will be something. There will not be nothing.***

The government of the Republic of Cuba has successfully resisted demonstrable evolutionary political change and will continue that resistance, particularly as other nations have reduced and/or eliminated a political focus, accepting on-the-ground realities. However, the government of the Republic of Cuba has resisted, but is succumbing to, albeit slowly and not absent of pain and miscalculation, commercial and economic changes that are unmistakable and irreversible.

A planned trajectory of a change to United States policy and regulations toward the Republic of Cuba may have been **test-fired** on 5 April 2017 by Senator Marco Rubio who was quoted in El Nuevo Herald and Miami Herald: *"I am confident that President Trump will treat Cuba like the dictatorship it is and that our policy going forward will reflect the fact that it is not in the national interest of the United States for us to be doing business with the Cuban military."*

The statement about the Revolutionary Armed Forces of the Republic of Cuba (FAR) is instructive for what it did not specifically include: the past or the present. It could also be wishful parsing.

Senator Marco Rubio was channeling the 9 June 2016 writing of The Honorable Paul Ryan (R-Wisconsin), Speaker of the United States House of Representatives:

ACHIEVING U.S. SECURITY THROUGH LEADERSHIP & LIBERTY Excerpts....

"The Obama administration took office with the misguided goal of conducting closer engagement with America's adversaries. They extended an open hand to governments in Cuba, Iran, North Korea, Russia, Syria, and Venezuela, and made damaging concessions often from a position of weakness. In the process, they have emboldened those regimes, alienated our allies, and left America in a more vulnerable strategic position. Now we must take immediate action to repair alliances and partnerships around the globe and to be clear about how the United States treats friends and foes."

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“Finally, in our own backyard we will continue to work with our friends and stem the influence of foes. Our relations with Canada and Mexico are crucial, especially in managing trans-border trade and countering trans-border threats. But we cannot blindly follow the administration’s normalization plan with communist Cuba, a regime that is fundamentally opposed to U.S. policy and that represses an entire population only 90 miles from our coastline. Instead, we will work to restore U.S. leverage, hold the Castro regime accountable, and make sure any further accommodations are met first with real concessions from the Cuban government. A first step should be to ban financial transactions with the Cuban military.”

“Our leverage to promote democracy and human rights should never be squandered. The Obama administration sought to normalize relations with the Castro regime in exchange for the promise of democratic and human rights progress in Cuba. One year into the agreement, which included reopening the American embassy in Havana, the Castro regime is as repressive as ever. In the first two months of 2016 alone, the Cuban Commission for Human Rights registered 2,588 political arrests. Nevertheless, President Obama reneged on his vow to refuse to travel to Cuba until human rights had improved.”

FAR controls access to airports and ports and has companies which have an increasing market share in ground transportation, air charter services (100%), hotels, restaurants, retail, tour operators and tour guides; and particularly important is the ownership/management by Republic of Cuba government-operated Grupo de Administracion Empresarial S.A. (Enterprise Management Group), or **GAESA**, which is, in turn, controlled by the FAR, of facilities frequented by visitors to Old Havana- where the cruise ships unload their passengers.

The one property managed by Stamford, Connecticut-based **Starwood Hotels & Resorts Worldwide** (a subsidiary of Bethesda, Maryland-based **Marriott International**) is owned by Republic of Cuba government-operated Gaviota SA., which is controlled by GAESA. The one property to-be-managed is owned by Republic of Cuba government-operated Gran Caribe.

Members of the Board of Directors of Marriott International (which owns Starwood Hotels & Resorts Worldwide) include:

J.W. Marriott, Jr., Executive Chairman and Chairman of the Board. From National Public Radio (NPR), 5 April 2012: *“Mitt Romney has been far and away the best-funded of the Republicans running for president. In addition to his own campaign chest, he has the wealthiest superPAC backing him, Restore Our Future. Among the donors to Restore Our Future, are hotel tycoons J.W. and Richard Marriott. Each gave \$750,000 so far this campaign cycle.”*

The Honorable W. Mitt Romney, Former Republican Nominee for President of the United States [Note: Representative Ryan was the Republican Nominee for Vice President of the United States with Governor Romney in 2012], Former Governor of the Commonwealth of Massachusetts

Arne Sorenson, President and Chief Executive Officer; Vice Chairman of the President’s [Obama Administration] Export Council

On 27 June 2016, the *Hotel Quinta Avenida* was rebranded as Four Points Sheraton Havana. The *Hotel Inglaterra* is scheduled to be under management by 1 December 2017- one year from its original date; the property will be included in the 122-property The Luxury Collection. A Letter of Intent to manage a third property, *Hotel Santa Isabel*, has not been implemented.

Senator Marco Rubio’s comment *could* suggest that United States-based companies with FAR-controlled operations in place would be permitted to continue those operations. Future

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authorizations for engagement with FAR-controlled entities would not be approved unless specific criteria (benchmarks) were included in any authorization application.

In specific peril, however, is the continuation of a general license from the Office of Foreign Assets Control (**OFAC**) of the United States Department of the Treasury for self-directed educational-focused (people-to-people) as the category has been the source for most abuse.

There are legal positions (both by attorneys within the United States Government and in the private sector) to support that the OFAC was never permitted by statute to permit self-directed itineraries for travelers visiting the Republic of Cuba; the Obama Administration believed the contrary, and supported statutory elasticity- with a goal of placing “*tourists*” engaging in “*tourist*” activities in the Republic of Cuba.

That position by the Obama Administration, while supported by the United States business community, particularly export-focused agricultural commodity and food product interests, does not ensure the Trump Administration will accede to its predecessor’s legal basis- it may ensure the opposite... simply to be the opposite. Or be principled. Or be both. Or be none.

All licenses issued by the OFAC and Bureau of Industry and Security (**BIS**) of the United States Department of Commerce may be rescinded (or revised) at any time for any reason. License applicants know that at the time of submission. A company filing a claim for economic loss due to the OFAC/BIS revising or rescinding a specific license or a general license would be creating billable hours for law firms, but would unlikely prevail in a court. The OFAC could easily re-define the term “*tourist*” in its regulations.

The impact of a change to the self-directed travel general license upon the cruise lines may be manageable as some passengers prefer organized excursions.

A legal writing could be sustained that a vessel with a small number of passengers and printed itineraries that meet the codified provisions of 31 CFR 515:565(b) (“*full-time schedule of educational activities*” combined with “*meaningful interactions*” - as defined in the regulation - with non-official Republic of Cuba nationals) may qualify as not defined as “*tourism*” and, thus, could remain authorized by the OFAC/BIS.

The challenge is achieving the same literal and spiritual (the “*smell test*”) linguistic hurdles for 2,000 passengers in one afternoon? How much can they absorb?

The impact of a change to the self-directed travel general license upon air carriers may be more problematic as the category of traveler making use of the self-directed opportunity has the highest level of growth and potential for growth.

There is an argument, opposite to the argument of **9 November 2016**, that recommends United States companies with licenses from the OFAC and/or BIS place into the public domain that they have received licenses, what those licenses authorize, and issue media releases confirming implementation of provisions in those licenses.

The implementation component requires, to state the obvious, the government of the Republic of Cuba accepting what those licenses authorize... which it thus far has generally disinclined to do.

Perhaps, strength in numbers.