

CLIENT ALERT

Largest Relaxation in U.S. Cuba Sanctions in 50 Years: What You Need To Know

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President Obama announced a dramatic new course in U.S. Cuba Policy today, liberalizing a number of economic ties between the countries and beginning the process of normalization of diplomatic relations between the countries after 50 years of hostility. In addition to re-establishing diplomatic relations and re-opening an Embassy in Havana, the Administration announced major relaxations in existing Cuba sanctions summarized below. These changes do not however take effect until the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) and the Bureau of Industry and Security (BIS) release implementing regulations "in the coming weeks."

The rapprochement began this morning with a prisoner swap between the two countries. Cuba released Alan Gross, a U.S. contractor who was sentenced to 15 years in prison for espionage in 2009, a U.S. intelligence agent, held for more than two decades, and 53 political prisoners. The United States released three Cubans convicted by the U.S. on charges of conspiracy and failure to register as foreign agents in 2001.

Following this exchange, and an hour long phone call between Presidents Obama and Castro, the United States announced a series of sharp changes in U.S. sanctions policy. The legal text codifying these sanctions will be released in the coming weeks, but as described by the White House, they include:

Restrictions on non-U.S. Subsidiaries of U.S. Companies: Liberalizing one of the most contentious aspects of the Cuban embargo, the relaxations will license a number of transactions involving U.S.-owned or –controlled entities in third countries, including to:

- Provide services to, and engage in financial transactions with, Cuban individuals in third countries.
- Unblock the accounts at U.S. banks of Cuban nationals relocated outside of Cuba.
- Permit U.S. persons to participate in third-country professional meetings related to Cuba.
- Allow non-U.S. vessels that have engaged in humanitarian trade with Cuba to enter U.S. ports.

Increased Financial Flows Between the U.S. and Cuba: To facilitate authorized transactions, the relaxations will liberalize financial flows including by:

- Allowing U.S. financial institutions to open correspondent accounts at Cuban banks.
- Authorizing U.S. credit and debit cards for use by travelers in Cuba.
- Loosening the definition of "Cash in advance" to mean "cash before transfer of title" rather than its current definition of "payment is received ... prior to shipment."

Additional Exports or Sales from United States: The relaxations will authorize increased exports to Cuba including:

- Certain building materials for private residences.
- Goods for private sector Cuban entrepreneurs.
- Agricultural equipment for small farmers.
- Certain items that "contribute to the ability" of Cubans to communicate with the United States, including "communications devices, related software, applications, hardware, and services, and items for the establishment and update of communications-related systems."
- Elements for the establishment of the "necessary mechanisms, including infrastructure" to provide telecommunications and internet services in Cuba.

Imports into the United States: Relaxing one of the most visible aspects of the current embargo, U.S. persons will now be authorized to import up to \$400 in personal goods from Cuba, including up to \$100 in Cuban cigars and alcohol.

Facilitating Travel: While the United States will not fully liberalize travel for tourism purposes, to support "the growth of Cuba's nascent private sector" the United States committed to liberalizing travel to Cuba including by issuing general licenses that authorize travel in the following 12 (previously authorized) areas:

1. family visits
2. official business of the U.S. government, foreign governments, and certain intergovernmental organizations
3. journalistic activity
4. professional research and professional meetings
5. educational activities
6. religious activities
7. public performances, clinics, workshops, athletic and other competitions, and exhibitions
8. support for the Cuban people
9. humanitarian projects
10. activities of private foundations or research or educational institutes
11. exportation, importation, or transmission of information or information materials
12. certain export transactions that may be considered for authorization under existing regulations and guidelines

Additionally, the United States committed to a series of diplomatic measures including: (1) reviewing Cuba's status as a state sponsor of terrorism; (2) pursuing discussions with Cuba and Mexico to resolve the U.S. maritime boundary in the Gulf of Mexico; and (3) supporting Cuban civil society's participation in the Summit of the Americas in 2015 in Panama which both President Obama and President Castro will attend for the first time.

How far these measures will actually go will be a function of the required implementing regulations and the Congressional reaction.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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