



Obama Makes Breakthrough Announcement on Cuba, Easing Some Sanctions



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President Obama today made a breakthrough announcement on U.S.-Cuba relations. This announcement signals a major turn in the 50-year U.S. embargo against the island nation. Following discussions leading to the release of U.S. contractor Alan Gross, who had been imprisoned for five years and reciprocal action by the U.S. government, the United States has set to make a major turn on relations with Cuba. This announcement also follows on the coattails of extensive, secret discussions between the two states.

Implementation of Changes

While many U.S. restrictions on Cuba are codified in legislation that would need to be overturned by Congress to enable a full lifting of the embargo, a large part of the restrictions are codified in the Cuban Assets Control Regulations, 31 CFR Part 515 (the “CACR”) and the Export Administration Regulations, 15 CFR 730-774 (the “EAR”), administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) and the U.S. Department of Commerce’s Bureau of Industry and Security (BIS), respectively. As such, some of the regulations therein can be revised.

The CACR contains many of the day to day sanctions regulations on Cuba, and is a legacy of the early 1960s, when the United States first imposed sanctions on Cuba.

Diplomatic Relations

The hallmark of the President's speech was arguably the plan to reestablish of U.S.-Cuban diplomatic relations, severed in January 1961. This includes the eventual reopening of embassies in the two countries' capitals, and review of Cuba's designation on the U.S. list of State Sponsors of Terror. This move will better facilitate the expanded authorizations described below.

Trade & Commerce

President Obama broadly signaled in his speech that commerce will be better facilitated, as will the free flow of information. As such, many goods will be authorized for export to Cuba and some importations will be allowed, as detailed below.

The U.S. administration generally appears set to lift the restrictions on the flow of many more basic consumer goods, expanding on certain limited authorizations in place. The exact scope of the goods to be permitted is not completely clear, but the White House has indicated it will include some agricultural equipment, building materials and other similar type goods.

The broadening of goods and services authorized for export to Cuba to facilitate the free flow of information marks an expansion of restrictions lifted by the President in 2009. Given the very low rate of internet reach in the island state, the new policy will authorize the exportation of more computer, internet, and telephony technologies, including hardware, software, and related services.

While there does not appear to be any decision to allow the free flow of Cuban imports on a commercial scale, U.S. travelers to Cuba will be able to import up to \$400 of goods, \$100 of which can be spent collectively on alcohol and tobacco products. There will also be some lifting of restrictions on foreign vessels entering U.S. waters after delivering humanitarian trade to Cuba.

Banking Regulations

President Obama also announced that U.S. financial institutions will be able to maintain accounts at their Cuban counterparts, which will substantially help facilitate authorized trade between the two countries. Furthermore, the U.S. will ease regulations prohibiting the use of U.S.-issued credit and debit cards. This marks a significant change in the decades-long practice of financially isolating Cuba and blocking virtually all funds to the island.

Beyond the easing of the above bank restrictions, there will also be a lifting of licensing requirements on U.S. remittance forwarders. Caps on personal remittances will also be relaxed – increasing from \$500 to \$2,000 per quarter by U.S. persons to Cuban nationals.

Notably, the United States will also through general license unblock U.S. accounts of Cuban nationals no longer resident in Cuba and expand certain other restrictions connected to third country activity relating to Cuba.

Travel

Most importantly for many U.S. persons, the United States is set to ease some travel to Cuba. To date, such travel has been largely limited to family, academic, and religious trips. There will be an issuance of general licenses for travel in 12 categories, including but not limited to family visits; official business of the U.S. government; journalism; professional research; religious activities; as well as certain activities of private foundations, research and educational institutions. Purely recreational, touristic travel appears to remain prohibited.

While no announcement was made, it would appear that current regulations restricting the amount of money U.S. persons can spend per day in Cuba, may be removed or eased.

General Themes

Indicating that Congress has a major role in ultimately lifting the decades-long embargo, President Obama has made it clear that today's announcement does not herald a removal of all Cuba sanctions. Details will naturally be made clearer through the eventual announcement of changes in OFAC and BIS regulations.

What is evident, however, is that the relaxing of sanctions even in a limited form may take some time, and may be subject to some bottlenecks as the private sector adjusts to the new regulatory framework.

As is the case of any easing of sanctions, it will be critical that businesses and individuals seeking to engage in transactions with Cuba temper their ambitions and take care to note the limitations that will continue to exist. Accordingly, they should place special care to ensure compliance. Accordingly compliance programs should be revisited, and the full scope of the new changes should be noted in full detail. Service providers such as financial institutions should also take care to ensure that transactions they facilitate for their customers are compliant with the imminent changes in the laws and regulations.

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