

TOWARD BEST BUSINESS PRACTICES FOR FOREIGN INVESTORS IN CUBA

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At a time when consumer awareness is rising and responsible corporate policies are gaining international attention, the National Policy Association (NPA) is focusing on best business practices for foreign investors in the Republic of Cuba.

The concept of promoting human rights through the private sector is, of course, not new. Private sector adherence to the McBride Principles resulted in the establishment of fair labor practices in Northern Ireland. The Sullivan Principles, issued in 1977, ultimately contributed to the downfall of apartheid in South Africa.

As one of the nation's principal nonpartisan, non-profit organizations conducting informed dialogue and independent research on major economic and social problems, NPA first took up the issue of worker rights in Cuba in 1997 under the auspices of its North American Committee, a group of senior business and labor leaders from Canada, Mexico and the United States. With the collective effort of an international working group, the National Policy Association is now working to persuade current and future investors in Cuba to adopt voluntary best business practices and to use their leverage with the Cuban government to promote worker rights.

WORKER RIGHTS IN CUBA

Although the Republic of Cuba has ratified ILO Conventions 87 (Freedom of Association and Protection of the Right to Organize) and 98 (Right to Organize and Collective Bargaining) and Cuba's constitution guarantees the freedom of association and assembly, Cuba's record with regard to worker rights is the worst in the Western Hemisphere. Worker rights are severely constrained, as the officially sponsored Central de Trabajadores de Cuba (CTC) is the only legitimate association of workers under Cuba's labor code.

The CTC is a confederation of state-run, state-sanctioned labor unions. Cuban labor expert Efrén Córdova describes the CTC:

The CTC is not a legitimate workers' organization, but an appendage of the government and the Communist Party. It has never been a forum for open discussion, criticism, proposals, or alternatives to the official line. At none of its meetings have demands ever been proposed or complaints lodged; it only serves as a sound box for the regime's demands and a transmission belt for political watchwords and production plans.²

Because the CTC is mandated to promote the "struggle for the defense of Socialism and its princi-

1. This paper was prepared with substantial assistance of Kaylin Bailey, International Program Associate at the National Policy Association. Ms. Bailey directs the NPA Working Group on worker rights and best business practices in Cuba. NPA is a nonprofit, nonpartisan organization conducting dialogue and independent research on major economic and social problems facing the United States.

2. Córdova, Efrén. "Labor Conditions in Revolutionary Cuba," in *Modern Slavery: Labor Conditions in Cuba*. ICCAS Occasional Paper Series, University of Miami. April 2000.

ples,” CTC members must be members of the Cuban Communist Party. This factor, in itself, narrows the scope of workers’ rights in Cuba; it allows workers the “freedom” to be part of the government-run union, or to remain unrepresented. In the normal sense of the word, labor is not free. Overall, these conditions have caused great concern among human rights organizations and socially responsible businesses alike.

The labor structure in Cuba presents many problems for the Cuban worker. The government repeatedly ignores requests from independent worker groups for legalization. Because workers are deprived of the freedom of association, they lack a forum for collective bargaining in both public and private sectors. Foreign investors are required to hire workers through a government agency, screening workers according to their *expedientes laborales* and often noting political affiliation as a criteria for employment. Jobs in the private sector, which have better pay and benefits than state sector jobs, are usually reserved for “good revolutionaries.” The indirect payment system, which requires foreign investors to pay employees through the sieve of government hands, results in an actual wage in pesos of between five and ten percent of the original dollar amount paid by the company. Many foreign investors in Cuba recognize that the indirect payment system leaves most workers struggling for the means to buy basic necessities. These companies often provide Cuban workers with a small basket, or *jabita*, of soap, toothpaste, fruit, vegetables or dry goods in an attempt to compensate their tiny wages. While the distribution of *jabitas* is a small positive step on the part of foreign investors, a more fair system or direct payment to workers would eliminate this need.

THE NPA WORKER RIGHTS AND BEST BUSINESS PRACTICES IN CUBA PROJECT

In July 1997, the National Policy Association’s North American Committee (NAC), an association of business, labor and academic leaders from the United States, Canada and Mexico, issued “Principles for Private Sector Involvement in Cuba.” The Principles proposed by the NAC include: a safe and healthy workplace, fair employment practices, direct

employment of workers, the right of workers to organize and bargain collectively, a workplace which allows for freedom of expression, and the strengthening of legal processes in Cuba. The NAC Principles are similar to the more elaborate Arcos Principles, named after one of Cuba’s leading human rights activists, Gustavo Arcos.

The NAC’s interest in the role of the private sector in Cuba arose from its belief that the private sector could and should seek to advance the three member countries’ commitment to democracy, human rights, and the betterment of the lives of the Cuban people.

In response to the challenge of promoting worker rights in a country whose very structure impedes those rights, the National Policy Association received a \$225,000 grant in October 1999 from the United States Agency for International Development to promote worker rights and best business practices.

CUBA WORKING GROUP AND VOLUNTARY INVESTMENT PRINCIPLES

Under this project, NPA has formed an international private sector-working group. Each organization contributes its unique perspective on the issue of worker rights. Its members are not by any means homogeneous and they hold differing views about Cuba. The working group is comprised of the following business, labor and human rights groups from Europe, Canada, Mexico and the United States:

- AFL-CIO American Center for International Labor Solidarity (ACILS)
- American Chamber of Commerce of Cuba in the United States (AmCham Cuba)
- Consejo Mexicano de Comercio Exterior (COMCE)
- The Conference Board of Canada
- Florida International University
- Instituto Tecnológico Autónomo de México (ITAM)
- National Policy Association
- Pax Christi Netherlands

- Prince of Wales Business Leaders Forum
- United States Chamber of Commerce
- US Cuba Business Council
- Confederation of Netherlands Industry and Employers (VNO-NCW).

The Cuba Working Group has agreed on an updated set of principles for private sector investment in Cuba. The Working Group agreed to urge businesses investing in Cuba to voluntarily adopt socially-responsible and internationally accepted business practices in their activities in Cuba. While constrained by the laws and regulations in force in Cuba, foreign companies should endeavor to respect internationally recognized principles, such as those embodied in the Arcos and NAC Principles, and to advocate changes in laws and regulations where adherence to these principles is not currently possible. Most of these principles apply to other countries as well, and the Working Group has urged all companies to conduct their worldwide operations with these principles in mind.

Principles for Private Sector Investment in Cuba

The international private sector has a vital role to play in promoting open, free market institutions and adherence to universal standards of human rights. The International Working Group on Best Business Practices in Cuba has made clear that socially responsible business practices can help foster human rights and, ultimately, a more productive workforce. They have urged businesses investing in Cuba to adopt socially-responsible business practices in their activities in Cuba. They also recognize that the situation in Cuba is dynamic, and that the challenges facing private sector involvement in Cuba are many. While operating in a manner consistent with current laws and regulations in force in Cuba, companies should endeavor to respect fundamental worker rights principles and advocate changes in laws and regulations where adherence to these principles is not currently possible.

Based upon the Arcos Principles (1994) and the North American Committee Principles (1997), as well as the Sullivan, McBride, and other socially-re-

sponsible principles that have served as a catalyst for progress in non-democratic societies, the Working Group has encouraged the private sector to voluntarily adopt the following basic principles:

- Respect workers' right to organize freely in the workplace and to choose a union to represent them in negotiations with management, in accordance with ILO Conventions 87 and 98;
- Maintain a corporate culture that respects free expression consistent with legitimate business concerns, and does not condone political coercion in the workplace;
- Work to gain the right to recruit, contract, pay and promote workers directly, not through government intermediaries;
- Employ socially responsible employment practices, including the avoidance of child and forced labor and discrimination based on race, gender, national origin, religious beliefs, or political beliefs or affiliation, in accordance with ILO Convention 111;
- Provide a safe and healthy workplace, consistent with the principles of sustainable development;
- Support the strengthening of legal procedures, encouraging respect for due process, human rights, and the international conventions of which Cuba is a signatory.

The Cuban government has a critical need for hard currency. As a result of the recent slight openings in Cuba's economy, foreign investors meet a significant part of that need. Many members of the Working Group believe that, while the Cuban people have a very limited voice in the protection of their fundamental human rights, those companies that choose to invest in Cuba can use their financial power to promote these rights.

CUBA WORKING GROUP AND OTHER ACTIVITIES

The NPA Cuba project hosted an international conference on worker rights and best business practices in Cuba in June 2000 in Mexico City. Mexican investors have shown great interest in the project, and

more than 70 participants from Mexico, the United States and Canada registered for the conference. The main focus of the event was to increase awareness about the current labor situation for foreign investors in Cuba. A variety of speakers endorsed the Working Group Principles, indicating that responsible private sector involvement can be an effective means for the promotion of democracy and human rights. Conference presenters included Gare Smith (Attorney at Law, Foley Hoag & Eliot); Howard Sullivan (Global Sullivan Principles and son of Rev. Leon Sullivan); Ambassador Otto Reich (President, US Cuba Business Council); Benjamin Davis (Americas Coordinator, American Center for International Labor Solidarity); Francisco León (Senior Fellow, Institute for European-Latin American Relations); and Pedro Pérez Castro (Secretary of International Relations, Solidarity of Cuban Workers).

In accordance with Section 109 of the *Cuban Freedom and Democratic Solidarity (LIBERTAD) Act*, the Working Group is actively working to make contact with independent or so-called “dissident” groups on the island, and to the extent possible disseminate translated materials about worker rights to Cuban nationals. Though the Working Group is primarily building these contacts through organizations such as the Solidarity of Cuban Workers (STC), based in Caracas, Venezuela, members are planning a visit to Cuba in late summer 2000 to solidify relationships and to learn more about Cuba’s independent labor movement and to establish direct contact with foreign investors on the island.

AMERICAN INVESTORS

The United States Congress is currently reviewing the U.S. embargo against Cuba. U.S. law clearly states that American business is prohibited from investing in Cuba until a democratic transition has taken place. It is clear, however, that at some point in the future American business will reenter Cuba. While the National Policy Association’s efforts are primarily focused on Mexican, Canadian and European investors, we believe that it is vital to involve U.S. companies in our efforts. The Principles for Private Sector Investment in Cuba are relevant now and will be in the future.

CONCLUSIONS

We can be under no illusions about the difficulty of effecting change in Cuba. The International Labor Organization has no real power to enforce international labor law, although it can publicize labor rights abuses as a means to effect change. Castro’s refusal to grant basic human rights or to adopt economic measures that would benefit the Cuban people (instead of the regime) suggest that publicizing abuses, although necessary, will not in and of itself be a sufficient tactic with the Cuban government.

Instead, we must work from the bottom up to encourage business, labor and human rights groups to work together to support and encourage the organization of genuinely independent groups within Cuba. One approach is to work with foreign investors already on the island to promote change. The development of a free and independent labor movement is an essential first step toward genuine democracy and human rights for all.