

Preface

There is renewed interest in Cuba as a significant market for American businesses, spurred by Cuba's implementation of market-oriented economic reforms, as well as by the Obama Administration's shift in U.S. policy towards Cuba—culminating in the restoration of diplomatic relations between the two nations. In addition, in March of 2014, Cuba adopted a new Foreign Investment Law designed to attract foreign capital to the Island. The Cuban government has also issued a list of over 200 projects that are candidates for foreign investment in such sectors as energy, tourism, agriculture, and industry.

While the U.S. Embargo remains in place, a majority of Americans support the Obama Administration's policy of engagement and normalization of relations with Cuba. The Obama Administration has introduced changes to the Cuban Assets Control Regulations, reopened the U.S. Embassy in Havana, and rescinded Cuba's designation as a state sponsor of terrorism. The new policy changes have led to a considerable increase in travel and remittances, commerce, and the flow of information to and from Cuba.

Against this backdrop, it is our hope that this book will serve as a practical guide to the Cuban legal system and selected areas of Cuban law. While not an exhaustive treatment of the Cuban legal system, we have attempted to provide an overview of relevant laws, regulations and legal concepts applicable to commercial transactions in Cuba, including the corresponding state actors and agencies responsible for their administration and enforcement. The analysis contained herein is based on the original text of the various laws and implementing regulations, and in some instances, secondary materials by Cuban scholars and practitioners. The contributing authors have also relied on their personal discussions with members of the legal profession in Cuba, including lawyers, judges, law professors, arbitrators and mediators, and state officials.

While earlier works have focused on the laws and legal institutions for Cuba's transition to a market economy, that is not the purpose of this book. Instead, we have opted to discuss laws and legal institutions currently in force in Cuba by way of underscoring the legal framework in which American businesses interested in doing business in Cuba must operate. We are convinced that a

clear understanding of U.S. legislation and regulations regarding the trade embargo, as well as Cuban laws and legal institutions, is a critical first step in the process of understanding Cuba's legal environment and in developing meaningful commercial relations with Cuba. In fact, even if the trade embargo is ultimately lifted, business conducted on the Island will remain subject to Cuban law.

In addition to introducing some of the main components of the Cuban legal system, we also hope that this book will encourage comparative analysis with other legal systems. Cuba's heritage in the Civil Law Tradition, which it shares with most Latin American countries and with Puerto Rico and Louisiana, is a central feature of Cuba's law and legal institutions, as particularly and vividly illustrated by its Civil Code, Code of Civil Procedure and Commercial Code. As has been the experience of Puerto Rico and Louisiana, however, it is likely that Cuba will undergo a process of legal interaction and development in which elements of Common Law will influence Cuban legal institutions and culture, particularly as it relates to commercial law and business transactions. Moreover, Cuba's increased commerce with the European Union will result in important interaction with European Community law. These developments will provide avenues for creative legal contributions to the growing field of Comparative Law.

Because the contents of the book are selective, individual chapters are self-contained and, therefore, may be read as stand alone discussions. As such, some repetitions in discussions of the law may occur from chapter to chapter. Nevertheless, each chapter will hopefully convey a sufficiently clear introduction and overview of some of the defining precepts of Cuban law. Because of ongoing developments in U.S. laws and regulations regarding Cuba, and expected changes in Cuban law, readers are encouraged to consult the official publications of the U.S. and Cuban governments, including the materials published by the U.S. Department of the Treasury, the U.S. Department of Commerce and the *Gaceta Oficial de la República de Cuba* (the Official Gazette of the Cuban government).

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