

THE GLOBAL ECONOMY AND CUBA: STASIS AND HARD CHOICES

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This paper will consider three related questions. The first question, considered in the first part, centers on the adjustments Cuba might have to undertake if it is to embed itself within the structures of global trade and finance. To that end, the paper analyzes the legal changes Cuba would need to undertake to join international financial institutions and global and regional trade organizations as shaped by international conditions emerging after 2016.

The second question, considered in the second part, examines the extent to which Cuba is disposed to consider these possible reforms. Against the objective of socializing Cuban legal and economic practices with global norms, the paper will critically assess the extent to which the current Cuban socio-political framework can produce these modifications and the consequences for such limitations, including with respect to the limits of political reform and the relevance of human rights norms in the construction of economic legal and governance structures.

The third question, considered in the third part, then examines what may be possible in the aftermath of the U.S. Presidential election of 2016 (and subsequent events) and other global changes, including the emergence of a Chinese alternative to national embedding in global trade. These have considerably changed the terrain within which the consequences of U.S.-Cuba normalization can be considered. The examination considers the value of the European Union's strategic initiative, the Political Dialogue and Cooperation Agreement (PDCA), as a viable basis for Cuban reintegration in the global economy.

What emerges from this analysis is a better understanding of the constraints that impede Cuban reform along conventional models, and the difficulties of external prods to internal reforms.

THE BASELINE EXPECTATIONS FOR CUBAN REINTEGRATION

Implied in the normalization of relations between the United States and Cuba appeared to be an invitation to Cuba to rejoin the global economic community on terms similar to those applied to other Marxist-Leninist states, notably Vietnam and China (Obama, 2014). In the course of his state visit to Cuba, President Obama reassured the Cuban leadership that it need not fear the government of the United States, but also urged Cuban authorities to fear its own people less (and by implication fundamental political and economic change) (Obama, 2016a). All of this played well within governing circles of global economic policy in states, enterprises and civil society. And, indeed, between 2014 through the first week of November 2016, there appeared to be a growing and self-evident understanding among these elites in discussions among themselves, that it was both necessary and inevitable to prepare Cuba for its re-attachment to global production using the traditional toolkit of hard and soft law at the international level to adjust Cuban internal law and policy (cf. Abbott and Snidal, 2000; World Bank, 2000).

Key for Cuban reintegration along conventional lines would be the major multilateral development banks—the World Bank and International Monetary Fund, and perhaps the Inter-American Development

Bank (Feinberg, 2017). “Cuba was an original member of the World Bank but never borrowed from it. Fidel Castro rejected the World Bank early on in the Revolution, withdrawing Cuba’s membership in 1960. The Bank returned Cuba’s capital subscription, clearing all accounts. Membership in the World Bank would be contingent upon Cuba joining the IMF” (Feinberg, 2017; World Bank, 2012). The politics of membership produced some speculation to that effect after 2014 (Morris, 2014 (“Politically, it would make sense for the IDB to play the lead role in engaging with Cuba, with much stronger regional representation than is found in the World Bank’s global governance model. An economic reform agenda stands a better chance if it is viewed as coming from the region rather than imposed from outside the region.”)). And, indeed, playing the regional card in trade and finance has some appeal to Cuba.

The reforms necessary for joining these multilateral development Bank would have created the expectation would have been for Cuba to conform to their well understood reform templates; like following a recipe from a well-regarded cookbook—even with some flexibility to take account of local conditions (Ban, 2014). It would start with a number of analyses (from the legal, policy, economics and political perspectives) of the legal changes that Cuba would have to implement in order to join international financial institutions and global and regional trade organizations (Cf. Gurrea Martínez, and Mesa Tejada, 2016b). This analysis, in effect, would invert the relationship between the sources of popular democracy (however tenuous in this case) with the administrative-managerial machinery of transnational organizations whose rules would be subject to negotiation only at the margins (Backer, 2016b).

Normalization initially brought with it the challenge of mapping changes to the Cuban domestic legal order. These changes would be made necessary for reintegration, the technical assistance required to instill global consensus on good governance, and the behavior expectations to securely couple the Cuban to the administrative cultures of the global economy (Esty, 2006). Whatever the changes, global elites appeared reassured that change was coming and necessary to

align Cuban legalities to global consensus expectations (Gurrea Martínez and Mesa Tejada, 2016a). These were made necessary by the inevitable changes in Cuban political leadership (Centeno 2017). Key areas of analysis would center on Cuba’s private property laws (Peters, 2014); its corporation/business association laws (Gurrea Martínez, and Mesa Tejada, 2016b; Backer, 2004; Backer, 2013); its approaches to rule of law (a sensitive and politically charged area, e.g., Patallo Sánchez, 2003), and necessary modernization of a Cuban commercial code already intimated in the *Lineamientos* (2011) beyond the laws enacted for the protection of foreign investors (Republic of Cuba, Ley 118, 2014). These would be compared to and compare to “industry standard” OECD consensus approaches to the organization of domestic law consistent with their principles of governance and operation, perhaps best exemplified by legal systems within the E.U. and in the United States (American Law Institute, 2012) as well as the U.S. Convention on Contracts for the International Sale of Goods (United Nations Commission on International Trade Law, 1980). And yet these market-based reforms have long been anticipated (Betancourt, 1998).

Political change might come as well as there was some thinking about the need for Cuba to rejoin regional trade organizations other than its key membership in the *Alianza Bolivariana Para los Pueblos de Nuestra América* ALBA (Backer and Molina, 2009). Thus, it would be important to also examine what internal legal changes must be undertaken in Cuba in order for it to re-join the Organization of American States (OAS) and, by extension, the Inter-American Commission on Human Rights. The current language discussing Cuba’s readmission states, “On June 3, 2009, the Ministers of Foreign Affairs of the Americas adopted Resolution AG/RES.2438 (XXX-IX-O/09) which resolves that the 1962 Resolution that excluded the Government of Cuba from its participation in the Inter-American system, ceases to have effect in the Organization of American States (OAS). The 2009 resolution states that the participation of the Republic of Cuba in the OAS will be the result of a process of dialogue initiated at the request of the Government of Cuba, and in accordance with

the practices, purposes, and principles of the OAS.” Yet those efforts would have to be tempered by the importance of understanding the consequences of the fractured nature of regionalism in Latin America. More specifically, even as the OAS remains an important venue for certain purposes among Western Hemisphere states, it remains a difficult forum for Cuba precisely because of its jurisprudence on human rights and its reading of the democratic obligations of states. Moreover, Cuba may find in alternative venues a more congenial place from which to embed itself in conventional regional politics and policy (Main, 2011). This is particularly true with respect to the Association of Caribbean and Latin American States (CELAC) (CELAC, 2011).

Equally important, was the sense that Cuba would have to adjust to substantial changes in the global consensus about the role of human rights in the regulation and practice of economic activity (Backer, 2015). There was a sense that the process of greater embedding in global production would bring with it the responsibilities of conforming to global consensus norms respecting human and labor rights. Those changes would apply with equal measure to activities within Cuba undertaken in conjunction with global enterprises and with respect to Cuban economic activity outside of Cuba (Ibid.). By enmeshing Cuban economic activities in the web of private and transnational governance structures, change would be both necessary and inevitable—the price that Cuban authorities would have to pay (like other developing states) for access to global commerce and finance (Ibid.).

Lastly there was an expectation that Cuba would join in international arbitration frameworks. Both the United States and Cuba have already signed UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (United Nations, 1958), though Cuba is not a party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention). While exploration of that option was likely on the playbooks of some, it would have been difficult to imagine for Cuba, especially in the face of sometimes substantial opposition from developing states in sim-

ilar straits (e.g., Boeglin, 2013; Kalia, 2017). And indeed, by 2016, Cuba had a well-structured system of about ninety-three or so investment treaties with global reach, especially so with respect to Latin American and European States. The lingering issue revolved around takings, and that remained something of a challenge given the substantial differences in view on that point between the Cubans and their trading partners (e.g., Infante and Samra, 2016). These changes were to inform the shape of the U.S. Cuba bilateral trading arrangement that was to emerge from their aggregation.

But all these calculations changed dramatically after the election of Donald Trump to the U.S. Presidency in November 2016, just a short while after the June 2016 Brexit referendum and the subsequent determination of the United Kingdom to withdraw from the European Union. Those events were themselves preceded by the 7th Congress of the Cuban Communist Party (PCC) meeting in April 2016 (Delgado Legon, 2016), at which the reforms initiated in *Lineamientos de la política económica y social del partido y la revolución* (Economic and social policy guidelines for the party and the revolution) (Partido Comunista Cubano, 2011) approved during the 6th Congress of the PCC (Granma, 2011), appeared to be slowed or reversed. After 2016, the PCC embraced a policy that appeared to substantially insulate Cuba from global norms (Sanchez Serra, 2017; Backer, 2018a). Those policies—the *Conceptualización del modelo económico y social Cubano de desarrollo socialista y Plan nacional de desarrollo económico y social hasta 2030* [Conceptualization of the Cuban Economic and Social Model and the National Economic and Social Development Plan through 2030] (Partido Comunista Cubano (PCC), 2016) gave notice of an intention to preserve the contemporary Cuban system with changes at the margin (Frank and Rathbone, 2017).

By the end of 2017, then, the expectations appeared to be dashed, at least a little. Had the moment passed for Cuba to reintegrate it into the global economic community? From the first, the Cuban state had made it clear that going forward it would not enact comprehensive changes to its domestic legal order to satisfy the tastes of international finance; nor would

it be in a hurry to plug into those conventional production chains. It would make changes, to be sure, but only under carefully controlled conditions and limited to special zones where effectively the state could insulate itself against contagion by global (capitalist) norms (Marcheco, 2013), focused for the moment on the Special Economic Zone around the Port of Mariel (Whitefield, 2017). The Chinese and Vietnamese model of markets-based socialism was rejected and with it any likelihood of normalizing engagement with global commerce (Backer, 2016a). Cuban socialist law would remain true to its conventional moorings (cf. Azicri, 1980). But by 2017 there has been little progress. “Cuban authorities, so insistent upon national sovereignty and state autonomy, are not accustomed to having personnel from multilateral organizations combing over their internal accounts, no less offering advice on a broad range of delicate issues” (Feinberg, 2017).

Any comprehensive bilateral trade agreement between the United States and Cuba appears more elusive than ever. It fell victim to retrenchment on both sides and to the fallout from the “affair of the sonic weapons attack” (Cf., Backer, 2016–2018)—that followed the accusation by the United States that its diplomats and others in Cuba had been the subject of “mysterious attacks—apparently linked to high-pitched sounds... Havana has denied any involvement in the incidents. In a December 22 [2017] speech in the Cuban parliament, Castro accused the United States of fabricating ‘pretexts’ to justify the return to ‘failed and universally rejected policies.’” (Grogg, 2018). However, cooperation in areas of mutual interest continues (Sesin, 2018). “Political positions aside, the Cuban government probably realizes that joining the body means having to abide by its rules, which includes at least a formulaic commitment to democracy and elections, and accepting the inter-American human rights provisions.” (Krepp, 2017).

OAS membership appeared to matter less, as regional states might be abandoning the OAS in favor of “the Association of Caribbean and Latin American States (CELAC) as a vehicle for political dialogue. This is the body that brings together every independent na-

tion in the Americas other than the US and Canada and is now seen by many nations, including China, as a viable alternative to the OAS.” (Jessop, 2018). Cuba’s Communist Party has indicated a preference for focus on ALBA and CELAC for the advancement of regional integration (PCC, 2016 § 325). While an object of CELAC is to reduce U.S. influence in the region, its relations with the European Union, may continue to produce the sort of pressure to adapt to global consensus standards that would be compatible with U.S. interests as well. The EULAC Focus research project, funded under a grant from the E.U., is designed to reinvigorate the E.U.-CELAC strategic partnership through 2020 (EULAC Focus, 2016).

Critically, as well, the landscape for multilateral lending has been changing dramatically since the U.S. Presidential visit to Cuba in 2016. With the emergence of China’s One Belt and One Road Initiative (Gao, 2018) and its coordinated multilateral development mechanism, the Asia Infrastructure and Investment Bank (AIIB) (Reisen, 2015), the need to conform to the requirements of traditional public multilateral development facilities has diminished. Obama administration officials have been cited as warning that the AIIB lending could “fail to meet environmental standards, procurement requirements and other safeguards adopted by the World Bank and the ADB, including protections intended to prevent the forced removal of vulnerable populations from their lands.” (Ibid., p. 6). More important, perhaps, Reisen points out that the effect of competition among MDBs reduces their ability to extract concessions, including changes in a borrowing state’s domestic legal order. Still, even in this area, the 2018 announcement of a new U.S. Development Finance Agency, geared toward the Trump Administration’s “America First” initiative, may also change the calculus facing Cuba (Saldinger 2018 (“Consolidating some government functions to create a new agency that was seen as more efficient helped, as did a growing desire within the administration to find tools to counter China’s influence”)).

For Cuba, these events changed the calculus of reintegration in a profound way—it now has a choice to follow the Chinese path to integration, or to contin-

ue to align with the conventional approaches. Neither is particularly palatable. The Cubans rely on China but they do not embrace Chinese market-based socialism (Backer, 2016a). On the other hand, the West and the liberal market-driven cultures of conventional MBDs holds no special allure for Cuba either. Both would represent compromise. And for the moment, it appears the Cubans believe they may not need to compromise with either, except at the margins and to the specific goals of eroding the U.S. embargo and of providing sources of cash for the continuation of the Cuban Marxist project insulated from the currents of market-driven governance elsewhere (Cf., Fraga, 2017 (e.g., with respect to the objectives of bilateral and regional trade)). As the next section suggests, the PCC continues to strive to develop a framework within which Cuba can forge its own path—one that permits it to remain outside global production but able to take advantage on its own terms.

THE CUBAN CAPACITY FOR REFORM

The path that Cuba intends to follow is not difficult to discern. Nor has that path been hidden from view. Rather, Cuban intentions in the economic, political and social field have been broadcast widely; and its approach to and rejection of reintegration along the lines of the expectations of market-driven globalization have been made quite clear. The 2016 7th PCC Congress was used to introduce the conceptual documents that describe, in some detail, the Cuban approach to their own internal political and legal organization, as well as the principles that will guide their economic development. These, quite clearly, suggest a rejection of market-based principles as a foundation for political or economic organization. They suggest an unwillingness to broadly open the state to market forces without the strong intermediation of the state and its officials, and they reject the possibility of incorporating international standards except to the extent that they can be naturalized into the Cuban economic and political culture. What the results of the 7th PCC Congress, and subsequent actions of the Cuban state, have made clear, is that while the Cuban state apparatus is eager to find ways of reintegrating the state into the global economy, Cuba is

not eager at all to permit such integration except at the state-to-state, or state-to-foreign entity level. Deep integration of the Cuban private economy with global networks will remain a highly controlled and marginal feature of the Cuban reintegration plan.

Among the principal documents produced by the 7th PCC Congress was the “Conceptualisation of the Cuban socio-economic socialist development model” (*Conceptualización del modelo económico y social Cubano de desarrollo socialista*), which is intended to complement the Guidelines (*Lineamientos*) of the 6th PCC Congress, and provide the theoretical foundation for its further implementation. To fully understand the Cuban position on reintegration, then, one must understand the principles and implementation strategies written into the *Conceptualización*. The *Conceptualización* (PCC, 2016) is divided into four chapters; the first touching on sustaining principles and objectives (§§ 45–115), the second on the ownership of the means of production (§§ 116–202), the third on the core importance of economic central planning (§§ 203–264), and the last on social politics (§§ 265–311). These are preceded by an introduction (§§ 1–44) and completed with a brief set of “final considerations” (§§ 312–330). The analysis is most useful for understanding those bright lines beyond which it is unlikely that the Cubans will be willing to compromise except in exceptional circumstances. Taken as a whole, however, the *Conceptualización* suggests a deep antipathy to the application of Western liberal models of civil and political rights, as well as a deep rejection of the notions of markets and market-based regulatory governance regimes for the ordering of their legal and economic orders.

The Introduction sets out the grand vision of the Cuban economic-social model and its theoretical basis and characteristics (PCC, 2016, *Conceptualización*, § 2). The object of the economic-social model is to create a superior society within Cuba (“con el objetivo de avanzar hacia una sociedad superior” *Ibid.*, § 9). The characteristics of this society will be based on principles of socialism, prosperity, and sustainability (“en función de avanzar hacia una sociedad socialista, próspera y sostenible”, *Ibid.*, § 10). The *Conceptualización* then turns to the specification of the founda-

tional premises for the construction of Cuban socialism in this stage in its development, its structures and strategic goals. These are, in turn, embedded in history and context. First, Cuban society is in the midst of a process of constructing a true socialist society as a superior alternative to capitalist development, which alternative will contribute to the development of humanity (Ibid., ¶ 8). Second, this long march toward a socialist society must adjust itself to new conditions, even on a temporary basis, in order to survive and prosper. (Ibid., ¶ 12).

The essential basis for Cuba's political, economic (and legal) model is in turn embedded in what it gathers together into what is referred to as the concept of Revolution (Castro Ruz 2001) of Fidel Castro. That concept is grounded in a long entanglement with and development of strategies of opposition to the U.S., leading to the reform and opening up of the *Lineamientos* (¶¶14-35). From these Revolutionary concepts were forged seven basic principles for advancing socialist development that is prosperous and sustainable (“para un desarrollo socialista próspero y sostenible,” Ibid., ¶ 36–43). These include: (a) unity and independence of the Cuban people; (b) popular support of the *leadership role of the PCC*; (c) the universality of social welfare services; (d) the strengthening of Cuban values; (e) active engagement of a socialist civil society; (f) productive capacity to engage in global commerce in specified sectors; (g) augmented international prestige and standing among the community of nations. It is on the basis of these seven Revolutionary principles that one can discern the framework and constraints on Cuban engagement with global economic vectors or the rule structures through which they are organized and managed.

Chapter One then considers in more detail the principles that sustain the Cuban economic and legal-political model. The key objective of the Chapter are to develop the core objective of the principles—to build a comprehensive (an “all around”) Socialist Society (Ibid., ¶ 49). Sustainability, in turn, is understood as a function of development; development is understood as a function of the *Lineamientos* (Ibid., ¶¶ 50–51). Sustainable development targets both material

and social productive forces to produce rich and model state (Ibid., ¶ 52–53).

The *Conceptualización* then turns to a more detailed consideration of socialist principles that sustain the model (Ibid., Chapter 1.1 “Principios de nuestro socialismo que sustentan el Modelo,” ¶¶ 54–73 (Sustaining Principles)). These principles represent a synthesis of the continuation of the essential basis of Cuban socialism ¶ 57–73. It is worth noting though many of the core principles can be compatible to global reintegration, not all of them lend themselves to globalization of governance. This is particularly true in the context of human and labor rights. Both play prominently in the development of the *Conceptualización* that follows.

Having specified the principles, the *Conceptualización* then turned to the objects to which these principles are to be applied, that is to the specific transformations necessary to the creation of a model socialist society that is prosperous and sustainable. (Ibid., Chp. 1.2. “Transformaciones principales del Modelo” ¶¶ 74–115). These transformations are sensitive to time and context (recall Ibid., ¶ 12) as necessary to move the socialist project forward (“Se refieren a las transformaciones que caracterizan los nuevos fundamentos del Modelo a partir de las condiciones internas y externas actuales,” Ibid., ¶ 75). These touch primarily on three distinct categories of transformation; first the consolidation of state ownership of the means of production, second, the need to accommodate foreign notions of ownership of production and the complementary role of private enterprise in Cuba, and third, the enhancement of the state's role in the direct responsibility for economic planning and direction.

With respect to the need to consolidate the core role of social property (the means of production owned or managed by the state) (Ibid., ch. 1.2.1; “Consolidación del papel primordial de la propiedad social sobre los medios fundamentales de producción”). The necessary conditions for transformation revolve around the fundamental necessity of the creation of a *revolutionary working class* (Ibid., ¶80); the modernization of SOEs (organization, technology, innovation)(Ibid., ¶¶81–2); the full application of a system

of *socialist distribution to workers* (wage markets) (Ibid., ¶83); rejecting the idea of wage labor markets); the enforcement of SOE self financing for development and improvement (Ibid., ¶¶84–85); the closer integration of SOE and state ministry planning and direction (Ibid., ¶86); and lastly the unification of the national currency (Ibid., ¶ 87).

With respect to the recognition and diversification of forms of property and their ownership, especially around contact and interactions with foreigners, the *Conceptualización* offered an enhanced form of socialist foreign investment (Ibid., ¶¶89–96). These would be wrapped around the conceptual framework of the current rules for foreign direct investment—carefully managed and mediated by the state (Republic of Cuba, 2014). In addition transformation required recognition of the complementary (rather than the primary) role of private property in the development of a Cuban socialist society. This complementary role of private property could be tolerated if confined to specifically designated means of production bent to the needs of perfecting the centrally planned economy (Ibid., ¶¶ 91–96). This approach is fundamentally incompatible with the approach of the United States since the administration of President Obama in the normalization process, which has always focused on shrinking the public sector in favor of a strong and robust private sector.

With respect to the further development of state control over the economy, the *Conceptualización* offered a full throated affirmation of classic European Marxist notions (Pérez-López, 1995, 11–20) of the inseparability of politics from economics, of the inseparability of politics from law, and of the convergence of public and private law within the state under the leadership of the vanguard Communist Party (Ibid., ¶¶ 97–115). The State was responsible for development of social and economic order (Ibid., ¶ 99). Central planning of the economy must control both the state sector and private markets (Ibid., ¶101–104). Import substitution and export growth as set as basic trade policy (Ibid., ¶ 105). Lastly, judicial norms to be developed in aid of this ordered and disciplined system (echoing Castro, 2013).

Chapter Two then takes up in more detail the issue of the ownership of the means of production in Cuba. It is divided into two parts. The first part (PCC, 2016, *Conceptualización* ¶¶ 119–191) considers the forms of state ownership of the means of production, as well as those forms for the organization of private property. It provides principles for the organization and operation of state enterprises, characterized either as non-commercial enterprises or commercial enterprises (Ibid., ¶¶121–157). It then considers labor cooperatives (Ibid., ¶¶ 157–168), a key method for the organization of private activity in Cuba (Piñeiro Harnecker, 2011). Joint ventures (PCC, 2016, *Conceptualización* ¶¶158–167) and mass organizations (Ibid., ¶¶187–191) are also considered. Lastly, the role and character of the organization of private property is specified (Ibid., ¶¶168–186). This is property that cannot be accumulated or used for wealth creation beyond regulated maximums (Ibid., § 176. The complementary role of private enterprise is emphasized, as well as its fundamental character as a means of contributing to socialist development under the management of the state (Ibid.). Their principal role is to contribute to employment and the efficiency of the socialist economy (Ibid., ¶ 186). The second part (Ibid., ¶¶192–202) focuses on the forms of engaging in economic activity permitted to the state. It is in this second part that one sees the emergence of Cuban conceptions of the rule of law. The system for the organization of entities for the purpose of engaging in economic activities are to be established through rules controlled by the state (Ibid., ¶ 202).

Chapter three then considers the role of central planning in the political economy of Cuba. This part of the *Conceptualización* is remarkable for the way it develops a sense of the role of the state in engaging with markets (PCC, 2016; *Conceptualización* ¶¶ 203–264). That engagement consists of two parts; internally, central planning supplants market driven regulation; externally, the Cuban state serves as the only participant in global markets. But that it is remarkable does not mean that it has appeared suddenly. The principles in Chapter Three have long been a cornerstone of Cuban governance; and they have played a central role in the construction of Cuban ef-

forts to construct regional trading blocs, principally ALBA (Backer and Molina, 2009). Yet here, more than anywhere, one encounters a challenge for reintegration. What appears possible is the reintegration of the Cuban state as a public and private enterprise within global trade. What is not possible is to penetrate within the territory of Cuba and bring the structures sensibilities and legal frameworks *within Cuba*. Private enterprise, the private sector, in a sense, within Cuba is understood as another element of the state sector, the operation of which is much more fully delegated. It is the resulting impermeability of the Cuban economy that poses the greatest challenge to the full reintegration of Cuba, at least as understood in Western terms and according to Western sensibilities.

State central planning is understood as made up of four components. The first is socialist planning (PCC, 2016, *Conceptualización*, ¶ 209). The second is regulation through law (Ibid., ¶ 207). It is here, perhaps, that one encounters rule of law in action in its most pristine Cuban form. What is meant is the use of law as the means of market regulation (Ibid., ¶245 et seq). That regulation covers: (1) the regulation of market access and inducement (through law) of rational consumption; (2) the identification of areas suitable for market functioning (market ghettos); (3) the establishment of standards and the regulation of (internal) competition; (4) consumer protection; and (5) the restriction of monopoly conditions contrary to societal interests. The third touches on the management of the state (Ibid., ¶ 208). These cover resource management and regional economic integration in the shadow of Cuba's current policies and allegiances. The fourth, and perhaps most important element, are those touching on control. These are also the most problematic for reintegration—at least to the extent that they are not deployed for emerging sensibilities around accountability (Backer, 2019). For Cuban theory, accountability is an important element of control—but accountability to the state, to the vanguard party, and to the basic line of both. Monitoring, surveillance, and regulatory structures are to be developed further to detect offenses and enforce planning. (Ibid., ¶ 264).

Chapter Four (Ibid., ¶¶265–311) then turns to what might be the most problematic aspect of Cuban socialism, at least in terms of its compatibility with emerging global consensus around human rights and labor. Chapter 4 focuses on what may be the most important element in the construction of a socialist economy and political system in Cuba—socialist culture and the construction of the revolutionary worker. It ties together economic and social development (Ibid., ¶ 268). The chapter is divided into two parts. The first considers economic and social rights of the Cuban worker (Ibid., ¶¶ 273–298). It sets out fairly standard welfare state principles. But it also looks to education and culture as critical tools for the socialization of the masses. Both are understood, then, as political in character, as well as central to socialist economic development in specific application. Regulations, and governance systems are targeted in this respect both to a cultivation of a taste for beauty (Ibid., ¶ 284), and for rules for maximizing the management of free time (Ibid., ¶ 286).

The second part of Chapter Four considers the political consequences (and regulatory aspects) of labor as a means of production. If labor, like capital, is understood as a means of production, then, like capital, labor must be centrally planned and managed (Ibid., ¶¶ 299–311). Wealth distribution and social justice are tied together (Ibid., ¶300). Basic principles must be developed for the national regulation of consumer information to ensure responsible and sustainable consumption (Ibid., ¶311). These are based on ethical principles tied to fraud prevention and the avoidance of offense to any social sector, and must as well as the symbols and messages of colonialism and imperialism (Ibid.). Wage and wealth differentials may be permitted within the parameters of social justice goals (Ibid., ¶¶300–302). These principles apply to accumulations derived from private property as well (Ibid., ¶306–7). Lastly, product markets must be managed to permit access to basic necessities (¶¶308–310).

The *Conceptualización*'s "Final Considerations" evidence the extent to which its provisions were drafted in the shadow of pressure to reintegrate into the global economy. And indeed, were there any doubts

about the scope of the rejection of that pressure to re-integrate, and the rejection of the conventional terms under which such reintegration would be expected to occur, these are eliminated in the *Conceptualización*. Cuba will re-integrate, but on its own terms. At the heart of those terms are a form of determination to create a strong barrier at the borders of the national territory. Beyond Cuba, the state acknowledges and will engage with global economic structures and their governance on the best terms it can manage. That engagement will be undertaken by the state and for the purpose of advancing the state's internal objectives. But within the state there will be no effort to re-integrate. The state will stand between the nation and globalization. Those are the terms under which re-integration may occur. To that end, the Model offered through the *Conceptualización* is bent to the preservation and development of Cuban socialism (Ibid., ¶312). But while the Model imposes strict duties on the state, it also develops substantial responsibilities imposed on individuals—discipline, exigency and a willingness to be socialized in accordance with the principles developed for socialist culture by the vanguard party (Ibid., ¶ 319). The object is not re-integration of objectiveless progress, but rather the perfecting of the Revolution applied to changing global conditions (Ibid., ¶ 322). These are undertaken especially in the shadow of the U.S. (not to be trusted) and perhaps facilitated by regional integration solicitous of Cuba's march along its socialist path (Ibid., ¶¶325–327).

These political characteristics of the *Conceptualización* were applied to the construction (and now the operation) of the *Plan nacional de desarrollo económico y social hasta 2030* (National Plan for Economic and Social Development Through 2030 (PNDES)) (PCC, 2016; PNDES). PNDES elaborates six “intimately interwoven and systematically designed” core strategic themes around which economic planning will be undertaken (PCC, 2016; PNDES ¶ 44). These are identified at ¶ 45 as (1) efficient and socialist government and social integration (Ibid., ¶¶49–77), (2) transformation and internationalization of production (Ibid., ¶¶ 78–101), (3) infrastructure development (Ibid., ¶¶ 102–129), (4) developing human potential through science, tech-

nology and innovation (Ibid., ¶¶ 130–157), (5) development of natural resources and environmental concerns (Ibid., ¶¶ 158–184), and (6) human development, equality and justice (Ibid., ¶¶ 185–220). These are meant to serve as the qualitative categories through which development will be structured (Ibid., ¶ 46). Around these six strategic themes, PNDES establishes twenty-two general objectives and one hundred and six specific objectives (¶ 47) that constitute the bulk of the rest of the Plan. All of these are tied to the *Lineamientos* (Ibid., ¶ 46) and the efforts at modernization and preservation that has marked the policies of the Cuban state since the elevation of Raúl Castro as First Secretary of the PCC. This structure of a rules based central planning suggest the way that Cuban authorities approach issues of law as a means of structuring decision making. But it also suggests that economic planning as a rules-based system is inherently criss-crossed with very large areas of overlapping discretion to be exercised by officials. These, too, suggest a large area of challenge for aligning Cuban practice to global expectations. Where Cuban officials see careful consideration of decisions to build a markets-alternative form of viable economic policy, others may see high transaction costs and the serendipity of decision-making that varies from official to official. And international organizations may see in systems substantially dependent on the exercise of administrative discretion a potential for corruption—or at least for the inability of the system to act consistently. As a consequence, demand for Cuban goods and services and the benefits of inbound investment tend to diminished measured against these additional costs. But measured against the objectives of the *Conceptualización*, that may not matter to Cuban officials, who rule a different scale to measure success.

A EUROPEAN ALTERNATIVE?

But where does this leave reintegration? Certainly, the euphoria—and expectations—that followed the initial gestures toward U.S.-Cuba normalization inflated expectations in ways that could only lead to disappointment. Cuba and the United States, each in their own way, have signaled their lack of interest in reintegration of Cuba. Both, in their own way, con-

tinue to adhere to their baseline positions about engagement. For the United States, that means an emphasis on substantial political reform before full normalization can be possible (Trump, 2017). For the Cubans it means almost the opposite—a stronger embrace both of the basic premises of a Marxist-Leninist Party State structure and a deeper commitment to a central planning model of economic policy that rejects a substantial role of markets. That position, in turn, suggests that at least *within Cuba*, there is little likelihood of deep changes to the domestic legal order along the lines that reflect global consensus. On the other hand, it does suggest that *between Cuba and its outside business partners*, reintegration is possible, but that the changes to law, policy and economics would apply only between the Cuban state (as owner of all Cuban productive forces) and outsiders. Whatever the value of the private sector, that was to remain tightly controlled through the imposition of complex systems of approvals and restrictions. Thus, Cuba appears to mean to place its state organs between global economics, politics, and law, on the one hand, and its internal legal and economic order, on the other.

Yet the emerging state of affairs in early 2018 does not entirely suggest a failure of the possibilities of deeper reintegration. Even as the United States retreated from direct economic connections with Cuba, the European Union sought to step into the space left by the American action. That strategic initiative, the Political Dialogue and Cooperation Agreement (PDCA) (Council of the European Union, 2016) took final form accelerated in the wake of the prior U.S. Administration's policy of opening up. "The agreement has been under negotiation since April 2014 and was signed by EU foreign affairs chief Federica Mogherini in December 2016." (European Parliament, 2017). In parallel, the agreement was submitted to the EU Member States' national parliaments and the Cuban National Assembly for ratification. The European Parliament gave its consent on 5 July 2017, extolling the PDCA's provisions for the promotion of dialogue and economic cooperation, as well as its possibilities for joint action and bilateral trade that contributes to the living conditions and social rights of Cuban citizens (Ibid). The

European Parliament also endorsed an accompanying resolution calling on Cuba to respect human rights (Bouchenaki and Kosova, 2017). Most parts of the agreement started to be provisionally applied as of 1 November 2017.

The PDCA entered into provisional application on 1 November 2017. This agreement—the first of its kind between the EU and Cuba—constitutes the new legal framework for EU-Cuba relations. It foresees an enhanced political dialogue, improved bilateral cooperation and the development of joint action in multilateral fora. PDCA is the successor policy to the EU's Common Position, which was repealed 12 December 2016. Indeed, "The EU's willingness to make progress with Cuba has been interpreted by many as an attempt to respond to US President Donald Trump's frosty approach to the island nation" (Bouchenaki and Kosova, 2017). The repeal of the Common Position and its replacement with PDCA represented a positive gain for the Cubans, especially when measured against the state of their relations with the U.S. The Common Position had mirrored the U.S. position of requiring unilateral changes in Cuba's human rights and political openness, as measured by the E.U. in ways close to those used by the U.S. (Council on Hemispheric Affairs, 2010). Cuba maintained that this constituted an intolerable interference in its internal affairs (Ibid.). After years of work by Spain on Cuba's behalf, and despite the opposition other member states, there was a move toward encouraging dialogue with Cuba that became a reality when it appeared that the U.S. position was changing as well after 2008 (Bouchenaki and Kosova, 2017).

While PDCA represents a change in the character of EU-Cuba relations, it was not undertaken in a vacuum. Even during the period of the Common Position, the EU maintained some connection to Cuba, mostly through aid projects, including a development cooperation instrument that had allocated to Cuba about €55 million for the period 2014–2020. These funds were directed toward national priorities that had been identified in the *Lineamientos*: sustainable agriculture, sustainable use of natural resources, and sustainable economic and social modernization,

plus funds for projects supporting vulnerable groups and cultural projects through grants to local organizations (European Commission, n.d.). Cuba also participated in a number of European regional efforts in Latin America through which it received funds (Ibid.). Most interesting is the possibility that in return for stronger ties the EU might have waived the application of its strong business and human rights measures to EU Cuba bilateral relations. The E.U. appears to be willing to pay for its influence—from supporting the realization of Cuba’s sector-driven 2030 Economic Plan, to the E.U.’s help in avoiding or weakening the effects of the U.S. Cuban embargo. And, indeed, the willingness of the EU to align its multilateral and bilateral arrangements to the economic development plans of its partner provides both an opportunity and challenge for the EU’s if their role is to be understood in part as an agent of Cuba’s reintegration into the global economy sensitive to emerging global norms on human rights, property and markets.

The PDCA binds the EU, other than potentially the UK and or Ireland (Council of the European Union, 2016; PDCA, CU/EU/en 9). The General Principles (Article 1) reaffirm general commitments to a set of ambiguous concepts: multilateralism, respect for international law and the principles of the U.N. Charter, the principles of equality, reciprocity and mutual respect, and the promotion of sustainable development (Ibid., Art. 1 ¶¶1–2, 4). Of course these are likely understood in almost diametrically different ways by the EU and Cuba, but it provides sufficient cover for moving forward along pragmatic lines without losing face. That fig leaf is made clear by the agreement that implementation of PDCA would be undertaken “in accordance with their respective constitutional principles, legal frameworks, legislation, norms and regulations, as well as the applicable international instruments to which they are parties” (Ibid., Art. 1 ¶ 3). Complicating these initial principles are declarations of “respect for and the promotion of democratic principles, respect for all human rights and fundamental freedoms laid down in the Universal Declaration of Human Rights and in the core international human-rights instruments and

their optional protocols which are applicable to the Parties, and respect for the rule of law” (Ibid., Art. 1 ¶5). But this is limited both by the provisions of ¶¶ 1–2 as well as by the provisions of ¶ 6 in which both sides “recognise that all peoples have the right to freely determine their political system and to freely pursue their economic, social and cultural development” (Ibid., Art. 1, ¶ 6). Taken together, these Principles balance nicely the political needs of the EU and Cuba in a way that recognizes both but permits each to ignore the contradictions of their respective positions applied to the condition of the other.

Article 2 specifies the objectives of the PDCA. These are both straightforward and general. It is meant to help Cuba update its economy and society (Art. 2 ¶ (b)) through dialogue and cooperation (Ibid, ¶¶ (a), (g)), promote mutual trade (Ibid ¶ (e)), and the achievement of the 2030 Agenda for Sustainable Development (Ibid, ¶ (d)). Most interesting is the objective of enhancing regional trade in the Caribbean and Latin America (Ibid ¶ (f)).

To those ends, Part II of PDCA speaks to the contours of political dialogue. These touch on the usual: promoting exchanges, enabling broad exchanges of views, centering exchange on the UN system, and promoting strategic partnerships between the EU and CELAC (Ibid., Art 3). The latter is particularly useful to Cuba, which has had long term ambitions to lead at least Caribbean regional trade and political framework (Backer and Molina, 2009). But it is particularly useful as a means of avoiding OAS constraints on the manner of its global integration (see, above). All of this cooperation is to be undertaken at the state to state level—no people-to-people focus here (Ibid., Art. 4). That approach serves as the heart of an open ended and vague provision respecting human rights. Article 5 provides in its entirety:

Within the framework of the overall political dialogue, the Parties agree to establish a human rights dialogue, with a view to enhancing practical cooperation between the Parties at both multilateral and bilateral level. The agenda for each dialogue session shall be agreed by the parties, reflect their respective interests and take care to address in a balanced fashion civil and political rights and economic, social and cultural rights.

The key is in the last sentence. The Cubans will emphasize economic, social and cultural rights while the Europeans will push civil and political rights. To some extent this serves U.S. interest as well—to the extent that the EU can be used as a proxy for pushing for political reform acceptable to the Americans. The Cubans, anticipating this, will likely negotiate hard.

Article 10, of course, is the most interesting to the extent that the specter of the U.S. embargo hangs over it. But it does appear to produce a common position seeking to work toward the weakening of the U.S. embargo, which is compatible with the position of both Cuba and the EU. More problematic is the potential effect of Article 10 on the ability of the EU to export its increasingly effective extraterritorial regime for the promotion of human rights. It is not clear from PDCA whether this provision is meant to prohibit the application of new measures—the U.K. Modern Slavery Act (2015) and the French Supply Chain Due Diligence Law (2017) in relations between the EU and Cuba, wherever they might manifest. The issue is particularly acute as European inbound investment meets an increasingly self-referencing Cuban conception of human rights applicable within its own economic activities (Backer, 2015). The EU will resist that reading by emphasizing the language “that are contrary to international law and commonly accepted rules of international trade” (Council of the European Union, 2016; PDCA, Art. 10 ¶ 1). The Cubans, on the other hand, would emphasize the language: “which are used as a means of political and economic pressure against States and affect the sovereignty of other States” (Ibid.). How this will be decided remains to be seen—but for the moment it is clear that both sides believe they have protected their respective principles and thus creating a contradiction that will manifest itself the first time a human rights-related charge is brought against enterprises operating in or through Cuba or its SOEs. One might expect to see this resolved potentially through the OCED Guidelines for Multinational Enterprise National Contact Points (CP) mechanisms (OECD, 2011, Procedural Guidance National Contact Points).

Part III gets to the root of things, the provisions on cooperation and sector-policy dialogue. These touch on the core areas of development set out in the PNDES (PCC, 2016; PNDES) discussed in the previous section. In particular, Part III, Title VI then deals with sector-specific economic development that ties EU-Cuba cooperation to the focal points of the PNDES. These touch on agriculture (Council of the European Union, 2016; PDCA, Art. 50); tourism (Ibid., Art. 51); science, technology and innovation (Ibid., Art. 52); technology transfer (Ibid., Art. 53); energy production (Ibid., Art. 54); and transport (Ibid., Art. 55).

However, Title I on cooperation sectors (Ibid., Art. 20) follows an EU pattern: “(a) sustainable development, (b) human rights and good governance, (c) environmental sustainability, (d) disaster prevention, (e) gender perspective, (f) persons in a situation of vulnerability, (g) building national capacities, and (h) knowledge management.” The objectives (Ibid., Art. 15) focus on Cuban economic development goals within the sustainable development framework. The principles (Ibid., Art. 16) focus on cooperation through which each sides makes the best deal it can, echoing ironically enough the recasting of trade policy by the Trump Administration (e.g., Backer, 2016c). Sector policy dialogue (Art. 17) is centered on information sharing, the harmonization of standards, and capacity building through best practices sharing. Implementation of dialogue (Art. 18, Cooperation modalities and procedures) is meant to be enhanced by EU money (Art. 18 ¶1((a) (“technical and financial assistance”)), and by coordination that furthers and complements Cuba’s development strategies and policies.” (Art. 18 ¶1((b)). Also interesting is the focus on the EU’s help in securing financing for Cuban economic ambitions (Art. 18 ¶1((g) (“innovative cooperation and financing modalities and instruments in order to improve the effectiveness of cooperation”)). Cuba for its part agrees not to use cooperation as a means of enhancing its revenues and not impede travel by officials (Art. 18 ¶5). Article 19 then identifies relevant actors covered by the cooperation arrangements. In addition to the usual international public actors, Art. 19 ¶ (e) also identifies “civil society, including scientific, technical, cultural, artis-

tic, sports, friendship and solidarity associations, social organisations, trade unions and cooperatives.” Again, the provision is vague enough to give Cuba the authority to ban civil society groups that it deems politically threatening, while the EU might take the position that all such organizations come within the umbrella of this provision. Expect some friction here. Some clarity, however, is attempted in Article 36:

The Parties recognize the potential contribution of civil society, including academia, think tanks and media, to the fulfillment of the objectives of this Agreement. They agree to promote actions in support of greater civil-society participation in the formulation and implementation of relevant development and sectoral cooperation activities, including through capacity-building.

In light of the *Conceptualización* and its premises, one might well expect that the Cubans would read this provision narrowly. For example, they might suggest that the support for civil society extends only to academics, think tanks and credentialed media; alternatively they might suggest that civil society consists only of those mass organizations recognized by the state, as contemplated under the *Conceptualización*. There would be precedent, as other states (e.g. China) takes that position with respect to civil society. Yet it is likely that the EU will tend to read the provision far more broadly, and in the shadow of the Common Position. One would thus expect some friction as well in the context of the anti-fraud and corruption provisions of Article 21.

Part III, Title II deals specifically with the EU’s great concern—democracy, human rights and good governance. These provisions give the EU some leeway in tying economic benefits to political reform, but the potential hidden in those provisions may require substantial work for their realization—at least as the EU might see things. Article 22 touches on human rights. Its first paragraph nicely evidences the mish-mash resulting from an attempt to push together two very different views of democracy and human rights. Both sides pledged cooperation, but one that was substantially hedged: “Mindful that the protection and promotion of human rights and fundamental freedoms is the first responsibility of governments, bearing in mind the significance of national and re-

gional particularities and of various historical, cultural and religious backgrounds and acknowledging that it is their duty to protect all human rights and fundamental freedoms regardless of their political, economic and cultural systems.” One might well note here the tensions in the provisions, the balancing of distinct approaches, that will be difficult to untangle and that provides neither side with an advantage. The likely result will be little beyond the usual rhetoric and claims to victory by both sides as their respective enterprises seek to make money. Article 23 (good governance) and Article 25 (modernization of public administration) provides the Cuban with necessary capacity building that aligns with the focus of the Cuban *Lineamientos* on the development of governance in furtherance of their economic model.

It is not clear in what direction Article 24 (rule of law) will develop. It is likely that this will be used to ensure a measure of protection of investors from the EU operating in Cuba through agreements negotiated under the umbrella of PDCA, something to which Article 26 (prevention and resolution of conflicts) is also devoted. Indeed, given the way that the *Conceptualización* approaches rule of law — as a cage of regulation that might constrain the exercise of administrative discretion in central planning and in the administrative operation of the state, it is likely that this provision will produce long term disagreement. The EU will likely use this to push for the constitutionalization of the rule of law in Western conventional terms. The Cubans may well respond by moving more openly toward a Chinese conception of the constitutionalization of politics within the vanguard party (Jiang, 2018).

Part III, title II, focuses on issues of justice, citizen security and migration. These include issues around the protection of personal data (Council of the European Union. 2016; PDCA, Art. 27), an issue quite dear to the EU and less so to the Cubans. It also touches on trade in illicit drugs (Art. 28); money laundering (Ibid., Art. 29); organized crime (Ibid., Art. 30); anti-corruption measures (Art. 31); illicit trade in small arms (Ibid., Art. 32); anti-terrorism (Ibid., Art. 33); migration (Ibid., Art. 34); and consular protection (Ibid., Art. 35). Part III, Title IV

touches on social development and social cohesion. This furthers basic Cuban policy elaborated in the *Conceptualización* directly. Article 37 essentially summarizes the Cuban position on the integration of socialist economic and social development from its 7th PCC principles. Article 38 may be more problematic for Cuba, aligning cooperation around ILO standards. Article 39 speaks to educational cooperation, Article 40 to public health, and Article 41, tersely, to consumer protection. There is a wide scope of agreement possible with respect to a number of related areas of cooperation: culture and heritage (*Ibid.*, Art. 42); protection of vulnerable persons (Art. 43); a focus on gender (*Ibid.*, Art. 44); interaction of youth (*Ibid.*, Art. 45); and local community development (*Ibid.*, Art. 46 with respect to which Cuba has a long history especially with EU-based NGOs).

Part III, Title V focuses on environment, disaster risk management, and climate change. These are areas in which cooperation is likely to produce a substantial amount of positive effects. The principal focus (*Ibid.*, Art. 47 ¶ 4) includes conservation and sustainable development, protection of fresh and marine waters, and climate change issues generally. Disaster risk management (*Ibid.*, Art. 48), of critical importance to Cuba, looks to “common commitment to improving prevention, mitigation, preparedness, response and recovery measures in order to increase the resilience of their societies and infrastructure, and to cooperate, where appropriate, at bilateral and multilateral political level to improve disaster-risk-management outcomes.” Water sanitation (*Ibid.*, Art. 49) has also been a concern of Cuban planning as its infrastructure, especially in the older portions of its major cities, has been deteriorating. This also aligns with Cuban central planning goals for 2030.

Beyond its focus on sectoral development of the Cuban economy that aligns with the Cuban 2030 Economic and Social Plan, Part III, Title VI touches on modernization of the economic and social model. But this modernization is narrowly tailored to avoid the complications of political repercussions or back door regime change strategies. Lastly issues of good governance in taxation (Council of the European

Union, 2016; PDCA, Art. 58) and statistics and data production (Art. 57) are covered. The last is particularly important as regulation moves from command to big data management systems. It encourages “including the exchange of scientists; the development of improved and consistent methods of data collection, disaggregation, analysis and interpretation; and the organisation of seminars, working groups or programmes complementing statistical capacities.”

Part IV deals with trade and trade cooperation. The objectives of Article 60 include the usual. There are some interesting points considering the unequal element in the cooperation deal that the PDCA represents. Cuba has a need that the EU does not—to be integrated into the world economy (Art. 60 ¶ (b)). That means not merely integration into economic globalization, but also avoidance of the U.S. trade sanctions in place since the 1960s. That is a tall order, especially as the U.S. moves from global embargoes to precision-targeted blacklists. This is especially likely with expanded use of the Global Magnitsky Human Rights Accountability Act (2016) sanctions, which allows the executive branch to impose visa bans and targeted sanctions on individuals worldwide who are determined to be responsible for committing human rights violations or acts of significant corruption (Human Rights Watch, 2017; United States, 2017). The EU has adopted a similar approach, seeking targeted sanctions against individuals identified in the context of tax fraud and avoidance (Council of the European Union, 2017). It will likely have effects directly on CARICOM members and potentially indirectly on Cuba. As important, Europe is seen as an important target zone for the exploitation of a key area of sectoral development in Cuba under its 2030 Plan—pharmaceuticals (e.g., Council of the European Union, 2016; PDCA, Art. 60 ¶(f)).

Part IV Title I focuses on trade and the outlines of bilateral investment terms. It is meant to be developed to reduce trade barriers (fiscal and otherwise; *Ibid.*, Art. 61 ¶1), and to be grounded on “rule-based multilateral trading system under which the Parties are responsible for maintaining the primacy of rules and their effective, fair and balanced implementation” (*Ibid.* ¶ 2). The parties pledge to accord most

avored nations treatment to each other with the usual exception in accordance with WTO agreements (Art. 62) as well as to each accord national treatment to the goods of the other (Ibid., Art. 63). There are affirmances of transparency of trade measures (Ibid., Art. 64) and of mutual commitment to the WTO Trade Facilitation Agreement (Ibid., Art. 65) and the WTO Agreement on Technical Barriers to Trade (Ibid., Art. 66) along with standards agreements (Art. 67), trade defense (Art. 68), and obligations under Article XX of GATT (Ibid., Art. 70), all subject to mutually agreed revision (Ibid., Art. 69).

Part IV Title II, focuses on trade related cooperation. These include customs (Ibid., Art. 71), and administrative measures around trade facilitation (Ibid., Art. 72). These commitments will pose something of a challenge for both the rules-rigid EU and the sometimes heavy-handed administrative control cultures of Cuba. But it is the thought that counts and many of these measures are written as inspirational goals rather than as implementable measures. Protection of intellectual property is the focus of Article 73, which itself can pose problems given the messiness on that score that was generated after the 1959 Revolution. Going forward deals, on the other hand, may be easier. Capacity building is an important focus on measures regarding cooperation on technical barriers to trade (Ibid., Art. 74) and trade defense (Art. 78). Increasing trade in agricultural products is the core of the provisions around food safety and animal welfare (Ibid., Art. 75) with a similar objective for trade in traditional and artisanal goods—from both sides (Ibid., Art. 76) though in the absence of strong consumer markets in Cuba, it is hard to see how such products would not flow out of Cuba and into the hands of wealthy European consumers. A sustainable development chapeau is also provided (Ibid., Art. 76). The EU secured recognition of the importance it attributed to protection of rules of origin (Ibid., Art. 79) and both parties pledged greater and better coordinated mutual investment (Ibid., Art. 80).

All of these aspirations have to be institutionalized somehow, and Part V serves to memorialize these new institutional structures. Given the heavily bureaucratized cultures of the EU and of Cuba, it

comes as no surprise that a Joint Council was established to create an inter-governmental mechanism for periodic meetings (Ibid., Art. 81 § 1). Beyond the policy and direction of the Joint Council, a working directorate—the Joint Committee—is established to actually attempt implementation (Ibid., Art. 82). It meets once a year. It is unlikely to have much control of the day to day activities of the agreement, which suggests that the driving force will be elsewhere within the EU and Cuban bureaucracies. That “somewhere” may be the various sub-committees that may be established under the Joint Committee (Ibid., Art. 83), though these too meet infrequently though regularly.

The PDCA appears to give both parties what they want most. For the Cubans, it is a counterweight to both their friends (the Russians and Chinese) and their enemies (the Americans). It provides a more solid basis for the fulfillment of key areas of the PNDES 2030 Economic Plan through entry into lucrative European markets—but only if the Cubans can deliver. And that may take a bit of financial help from either the Europeans (intimated in the PDCA) or from their friends. Even better, the PDCA might help Cuba avoid the effects of the U.S. embargo—especially those aspects targeting the economic drivers of the Cuban economy that have been targeted by the latest round of U.S. sanctions. For the Europeans, the PDCA appears to broaden their influence abroad. It also appears to provide a wedge to reform on two levels. The first is with respect to human rights-related reforms at the political level. The second, and much more achievable is the opening to human rights and sustainability-based business conduct.

CONCLUSION

This paper has sought to answer the question: what internal Cuban legal adjustments will be necessary for Cuba to enter into a fully normalized relationship with the U.S. and the rest of the world? That question itself suggested that the process of normalization had proceeded along lines to make efforts at conventional reintegration both feasible and plausible, that Cuba was willing to make those changes, and that there were no alternatives. Those assumptions, then,

raise the three questions considered in this paper as a necessary predicate to approaching the question of Cuban re-integration. The first question centered on a consideration of the adjustments Cuba might have to undertake if it is to embed itself within the structures of global trade and finance. To that end, the chapter analyzes the legal changes Cuba would need to undertake to join international financial institutions and global and regional trade organizations. The second question examined the extent to which Cuba is disposed to consider these possible reforms. Against the objective of socializing Cuban legal and economic practices with global norms, the chapter has critically assessed the extent to which the current Cuban socio-political framework can produce these modifications and the consequences for such limitations, including with respect to the limits of political reform and the relevance of human rights norms in the construction of economic legal and governance structures. The third question examined the constraints of reform within the structures of ideological principles to which there must be an unwavering fidelity. The examination suggested that the European

Union's PDCA may provide a viable basis for Cuban reintegration in the global economy.

The approaches to the three questions suggested a fourth—one that is endogenous to the ideological premises of Cuba, rather than one grounded in global standards. That question is how does one build a revolutionary working class that the state can exploit to perfect its control of the economy? That seems to be at the core of the Cuban approaches to the construction of their own internal legal-normative system of economics and politics. It is premised on the notion that labor and capital can be treated alike as regulable means of production. It assumes that labor as a productive force must be managed in the societal and cultural sphere like capital. From that approach, one can get a clearer picture the difficulties of conforming Cuban internal practices to global expectations; one gets a better sense of the power of the normative constraints on Cuban flexibility in the face of global expectations; and one understands the difficulty of approaches grounded in dialogue is the ultimate objective s to change internal Cuban practices.

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