

TRUMP STRATEGIES: COMPANIES RUSH TO SIGN DEALS

# CUBA★TRADE

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## CHANGING OF THE GUARD

**How leading Cuban Americans are  
warming to engagement**

Carlos Gutierrez, former U.S. Commerce Secretary and current Co-Chair of Washington, DC-based business strategy powerhouse Albright Stonebridge

**SAVING HEMINGWAY'S  
LEGACY**

**U.S. & Cuba cooperate on  
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**ROUGH SEAS**  
**Leading economists look to  
Cuba's economy in 2017**





in closing

## Favoring the Rule of Law

Regardless of any other aspect of business or government in Cuba, the rule of law is fundamental

By Peter A. Quinter

Chair of the Customs and International Trade Law Group  
GrayRobinson, P.A.

In May 2015, just six months after President Obama announced a new relationship with Cuba, I led a delegation of lawyers to Havana on behalf of the Florida Bar Section of International Law. My motivation for such an adventure to a country I had never visited was to see for myself what living conditions were like for working Cubans, to meet Cuban lawyers, and to understand how the “rule of law” was applied in Cuba. As a former attorney in the legal office of U.S. Customs in Miami, Florida, I was also very interested in the impact of the U.S. trade, travel, and investment embargo. I returned to the U.S. with a better understanding of the realities of life and work in Cuba. Although I had been to communist China several times on business, it was only in Cuba where I realized how overwhelming the government control of the lives of its citizens was, and how the U.S. policy of attempting to ostracize Cuba from the international community was damaging to both the U.S. and Cuba.

For years, I have regularly advised U.S. persons and companies about doing business with Cuba, but the type of legal advice I now provide is much different. Before December 17, 2014, my advice typically was about getting U.S. Customs to release seized merchandise that originated in Cuba, or to unblock funds in a wire transfer that had been taken by the U.S. Office of Foreign Assets Control (OFAC) when it was sent to a U.S. bank. Now, having visited Cuban many times, my legal advice to U.S. business people interested in selling to Cuba, buying from Cuba, investing in Cuba, or traveling to Cuba is about compliance with OFAC regulations issued under the Obama Administration.

The question of whether the “rule of man” or the “rule of law” currently applies in Cuba still confounds me. The United Nations defines the “rule of law” as “a principle of governance in which all persons, institutions and entities, including the State itself, are accountable to laws that are publicly promulgated, equally enforced, and independently adjudicated.” Cuba, like every civilized country, has laws and a court system. With the loosening



of restrictions on doing business with and in Cuba, American businesses of all kinds have tepidly engaged in numerous business deals with the government there. From banks to cruise lines to telephone companies to hotel companies, Cuba is the newest country for American business people to explore. I wonder, as inevitable difficulties arise in operations in Cuba, how those business disputes will be resolved under the laws of Cuba. The opportunities for American businesses to make money and to spread the fundamental concepts of fair dealing and enforceable contracts may be challenged when your business partner is the government of Cuba.

It is my hope, and my belief, that the rule of law of which has been a fundamental right of all Americans since the founding of our country will eventually be similarly reflected in the developing legal and judicial system in Cuba. American and other foreign business people interacting with citizens and government officials in Cuba are already having a significant, positive impact. To attract such foreign investment, the laws of Cuba have been changed. More such changes are necessary to continue the historic efforts that were begun by President Obama and President Raúl Castro to normalize international relations between the two countries for the benefit of their citizenry.

In my mind, as an American lawyer, and especially as a customs and international trade legal expert, I feel an obligation to share the best that the U.S. has to offer—our belief in the “rule of law”—with Cuba. That does not mean we impose our laws upon Cuba; only the Cuban people should decide what their laws are. With the death of Fidel Castro, who was the embodiment of the State of Cuba, there is nonetheless a unique opportunity for the U.S. Government, and for American businesses, to positively engage in Cuba to encourage the development of that rule of law. That is how this lawyer fervently believes you win the war against the arbitrary use of power, no matter where or in what form it exists. ★