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U.S. cruise lines hired Cuban agencies to provide ‘tourism services’ to passengers

By Nora Gámez Torres



Duration 0:53 Passengers board first cruise ship from U.S. to Cuba Passengers boarded the Fathom Adonia to inaugurate the first cruise service between the United States and the island in more than half a century. By Carl Juste

At the height of the enthusiasm sparked by President Barack Obama’s historic restoration of relations with Cuba, several cruise lines rushed to secure a piece of the island’s untapped market under newly eased regulations promoting “people-to-people” engagement.

The cruise companies knew that traveling to Cuba for tourism was illegal. So, instead of sipping mojitos at Varadero beach, Americans going to Cuba were supposed to participate in humanitarian and social-impact initiatives to help Cubans gain independence from the state, the cruise lines pledged.

But a recent trove of unsealed documents from related lawsuits filed in Miami federal court shows that behind the scenes, four major cruise lines — Carnival, Royal Caribbean, Norwegian and MSC Cruises — made deals with Cuban Ministry of Tourism agencies to provide “tourist services” to their passengers, despite the long-standing U.S. embargo’s ban on tourism to the island. The services included excursions to cabarets and beaches that arguably did not comply with the travel rules at the time.

Carnival registered a subsidiary with the Cuban Chamber of Commerce in 2018 for the stated purpose of “conducting commercial activities related to tourism,” according to the documents. And the company also signed a memorandum of understanding with a tourism company named Gaviota, owned by Cuba’s military — which runs much of the economic activity on the island — for the provision of “tourism services.”

Not wanting to be left behind, Royal Caribbean even made inquiries with a Cuban government law firm to secure permits to open and operate casinos in Cuba, according to the documents, which also show that Royal Caribbean profited from reselling Cuban “tourist visas” to passengers at a 50 percent mark-up.

The cruise companies went ahead despite warnings in the U.S. Treasury Department’s regulations and the agency’s communications that the authorization to take travelers to Cuba was no excuse for violating other laws and regulations, the records show. They also risked doing business with Cuba despite knowing that some of the ports they would be using were the subject of property-claims disputes because they had been confiscated from their owners by the Fidel Castro government in 1960.

When confronted with the evidence in court, the companies have insisted that all their dealings in Cuba were legal because cruise travel was authorized by the Obama administration as part of an ambitious overhaul of U.S. foreign policy towards the Caribbean island.

Although the Cuba travel bubble was short-lived, the cruise lines' bet paid off: The four companies brought in at least \$1.1 billion in revenue from sailings to Havana between 2016 and 2019. The booming business benefited the Cuban government as well; it pocketed a more than \$138 million.

The details of the inner workings of cruise travel to Cuba emerged in hundreds of pages of unsealed documents filed in federal court in Miami that are part of lawsuits against each of the cruise lines by an American company, Havana Docks, which claims the cruise lines were illegally using its three piers at the port of Havana that were wrongfully confiscated by the Fidel Castro government in 1960. The records include contracts, financial statements, email exchanges, legal assessments and depositions. Some were just partially referenced in PowerPoint presentations shown during a hearing that began on Jan. 12 because their full version remains under seal at the cruise lines' request.

A judge's ruling that the companies were involved in prohibited tourism would end up confirming many Cuban-Americans and South Florida public officials' worst fears: that the people-to-people travel was a thin veil for illegal tourism that enriched Cuba's coffers, helping to fund a repressive regime. And such a ruling could increase the chances of a multi-million payout to Havana Docks in compensation for illegally using its property in Cuba. Ultimately, the case is also a test of Obama's presidential authority to make foreign policy changes that some insisted crossed the limits of what was permissible under the embargo.

After several motions and delays, U.S. District Judge Beth Bloom is set to decide whether the lawsuits will go to trial.

“The art of the Cuban cocktail”

The picture that emerged at a January hearing, when the judge agreed to unseal some of the evidence, seemed to confirm some of the worries shared by Cuban exiles about the economic opening under the Obama administration, in particular, that the “people-to-people” travel category was tourism in disguise.

In the beginning, some cruise executives themselves shared the same view.

In a video shown in court, recorded at the Cuba Opportunity Summit organized by Knowledge@Wharton in 2015, Norwegian President and CEO Frank del Río said he believed taking thousands of American travelers under the “people-to-people” rules was “a stretch.”

“Tourism is still illegal under today's set of rules and policies and guidelines,” Del Río, himself a Cuban American, said. “And it would be difficult for us to have a ship with 4,000 tourists — people, let's call them — show up in Havana and call that people-to-people travel. That would be a stretch of the rules.”

Del Río said Norwegian would not take advantage of changes in the travel regulations made by the U.S. Treasury Department at the time because other laws governing the embargo, like the 1996 Helms-Burton Act, were still in place.

“My perspective is, from my three brands, until Congress officially repeals Helms-Burton, even if you can backdoor through [the Treasury Department] it wouldn't be the proper thing to do, and I don't think you can do it on a sustained basis. I don't think that that backdoor or that loophole if you will, would work on a sustained basis,” he said.

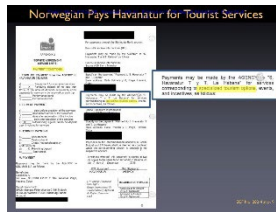
The Helms-Burton Act, passed by Congress in 1996, codified many of the rules that constitute the embargo against Cuba. Its Title III, enforced for the first time in 2019 by President Donald Trump, allowed Havana Docks to sue the cruise lines for using its confiscated property.

Still, when the Treasury Department further eased the guidelines to explicitly allow “carrier services by vessels” in September 2015, the cruise lines, including Norwegian, jumped to do business with Cuba.

But some of the actions taken by these four companies may have arguably gone beyond what was legal, the court records show.

According to unchallenged evidence presented during the January hearing, Carnival, Royal Caribbean and Norwegian, all based in Miami, signed contracts with Havanatur, the Cuban Ministry of Tourism's largest travel agency, for the provision of "tourist services" to their passengers, the records show. MSC Cruises did the same with Cubanacan, another government travel agency and hotel chain.

"Through this agreement, the parties have stipulated the terms by which Havanatur shall sell tourist reception services in the Republic of Cuba in order to serve passengers sent by the agency," reads the contract signed by Del Río on behalf of Norwegian, according to screenshots of the document shown in court. "The latter," meaning Norwegian, "shall likewise make payments resulting from these services."

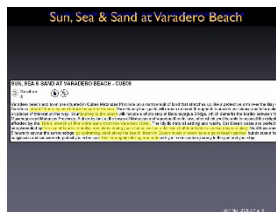


Tourism-61.jpg Screenshot of a PowerPoint presentation by Havana Docks' lawyers filed in a Miami federal court showing financial information included in the contract signed by Norwegian with Havanatur.

MSC Cruises entered into a similar agreement with Cubanacan, under which the Cuban agency was in charge of providing "tourist services," including shore excursions to the passengers.

"This appears to be powerful evidence that there was an intention to provide tourist activities," Judge Bloom said at the January hearing.

As part of the deals, the cruise lines marketed and sold excursions offered by the Cuban companies — from a "cocktail-making class" to spending an evening "under the Cuban sky" at the famous Tropicana Cabaret in Havana and excursions to Varadero and Santa Maria beaches — that did not appear to comply with the requirements in Treasury's general licenses authorizing both the cruises and the passengers to travel to Cuba, the records show.



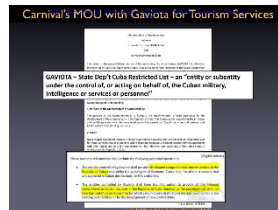
Tourism-49.jpg Screenshot of a PowerPoint presentation by Havana Docks' lawyers filed in a Miami federal court. MSC Cruises sold this excursion to Varadero to its passengers.

A paragraph in MSC Cruises' marketing material selling an eight-hour excursion to the famous Varadero beach resort says: "The idyllic natural setting and warm, Caribbean water are perfectly complemented by free use of beach umbrellas and chairs during your stay as well as a delicious buffett. You'll have about five hours to savor the surroundings, go swimming, stroll along the beach, listen to Cuban music or even have a go at a beach game. This thoroughly relaxing tour ends with your scenic return journey to the port and your ship."

According to descriptions of Old Havana sightseeing tours, Havana bus tours, excursions to see a colonial-era cannon ceremony at the bay or go scuba diving offered by the cruise lines, those also did not seem to follow regulations that travelers should maintain a full-time schedule of educational activities that included substantial interaction with locals. In its guidelines at the time, the Treasury Department explicitly said that exploring the streets of Havana and engaging in "brief exchanges with shopkeepers" and "casual conversations with waiters at restaurants and hotel staff" were not "educational activities that will result in meaningful interactions" with Cubans.

Norwegian told its passengers these excursions complied with Treasury's rules, Havana Docks' lawyers said during the hearing. But Carnival included a disclaimer in its marketing material for evening excursions to Tropicana, the Cabaret Parisien and the cannon ceremony known as "El Cañonazo," acknowledging that "this evening shore excursion does not comply with the People-to-People guidelines and cannot be considered to be part of the required full schedule of activities." This disclaimer was made available to cruise passengers.

Screenshots of Carnival's memorandum of understanding with Gaviota, the military-owned tourism company, do not show when it was signed. The full document remains under seal and it is not known if Carnival made any payments to Gaviota. In 2017, Gaviota was added to the State Department's list of firms that U.S. companies are banned from doing business with.



Tourism-17.jpg Screenshot of a PowerPoint presentation by Havana Docks' lawyers filed in a Miami federal court. Carnival signed a memorandum of understanding with Gaviota, a tourism company run by the Cuban military. Gaviota is under U.S. sanctions.

Carnival did not answer questions about the memorandum, the registration of a subsidiary in Cuba or the specific tours brought up in the hearing. In a written statement, the company told the Miami Herald: "Carnival Corporation, like other major cruise companies, took passengers to Cuba pursuant to licenses issued by the U.S. government and with the encouragement of the President as a means of creating interactions between Americans and Cubans which, over time, would, and did, benefit the Cuban people. The statute specifically exempts lawful travel to Cuba and the use of Cuban facilities, such as a port, necessary to that travel."

"Carnival Corporation only undertook lawful travel as provided under these U.S. government licenses, and contracts with Cuban organizations were part of this lawful travel program," the statement adds. "State Department officials working under the Obama Administration made verbal and written statements that cruise travel to Cuba was covered under the 'lawful travel' exception in the Helms-Burton Act: they told this to Havana Docks itself when asked."

A spokesperson for MSC Cruises said that the company does not comment on pending litigation. Royal Caribbean declined to comment. Norwegian did not respond to a comment request.

Several lawyers with knowledge of the Cuba embargo regulations consulted for this story expressed surprise at the evidence regarding tourism that has come up in court.

"The issue here is that not only did they sign a document that used the word tourism. Then you have your passengers engaged in what any person reasonably would understand as tourism," said John Kavulich, the president of the U.S.-Cuba Trade and Economic Council, who has closely followed the Helms-Burton lawsuits. "But here's where it gets challenging. The cruise lines are saying 'none of this mattered because we did it legally, we had a license from Treasury, from Commerce, the blessing of the White House' that immunized them from everything else. The question for the plaintiffs and the judge is, are they correct?"

Florida members of Congress who at the time opposed the Obama administration's policies of engagement with Cuba expressed concern about the new evidence.

"Under the Obama-era concessions to the Cuban regime, travel restrictions to Cuba were eased," Republican U.S. Sen. Marco Rubio said. "The use of travel agencies to funnel money to companies owned by the Cuban military is actively funding the repression against the Cuban people."

When told about the documents by the Herald, in which he is mentioned, Miami Republican U.S. Rep. Mario Díaz-Balart called for a Treasury Department investigation.

“When President Obama permitted virtually unrestricted travel to Cuba, I repeatedly and publicly stated that this type of travel was unlawful,” Díaz-Balart said. “If the alleged terms of these contracts are accurate, they would constitute a clear violation of the law. [Treasury] must investigate these potential violations immediately and hold any and all violators accountable to the fullest extent of the law.”

The lawful travel defense

Evidence pointing to the violation of the tourism ban, which could prompt a Treasury Department investigation, may damage the cruise lines’ case in court because much of their defense strategy hangs on the argument that they traveled legally to Cuba. A central piece of the case is how judges will interpret an exception in the Helms-Burton Act that prevents lawsuits for the use of confiscated property if the use is “necessary” to “lawful travel.”

The cruise companies argued at the January hearing that they met the conditions set by the “lawful travel” exception because they took passengers to Cuba legally under several government licenses. They said they were encouraged by the Obama administration’s change of regulations to allow U.S. companies to provide trips and lodging to Americans traveling under 12 authorized categories, including “people-to-people” educational exchanges.

The Treasury regulations authorizing cruises to Cuba, however, did not define “lawful travel.” But neither the law nor Treasury regulations allow plain tourism.

On November 2017, the Treasury Department published the following guidance on its website: “Is travel to Cuba for tourist activities permitted? No. Consistent with the Trade Sanctions Reform and Export Enhancement Act of 2000, travel-related transactions involving Cuba are only permitted for the 12 categories of activities.... Travel-related transactions for other purposes remain prohibited.”

The language in both general and specific licenses regulating travel to Cuba also warned about potential liabilities.

A specific license obtained in July 2015 by Carnival, the first company that sailed to Havana from Miami, only includes authorization to provide carrier services between the U.S. and Cuba and lodging passengers “engaged in activities authorized” by Treasury’s Cuba regulations. The document, also filed in court, includes several warnings that “nothing on this license” excuses not abiding by other laws and regulations.

Outside the court, records show that the cruise companies were concerned about whether the licenses under which they took passengers to Cuba would offer enough protection, especially from lawsuits related to the use of confiscated property, and began lobbying efforts to stop the suits.

In early 2019, news broke that the Trump administration was moving to green-light the lawsuits about confiscated property and the cruise companies received notification letters from Havana Docks about potential litigation. The companies then asked the Cruise Lines International Association to evaluate their legal risk. The CEOs of the four cruise companies sit on the association’s global executive committee.

The study, commissioned to law firm Venable LLP, warns that “it is unclear whether a court would find that carriers and travel service providers, including the cruise lines, are covered by” the lawful-travel exception.

According to the deposition of the cruise association’s associate general counsel, Bradley Rose, the organization met with lawyers and lobbyists in January 2019 to discuss how to influence the Trump administration to protect the cruise lines from the lawsuits.



The efforts included a letter to then-Secretary of State Mike Pompeo and even a meeting between Carnival's chairman and Miami Heat owner Micky Arison and President Trump at the White House, Havana Docks' lawyer Robert Martinez said at the January hearing.

In a follow-up email sent to the White House on April 17, 2019, Arison again pleaded with Trump to modify the regulations to clarify that the "lawful travel" exception in the Helms-Burton Act included cruise operations.

"If there are no exceptions or clarifications, we would be subject to significant legal liability for the use of the Ports" in Cuba, Arison wrote. "While it might appear that such an exemption would protect cruise lines from legal claims, lawful travel is not defined."

"The potential penalty to my company alone would be over \$500 million," he noted.

Not only were Arison's efforts were unsuccessful, but two months later the Trump Administration banned cruise travel to Cuba altogether to punish Cuba for its support of the regime in Venezuela.

"Putting lipstick on a pig"

During the January hearing, however, the cruise lines' lawyers called cruises to Cuba "the quintessential example of lawful travel."

They also tried several arguments to defend the tourist activities in Cuba.

One Carnival lawyer, Meredith Schultz, interpreted a Treasury prohibition on "transactions related to activities that are primarily tourist-oriented" as not barring "excursions that are tourist-oriented" because the word used was "transaction" and not "excursion." She went on to say that, "It says it's related to activities that are primarily tourist-oriented. This means that transactions can be secondarily tourist-oriented."

Another lawyer representing Norwegian, Allen P. Pegg, took a different approach and said the excursions to spend an evening at a cabaret or go scuba diving indeed complied with the people-to-people regulations.

"Plaintiff pointing to issues that you know: 'That looks fun.' That's essentially what they're telling Your Honor. 'And that scuba diving trip looks like it might have been a good time.' That does not undercut the fact that these were all designed and had critical components of meaningful interaction with the Cuban people, which is what people-to-people is all about."

The lawyers also argued that the passengers themselves also bore responsibility.

"I think if you're going to say: 'Oh, if you spent the whole day on the beach,' that's a Helms-Burton claim against that person, not against Carnival," Schultz said. "There is daylight there between the cruise ships providing carrier services and what the passengers are doing. And [the passengers] are the ones signing these declarations and making these affidavits."

The general license under which the cruise lines could transport people to Cuba required that the passengers were in compliance with one of the 12 authorized travel categories. Passengers had to sign affidavits to attest they were, and the cruise lines had to keep the records for five years.

When Pegg, Norwegian's lawyer, made a similar argument, Judge Bloom called it "somewhat circular" because the passengers signed the affidavits based on the excursions and itineraries offered by the cruise lines.

On its website, Royal Caribbean, for example, told passengers that "in order to satisfy United States law, you will need to fulfill on one of the allowed reasons for visiting, but that's easy too. You just need to

book a shore excursion that complies with U.S. requirements (this includes any Royal Caribbean shore excursion.) Just be sure to know that a day tour must be booked; night tours alone won't meet the requirement.”

The cruise lines' lawyers also pointed out that Treasury never went after the companies for their activities in Cuba. Citing “concerns” about its record-keeping practices, Treasury did issue a “cautionary letter” in 2019 warning that Royal Caribbean’s “dealings in possible unauthorized travel by U.S. persons to Cuba appears to have violated” U.S. regulations But the agency did not find enough evidence to conclude there was a violation.

A Treasury Department spokesperson said the agency does not comment on investigations and could not answer questions related to the lawsuit.

Ultimately, the cruise lines' lawyers said, the court has no business in considering if the cruise companies facilitated tourism because they received authorization from the U.S. government to travel to Cuba.

“I guess Carnival’s position is it wouldn’t matter if there were many excursions that were tourism-related because the Court should not look behind the blanket authorization,” Judge Bloom said. “That is correct, your Honor,” Schultz replied.

“If there’s even one passenger who complied with people-to-people requirements, Carnival has done its job by providing carrier services to that passenger if that passenger’s lawful travel and Carnival’s use of the terminal is incident to that passenger’s lawful travel,” the lawyer continued. “That box is checked. It’s done. So yes. The Court does not need to look into what actually happened in Cuba.”

After hours of going back and forth on the lawful travel defense, Martinez, the Havana Docks’ leading counsel, provided a colorful description of the defendants’ presentation.

“These cruises to Cuba were tourist cruises,” he said. “And to call them anything else is to put lipstick on a pig.”

Havana Docks’ lawyers declined to comment for this story.

“The more they dig into it, the worse it will look”

As many Cuban exiles worried, the records show that the Cuban government made significant money out of these deals to provide “tourism services” to American travelers. Havanatur, for example, received \$38 million, and the government made \$54.4 million just in “tourist” visa fees.

Some of the money the cruise lines paid went to obscure offshore companies controlled by the Cuban government, such as Agencia Marítima Mapor S.A., based in the Virgin Islands and linked to a global network of offshores through which the government and the military carry out the island’s shipping and maritime dealings while avoiding U.S. sanctions. MSC Cruises paid \$9.3 million to Mapor for services as a “ship agent” at the Havana port, according to the court documents.

Trafficking						
Company	Cruise Line	Year	Revenue to the Cuban Government	Revenue to the Cruise Line	Revenue to the Shipper	Revenue to the Shipper
Carnival	83	\$12,268,881	\$1,780,000	\$1,780,000	\$1,780,000	\$1,780,000
MSC	100	\$14,100,000	\$1,100,000	\$1,100,000	\$1,100,000	\$1,100,000
Marinegroup	200	\$20,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Regal	301	\$10,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Total	312	\$56,368,881	\$4,880,000	\$4,880,000	\$4,880,000	\$4,880,000

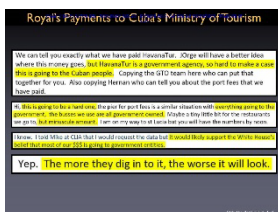
The money page 2-2.jpg Screenshot of a PowerPoint presentation by Havana Docks’ lawyers filed in a Miami federal court showing payments made by the cruise lines to the Cuban government and their revenue.

Of the four companies, Royal Caribbean made the most revenue, \$430.9 million, and sought opportunities to make more. Between 2017 and 2018, the cruise line explored the possibility of operating onboard casinos while in Cuba, according to the company lawyers’ description of emails between several Royal Caribbean executives and lawyers with COMAR, a Cuban government legal agency. The emails themselves are under

seal because Royal Caribbean cited attorney-client privilege. Their content was described as “Casino Opening in Cienfuegos and Santiago,” “RCCL trying to secure permits to open and operate Casinos in Cuba,” “Operation of cruise ship casino during berthing in Cuban territory,” “Casino Opening Hours Seeking legal advice from counsel,” “shipboard casinos,” “operating onboard casinos,” and “compliance/legality of opening casinos.”

Though the Trump Administration’s shutdown of U.S. cruise travel to Cuba in June 2019 hurt some of the island’s self-employed workers near the port, especially drivers, souvenir makers and restaurant waiters, the records also back up claims by Florida politicians that comparatively little money went to Cuban private businesses and entrepreneurs, contrary to what both the Obama administration and the cruise industry publicly claimed.

After the Trump administration and members of Congress like Rubio expressed concern that the Cuban government was pocketing much of the money from cruise travel, Royal Caribbean executives sought to find data proving otherwise.



Tourism-89.jpg Screenshot of a PowerPoint presentation by Havana Docks’ lawyers filed in a Miami federal court. In an email exchange, Royal Caribbean executives discussed whether there was evidence supporting that cruise travel benefited the Cuban people.

Ahead of a meeting with Rubio, Eleni P. Kalisch, at the time a Royal Caribbean vice president, asked two company executives if they could provide data about how much the company paid the Cuban government versus how much they were able to “directly support the Cuban people.” She said the Cruise Lines International Association was collecting the data and was trying to “portray the financial support we provide to the Cuban people as equal or greater than the support to the government (assuming the data supports that).”

The two company executives were identified only as Michael and Roberta in a PowerPoint presentation with excerpts from an undated email exchange. The full version of the emails is still under seal.

“Havanatur is a government agency, so hard to make a case this is going to the Cuban people,” said one of the unidentified executives. “This is going to be a hard one,” the other executive replied. “The port fees is a similar situation with everything going to the government, the buses we used are all government-owned. Maybe a little tiny bit for the restaurants we go but minuscule amount.”

One of the executives in the email exchange said the data would likely support the White House’s claims. Another one replied: “Yep, the more they dig into it, the worse it will look.”

El Nuevo Herald

Miami, Florida

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Cruceros contrataron a agencias del gobierno de Cuba para actividades turísticas

por Nora Gámez Torres



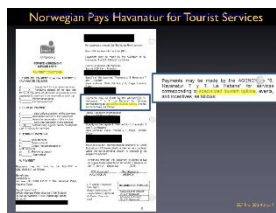
Cubanos saludan a pasajeros en el barco de cruceros Adonia de Carnival a su llegada a La Habana desde Miami en mayo de 2016. Cubanos saludan a pasajeros en el barco de cruceros Adonia de Carnival a su llegada a La Habana desde Miami en mayo de 2016. Ramón Espinosa AP

En el apogeo del entusiasmo provocado por el histórico restablecimiento de las relaciones con Cuba por parte del presidente Barack Obama, varias líneas de cruceros se apresuraron a asegurarse una cuota del prometedor mercado de la isla bajo las regulaciones que habían sido relajadas para promover el contacto entre los pueblos.

Las compañías de cruceros sabían que viajar a Cuba para hacer turismo era ilegal. Entonces, en lugar de tomar mojitos en la playa de Varadero, se suponía que los estadounidenses que iban a Cuba participarían en iniciativas humanitarias y de impacto social que ayudarían a los cubanos a independizarse del estado, según prometieron las líneas de cruceros.

Pero nueva evidencia que se hizo pública en la corte federal de Miami muestra que tras bambalinas, cuatro compañías de cruceros importantes—Carnival, Royal Caribbean, Norwegian y MSC Cruises—firmaron acuerdos con agencias de viajes del gobierno cubano para brindar “servicios turísticos” a sus pasajeros, pese a la prohibición sobre el turismo contenida en el embargo. Los servicios incluían excursiones a cabarets y playas que no parecían cumplir con las reglas sobre los viajes a Cuba.

Carnival registró una subsidiaria en la Cámara de Comercio de Cuba en 2018 con el propósito declarado de “realizar actividades comerciales relacionadas con el turismo”. Y firmó un memorando de entendimiento con una empresa de turismo llamada Gaviota, propiedad de las fuerzas armadas de Cuba, que dirige gran parte de la actividad económica en la isla, para la prestación de “servicios turísticos”.



Tourism-16.jpg Captura de pantalla de una presentación de PowerPoint de los abogados de Havana Docks presentada en un tribunal federal de Miami. Carnival registró una subsidiaria en la Cámara de Comercio de Cuba.

No queriendo quedarse atrás, Royal Caribbean incluso hizo consultas con una agencia legal del gobierno cubano para obtener permisos para abrir y operar casinos en Cuba, según los documentos, que también indican que Royal se benefició de la reventa de “visas de turista” cubanas a pasajeros con un margen de beneficio del 50 por ciento.

Las compañías de cruceros siguieron adelante a pesar de las advertencias del Departamento del Tesoro de que la autorización para llevar viajeros a Cuba no era excusa para violar otras leyes y reglamentos, según muestran los récords y comunicaciones de la agencia. También se arriesgaron a hacer negocios con Cuba a pesar de tener algún conocimiento de que algunos de los puertos que iban a utilizar eran objeto de disputas por reclamos de propiedad porque fueron confiscados a sus dueños por el gobierno de Fidel Castro en 1960.

Cuando se confrontaron con la evidencia en la corte, las compañías insistieron en que todos sus tratos en Cuba eran legales porque el gobierno de Obama autorizó los viajes en crucero como parte de una ambiciosa reforma de la política exterior de Estados Unidos hacia la isla caribeña.

Aunque la burbuja de los viajes a Cuba duró poco, su apuesta valió la pena ya que las cuatro compañías obtuvieron al menos \$1.1 mil millones en ingresos por viajes a La Habana entre 2016 y 2019. El floreciente negocio también benefició al gobierno cubano, que se embolsó un poco más de \$138 millones.

Estas interioridades del negocio de los cruceros a Cuba aparecen en cientos de páginas de documentos recientemente catalogados como récords públicos en el tribunal federal del Distrito Sur de Florida vinculados a demandas contra cada una de estas líneas de cruceros por parte de la compañía estadounidense Havana Docks. Esta compañía afirma que las líneas de cruceros estaban usando ilegalmente sus tres muelles en el puerto de La Habana que fueron confiscados indebidamente por el gobierno de Fidel Castro en 1960.

Los registros incluyen contratos, estados financieros, intercambios de correo electrónico, evaluaciones legales y declaraciones. Algunos solo se mencionaron parcialmente en las presentaciones de PowerPoint que se mostraron durante una audiencia en enero porque su versión completa permanece sellada a petición de las compañías de cruceros.

El fallo de un juez de que las empresas estaban involucradas en actividades turísticas terminaría por confirmar los peores temores de muchos cubanoamericanos y funcionarios públicos del sur de la Florida: que los viajes bajo la categoría de contacto “persona a persona” fueron una cortina de humo para justificar el turismo ilegal que enriqueció las arcas de Cuba, ayudando a financiar un régimen represivo. Y tal fallo podría aumentar las posibilidades de un pago multimillonario a Havana Docks en compensación por el uso ilegal de su propiedad en Cuba. En última instancia, el caso pone a prueba la autoridad del presidente Obama para hacer cambios en la política exterior que algunos insisten traspasaron el límite de lo permitido por el embargo.

Después de varias mociones y demoras, la jueza federal del Distrito Sur de Florida, Beth Bloom, decidirá si las demandas irán a juicio.

“El arte del cóctel cubano”

La imagen que surgió en la audiencia de enero, cuando se autorizó a Havana Docks a revelar algunas pruebas, parece confirmar algunas de las preocupaciones de los exiliados cubanos sobre la apertura económica bajo la administración de Obama, en particular, que la vaga categoría de viajes para promover el contacto entre los pueblos (people-to-people) era turismo disfrazado.

Al principio, algunos ejecutivos de cruceros compartían la misma opinión.

En un video mostrado en la corte, grabado en el Cuba Opportunity Summit, un evento organizado por Knowledge@Wharton en el 2015, el presidente y director ejecutivo de Norwegian dijo que creía que llevar a miles de viajeros estadounidenses bajo esas reglas era “una exageración”.

“El turismo sigue siendo ilegal bajo el conjunto de reglas, políticas y pautas actuales”, dijo Frank del Río, quien es cubanoamericano. “Y sería difícil para nosotros que un barco con 4,000 turistas, llamémoslos personas, se presente en La Habana y llame a eso un viaje ‘de pueblo a pueblo’. Eso sería forzar las reglas”.

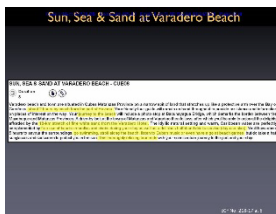
Del Río dijo que Norwegian no aprovecharía los cambios en las regulaciones de viaje realizados por la Oficina de Control de Activos Extranjeros (OFAC) del Tesoro en ese momento porque otras leyes que rigen el embargo, como la Ley Helms-Burton, aún estaban vigentes.

“Mi perspectiva es, para mis tres marcas, hasta que el Congreso revoque oficialmente la Ley Helms-Burton”, continuó, “incluso si puedes hacerlo por la puerta trasera a través de OFAC, no sería lo correcto. No creo que esa puerta trasera o esa brecha legal, por así decirlo, funcionen de manera sostenida”.

La Ley Helms-Burton, aprobada en 1996, codificó muchas de las reglas que constituyen el embargo contra Cuba. Su Título III, puesto en vigor por primera vez en el 2019 por el presidente Donald Trump, permitió a Havana Docks demandar a las líneas de cruceros por presunto uso de sus bienes confiscados.

Aún así, cuando Departamento del Tesoro suavizó aún más las pautas para permitir explícitamente los “servicios de transporte por barco” en septiembre de 2015, Norwegian y otras líneas de cruceros corrieron a hacer negocios con Cuba.

Pero algunas de las acciones tomadas por las líneas de cruceros parecen haber ido más allá de lo que era legal en ese momento.

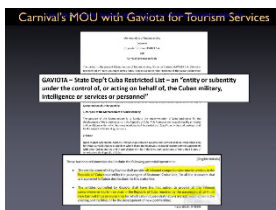


Tourism-49.jpg Screenshot of a PowerPoint presentation by Havana Docks' lawyers filed in a Miami federal court. MSC Cruises sold this excursion to Varadero to its passengers.

De acuerdo con las descripciones de los recorridos turísticos de La Habana Vieja, los recorridos en autobús por la capital cubana, las excursiones para ver una ceremonia con cañones de la época colonial en la bahía o ir a bucear, ofrecidas por las líneas de cruceros, estas actividades tampoco parecen haber seguido las regulaciones de que los viajeros debían mantener un horario completo de actividades educativas que incluyeran una interacción sustancial con los lugareños. En sus lineamientos en ese momento, el Departamento del Tesoro dijo explícitamente que explorar las calles de La Habana y participar en “intercambios breves con los vendedores” y “conversaciones informales con los meseros en los restaurantes y el personal del hotel” no eran “actividades educativas que resultarán en interacciones significativas” con los cubanos.

Norwegian le dijo a sus pasajeros que estas excursiones cumplían con los requerimientos del Tesoro, según dijeron los abogados de Havana Docks en la audiencia de enero. Pero Carnival incluyó un descargo de responsabilidad en su material de marketing para las excursiones nocturnas a Tropicana, el Cabaret Parisien y la ceremonia del cañón conocida como “El Cañonazo”, reconociendo que la excursión “no cumple” con los requerimientos de la categoría de viaje de intercambio entre los pueblos y “no puede ser considerada como parte del programa completo de actividades requerido”.

Las capturas de pantalla del memorando de entendimiento de Carnival con Gaviota no muestran cuándo se firmó. Tampoco se conoce si Carnival hizo algún pago porque el documento completo permanece sellado. Gaviota fue incluida en la Lista Restringida de Cuba del Departamento de Estado en noviembre de 2017. Las empresas bajo la jurisdicción estadounidense no pueden realizar transacciones financieras directas con entidades en la lista.



Tourism-17.jpg Captura de pantalla de una presentación de PowerPoint de los abogados de Havana Docks presentada en un tribunal federal de Miami. Carnival firmó un memorando de entendimiento con Gaviota, una empresa de turismo dirigida por militares cubanos. Gaviota está bajo sanciones de Estados Unidos.

Carnival no respondió preguntas sobre el memorando, el registro de una subsidiaria en Cuba o las excursiones específicas referidas en la audiencia. En una declaración escrita enviada a el Nuevo Herald, Carnival declaró lo siguiente:

“Carnival Corporation, al igual que otras importantes compañías de cruceros, llevó pasajeros a Cuba de conformidad con las licencias emitidas por el gobierno de Estados Unidos y con el apoyo del Presidente como medio para crear interacciones entre estadounidenses y cubanos que, con el tiempo, beneficiaría y beneficiaron al pueblo cubano. El estatuto exige específicamente los viajes legales a Cuba y el uso de las instalaciones cubanas, como un puerto, necesarias para ese viaje”.

“Carnival Corporation solo realizó viajes legales según lo dispuesto en estas licencias del gobierno de Estados Unidos y los contratos con organizaciones cubanas fueron parte de este programa de viajes legales”, agrega el comunicado. “Los funcionarios del Departamento de Estado que trabajaron bajo la administración de Obama hicieron declaraciones verbales y escritas de que los viajes en crucero a Cuba estaban cubiertos por la excepción de ‘viaje legal’ en la Ley Helms-Burton: se lo dijeron a Havana Docks cuando se les preguntó”.

Un portavoz de MSC Cruises dijo que la compañía no comenta sobre litigios pendientes. Royal Caribbean declinó comentar. Norwegian no respondió a una solicitud de comentarios.

Varias personas con conocimiento de las regulaciones del embargo a Cuba consultados para este artículo expresaron su sorpresa por la evidencia sobre el turismo presentada en la corte federal de Miami.

“El tema aquí es que no solo firmaron un documento que usaba la palabra turismo. Entonces tienes a tus pasajeros involucrados en lo que cualquier persona razonablemente entendería como turismo”, dijo John Kavulich, presidente del U.S.-Cuba Trade and Economic Council, quien ha seguido de cerca las demandas relacionadas con la ley Helms-Burton. “Pero aquí es donde se complica. Las líneas de cruceros están diciendo ‘nada de esto importa porque lo hicimos legalmente, teníamos una licencia del Tesoro, del Departamento del Comercio, la bendición de la Casa Blanca’ que los inmunizó de todo lo demás. La pregunta para los demandantes y la jueza es, ¿están en lo correcto?”.

Trafficking						
UNIT/CLASS	CALCULATED TRAFFICKING	TRAVEL TO CUBA	TRAVEL TO CUBA	TRAVEL TO CUBA	TRAVEL TO CUBA	TRAVEL TO CUBA
Carnival	83	\$112,000,000	\$11,200,000	\$1,120,000	\$112,000,000	\$11,200,000
MSC	190	\$248,000,000	\$24,800,000	\$2,480,000	\$248,000,000	\$24,800,000
MarineStar	200	\$250,000,000	\$25,000,000	\$2,500,000	\$250,000,000	\$25,000,000
Regal	347	\$446,000,000	\$44,600,000	\$4,460,000	\$446,000,000	\$44,600,000
Total	820	\$1,056,000,000	\$105,600,000	\$10,560,000	\$1,056,000,000	\$105,600,000

The money page 2-2.jpg Captura de pantalla de una presentación de PowerPoint de los abogados de Havana Docks presentada en un tribunal federal de Miami que muestra los pagos realizados por las líneas de cruceros al gobierno cubano y sus ingresos.

Los miembros del Congreso de Florida que en ese momento se opusieron a las políticas de compromiso de la administración Obama con Cuba expresaron su preocupación por la nueva evidencia.

“Bajo las concesiones de la era de Obama al régimen cubano, se aliviaron las restricciones de viaje a Cuba,” dijo el senador republicano Marco Rubio. “El uso de agencias de viajes para canalizar dinero a empresas propiedad del ejército cubano está financiando activamente la represión contra el pueblo cubano”. Cuando el Herald solicitó un comentario sobre los documentos, en los que aparece mencionado, el representante republicano de Miami, Mario Díaz-Balart, pidió una investigación por parte del Departamento del Tesoro.

“Cuando el presidente Obama permitió viajar prácticamente sin restricciones a Cuba, declaré repetida y públicamente que este tipo de viaje era ilegal”, dijo Díaz-Balart. “Si los supuestos términos de estos contratos son exactos, constituirían una clara violación de la ley. La OFAC debe investigar estas posibles violaciones de inmediato y responsabilizar a todos y cada uno de los infractores con todo el peso de la ley”.

La defensa de los ‘viajes legales’

La evidencia que apunte a la violación de la prohibición de hacer turismo, que podría dar lugar a una investigación del Tesoro, pudiera dañar a las líneas de cruceros ante los tribunales porque gran parte de su estrategia de defensa conjunta depende del argumento de que sus viajes a Cuba eran legales. Una pieza central en el caso es cómo los jueces interpretarán una excepción en la Ley Helms-Burton que previene demandas por el uso de bienes confiscados si dicho uso es “necesario” para “viajar legalmente”.

Las compañías de cruceros argumentaron en la audiencia que cumplían con las condiciones establecidas por la excepción de “viaje legal” porque llevaban pasajeros a Cuba legalmente bajo licencias del gobierno. Dijeron que se sintieron alentados por el cambio de regulaciones de la administración Obama para permitir la prestación de “servicios de transporte en embarcaciones” y alojamiento a los estadounidenses que viajaban bajo 12 categorías autorizadas, incluidos los intercambios educativos “de persona a persona”. Estas exenciones en el programa de sanciones a Cuba se denominan “licencias generales”. El Departamento del Tesoro también puede autorizar transacciones particulares a través de licencias específicas.

Sin embargo, las regulaciones del Tesoro que autorizan los cruceros a Cuba no definieron los “viajes legales”, y ni las leyes ni las regulaciones permitían el turismo, razón por la cual el asunto está bajo la consideración de los jueces.

En noviembre de 2017, la OFAC publicó la siguiente aclaración: “¿Está permitido viajar a Cuba para actividades turísticas? No. De acuerdo con la Ley de Reforma de Sanciones Comerciales y Mejora de las

Exportaciones de 2000 (TSRA), las transacciones relacionadas con viajes que involucren a Cuba solo están permitidas para las 12 categorías de actividades identificadas.... Las transacciones relacionadas con viajes para otros fines siguen prohibidas”.

El lenguaje en las licencias generales y específicas que regulan los viajes a Cuba también advertía sobre posibles responsabilidades.

Una licencia específica obtenida en julio de 2015 por Carnival, la primera compañía que navegó a La Habana desde Miami durante el breve deshielo en el 2016, solo incluye la autorización para prestar servicios de transporte entre Estados Unidos y Cuba y alojar pasajeros que realicen “actividades autorizadas” por las regulaciones sobre Cuba. El documento, también presentado en la corte, incluye varias advertencias de que “nada en esta licencia” excusa el cumplimiento de otras leyes y reglamentos.

Fuera de los tribunales, los registros muestran que las compañías de cruceros no estaban seguras de que las licencias bajo las cuales llevaban pasajeros a Cuba ofrecieran suficiente protección y se involucraron en esfuerzos de cabildeo para detener las demandas relacionadas con la propiedades confiscadas.

A principios de 2019, se conoció la noticia de que la administración Trump estaba considerando dar luz verde a las demandas sobre propiedades confiscadas y las compañías de cruceros recibieron cartas de notificación de Havana Docks sobre posibles litigios. Luego, las compañías pidieron a la Asociación Internacional de Líneas de Cruceros (CLIA, por sus siglas en inglés) que evaluara su riesgo legal. Los directores ejecutivos de las cuatro compañías de cruceros forman parte del comité ejecutivo global de CLIA.

El estudio, encargado al bufete de abogados Venable LLP, advierte que “no está claro si un tribunal determinaría que los transportistas y los proveedores de servicios de viaje, incluidas las líneas de cruceros, están cubiertos por” la exención de viaje legal.

Según la declaración del abogado general asociado de CLIA, Bradley Rose, la organización se reunió con abogados y cabilderos en enero de 2019 para discutir cómo influir en la administración Trump para que “no se puedan presentar reclamos legales bajo el Título III contra las líneas de cruceros y/o mantener la suspensión general de las demandas bajo el Título III”.

Los esfuerzos incluyeron una carta al entonces secretario de Estado Mike Pompeo e incluso una reunión entre el presidente de Carnival y propietario del Miami Heat, Micky Arison, y el presidente Trump en la Casa Blanca, dijo en la audiencia el abogado de Havana Docks, Robert Martínez.



Trump email page 36-36.jpg Captura de pantalla de una presentación de PowerPoint de los abogados de Havana Docks presentada en un tribunal federal de Miami. El director ejecutivo de Carnival, Micky Arison, escribió un correo electrónico al presidente Donald Trump para pedirle que protegiera a las compañías de cruceros de demandas relacionadas con propiedades confiscadas en Cuba.

En un correo electrónico de seguimiento enviado a la Casa Blanca el 17 de abril de 2019, el día en que se esperaba el anuncio de la aplicación del Título III, Arison volvió a pedir al presidente Trump que modificara las regulaciones para aclarar que la referencia a los “viajes legales” en la ley Helms-Burton incluía operaciones de cruceros.

“Si no hay excepciones ni aclaraciones, estaríamos sujetos a una importante responsabilidad legal por el uso de los puertos en Cuba”, escribió. “Si bien podría parecer que tal exención protegería a las líneas de cruceros de reclamos legales, los viajes legales no están definidos”.

“Solo la sanción potencial para mi empresa sería de más de 500 millones de dólares”, señaló.

Los esfuerzos de Arison fueron en vano. Ese mismo día, la administración de Trump activó el Título III. Unos meses después, en junio, eliminó por completo los viajes a Cuba en cruceros.

“Poniendo lápiz labial a un cerdo”

Durante la audiencia, sin embargo, los abogados de las líneas de cruceros adoptaron un tono optimista y llamaron a los viajes en crucero a Cuba “el ejemplo por excelencia de los viajes legales”.

También desplegaron varios argumentos para defender la actividad turística en Cuba.

Una abogada de Carnival, Meredith Schultz, interpretó una prohibición de la OFAC sobre las “transacciones relacionadas con actividades que están principalmente orientadas al turismo” como que no excluye “excursiones que están orientadas al turismo” porque la palabra utilizada fue “transacción” y no “excursión”. La prohibición, continuó “está relacionada con actividades que están principalmente orientadas al turismo. Esto significa que las transacciones pueden estar secundariamente orientadas al turismo”.

Otro abogado que representa a Norwegian, Allen P. Pegg, adoptó un enfoque diferente y dijo que las excursiones para pasar una noche en un cabaret o bucear efectivamente cumplían con las regulaciones de la categoría de viajes para promover el contacto entre los pueblos.

“El demandante señala cosas, que usted sabe: ‘Eso parece divertido’. Eso es esencialmente lo que le están diciendo a Su Señoría. ‘Y ese viaje de buceo parece que podría haber sido divertido’. Eso no socava el hecho de que todos fueron diseñados y tenían componentes críticos de interacción significativa con el pueblo cubano”.

Los abogados también dijeron que los pasajeros tenían responsabilidad.

“Creo que si vas a decir: ‘Oh, si pasaste todo el día en la playa’, eso es una demanda bajo la Helms-Burton contra esa persona, no contra Carnival”, dijo Schultz. “Allí hay distancia entre los cruceros que brindan servicios de transporte y lo que hacen los pasajeros. Y ellos son los que firman estas declaraciones y hacen estas declaraciones juradas”.

La licencia general bajo la cual las líneas de cruceros podían transportar personas a Cuba requería que los pasajeros cumplieran con una de las 12 categorías de viaje autorizadas. Los pasajeros tenían que firmar declaraciones juradas para dar fe de ello, y las líneas de cruceros tenían que conservar los registros durante cinco años.

Cuando Pegg, el abogado de Norwegian, hizo un argumento similar, la jueza Bloom lo calificó de “algo circular” porque los pasajeros firmaron las declaraciones juradas basadas en las excursiones e itinerarios ofrecidos por las líneas de cruceros.

En su sitio web, Royal Caribbean, por ejemplo, les dijo a los pasajeros que “para cumplir con la ley de Estados Unidos, deberá cumplir con uno de los motivos permitidos para visitar, pero eso también es fácil. Solo necesita reservar una excursión en tierra que cumpla con los requisitos de Estados Unidos (esto incluye cualquier excursión en tierra de Royal Caribbean). Solo asegúrese de saber que se debe reservar una excursión de un día; los recorridos nocturnos por sí solos no cumplirán con el requisito”.

Los abogados también señalaron que la OFAC nunca persiguió a las líneas de cruceros por sus actividades en Cuba. Citando “preocupaciones” sobre sus prácticas de mantenimiento de registros, la OFAC emitió una “carta de advertencia” a Royal Caribbean, advirtiéndole que su participación en “posibles viajes no autorizados de estadounidenses a Cuba parecen haber violado” los reglamentos. Pero la agencia no encontró evidencia suficiente para imponer una multa.

Una portavoz del Tesoro dijo que la agencia no comenta sobre sus investigaciones y que no podía comentar sobre las demandas en litigio.

En última instancia, dijeron los abogados de los cruceros, el tribunal no tiene por qué considerar si las compañías facilitaron el turismo porque recibieron autorización del gobierno de Estados Unidos para viajar a Cuba.

“Supongo que la posición de Carnival es que no importaría si hubiera muchas excursiones relacionadas con el turismo porque el tribunal no debería mirar más allá de la autorización general”, dijo la jueza. “Eso es correcto, su Señoría”, respondió Schultz.

Si solo un pasajero cumple con los requisitos de la categoría de viajes para promover el contacto entre los pueblos, “Carnival ha hecho su trabajo al proporcionar servicios de transporte a ese pasajero si el viaje legal de ese pasajero y el uso de la terminal por parte de Carnival es incidental al viaje legal de ese pasajero”, continuó la abogada. “Esa casilla está marcada. Está hecho. Entonces sí. La corte no necesita investigar lo que realmente sucedió en Cuba”.

Después de horas de ir y venir sobre la defensa del “viaje legal”, Martínez, el principal abogado de Havana Docks, proporcionó una descripción colorida de la presentación de los acusados.

“Estos cruceros a Cuba eran cruceros turísticos”, dijo. “Y llamarlos de otra manera es poner lápiz labial a un cerdo”.

Los abogados de Havana Docks declinaron comentar para esta historia.

“Cuanto más indaguen, peor se verá”

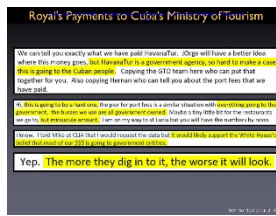
Como les preocupaba a muchos exiliados cubanos, los registros muestran que el gobierno cubano ganó mucho dinero con estos acuerdos para brindar “servicios turísticos” a los viajeros estadounidenses. Havanatur, por ejemplo, recibió \$38 millones, y el gobierno hizo \$54.4 millones solo en concepto de visas de “turista”.

Parte del dinero pagado fue a oscuras empresas offshore controladas por el gobierno, como la Agencia Marítima Mapor S.A. La empresa, constituida en las Islas Vírgenes, está vinculada a una red global de empresas fantasmas a través de la cual el gobierno y los militares llevan a cabo los negocios de transporte marítimo de la isla mientras evitan las sanciones estadounidenses. MSC Cruises pagó \$9.3 millones a Mapor por servicios como “agente de buques” en el puerto de La Habana, según los documentos judiciales.

De las cuatro empresas, Royal Caribbean obtuvo la mayor cantidad, \$430.9 millones en ingresos, y buscó oportunidades para ganar más. Entre 2017 y 2018, la compañía exploró la posibilidad de operar casinos a bordo de sus barcos en Cuba, según la descripción de correos electrónicos entre varios ejecutivos y abogados de Royal con COMAR, una agencia legal del gobierno cubano. Los correos electrónicos no son récord público porque Royal citó el privilegio abogado-cliente. Su contenido fue descrito por los abogados de Royal como “Apertura de casinos en Cienfuegos y Santiago”, “RCCL tratando de obtener permisos para abrir y operar Casinos en Cuba”, “Operación de casino de cruceros durante el ataque en territorio cubano”, “Horario de apertura de casinos”, “casinos a bordo”, “operación de casinos a bordo” y “cumplimiento/legalidad ante la OFAC para abrir casinos”.

Aunque la suspensión de los viajes de cruceros de Estados Unidos a Cuba en junio de 2019 perjudicó a algunos de los trabajadores por cuenta propia de la isla, especialmente a los chóferes, fabricantes de souvenirs y camareros en paladares alrededor de los puertos, los registros también respaldan las afirmaciones de los políticos de la Florida de que comparativamente poco dinero iba a los emprendedores y negocios privados, contrario a lo que tanto la administración Obama como la industria de cruceros afirmaron públicamente.

Después de que la administración de Trump y congresistas como el senador Rubio expresaron su preocupación de que el gobierno cubano se estaba quedando con gran parte del dinero de los viajes en crucero, los ejecutivos de Royal Caribbean intentaron buscar datos que demostraran lo contrario.



Tourism-89.jpg Captura de pantalla de una presentación de PowerPoint de los abogados de Havana Docks presentada en un tribunal federal de Miami. En un intercambio de correos electrónicos, los ejecutivos de Royal Caribbean discutieron si había evidencia que respaldara que los viajes en crucero beneficiaban al pueblo cubano.

Antes de una reunión con Rubio, la entonces vicepresidenta de Royal, Eleni P. Kalisch, preguntó a dos ejecutivos de la empresa si podían proporcionar datos sobre cuánto pagaba Royal al gobierno cubano en comparación con cuánto podían “apoyar directamente al pueblo cubano”. Ella dijo que CLIA estaba recopilando los datos y estaba tratando de “presentar el apoyo financiero que brindamos al pueblo cubano como igual o mayor que el apoyo al gobierno (suponiendo que los datos lo respalden)”.

Los ejecutivos de la compañía solo fueron identificados como Michael y Roberta en una presentación de PowerPoint con extractos de un intercambio de correo electrónico sin fecha. La versión completa de los correos electrónicos aún está sellada.

“Havanatur es una agencia del gobierno, por lo que es difícil argumentar que esto va al pueblo cubano”, dijo un ejecutivo no identificado. “Esto va a ser difícil”, respondió otro. “Las tarifas portuarias son una situación similar con todo yendo al gobierno, los autobuses que usamos son todos propiedad del gobierno. Tal vez un poco para los restaurantes a los que vamos, pero una cantidad minúscula”.

Uno de los ejecutivos en el intercambio de correos dijo que los datos probablemente respaldarían las afirmaciones de la Casa Blanca. Otro respondió: “Sí, cuanto más indaguen, peor se verá”.

El Nuevo Herald

Miami, Florida

12 February 2022

Cuba pagó \$304 millones a compañías estadounidenses por la compra de alimentos

por Rose Monique Varela Henriquez

Cuba pagó \$304 millones a compañías estadounidenses por la compra de comida durante el pasado año. Esta cifra equivale a un crecimiento del 86% en las operaciones comerciales entre ambos países, según datos del Departamento de Agricultura de Estados Unidos.

El costo de la importación de estos alimentos podría haber sido mucho más alto ya que los datos oficiales del Consejo Económico y Comercial entre EE.UU. y Cuba no incluyen los gastos del transporte, recargos bancarios y otros aranceles de envíos a la isla caribeña.

La mayoría de las importaciones a Cuba fueron de pollo congelado, por el que se pagó \$279 millones. Entre otros productos alimenticios adquiridos se encuentran también la carne de cerdo, especias, arroz, jugos y bebidas no alcohólicas.

El gobierno de Cuba se ha trazado la meta de obtener “soberanía alimentaria”, pero actualmente la isla importa el 80% de la comida que consume, informó el medio digital CiberCuba.

Estados Unidos es el mayor proveedor de alimentos a Cuba, aseguró al canal local CBS4 Carlos Eire, profesor de la Universidad de Yale y experto en Cuba.

Si se pregunta cómo esto es posible, en el año 2000 el Congreso estadounidense aprobó la Ley de Reforma de Sanciones Comerciales la cual permite exportar productos agrícolas y alimenticios a Cuba, a pesar del embargo.

Aun así, la existencia del embargo obliga a que las compras que el régimen cubano haga a compañías estadounidenses deben pagarse por adelantado, en efectivo, sin opciones de crédito.

El presidente de Sanderson Farms, tercer productor avícola más grande de Estados Unidos, Lampkin Butts, resaltó que “de alguna manera, no sé cómo, tienen [Cuba] bastante efectivo y están en el mercado con fuerza”, afirmó al medio especializado WATTPoultry el año pasado.

Gran parte de los productos alimenticios que llegan a la isla terminan vendiéndose en restaurantes de hoteles y resorts operados por el estado con precios que no son accesibles para la mayoría de los cubanos, de acuerdo a críticos como Eire.

WLRN

Miami, Florida

11 February 2022

Cuba creates a new money-transfer agency — but is there anything different about Orbit?



Ismael Francisco/AP- Cubans at a Western Union money-transfer office in Havana on the company's last day open there, in November 2020, after new Trump Administration restrictions on remittances from the U.S. made operating there too difficult.

Cuban exiles might ask: If Cuba's new agency to handle electronic cash transfers from abroad is controlled by the military, like the old agency, what's the point?

This week the Cuban government introduced a new agency to handle electronic cash transfers to the island from abroad. But the big question everyone's asking is ... why?

Orbit is the name of the new state-run Cuban firm for handling the money, usually called remittances, that folks like Cuban exiles here send to Cubans on the island. Before the pandemic, that cash totaled close to \$4 billion a year — but has fallen 70% since then.

That's due in large part to restrictions former President Trump put on those cash transfers from the U.S. in order to sanction Cuba's dictatorship — which takes a cut of that money.

It's not clear if Cuba thinks creating Orbit might persuade President Biden to ease those restrictions — especially if the Cuban military controls Orbit, just as it ran the old Cuban money-transfer agency, Fincimex, which the U.S. has blacklisted.

“We still have the same question, which is: who controls Orbit?” said John Kavulich, who heads the U.S.-Cuba Trade and Economic Council in New York.

“What it does do is create a little bit of a discussion again on these U.S.-Cuba money issues.”

That is, a discussion about not only whether the U.S. should loosen Trump's measures on cash transfers to Cuba — but also take steps such as opening up direct U.S. investment in Cuba's fledgling private businesses as well as the sort of direct U.S.-to-Cuba banking to better facilitate it.

“You’ve got U.S. companies that are saying, ‘Let us in to help these folks,’” said Kavulich. “But the Biden Administration has been sitting on a license application to allow direct investment in small and medium-size Cuban enterprises.”

The Administration says it is still “reviewing” those Cuba policy options.

The Miami Herald

Miami, Florida

9 February 2022

At the height of the enthusiasm sparked by President Barack Obama's historic restoration of relations with Cuba, several U.S.-based cruise lines rushed to secure a piece of the island's untapped market under newly eased regulations promoting “people-to-people” engagement.

The cruise companies knew that traveling to Cuba for tourism was illegal. So, instead of sipping mojitos at Varadero beach, Americans going to Cuba were supposed to participate in humanitarian and social-impact initiatives that would help Cubans gain independence from the state, the cruise lines pledged.

But a recent trove of unsealed documents from related lawsuits filed in Miami federal court shows that behind the scenes, four major cruise lines — Carnival, Royal Caribbean, Norwegian and MSC Cruises — made deals with Cuban Ministry of Tourism agencies to provide “tourist services” to passengers, including excursions to cabarets and beaches that did not (or softer?) comply with the embargo laws and regulations that prohibit tourism.

In a race to beat competitors, Carnival registered a subsidiary with the Cuban Chamber of Commerce in 2018 for the stated purpose of “conducting commercial activities related to tourism.” And the company also signed a memorandum of understanding with Gaviota, a tourism company owned by the military conglomerate GAESA, for “tourism services.”

Not wanting to be left behind, Royal Caribbean even made inquiries with a Cuban government law firm to secure permits to open and operate casinos in Cuba, according to the court documents. Royal also profited from reselling Cuban “tourist visas” to passengers at a 50 percent mark-up.

The cruise companies went ahead despite warnings by the U.S. Treasury Department that the authorization to take travelers to Cuba was no excuse for violating other laws and regulations. They also took the risk to do business with Cuba despite knowledge that some of the ports they would be using were the subject of property-claims disputes because they were confiscated from their owners by the Fidel Castro government in 1960.

Although the Cuba travel bubble was short-lived, the cruise lines' bet paid off: The four companies brought in least \$1.1 billion in revenue from sailings to Havana between 2016 and 2019. The booming business benefited the Cuban government too, which pocketed a little over \$138 million.

This and more popped up in hundreds of pages of unsealed documents filed in federal court in Miami linked to lawsuits against each of the cruise lines by an American company, Havana Docks. The records include contracts, financial statements, email exchanges, legal assessments and depositions. Some were just partially referenced in PowerPoint presentations shown during the hearing because their full version remains under seal as requested by the cruise companies.

The parties have been involved in fierce litigation for over two years over the question of whether or not, by docking at the port of Havana, the cruise companies “trafficked” on confiscated property. Havana Docks

holds a U.S. government-certified claim for the loss of assets and a concession to operate three piers at the Havana port that decades later were used as the cruise terminal welcoming American travelers.

The four cruise lines are registered outside the United States but keep their principal place of business in Florida, three of them in Miami.

After several motions and delays, U.S. District Judge Beth Bloom is set to decide whether the lawsuits will go on to trial.

“The art of the Cuban cocktail”

The picture that emerged at a January hearing, when the judge gave Havana Docks permission to unseal some of the evidence, seemed to confirm some of the worries shared by Cuban exiles about the economic opening under the Obama administration, in particular, that the “people-to-people” travel category was tourism in disguise.

In the beginning, some cruise executives shared the same view.

In a video shown in court, recorded at [a 2015 event in New York organized by Wharton](#), Norwegian president and CEO Frank del Río said he believed taking thousands of American travelers under the “people-to-people” rules was “a stretch.”

“Tourism is still illegal under today’s set of rules and policies and guidelines,” Del Río, himself a Cuban American, said. “And it would be difficult for us to have a ship with 4,000 tourists — people, let’s call them — show up in Havana and call that people-to-people travel. That would be a stretch of the rules.”

“My perspective is, from my three brands, until Congress officially repeals Helms-Burton,” he continued, “even if you can backdoor through OFAC [Treasury’s Office of Foreign Assets Control], it wouldn’t be the proper thing to do, and I don’t think you can do it on a sustained basis. I don’t think that that backdoor or that loophole if you will, would work on a sustained basis.”

The Helms-Burton Act, passed by Congress in 1996, codified many of the rules that constitute the embargo against Cuba. Its Title III, enforced for the first time in 2019 by President Donald Trump, allowed Havana Docks to sue the cruise lines for alleged trafficking on confiscated property.

Still, when OFAC further eased the guidelines to explicitly allow “carrier services by vessels” in September 2015, Norwegian and other cruise lines took advantage of the open “backdoor” to do business with Cuba. But some of the actions taken by the cruise lines appear to have gone beyond what was legal at the time.

According to undisputed evidence presented during the recent hearing, Carnival, Royal Caribbean and Norwegian, all based in Miami, signed contracts with Havanatur, the Cuban Ministry of Tourism’s largest travel agency, for “tourist services,” the records show. MSC Cruises did the same with Cubanacan, another government travel agency and hotel chain.

“Through this agreement, the parties have stipulated the terms by which Havanatur shall sell tourist reception services in the Republic of Cuba in order to serve passengers sent by the agency,” reads the contract signed by Del Río on behalf of Norwegian, according to screenshots of the document shown in court. “The latter,” meaning Norwegian, “shall likewise make payments resulting from these services.” Part of the payments went to a bank account in dollars that Havanatur kept with French bank Crédit Mutuel. The bank [dropped Havanatur’s account](#) in July 2020 because of the company’s links with sanctioned military-owned company Fincimex.

MSC Cruises entered into a similar agreement with Cubanacan, under which the Cuban agency was in charge of providing “tourist services,” including shore excursions to the passengers.

“This appears to be powerful evidence that there was an intention to provide tourist activities,” Judge Bloom said at the January hearing.

As part of the deals, the cruise lines marketed and sold excursions offered by the Cuban companies — from a “cocktail-making class” to spending an evening “under the Cuban sky” at the famous Tropicana Cabaret in Havana and excursions to Varadero and Santa Maria beaches—that did not comply with the ban on tourism or the requirements in OFAC’s general licenses authorizing both the cruises and the passengers to travel to Cuba.

Here’s a graph in an MSC’s marketing material selling an 8-hour excursion to the famous Varadero beach resort: “The idyllic natural setting and warm, Caribbean water are perfectly complemented by free use of beach umbrellas and chairs during your stay as well as a delicious buffet. You’ll have about five hours to savor the surroundings, go swimming, stroll along the beach, listen to Cuban music or even have a go at beach game. This thoroughly relaxing tour ends with your scenic return journey to the port and your ship.” Descriptions of Old Havana’s sightseeing tours, Havana bus tours, excursions to see a colonial-era cannon ceremony at the bay or go scuba diving offered by the cruise lines also did not follow regulations that travelers should maintain a full-time schedule of educational activities that include substantial interaction with locals. In its guidelines at the time, OFAC explicitly said that exploring the streets of Havana and engaging in “brief exchanges with shopkeepers” and “casual conversations with waiters at restaurants and hotel staff” were not “educational activities that will result in meaningful interactions” with Cubans.

Some of these excursions sold by Norwegian said they were “OFAC-compliant.” But Carnival included a disclaimer in their marketing material for evening excursions to Tropicana, the Cabaret Parisien and the cannon ceremony known as “El Cañonazo,” acknowledging that “this evening shore excursion does not comply with the People-to-People guidelines and cannot be considered to be part of the required full schedule of activities.”

Screenshots of Carnival’s memorandum of understanding with Gaviota do not show when it was signed. The full document remains under seal. Gaviota was added to the State Department’s Cuba Restricted List in November 2017. Companies under U.S. jurisdiction cannot make direct financial transactions with entities in the list.

Carnival response. Cruise companies responses

Several lawyers with knowledge of the Cuba embargo regulations consulted for this story expressed surprise at the admissions regarding tourism heard at the federal court in Miami. They declined to be quoted because of their involvement in the more than 40 lawsuits related to confiscated property in Cuba.

“The issue here is that not only did they sign a document that used the word tourism. Then you have your passengers engaged in what any person reasonably would understand as tourism,” said John Kavulich, the president of the U.S.-Cuba Trade and Economic Council, who has closely followed the Helms-Burton lawsuits. “But here’s where it gets challenging. The cruise lines are saying ‘none of this matter because we did legally, we had a license from Treasury, from Commerce, the blessing of the White House’ that immunized them from everything else. The question for the plaintiffs and the judge is, are they correct?”

Florida members of Congress who at the time opposed the Obama administration’s policies of engagement with Cuba and voiced their concern with cruise lines representatives called for an OFAC investigation. Rubio and Diaz Balart comments.

“When President Obama permitted virtually unrestricted travel to Cuba, I repeatedly and publicly stated that this type of travel was unlawful,” Miami Representative Mario Díaz-Balart said. “If the alleged terms of these contracts are accurate, they would constitute a clear violation of the law. OFAC must investigate these potential violations immediately and hold any and all violators accountable to the fullest extent of the law.”

The lawful travel defense

Navigating the Cuban embargo is difficult because it is governed by different regulations and laws. OFAC administers and can make changes to the Cuban Assets Control Regulations (CACR). But notably, it cannot authorize tourism because the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA)

prohibits OFAC from licensing transactions for tourist activities. Furthermore, OFAC does not administer the Helms-Burton Act.

Evidence pointing to the violation of the tourism ban, which could prompt an OFAC investigation and possible fines, may damage the cruise lines case in court because much of their joint defense strategy hangs on how judges will interpret an exception in the Helms-Burton Act that prevents lawsuits for the use of confiscated property if such use is “necessary” to “lawful travel.”

The cruise companies argued at the hearing that they met the conditions set by the “lawful travel” exception because they took passengers to Cuba legally under a government license. They said they were encouraged by the Obama administration’s change of regulations to allow providing “carrier services by vessels” and lodging to Americans traveling under 12 authorized categories, including ‘people-to-people’ educational exchanges. These exemptions in the Cuba sanctions program are called “general licenses.” OFAC can also authorize particular transactions through specific licenses.

Yet the Treasury regulations authorizing cruises to Cuba did not define “lawful travel,” and neither the law nor OFAC regulations allowed plain tourism, which is why the matter is under consideration by judges. Because OFAC has no authority over the Helms-Burton Act, Havana Docks’ lawyers went further and argued that the cruise lines should have abided by the more stringent travel regulations described in that law—which have not been modified since 1996—if they wanted to avoid lawsuits for the use of confiscated property.

Evidence showed during the hearing indicates the cruise companies had some prior knowledge of the claims. During a meeting referenced in internal Carnival communications, Florida Republican representative Mario Diaz-Balart also warned its executives that many Cuban ports were confiscated property.

The language in both general and specific licenses regulating travel to Cuba also warned about potential liabilities.

A specific license obtained in July 2015 by Carnival, the first company that sailed to Havana from Miami during the brief detente, only includes authorization to provide carrier services between the U.S. and Cuba and lodging passengers “engaged in activities authorized” by the Cuba regulations administered by OFAC. The document, also filed in court, includes several warnings that “nothing on this license” excuses compliance with other laws and regulations.

Except for the authorized activities, “nothing in this License authorizes any person subject to the jurisdiction of the United States to engage in any transaction or activity prohibited by the CACR, or by any other laws and regulations administered by the Office of Foreign Assets Control,” the license says. The authorizations, the warning continues, “apply only to the laws and regulations administered by OFAC and should not be interpreted to excuse the Licensees from compliance with other laws, regulations, orders, or rulings to which they may be subject.”

Havana Docks’ lawyers contend the licenses, specific or general, did not provide carte blanche to use the confiscated property. And that calling at the Havana port was not “necessary” to transporting passengers to Cuba but a calculated business decision because the Cuban capital was the most attractive destination. Most cruises also went to other destinations like Cienfuegos or Santiago de Cuba.

Lawyers representing the cruise lines replied that such interpretation of “necessary” would “render the lawful travel exclusion absolutely meaningless.”

“Under the licenses we are entitled to go anywhere in Cuba,” said Stuart H. Singer, a Carnival lawyer who presented oral arguments on behalf of the four cruise lines. “And it is not an appropriate position for the Plaintiff to say that: ‘If there’s just someplace in Cuba you could go to, you could go there rather than Havana.’ We have the right, since we can go anywhere, to go to Havana.”

Yet, outside the court, records show that the cruise companies were unsure that the licenses under which they took passengers to Cuba would offer enough protection and engaged in lobbying efforts to stop the lawsuits related to confiscated property.

Concerned about news in January 2019 that the Trump administration was moving to enforce Title III and again in February, after receiving notification letters from Havana Docks about the potential lawsuits, the companies asked the Cruise Lines International Association (CLIA) for a liability assessment if Title III were to be activated—the CEOs of the four cruise companies sit at the CLIA Global executive committee.

The study, commissioned to law firm Venable, warns that “it is unclear whether a court would find that carriers and travel service providers, including the cruise lines, are covered by” the lawful travel exception. “We anticipate that a court could interpret the Travel Exception narrowly, such that only persons engaged in activity that was otherwise authorized under U.S. sanctions at the time the Act was signed in 1996 are exempted from private rights of action,” it adds.

According to the deposition of CLIA’s Associate General Counsel Bradley Rose, the organization met with lawyers and lobbyists in January 2019 to discuss how to influence the Trump administration so “that legal claims under Title III cannot be made against cruise lines and/or maintain the overall suspension of lawsuits under Title III.”

The efforts included a letter to then-Secretary of State Mike Pompeo and even a meeting between Carnival’s chairman and Heat’s owner Micky Arison and President Trump at the White House, Havana Docks’ lawyer Robert Martinez said at the hearing.

In a follow-up email sent to the White House on April 17, 2019, the day the announcement of Title III’s enforcement was expected, Arison again pleaded with President Trump to modify the regulations to clarify that the “lawful travel” exception in the Helms-Burton Act included cruise operations.

“If there are no exceptions or clarifications, we would be subject to significant legal liability for the use of the Ports” in Cuba,” he wrote. “While it might appear that such an exemption would protect cruise lines from legal claims, lawful travel is not defined.”

“The potential penalty to my company alone would be over \$500 million,” he noted.

“Putting lipstick on a pig”

During the hearing, however, the cruise lines’ lawyers stroke a bullish tone, calling cruise travel to Cuba “the quintessential example of lawful travel.”

They also tried a bunch and, at times, convoluted arguments to defend the tourist activities in Cuba.

One Carnival lawyer, Meredith Schultz, interpreted an OFAC prohibition on “transactions related to activities that are primarily tourist-oriented” as not barring “excursions that are tourist-oriented” because the word used was “transaction” and not “excursion.” She went on to say that “It says it’s related to activities that are primarily tourist-oriented. This means that transactions can be secondarily tourist-oriented.”

Another lawyer representing Norwegian, Allen P. Pegg, took a different approach and said the excursions to spend an evening at a cabaret or go scuba diving indeed complied with the people-to-people regulations. “Plaintiff pointing to issues that you know: ‘That looks fun.’ That’s essentially what they’re telling Your Honor. ‘And that scuba diving trip looks like it might have been a good time.’ That does not undercut the fact that these were all designed and had critical components of meaningful interaction with the Cuban people, which is what people-to-people is all about.”

The lawyers also tried to blame the passengers.

“I think if you’re going to say: ‘Oh, if you spent the whole day on the beach,’ that’s a Helms-Burton claim against that person, not against Carnival,” Schultz said. “There is daylight there between the cruise ships

providing carrier services and what the passengers are doing. And they are the ones signing these declarations and making these affidavits.”

The general license under which the cruise lines could transport people to Cuba required that the passengers were in compliance with one of the 12 authorized travel categories. Passengers had to sign affidavits to attest they were, and the cruise lines had to keep the records for five years.

When Pegg made a similar argument, judge Bloom called it “somewhat circular” because the passengers signed the affidavits based on the excursions and itineraries offered by the cruise lines.

The lawyers also pointed out that OFAC never went after the cruise lines for their activities in Cuba. Citing “concerns” about its record-keeping practices, OFAC issued a “cautionary letter” to Royal Caribbean but didn’t impose a fine. The letter was dated June 6, 2019, but it suggests that OFAC had been auditing Royal since 2018.

A Treasury spokesperson said the agency does not comment on investigations. Additional treasury response to questions

Ultimately, the lawyers said, the court has no business in considering if the cruise companies facilitated tourism because they received authorization from the U.S. government to travel to Cuba.

“I guess Carnival’s position is it wouldn’t matter if there were many excursions that were tourism-related because the Court should not look behind the blanket authorization,” judge Bloom said. “That is correct, your Honor,” Schultz replied.

“If there’s even one passenger who complied with people-to-people requirements, Carnival has done its job by providing carrier services to that passenger if that passenger’s lawful travel and Carnival’s use of the terminal is incident to that passenger’s lawful travel,” the lawyer continued. “That box is checked. It’s done. So yes. The Court does not need to look into what actually happened in Cuba.”

After hours of going back and forth on the lawful travel defense, Martinez, the Havana Docks’ leading counsel, provided a colorful description of the defendants’ presentation.

“These cruises to Cuba were tourist cruises,” he said. “And to call them anything else is to put lipstick on a pig.”

“The more they dig into it, the worse it will look”

As many Cuban exiles worried, the records show that the Cuban government made good money out of these deals to provide “tourism services” to American travelers. Havanatur, for example, received \$38 million, and the government made \$54,4 million just in “tourist” visa fees.

Some of the money paid was funneled to obscure offshore companies controlled by the government, such as Agencia Marítima Mapor S.A. The company, incorporated in the Virgin Islands, is linked through its representative, Andrés Ernesto Muñoz Campos, to [a global network of offshores](#) through which the government and the military carry out the island’s shipping and maritime dealings while avoiding U.S. sanctions. MSC paid \$9,314,386.41 to Mapor for services as a “ship agent” at the Havana port, according to the court documents.

Of the four companies, Royal Caribbean made the most, \$ 430, 925, 849 in revenue and sought opportunities to make more. Between 2017 and 2018, the company explored the possibility of operating onboard casinos while in Cuba, according to the description of emails between several Royal executives and lawyers with COMAR, a Cuban government legal agency. The emails are withheld by Royal, citing attorney-client privilege. Their content was described as “Casino Opening in Cienfuegos and Santiago,” “RCCL trying to secure permits to open and operate Casinos in Cuba,” “Operation of cruise ship casino during berthing in Cuban territory,” “Casino Opening Hours Seeking legal advice from counsel,” “shipboard casinos,” “operating onboard casinos,” and “OFAC compliance/legality of opening casinos.” Royal Caribbean response.

Though the [shutdown of U.S. cruise travel to Cuba](#) in June 2019 [hurt some of the island's self-employed](#), especially drivers, souvenir makers and waiters at paladares around the ports, the records also back up claims by Florida politicians that comparatively little money went to Cuban private businesses and entrepreneurs, contrary to what both the Obama administration and the cruise industry publicly claimed.

After the Trump administration and senators like Republican Marco Rubio expressed concern that the Cuban government was pocketing much of the money from cruise traveling, Royal Caribbean executives scrambled to look for data proving otherwise.

Ahead of a meeting with Rubio, Royal's vice president Eleni P. Kalisch asked two company executives if they could provide data about how much the company paid the Cuban government versus how much they were able to "directly support the Cuban people." She said CLIA was collecting the data and was trying to "portray the financial support we provide to the Cuban people as equal or greater than the support to the government (assuming the data supports that)."

The company executives were only identified as Michael and Roberta in a PowerPoint presentation with excerpts from an undated email exchange. The full version of the emails is still under seal.

"Havanatur is a government agency, so hard to make a case this is going to the Cuban people," said an unidentified executive. "This is going to be a hard one," another replied. "The port fees is a similar situation with everything going to the government, the buses we used are all government-owned. Maybe a little tiny bit for the restaurants we go but minuscule amount."

Someone said the data would likely support the White House's claims. Another executive replied: "Yep, the more they dig into it, the worse it will look."

AFP

Paris, France

4 February 2022

Cubanos de Miami superam limites do embargo para enviar mercadorias à ilha



Cubanos em Miami durante ato contra o governo em 14 de novembro de 2021 afp_tickers

Maria é cubana e mora há quatro anos em Miami, Flórida. Para enviar roupas e medicamentos a parentes em seu país natal, ela comparece a uma agência de encomendas, um tipo de negócio onipresente na cidade e que consegue chegar no limite do embargo americano à Cuba.

As agências se adaptaram à medida imposta por Washington desde fevereiro de 1962. Por preços que oscilam entre 2,5 e 5 dólares por libra (0,45 kg), enviam para a ilha caribenha – que fica 145 km ao sul da Flórida - todo tipo de produtos.

Em Miami, que tem a maior comunidade cubana dos Estados Unidos, várias pessoas como Maria recorrem a estabelecimentos similares para enviar uma ajuda essencial aos parentes em Cuba, que enfrenta a pior crise econômica em 30 anos. "Fico feliz de poder ajudar meus pais e irmãos", afirma a contadora de 33 anos, triste com a situação em seu país.

- Os buracos do embargo -

O bloqueio, como o governo de Havana chama o embargo, autoriza a exportação de alimentos e produtos agrícolas dos Estados Unidos para Cuba. Também permite que cidadãos enviem uma vez por mês produtos como remédios, roupas e dispositivos eletrônicos, desde que as quantidades sejam ajustadas às de um presente entre indivíduos. Dependendo dos produtos e do prazo de entrega, as agências enviam os pacotes por via marítima ou aérea. "Os navios são mais baratos, mas os produtos demoram no mínimo três meses a chegar ao destinatário", explica a gerente de um dos estabelecimentos, Ana (ela usou um pseudônimo). "Por avião demora por volta de 45 dias, mas depois depende das autoridades cubanas", afirma.

Algumas empresas de transporte marítimo organizam envios periódicos a Cuba diretamente a partir dos Estados Unidos. Mas outras empresas transitam por outros países, como Panamá e México, em uma forma de evitar o embargo.

"Ao fazer isso, estas empresas não têm restrições sobre o que pode ser enviado", diz John S. Kavulich, presidente do Conselho Econômico e Comercial Cuba-EUA. "São mais baratas porque têm mais atividade e uma variedade maior de produtos disponíveis".

- As "mulas" –

Ana afirma que sua empresa não recorre ao transporte marítimo através de países terceiros e que, no que diz respeito aos envios aéreos, apenas trabalha com as companhias aéreas de passageiros que aceitem transportar carga em seus aviões. Ela admite, no entanto, que outras agências recorrem às "mulas", pessoas que voam dos Estados Unidos para Cuba transportando todo tipo de produtos em sua bagagem, em troca de pagamento.

"Uma mula pode levar pra Cuba um micro-ondas para alguém, roupas, remédios que exigem pedido médico, etc, e também dinheiro", explica Kavulich. Mas o trabalho das "mulas", que também oferecem os serviços a particulares, vai além da simples ajuda entre familiares e pode constituir uma espécie de canal paralelo de importação em Cuba. "Enviam máquinas de lavar, carburadores, pneus, xampus, esmaltes para unhas", cita Kavulich.

Uma prática que as autoridades americanas muitas vezes fingem não perceber, destaca o especialista, e que, em Cuba, pode burlar a alfândega caso as quantidades não indiquem um uso comercial dos produtos.

- Acesso desigual -

Há alguns meses, quem deseja ajudar parentes em Cuba tem outra opção além das agências de encomendas: supermercados online que enviam as compras para residências na ilha.

Uma das plataformas mais conhecidas é a KatapulK, fundada pelo empresário cubano-americano Hugo Cancio, com sede em Miami. Apenas em novembro do ano passado, a empresa enviou para Cuba 83 toneladas de produtos a partir de Miami.

Kavulich destaca que os envios de mercadorias e dinheiro, seja por agências, "mulas" ou plataformas online, "aumentam a distância entre aqueles (em Cuba) que têm acesso a amigos e familiares e aqueles que não têm".

"E, politicamente, são uma recordação visível do fracasso do governo cubano", resume.

Miami Herald

Miami, Florida

4 February 2022

Consular services in Havana to increase in 'the not too distant future,' U.S. diplomat says

BY NORA GÁMEZ TORRES



In this Aug. 14, 2015, file photo, a U.S. flag flies at the U.S. Embassy in Havana, Cuba. DESMOND BOYLAN AP

A year after announcing a review of U.S. policy towards Cuba, a top State Department official hinted the Biden administration was readying to move to increase visa processing in Havana.

Assistant Secretary for the Western Hemisphere Brian Nichols told lawmakers during a Thursday hearing that the State Department was planning to beef up its personnel at the U.S. Embassy in the Cuban capital.

“The president announced our intent to resume visa services, we’re working towards that, and we’ll be deploying temporary duty consular officers to Havana in the not too distant future and increasing processing there,” Nichols said.

A State Department spokesperson declined to say when visa processing would resume in Havana. “The administration committed to exploring options to ensure appropriate staffing at the U.S. Embassy in Havana to facilitate diplomatic and civil society engagement and the provision of consular services, while maintaining an appropriate security posture,” the spokesperson said. “These options could include sending both temporary and longer-term personnel. At this time, we have no specific changes to announce.”

The State Department reduced the embassy staff and shut down most consular services in 2017 after several events now referred to by the Biden administration as “anomalous health incidents” that are still under investigation. The Trump administration also suspended the Cuban Family Reunification Parole Program, which had allowed many Cuban Americans to bring their family members to the U.S. sooner than through the regular process.

The processing of immigration visas moved to the U.S. Embassy in Guyana, an expensive destination for Cubans. The COVID-19 pandemic further disrupted the process.

According to the State Department’s most recent figures for 2021, there are 90,771 pending family-sponsored immigrant visa petitions for Cubans, up from 78,228 cases in 2020. Cubans who want to travel to the U.S. to visit relatives also have to go to a third country for consular interviews.

The Biden administration promised to roll back many of the measures taken by the Trump administration and ordered a Cuba policy review during President Joe Biden’s first days in office. But the White House said the task was not a priority.

After a popular uprising in July, National Security Council officials said the administration had hit the “pause button” on the review out of concern for the human rights situation on the island. News alerts in your inbox Sign up for email alerts and be the first to know when news breaks.

“Thousands of Cuban Americans continue to be negatively impacted by the lack of visa services in Havana and restrictions on remittances and travel,” U.S. Rep. Joaquin Castro said at the Foreign Affairs committee’s hearing. “These Americans are unable to support their family in Cuba with remittances or reunite them through travel or immigration.”

President Biden also ordered a study of ways to increase internet connectivity on the island. NSC officials later said technological hurdles make that difficult to achieve and shifted the focus to supporting tools to circumvent censorship. The administration has remained silent on other issues like flights to Cuba, which are currently limited to Havana.

Also on Thursday, Miami Republican Reps. Mario Díaz-Balart, María Elvira Salazar and Carlos Gimenez sent a letter to Biden calling for the resumption of consular services in Havana, prioritizing access to human rights activists and those with urgent humanitarian or medical need. “It was particularly insulting to many in our districts when regime operatives, and their favorites such as the professional baseball players, were able to access on-island consular services while the vast majority of more deserving Cubans were forced to travel to a third country at considerable expense,” they wrote.

The representatives also asked the administration to resume the Cuban parole program and cited legislation they introduced to that effect, which proposes conducting in-person interviews at the U.S. Naval Station in Guantánamo Bay, Cuba, if restrictions on consular services continue. But the plan faces several logistical obstacles, not least that it requires the agreement of Cuban authorities.

Díaz-Balart told the Herald that restoring consular services at the embassy should go along with other conditions like denying employment at the embassy to Cuban nationals linked to the government and limiting the number of Cuban diplomats stationed at the Cuban Embassy in Washington. “Any action taken to resume consular services that does not include these conditions would be dangerous and irresponsible,” he said.

The deterioration of human rights on the island and fears that a policy of engagement could be politically costly with Cuban-American voters in Florida have weighed on the administration’s decision to hold back on any moves on Cuba.

Instead, the administration has focused on punishing Cuban security agencies and officials involved in the crackdown on the July 11 protests with several rounds of sanctions. Cuban authorities acknowledged they have imprisoned more than 700 protesters; among them, “there are many, many children who have been sentenced to eight and ten years in prison under harsh conditions, and it’s a shocking abuse of human rights,” Nichols said at the hearing.

But several other elements of the policy review remain on hold, including a study directed by Biden to find a way to resume remittances to Cuba without benefiting the Cuban government. “The remittances working group has provided its recommendations to the White House with ways that we could expand the use of remittances on the island without increasing the funds that would go to the Cuban government military,” Nichols said. “Those recommendations are with the White House, and we await their decision.”

Asked about what the Cuban government could do to encourage changes on the U.S. side, Nichols said it “could release the hundreds of political prisoners that it’s arrested since July of last year, particularly the children, the people that have been sentenced to harsh prison sentences.”

“That would be an important first step for Cuba to take,” he added.

But the mixed messages on Cuba from the White House have been frustrating for those on the opposite side of the debate. Florida Republicans regularly criticized the administration for what they perceived as a lack of action. “I am pretty frustrated,” Salazar said at the hearing. “What is the Biden administration doing?” she asked in reference to the growing repression in Cuba and Nicaragua.

Others in the business community are puzzled over what they see as an abandonment of what is supposed to be a pillar of U.S. policy towards Cuba: the support of the private sector.

The Treasury Department has not answered a request for clarification on whether direct financing to the Cuban private sector is allowed under the current regulations, said John Kavulich, the president of the U.S.-Cuba Trade and Economic Council.

“The Biden-Harris administration is politically constipated when it comes to Cuba policy,” he said.

Miami, Florida

4 February 2022

Aumentarán trámites de visa en La Habana “en un futuro no muy lejano”, dice diplomático de EEUU

por Nora Gámez Torres



La embajada de Estados Unidos en La Habana está operando con el personal mínimo desde septiembre del 2017, después que varios diplomáticos sufrieron misteriosos síntomas médicos. Desmond Boylan AP

Un año después de anunciar una revisión de la política de Estados Unidos hacia Cuba, un alto funcionario del Departamento de Estado anunció que la administración de Biden se estaba preparando para aumentar el procesamiento de visas en La Habana.

El subsecretario para el Hemisferio Occidental, Brian Nichols, dijo a los representantes federales durante una audiencia el jueves que el Departamento de Estado planea reforzar su personal en la embajada en la capital cubana.

“El presidente anunció nuestra intención de reanudar los servicios de visas, estamos trabajando para lograrlo y enviaremos oficiales consulares de servicio temporal a La Habana en un futuro no muy lejano y aumentaremos el procesamiento allí”, dijo Nichols.

Una portavoz del Departamento de Estado declinó decir cuándo se reanudaría el procesamiento de visas en La Habana.

“La Administración se comprometió a explorar opciones para garantizar la dotación de personal adecuada en la embajada de Estados Unidos en La Habana para facilitar la participación diplomática y de la sociedad civil y la prestación de servicios consulares, manteniendo condiciones de seguridad adecuadas”, dijo la vocero. “Estas opciones podrían incluir el envío de personal temporal y de largo plazo. En este momento, no tenemos cambios específicos que anunciar”.

El Departamento de Estado redujo el personal de la embajada y cerró la mayoría de los servicios consulares en 2017 después de varios eventos a los que ahora la administración Biden se refiere como “incidentes de salud anómalos” que aún están bajo investigación. La administración de Donald Trump también suspendió el Programa de Parole para la Reunificación Familiar Cubana, que permitió a muchos cubanoamericanos traer a sus familiares a Estados Unidos antes de lo que les correspondería a través del proceso regular.

El trámite de las visas de inmigración se trasladó a la embajada de Estados Unidos en Guyana, un destino costoso para los cubanos. La pandemia interrumpió aún más el proceso.

Según las cifras más recientes del Departamento de Estado para 2021, hay 90,771 solicitudes de visa de inmigrante pendientes patrocinadas por familiares de cubanos, una cifra más alta que los 78,228 casos reportados en 2020. Los cubanos que desean viajar a Estados Unidos para visitar a familiares también deben ir a un tercer país para entrevistas consulares.

El gobierno de Biden prometió revertir muchas de las medidas tomadas por su predecesor y ordenó una revisión de la política hacia Cuba durante sus primeros días en el cargo. Pero la Casa Blanca dijo que la tarea no era una prioridad. Después de un levantamiento popular en julio, los funcionarios del Consejo de Seguridad Nacional dijeron que la administración había presionado el “botón de pausa” en el proceso de revisión debido a la preocupación por la situación de los derechos humanos en la isla. El Nuevo Herald es la conexión moderna y digital a la versión impresa tradicional.

“Miles de cubanoamericanos continúan afectados negativamente por la falta de servicios de visa en La Habana y las restricciones a las remesas y los viajes”, dijo el representante Joaquín Castro en la audiencia del comité de Asuntos Exteriores. “Estos estadounidenses no pueden mantener a su familia en Cuba con remesas o reunirse con ellos a través de viajes o inmigración”.

El presidente Biden también ordenó estudiar formas de aumentar la conectividad a internet en la isla. Los funcionarios del NSC dijeron más tarde que los obstáculos tecnológicos hacen que eso sea difícil de lograr y cambiaron el enfoque para respaldar herramientas de evasión de la censura. /La administración se ha mantenido en silencio sobre otros temas como los vuelos a Cuba, que actualmente se limitan a La Habana.

También el jueves, los congresistas republicanos de Miami Mario Díaz-Balart, María Elvira Salazar y Carlos Giménez enviaron una carta al presidente Biden pidiendo la reanudación de los servicios consulares en La Habana, priorizando el acceso a los activistas de derechos humanos y aquellos con necesidades humanitarias o médicas urgentes.

“Fue particularmente insultante para muchos en nuestros distritos cuando los operativos del régimen y sus favoritos, como los jugadores de béisbol profesionales, pudieron acceder a los servicios consulares en la isla mientras que la gran mayoría de los cubanos más merecedores se vieron obligados a viajar a un tercer país [y hacer] un gasto considerable”, escribieron.

Los representantes también solicitaron a la administración que retome el programa de parole y citaron un proyecto de ley que introdujeron a tal efecto, que propone realizar entrevistas en persona en la base naval de Guantánamo, si continúan las restricciones a los servicios consulares. Pero el plan enfrenta varios obstáculos logísticos, entre ellos el acuerdo de las autoridades cubanas.

Díaz-Balart le dijo a el Nuevo Herald que el restablecimiento de los servicios consulares en la embajada debería ir acompañado de otras condiciones como negar empleo en la embajada a ciudadanos cubanos vinculados al gobierno y limitar el número de diplomáticos cubanos estacionados en la embajada de Cuba en Washington. “Cualquier acción que se tome para reanudar los servicios consulares que no incluya estas condiciones sería peligrosa e irresponsable”, dijo.

Muchos observadores creen que el deterioro de los derechos humanos en la isla y los temores de que una política de acercamiento podría ser políticamente costosa con los votantes cubanoamericanos en Florida han influido en la decisión de la administración de frenar cualquier movimiento sobre Cuba.

En cambio, la administración se ha centrado en castigar a las agencias de seguridad cubanas y los funcionarios involucrados en la represión con varias rondas de sanciones. Las autoridades cubanas reconocieron haber encarcelado a más de 700 manifestantes; entre ellos, “hay muchos, muchos niños que han sido condenados a ocho y diez años de prisión en condiciones muy duras, y es un abuso escandaloso de los derechos humanos”, dijo Nichols en la audiencia.

Pero varios otros elementos de la revisión de la política siguen en suspenso, incluido un estudio encomendado por Biden para encontrar una manera de reanudar las remesas a Cuba sin beneficiar al gobierno cubano. “El grupo de trabajo de remesas ha brindado sus recomendaciones a la Casa Blanca sobre formas en que podríamos expandir el uso de remesas en la isla sin aumentar los fondos que irían a los militares cubanos”, dijo Nichols. “Esas recomendaciones están en la Casa Blanca y esperamos su decisión”.

Consultado sobre qué podría hacer el gobierno cubano para alentar cambios del lado estadounidense, Nichols dijo que “podría liberar a los cientos de presos políticos que ha detenido desde julio del año pasado, en particular a los niños, a las personas que han sido condenadas a duras penas de prisión”.

“Ese sería un primer paso importante para Cuba”, agregó.

Pero los mensajes contradictorios sobre Cuba de la Casa Blanca han frustrado a muchos en ambos lados del debate.

Los republicanos de Florida critican regularmente a la administración por lo que perciben como falta de acción.

“Estoy bastante frustrada”, dijo Salazar en la audiencia. “¿Qué está haciendo la administración Biden?” preguntó en referencia a la creciente represión en Cuba y Nicaragua.

Otros en la comunidad empresarial están desconcertados por lo que ven como un abandono de lo que se supone que es un pilar de la política estadounidense hacia Cuba: el apoyo al sector privado.

El Departamento del Tesoro no ha respondido a una solicitud de aclaración sobre si el financiamiento directo a los emprendedores privados cubanos está permitido bajo las regulaciones actuales, dijo John Kavulich, presidente del Consejo Económico y Comercial EE.UU.-Cuba.

“La administración Biden-Harris está políticamente estreñida cuando se trata de la política hacia Cuba”, dijo.

AFP

**Paris, France
3 February 2022**

Five things to know about 60 years of US sanctions on Cuba

By Katell ABIVEN

On the eve of the embargo's entry into force on February 7, Kennedy ordered for himself a shipment of 1,200 Cuban cigars -- a product since illegal for US citizens.

John Kavulich, president of the US-Cuba Trade and Economic Council, said the goal of such embargoes - publicly at least -- is "a change in behavior of the regime."

In recent years, Washington has justified the sanctions by pointing to rights violations by Havana and its support for the government of Venezuela's Nicolas Maduro. Cuba has not budged on either issue.

"Not only the justification has evolved, but also the types of actions" taken against Cuba, said Alina Lopez Hernandez, a Cuban researcher and editorial writer. "For as long as it was bilateral, it was easier for Cuba," she said. It was a subject "barely mentioned (by the Cuban government) in the first three decades of the revolution" when Havana had Soviet backing.

But since the Torricelli laws and Helms-Burton laws of 1992 and 1996 that ramped up the punitive measures, companies and foreign banks operating in Cuba have faced harsh penalties for doing business there. "With these two laws (the embargo) lost its bilateral character, it became externalized and became a blockade," said Lopez.

The Cuban government, which also uses the term blockade, estimates its economy has been damaged to the extent of some \$150 billion. Since 2000, food has been excluded from the sanctions, but Cuba must pay cash.

- 30 years of UN opprobrium -

Every year since 1992, Cuba has presented a motion condemning the sanctions at the UN General Assembly. The first time, 59 countries voted for it, now most are in favor. Only the United States and Israel vote consistently against the motion, except in 2016 under a brief period of diplomatic detente under then-President Barack Obama.

The Helms-Burton act, said Ric Herrero of the Cuba Study Group, "was intended to create an international embargo against Cuba." But the UN's consistent rejection shows how this has been "a resounding failure."

- How to lift it? -

America's policy towards Cuba has been dictated by internal politics ever since the end of the Cold War, when Cuba lost strategic value, said Herrero. Traditionally, the electoral weight of Florida -- a state that can sway US elections and has a strong presence of Cuban immigrants -- has stood in the way of relaxation. However, "the Democrats are not competitive right now in Florida so there's no real expectation the Democrats are gonna win Florida," Herrero said.

The pressure, instead, is coming from New Jersey and its Democratic senator Bob Menendez, a child of Cuban immigrants who supports the embargo. "Because you have a 50-50 split in the Senate, you need his vote in order to pass your legislative agenda and in order to keep him happy this administration has been willing to follow his lead on Cuba," said Herrero.

Even Obama, who had relaxed some sanctions, could not lift them entirely due to the Helms Burton law which interdicts any president from changing the embargo by decree.

- Internal blockade -

In Cuba, it is called an "internal blockade" -- "the bureaucracy, excessive centralization, the lack of incentives for producers," said economist Omar Everleny Perez. "Economically, the (American) blockade is one of the causes of the situation in Cuba, but not the only one." Unable to produce what it needs, the island nation imports 80 percent of what it consumes.

Steps to liberalize the private sector have come late and have been slow to change the situation on the ground, with much of the economy still in state hands. For Lopez, "internal policies weigh more on the situation of Cuba than the (US) blockade, because the strengthening of the embargo dates back to the 1990s but the bad policies are historic, they date back to the 1960s."

The Miami Herald

Miami, Florida

3 January 2022

U.S. vows 'decisive' response if Russia pursues threatened deployments to Cuba, Venezuela

By Michael Wilner and Nora Gámez Torres



Russian President Vladimir Putin (R) shakes hands with Cuban leader Miguel Diaz-Canel (L) during their meeting at the Novo-Ogaryovo state residence outside Moscow, Russia, 29 October 2019. Russian President Vladimir Putin (R) shakes hands with Cuban leader Miguel Diaz-Canel (L) during their meeting at the Novo-Ogaryovo state residence outside Moscow, Russia, 29 October 2019.

WASHINGTON The Biden administration responded Thursday to threats from Russian officials that Moscow could begin military deployments in Cuba and Venezuela if tensions continue to rise with the United States, vowing a "decisive" response if it sees any evidence that the threat is real.

Russia's deputy foreign minister, Sergei Ryabkov, told state television Thursday that he could "neither confirm nor exclude" the potential deployments. Russian media followed up on the remarks with a report that agents from Russia's spy agency, the FSB, had visited the two Western Hemisphere countries in recent days.

"We are not going to respond to bluster," a senior administration official told McClatchy and the Miami Herald. "If Russia actually started moving in that direction, we would deal with it decisively."

Tensions have been rising between Washington and Moscow since December, when Russia began amassing tens of thousands of troops on its border with Ukraine. Russian officials, including President Vladimir Putin, have not ruled out an invasion. Talks have taken place between Russian, American, European and NATO officials over the past three days across Europe, but officials have not reported any breakthroughs.

The Associated Press was first to report on Ryabkov's comments.

Some Cuban exiles have been closely watching the Biden administration's standoff with Russia and China, with the hopes a new geopolitical realignment would entice the Biden administration to claim Cuba in the U.S. circle of influence and more actively seek regime change on the island. Ryabkov's comments could add to the speculation that the Caribbean island could again become entangled in a replay of the Cuban missile crisis.

The governments of Cuba and Venezuela have not publicly responded to the comments. The Cuban embassy in Washington did not immediately respond to a request for comment.

As tensions grew between Havana and Washington during the Trump administration, Russia has become closer to the communist island, approving loans and increasing military cooperation.

A senior-level official of the Russian Ministry of Defense quoted by the U.S.-Cuba Trade and Economic Council estimated that a "robust" presence in Cuba would bring millions in spending for infrastructure upgrades of airports and ports. The Russian official estimated that the economic impact of having up to 2,500 Russian civilian and military forces in Cuba could bring \$100 million annually to the Cuban government. Russia could also pay an additional fee to Cuban authorities as it did in the past for hosting the Lourdes intelligence listening post near Havana.

Russia also increased its economic involvement in the oil sector in Venezuela, helping the country skirt U.S. sanctions. According to U.S. officials at the time, Russia also played a role in convincing Venezuela's Nicolás Maduro to stay in power when the opposition attempted to flip top military leaders in 2019.

Venezuela's interim government led by Juan Guaidó, which the United States recognizes as the country's legitimate authority, rejected Ryabkov's comments in "categorical" terms.

"The fact that a high-ranking official of that country has insinuated an action of this scale represents an absolute transgression to national sovereignty and the integrity of our territory," the interim government said in a statement. "Venezuela cannot be used as a pawn in a geopolitical game between the powers of the world."

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Miami, Florida

3 January 2022

EEUU promete respuesta “decisiva” si Rusia hace despliegue militar en Cuba y Venezuela

por Nora Gámez Torres y Michael Wilner



Miguel Díaz-Canel y Medvedev de Rusia se reúnen en Cuba El presidente cubano, Miguel Díaz-Canel, se reunió el 3 de octubre con el primer ministro ruso, Dimitri Medvedev, en La Habana, quien se encuentra en una visita de dos días al país. By AP

El gobierno de Biden respondió el jueves a las amenazas de funcionarios rusos de que Moscú podría comenzar despliegues militares en Cuba y Venezuela si las tensiones continúan aumentando con Estados Unidos, y prometió una respuesta “decisiva” si ve alguna evidencia de que la amenaza es real.

El viceministro de Relaciones Exteriores de Rusia, Sergei Ryabkov, dijo el jueves a la televisión estatal que no podía “ni confirmar ni negar” los posibles despliegues. Los medios rusos dieron seguimiento a los comentarios con un reporte de que agentes de la agencia de espionaje de Rusia, el FSB, habían visitado los dos países del hemisferio occidental en los últimos días.

“No vamos a responder a las fanfarronadas”, dijo un funcionario de alto rango de la administración a McClatchy y al Miami Herald. “Si Rusia realmente comenzara a moverse en esa dirección, lo abordaríamos de manera decisiva”.

Las tensiones han aumentado entre Washington y Moscú desde diciembre, cuando Rusia comenzó a acumular decenas de miles de tropas en su frontera con Ucrania. Los funcionarios rusos, incluido el presidente Vladimir Putin, no han descartado una invasión.

Se han llevado a cabo conversaciones entre funcionarios rusos, estadounidenses, europeos y de la OTAN durante los últimos tres días en Europa, pero los funcionarios no han informado de ningún avance.

La agencia Associated Press fue la primera en informar sobre los comentarios de Ryabkov.

Algunos exiliados cubanos han estado observando de cerca el enfrentamiento del gobierno de Joe Biden con Rusia y China, con la esperanza de que un nuevo realineamiento geopolítico impulse a la administración a reclamar a Cuba a la esfera de influencia de Estados Unidos. y buscar más activamente un cambio de régimen en la isla. Los comentarios de Ryabkov alimentan la especulación de que la isla caribeña podría volver a enredarse en una repetición de la crisis de los misiles de 1961.

Los gobiernos de Cuba y Venezuela no han respondido públicamente a los comentarios. La embajada cubana en Washington no respondió de inmediato a una solicitud de comentarios.

A medida que crecían las tensiones entre La Habana y Washington durante la administración de Donald Trump, Rusia se ha acercado más a la isla comunista, aprobando préstamos y aumentando la cooperación militar.

Un funcionario de alto nivel del Ministerio de Defensa de Rusia citado por el U.S.-Cuba Trade and Economic Council estimó que una presencia “robusta” en Cuba generaría millones en gastos para mejoras de infraestructura de aeropuertos y puertos. El funcionario ruso estimó que el impacto económico de tener hasta 2500 fuerzas civiles y militares rusas en Cuba podría traer \$100 millones anuales al gobierno cubano. Rusia también podría pagar una tarifa adicional a las autoridades cubanas como lo hizo en el pasado por albergar el puesto de escucha de Lourdes en La Habana. Noticias de Cuba Reciba el boletín más completo y creíble de noticias, reportajes y columnas de opinión sobre Cuba.

Rusia también aumentó su participación económica en el sector petrolero de Venezuela, ayudando al país a eludir las sanciones estadounidenses. Según funcionarios estadounidenses en ese momento, Rusia también jugó un papel en convencer a Nicolás Maduro de permanecer en el poder en Venezuela cuando la oposición intentó derrocarlo en 2019, en un plan que involucraba a los principales líderes militares.

El gobierno interino de Venezuela encabezado por Juan Guaidó, al que Estados Unidos reconoce como la autoridad legítima del país, rechazó los comentarios de Ryabkov en términos “categóricos”.

“El mero hecho de que un alto funcionario de este país haya insinuado una acción de este calibre representa una absoluta trasgresión a la soberanía nacional y a la integridad de nuestro territorio”, dijo el gobierno interino en un comunicado. “Venezuela no puede ser utilizada como peón en un juego geopolítico entre las potencias del mundo”.

The Miami Herald

Miami, Florida

3 January 2022

Future of claims involving confiscated properties in Cuba may lie with U.S. Supreme Court

By Nora Gámez Torres



Cuban exile talks about how the government took her family's properties. Concepción Beltrán's family was never notified that their farms – mostly sugarcane and tobacco fields – had been nationalized by the revolutionary government in 1959. The lands had been in the family's possession since the late 19th century.

A petition to the U.S. Supreme Court to weigh in on the interpretation of the Helms-Burton Act might decide the fate of several claims by Cuban Americans who seek compensation for property confiscated in Cuba six decades ago.

The petition, filed in December, asks the court to review the interpretation of the term “acquire” in the context of the law. In practice, that will decide whether heirs of the original property owners also have the right to sue companies doing business with those properties in Cuba.

The petitioner is Robert M. Glen, whose family owned two beach properties in Cuba's famous Varadero area that are now the site of four hotels. He is suing American Airlines because the company offered to book the hotels through its website, and he received no compensation for those activities. He initially filed his lawsuit in Miami federal court in September 2019.

Glen and others like him have waited decades for the possibility to get any compensation for properties seized by the Cuban government shortly after Fidel Castro rose to power in 1959.

Congress passed the Helms-Burton Act, also known as the Libertad Act, in 1996 to provide Americans and naturalized Cuban nationals with a remedy in U.S. courts to sue companies engaging in unlawful business activities with property confiscated by the Castro regime. But President Bill Clinton and successive presidents suspended a key provision, Title III, that allows the cases to proceed in court.

After President Donald Trump surprisingly lifted the suspension in May 2019, at least 42 lawsuits have been filed in federal courts against several companies, including 26 based in the U.S. The figures come from the U.S.-Cuba Trade and Economic Council, the most complete depository of Title III lawsuit information.

But because so many years have passed since the Cuban government confiscated millions in assets without offering compensation, many of the original owners have died, and heirs like Glen are pursuing the lawsuits.

Helms-Burton, however, includes a clause barring cases involving people who “acquired” ownership of the claim related to a confiscated property after March 12, 1996, when the law was enacted.

At the core of the request for review by the Supreme Court is the issue of whether passive inheritance can be interpreted as an acquisition. The Fifth Circuit Court of Appeals found Glen has standing to sue, but because he “acquired” ownership of the claim via inheritance after 1996, the lawsuit lacks merit.

Glen’s lawyers argue that this interpretation is “overly literal” and “renders Title III toothless.” “Without intervention by this Court, all trafficking claims held by heirs whose family members died between 1996 and 2019 will be totally barred,” the petition argues. The lawyers contend that the Fifth Circuit opinion also “undermines Congress’ express foreign policy aim of deterring trafficking in confiscated property by granting a private right of action to naturalized victims of the Castro regime.”

While the case’s progression up to the Supreme Court is “unusually swift,” it’s possible that the court will not take the case, as it usually awaits disagreements by the lower courts to be resolved before weighing in, said John Kavulich, the president of the U.S.-Cuba Trade and Economic Council.

The Biden administration could also have a say on the fate of the Helms-Burton lawsuits, after the Eleventh U.S. Circuit Court Of Appeals in Atlanta invited the U.S. government to clarify the meaning of several terms in the law text, including “acquire.”

“What does the word “acquire”... mean? Is inheritance encompassed in the term “acquire?” the appeals court asked the government.

There might be other outcomes for Glen’s petition to the Supreme Court, Kavulich said, including a ruling that concludes that the issue should be resolved in Congress by, for example, passing legislation to change the March 1996 cut-off date.

“However, a most significant result for the plaintiff could be if SCOTUS decides to hear the case and then rules in favor of the plaintiff,” he added. “Then, the approximately thirty-plus Libertad Act Title III lawsuits that have been prepared by legal counsel and ready to be filed will likely be filed.”

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3 January 2022

Airbnb, a flagship of U.S. engagement with Cuba, fined for ‘apparent’ embargo violations

By Nora Gámez Torres



Scenes from the welcoming ceremony for Obama in Cuba President Barack Obama joined Cuban president Raul Castro for a wreath laying and welcome ceremony on March 21, 2016 as part of the U.S. president's historic trip. By McClatchy

Once the symbol of U.S. economic engagement with Cuba under the Obama administration, vacation rental company Airbnb has been fined by the Treasury Department for apparent violations of the U.S. embargo, the Office of Foreign Assets Control said Monday.

OFAC said in a statement that the company agreed to pay \$91,172.29 to settle “its potential civil liability for apparent violations of sanctions against Cuba.” The violations included accepting reservations from guests traveling to the island outside the current 12 authorized categories and failing to keep certain records. Currently, Americans can travel to Cuba under 12 authorized categories: family visits, educational and religious activities, some athletic competitions, support for the Cuban people, and humanitarian projects. Traveling for other professional activities such as journalism or research is also authorized.

The fine amount was lowered from a maximum of \$600,000 because Airbnb disclosed the potential violations and cooperated with OFAC, the agency said.

“Airbnb operates in more than 220 countries and regions around the world and we take sanctions compliance very seriously,” Airbnb spokesperson Christopher Nulty said. “We are pleased to have reached this agreement with OFAC.”

But OFAC’s enforcement action is also a reminder of how much U.S. policy towards Cuba has changed in the past six years. After a short opening period under Obama, President Donald Trump hit the Cuban government with a flurry of new sanctions and many of the changes to the embargo regulations made by his predecessor were reversed. So far, little has changed under President Joe Biden, who has repeatedly criticized the Cuban government for its crackdown on dissidents and anti-government protesters.

Back in 2016, Airbnb’s president and co-founder, Brian Chesky, traveled to Cuba as a member of President Obama’s delegation. The company had started doing business in Cuba the previous year, and it was the flagship for the new U.S. policy of engagement and support to Cuban entrepreneurs. In 2019, Airbnb reported 36,400 listings in Cuba, according to the U.S.-Cuba Trade and Economic Council.

The Obama administration also touted Airbnb’s success in Cuba to encourage American companies to do business with the island.

But in its Monday press release, OFAC took the opposite view, stating Airbnb’s apparent violations of the embargo “undermined” U.S. foreign policy towards Cuba. It also warned American companies from doing business with sanctioned countries.

“This action highlights the risks associated with entering new commercial markets, particularly one that has elevated sanctions risks such as Cuba, without fully anticipating the complexities of legally operating in a U.S.-sanctioned jurisdiction and fully implementing appropriate sanctions compliance controls,” OFAC said. News alerts in your inbox Sign up for email alerts and be the first to know when news breaks.

OFAC said after Airbnb started doing business in Cuba, the scaling up of its services “outpaced the company’s ability to manage the associated sanctions risks via its technology platforms.”

According to the release, Airbnb has put in place new “sanctions compliance” measures to prevent residents in Cuba from using the platform as guests and a screening process to ensure Cuban hosts are not government officials or communist Party members, among other steps.

Airbnb received criticism after reports that Vilma Rodríguez, Raúl Castro's granddaughter, was renting a mansion through the company's platform.

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Demanda por tráfico con propiedad confiscada en Cuba llega a la Corte Suprema

por Nora Gámez Torres



El tiempo para demandar por bienes perdidos en Cuba puede acabarse. El gobierno de Fidel Castro publicó listas de personas y empresas cuyas propiedades fueron confiscadas en Cuba. Ahora podrían convertirse en evidencia en demandas bajo la ley Helms-Burton.

Una petición para que la Corte Suprema de Estados Unidos decida cómo interpretar la Ley Helms-Burton podría decidir la suerte de varias demandas de cubanoamericanos que buscan compensación por propiedades confiscadas en Cuba hace seis décadas.

La petición, presentada en diciembre, solicita al tribunal que revise la interpretación del término “adquirir” en el contexto de la ley. En la práctica esto decidiría si los herederos de los propietarios originales también tienen derecho a demandar a las empresas que hacen negocios (“tráfico”) con esas propiedades en Cuba.

El solicitante es Robert M. Glen, cuya familia poseía dos propiedades en la playa de Varadero donde ahora se erigen cuatro hoteles. Él está demandando a American Airlines porque la compañía ofrecía reservar los hoteles a través de su sitio web y él no recibió compensación por esas actividades. Inicialmente presentó su demanda en la corte federal de Miami en septiembre de 2019.

Familias como la de Glen han esperado décadas por la posibilidad de obtener alguna compensación por las confiscaciones que ordenó Fidel Castro después de asumir el poder en 1959.

En 1996, el Congreso aprobó la Ley Helms-Burton, también conocida como Ley Libertad, para proporcionar a los estadounidenses y ciudadanos cubanos naturalizados la posibilidad de demandar a las empresas que participan en actividades comerciales ilegales con propiedades confiscadas por el régimen de Castro. Pero Bill Clinton y los presidentes sucesivos suspendieron una disposición clave, el Título III, que permite que los casos avancen en los tribunales.

Después de que el presidente Donald Trump levantara sorprendentemente esa suspensión en mayo de 2019, se han presentado al menos 42 demandas en los tribunales federales contra varias empresas, incluidas 26 con sede en Estados Unidos. Las cifras provienen del U.S.-Cuba Trade and Economic Council, el depositario más completo de información sobre las demandas amparadas en el Título III.

Pero debido a que han pasado tantos años desde que el gobierno cubano confiscó millones en activos sin ofrecer compensación, muchos de los propietarios originales han muerto, y herederos como Glen están llevando adelante las demandas.

La ley Helms-Burton, sin embargo, incluye una cláusula que prohíbe los casos que involucran a personas que “adquirieron” el título de la reclamación después del 12 de marzo de 1996, cuando se promulgó la ley.

En el centro de la solicitud de revisión por parte de la Corte Suprema está la cuestión de si la herencia pasiva puede interpretarse como una adquisición. El Tribunal de Apelaciones del Quinto Circuito determinó

que Glen tiene un derecho legítimo a demandar, pero dictaminó que la demanda no tiene mérito porque él “adquirió” la propiedad vía herencia después de 1996.

Los abogados de Glen argumentan que esta interpretación es “demasiado literal” y “deja sin dientes al Título III”.

“Sin la intervención de este Tribunal, todas las demandas por tráfico por parte de herederos cuyos familiares murieron entre 1996 y 2019 quedarán totalmente excluidas”, argumenta la petición. Los abogados sostienen que la opinión del Quinto Circuito también “socava el objetivo expreso de política exterior del Congreso de disuadir el tráfico de propiedad confiscada al otorgar un derecho de acción privado a las víctimas naturalizadas del régimen de Castro”.

Si bien la progresión del caso hasta la Corte Suprema es “inusualmente rápida”, es posible que la corte no tome el caso, ya que generalmente espera los desacuerdos de los tribunales de apelaciones antes de opinar, dijo John Kavulich, presidente del U.S-Cuba Trade and Economic Council.

La administración Biden también podría influir en el futuro de las demandas amparadas en la ley Helms-Burton ya que la Corte de Apelaciones del Undécimo Circuito de en Atlanta invitó al gobierno a aclarar el significado de varios términos en el texto de la ley, incluido “adquirir”.

“¿Qué significa la palabra” adquirir “...? ¿La herencia está incluida en el término “adquirir?” preguntó la corte de apelaciones de Atlanta al gobierno.

También podría haber otros resultados para la petición de Glen ante la Corte Suprema, agregó Kavulich, incluido un fallo que concluya que el tema debe resolverse en el Congreso, por ejemplo, mediante la introducción de legislación para cambiar la fecha límite de marzo de 1996.

“Sin embargo, un resultado más significativo para el demandante podría ser si [la Corte Suprema] decide escuchar el caso y luego falla a favor del demandante”, agregó. “Entonces, es probable que se presenten las aproximadamente más de treinta demandas bajo el Título III de la Ley Libertad que que están listas para ser presentadas”.

Diario De Cuba

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Un heredero de propiedades confiscadas en Cuba eleva una petición a la Corte Suprema de EEUU
Robert M. Glen solicita al tribunal que revise la interpretación del término 'adquirir' en la Ley Helms-Burton.



Fachada de la Corte Suprema de EEUU. Al Drago The New York Times

El heredero de dos propiedades confiscadas en Varadero, donde ahora se erigen cuatro hoteles en Cuba, presentó el pasado diciembre una petición a la Corte Suprema de Estados Unidos para que interprete la Ley Helms-Burton, en particular el término "adquirir", informó el periódico El Nuevo Herald.

"En la práctica esto decidiría si los herederos de los propietarios originales también tienen derecho a demandar a las empresas que hacen negocios ("tráfico") con esas propiedades en Cuba", puntualizó la citada fuente.

Robert M. Glen está demandando a American Airlines porque la compañía ofrecía reservar los hoteles a través de su sitio web y él no recibió compensación por esas actividades. Inicialmente presentó su demanda en la Corte Federal de Miami en septiembre de 2019.

Sin embargo, la Ley Helms-Burton incluye una cláusula que prohíbe los casos que involucran a personas que "adquirieron" el título de la reclamación después del 12 de marzo de 1996, cuando se promulgó esa Ley en EEUU, apuntó El Nuevo Herald.

Los abogados de Glenn piden a la Corte Suprema revisar si la herencia pasiva puede interpretarse como una adquisición. El Tribunal de Apelaciones del Quinto Circuito determinó que Glen tiene un derecho legítimo a demandar, pero dictaminó que la demanda no tiene mérito porque él "adquirió" la propiedad vía herencia después de 1996.

Para los abogados esa interpretación es "demasiado literal y deja sin dientes al Título III. Sin la intervención de este Tribunal, todas las demandas por tráfico por parte de herederos cuyos familiares murieron entre 1996 y 2019 quedarán totalmente excluidas. Socava el objetivo expreso de la política exterior del Congreso de disuadir el tráfico de propiedad confiscada al otorgar un derecho de acción privado a las víctimas naturalizadas del régimen de Castro", señaló la petición.

Si bien la progresión del caso hasta la Corte Suprema es "inusualmente rápida", es posible que la Corte no tome el caso, ya que generalmente espera los desacuerdos de los tribunales de apelaciones antes de opinar, dijo John Kavulich, presidente del U.S-Cuba Trade and Economic Council, a la citada fuente.

La Administración de Joe Biden también podría influir en el futuro de las demandas amparadas en la Ley Helms-Burton ya que la Corte de Apelaciones del Undécimo Circuito de Atlanta invitó al Gobierno a aclarar el significado de varios términos en el texto de la ley, incluido "adquirir". "¿Qué significa la palabra 'adquirir'? ¿La herencia está incluida en el término 'adquirir'?", preguntó esa Corte al Gobierno.

Según Kavulich, uno de los posibles resultados es que se falle para que el tema se resuelva en el Congreso, por ejemplo, mediante la introducción de una legislación para cambiar la fecha límite de marzo de 1996.

"Sin embargo, un resultado más significativo para el demandante podría ser si (la Corte Suprema) decide escuchar el caso y luego falla a favor del demandante. Entonces, es probable que se presenten las aproximadamente más de treinta demandas bajo el Título III de la Ley Libertad que están listas para ser presentadas", agregó el experto.

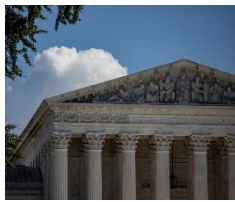
La Administración de Donald Trump activó en mayo de 2019 el Título III de la Ley Helms-Burton, que permite a ciudadanos estadounidenses demandar a empresas que lucren con propiedades decomisadas en Cuba por el régimen iniciado por Fidel Castro en 1959.

Desde 2019 se han presentado al menos 42 demandas en los tribunales federales contra varias empresas, incluidas 26 con sede en Estados Unidos, según el U.S.-Cuba Trade and Economic Council, reseñó El Nuevo Herald.

Aunque no hay ninguna empresa condenada en firme por el Título III de la Ley Helms-Burton, las empresas "se piensan mucho más" invertir en propiedades confiscadas en Cuba y analizan "con profundidad las posibles consecuencias que puede traer", dijo Ignacio Aparicio, socio y director del Cuban Desk de Andersen.

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Hopes of Confiscated Cuban Property Claimants Await Supreme Court Decision



(Getty Images)

By Brian Freeman

A petition asking the U.S. Supreme Court to review the interpretation of the Helms-Burton Act might determine the fate of some claims by Cuban Americans who seek compensation for property confiscated in Cuba six decades ago after Fidel Castro rose to power, the Miami Herald has reported.

In practical terms the court will decide whether heirs of the original property owners also have the right to sue companies doing business with those properties in Cuba.

The petitioner is Robert Glen, whose family owned two beach properties in Cuba that are now the site of four hotels. He is suing American Airlines, because it offered to book the hotels through its website, and he received no compensation. Glen and others like him have waited decades for the chance to get any compensation for properties seized by the Cuban government, even though Congress passed the Helms-Burton Act in 1996 to provide such people with a remedy in American courts to sue companies engaging in unlawful business activities with confiscated property.

But successive presidents suspended a key provision, Title III, that permits the cases to proceed in court until then-President Donald Trump lifted the suspension in 2019. Since then, at least 42 lawsuits have been filed in federal courts against several companies, including 26 based in the U.S., according to the Miami Herald.

But complicating the matter is that many of the original owners have died, and heirs like Glen are pursuing the lawsuits. Helms-Burton, however, includes a clause forbidding cases involving those who "acquired" ownership of the claim connected to a confiscated property after March 12, 1996, when the law was enacted. The key question for review by the Supreme Court is whether passive inheritance can be interpreted as an acquisition. The 5th Circuit Court of Appeals found Glen has standing to sue, but that the lawsuit lacks merit because he "acquired" ownership of the claim through inheritance after 1996.

Glen's lawyers called that interpretation "overly literal" and "renders Title III toothless." The petition argued that "without intervention by this Court, all trafficking claims held by heirs whose family members died between 1996 and 2019 will be totally barred." The lawyers contend that the 5th Circuit opinion also "undermines Congress' express foreign policy aim of deterring trafficking in confiscated property by granting a private right of action to naturalized victims of the Castro regime."

John Kavulich, president of the U.S.-Cuba Trade and Economic Council, explained that if the court decides to hear the case and then rules in favor of the plaintiff, then "the approximately 30-plus Libertad Act Title III lawsuits that have been prepared by legal counsel and ready to be filed will likely be filed."