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THE CUBAN GOVERNMENT APPROVES GUIDELINES TO REFORM CUBA'S ECONOMIC MODEL AND DEVELOPS AN IMPLEMENTATION STRATEGY

Lina Forero-Niño*

I. BACKGROUND

IN April 2011, Cuba's Communist Party ("the Party") held a congress for the first time since 1997 to discuss reforms to Cuba's economic model.¹ During this congress, the Party approved 313 economic and social policy guidelines (the "guidelines") proposed by President Raúl Castro to stimulate Cuba's economy.² In a resolution following the congress, the Party said it would guide the government in creating the Implementation and Development Permanent Commission (the "Commission").³ The Commission is described as an independent government body charged with "the important task of developing and proposing the conceptualization of Cuba's economic model."⁴ The Commission will oversee the implementation of the guidelines, propose new guidelines when necessary, and ensure that new laws are created to implement the guidelines.⁵ In May 2011, Cuban authorities published the guidelines and sold them to Cubans eager to learn more details about the guidelines.⁶

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1. Marc Frank, *In Cuba, Reforms Bring Cheers but Also Jeers*, REUTERS (July 13, 2011), <http://www.reuters.com/article/2011/07/13/us-cuba-reform-idUSTRE76C4M F20110713>; *Reform in Cuba, Trying to Make the Sums Add Up*, THE ECONOMIST (Nov. 11, 2010), available at <http://www.economist.com/node/17463421>.
2. Jeff Franks & Nelson Acosta, *Cuba Publishes Reform Guidelines, but Details Short*, REUTERS (May 9, 2011), <http://www.reuters.com/article/2011/05/09/us-cuba-reforms-idUSTRE7485D720110509>.
3. Partido Comunista de Cuba [Cuban Communist Party], *Resolución Sobre los Lineamientos de la Política Económica y Social del Partido y la Revolución [Resolution Regarding the Party's Economic and Social Policy Guidelines and the Revolution]*, CUBA DEBATE (Apr. 18, 2011), <http://www.cubadebate.cu/especiales/2011/04/18/resolucion-sobre-los-lineamientos-de-la-politica-economica-y-social-del-partido-y-la-revolucion/>.
4. Anneris Ivette Leyva, *Our Proposals Should Approximate the Future to Which We Aspire*, GRANMA INTERNATIONAL, Aug. 4, 2011, available at <http://www.granma.cu/ingles/cuba-i/4agosto-32futuro.html>.
5. *Id.*
6. Franks & Acosta, *supra* note 2.

Through the guidelines, the government will reduce government employment, loosen the grip of government control, and develop a private sector.⁷ Even though the guidelines tend to reduce the government's role, this does not mean that Cuba is moving away from socialism. In fact, the main motivating factor for these guidelines is to preserve socialism.⁸ Cuban government officials believe that strengthening Cuba's struggling economy is necessary to ensure that the socialist movement continues, especially now as their leaders are unable to sustain the movement, largely due to their advanced age.⁹

Cuba faces several economic challenges. First, the state can no longer afford to guarantee government employment for life, "workplace perks, free healthcare and education."¹⁰ Also, the state cannot afford to continue to heavily subsidize housing and transportation.¹¹ Second, several factors further intensify Cuba's economic woes. These factors include the fall in the price of nickel, Cuba's main export; the decrease in tourism; unproductive farming land; and the costs of importing food.¹² Until now economic reforms introduced by President Castro have been insignificant.¹³ But the new guidelines are expected to change the economy in ways that were not imaginable when Fidel Castro was in power.¹⁴

In this report I will first discuss some of the guidelines that may have the greatest impact on the economy. Then I will also explain the government's strategy to implement these guidelines. To conclude, I will discuss the public's response to these guidelines.

II. THE GUIDELINES

A. SMALL BUSINESS

A new guideline allows Cubans to apply for licenses to become self-employed or to run small businesses.¹⁵ The new guideline permits the self-employed, for the first time, to legally hire employees outside of family.¹⁶ Also, the self-employed will be able to "do business with the state, open bank accounts, receive credits and rent space."¹⁷ As part of the guideline, the government created a list of 178 specific trades that the

7. See *id.*

8. Michael Voss, *Cuba Gives Space to Small Businesses*, BBC NEWS (Dec. 4, 2010), <http://www.bbc.co.uk/news/world-latin-america-11910281>.

9. *Id.*

10. *Reform in Cuba, Trying to Make the Sums Add Up*, *supra* note 1.

11. *Id.*

12. *Reform in Cuba, Towards a Mixed Economy*, THE ECONOMIST, Sept. 16, 2010, available at <http://www.economist.com/node/17043051>.

13. *Id.*

14. Tracy Wilkinson, *Cuba Opening to Private Enterprise Spurs Service Sector Start-ups*, L.A. TIMES, Aug. 6, 2011, available at <http://www.latimes.com/news/nationworld/world/la-fg-cuba-entrepreneurs-20110807,0,7604565.story>.

15. Voss, *supra* note 8.

16. Wilkinson, *supra* note 14; Marc Frank, *Cuba Unveils New Tax Code for Small Business*, REUTERS (Oct. 22, 2010), <http://www.reuters.com/article/2010/10/22/us-cuba-reform-taxes-idUSTRE69L3WY20101022>.

17. Frank, *supra* note 16.

government will license.¹⁸ Some of the trades in the list include carpenters, plumbers, accountants, party clowns, park attendants, and parking wardens.¹⁹ The application process for obtaining a license only takes a few hours.²⁰

Until now, small businesses have been in the minority because 85 to 90 percent of the economy is state-owned.²¹ But now, more than ever, small businesses are desperately needed to develop a private sector capable of creating jobs for the approximately one million government workers that will be laid off in the coming years.²² The legalization of small businesses is a strategy to develop the private sector.²³ The goal is for 1.8 million of Cuba's five million workers to find employment in the private sector by 2015.²⁴

By January 2011, Cuban authorities issued more than 75,000 new self-employment licenses.²⁵ The government encourages the public to seek licenses to become self-employed because "self-employment should from now on be considered an acceptable way of life, and those that choose it will no longer be 'stigmatized.'"²⁶ One of the benefits of self-employment, as opposed to government work, is the potential to earn double what one would have earned in a government job.²⁷ By July 2011, authorities issued more than 325,900 licenses to "open, run or work at private businesses involving nearly 200 designated activities, including hairstyling, carpentry, shoemaking and dance instruction."²⁸ The restaurant business has grown because roughly one hundred new restaurants have opened in recent months.²⁹

The self-employed are subject to Cuba's tax laws for the self-employed sector. These tax laws, adopted in 2010, were created to encourage growth in the private sector.³⁰ Under the tax laws, a self-employed individual can deduct up to 40 percent from income for certain business expenses.³¹ But he or she must pay a 10 percent income tax and an

18. Nick Miroff, *Cuba Issues Thousands of Self-Employment Licenses*, NPR (Jan. 18, 2011), <http://www.npr.org/2011/01/18/133020988/cuba-issues-thousands-of-self-employment-licenses>.

19. Voss, *supra* note 8.

20. Miroff, *supra* note 18.

21. Voss, *supra* note 8.

22. Michael Voss, *How Cuba's Economic Reforms are Taking Root*, BBC NEWS (June 3, 2011), <http://www.bbc.co.uk/news/world-latin-america-13628854>.

23. *Id.*

24. Andrea Rodriguez, *For Cuba's New Entrepreneurs, the Tax Man Cometh*, ABC NEWS (Aug. 12, 2011), <http://abcnews.go.com/Business/wireStory?id=14292342&singlePage=true>.

25. Miroff, *supra* note 18.

26. *Reform in Cuba, Trying to Make the Sums Add Up*, *supra* note 1.

27. Voss, *supra* note 8.

28. Wilkinson, *supra* note 14.

29. *Id.*

30. Frank, *supra* note 16.

31. Leticia Martínez Hernández & Yaima Puig Meneses, *Tax Matters: The Importance of Clear Accounting*, GRANMA INTERNATIONAL (Oct. 22, 2010), <http://www.granma.cu/ingles/cuba-i/22octubre-43trib.html>.

additional 25 percent in social security payments.³² Both of these payments are deductible at the end of the year.³³ If the self-employed individual hires workers, then he must pay a 25 percent social security tax for each worker, which is deductible, and an undefined labor tax.³⁴ Despite these costs, Cubans embrace the ability to become self-employed or to run a small business under this new system.³⁵ For the majority of Cubans, this guideline legalizes jobs that they would have likely done in secret.³⁶

B. PRIVATE PROPERTY

Another guideline authorizes Cubans living in Cuba to buy and sell their cars and homes for the first time since 1959, when the government restricted private property sales.³⁷ Because of the prohibition against the sale of private property, Cubans currently can only transfer private property according to the “*permuta*” or exchange system.³⁸ Under the *permuta* system, the only way to get a new home is to “swap” homes with someone else.³⁹ The homes that are exchanged must be of “equal value” and there must be no exchange of money for the transaction.⁴⁰ Further, the exchange has to be approved by the government.⁴¹ The *permuta* system has become corrupt.⁴² Because it is very difficult to match homes of equal value to effectuate the transfer, many times people resort to making “under the table” payments to transferors or government officials.⁴³

The guideline is intended to create a new system of transferring property and to address Cuba’s housing shortage.⁴⁴ Currently there is a need for about 500,000 homes.⁴⁵ Because of the housing shortage, families of three generations have to share a small apartment.⁴⁶ Even divorced couples have to continue living in the same home because they have no other housing options available.⁴⁷

Under the reformed system, Cubans will be able to exchange money for residential real estate transactions and there will be limited govern-

32. *Cuba Details Taxes for the Self-Employed*, BBC NEWS (Oct. 22, 2010), <http://www.bbc.co.uk/news/business-11610429>.

33. Frank, *supra* note 16.

34. *Id.*

35. Voss, *supra* note 8.

36. Miroff, *supra* note 18.

37. *Cuba Reveals More Details of Private Property Laws*, BBC NEWS (July 1, 2011), <http://www.bbc.co.uk/news/world-latin-america-13998167>.

38. *Cubans Eye Prospect of Being Able to Buy and Sell Homes*, BBC NEWS (July 9, 2011), <http://www.bbc.co.uk/news/world-latin-america-14062105>.

39. *Id.*

40. Mimi Whitefield, *Home Sales Would be a Sea Change for Cuba*, MIAMI HERALD, July 30, 2011, available at <http://www.miamiherald.com/2011/07/29/v-print/2338513/home-sales-would-be-a-sea-change.html#ixzz1UIJEsszA>.

41. *Cubans Eye Prospect of Being Able to Buy and Sell Homes*, *supra* note 38.

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

ment intervention in the transactions.⁴⁸ All that will be required is “notary approval and payment for the deal through a state bank . . . [and] a still undefined tax.”⁴⁹ The sale of homes will be taxed and Cubans will only be allowed to own one home.⁵⁰ These new property guidelines are set to become laws by the end of the year.⁵¹

C. FOREIGN TRAVEL

Foreign travel has been severely restricted by the government in the past fifty years.⁵² A new guideline instructs the government to “[s]tudy a policy that allows Cubans living in the country to travel abroad as tourists.”⁵³ Currently, Cubans seeking to travel abroad are required to file an “exit request” with the government and pay fees.⁵⁴ This guideline should make it easier for Cubans to travel abroad.⁵⁵ But more details regarding its implementation have not been released.⁵⁶

D. MISCELLANEOUS

There are guidelines that seek to “phas[e] out . . . Cuba’s universal food ration” and to combine Cuba’s two currencies.⁵⁷ Others deal with banking and credit policies for individuals.⁵⁸ One guideline recommended by more than a thousand people and three government officials addresses “the concession of loans of various kinds.”⁵⁹ Another allows the government to lease “unproductive state-owned land to private farmers and co-operatives.”⁶⁰

III. DEVELOPMENT OF THE LEGAL FRAMEWORK TO IMPLEMENT GUIDELINES

Some guidelines, such as the one authorizing the granting of licenses for operating small businesses, have already been implemented while others must go through a formal rule-making process to become law.⁶¹ On July 30, 2011, Marino Murillo Jorge, head of the Commission, gave an

48. Frank, *supra* note 1.

49. *Id.*

50. *Cuba Reveals More Details of Private Property Laws, supra* note 37.

51. Cubans Eye Prospect of Being able to Buy and Sell Homes, *supra* note 38.

52. *Cuba Reform May Permit Foreign Travel, BBC News* (May 9, 2011), <http://www.bbc.co.uk/news/world-latin-america-13338495>.

53. *Id.* (internal quotation omitted).

54. *Id.*

55. Peter Orsi, *Cuba Marks Revolution Day at Economic Crossroads*, THE SEATTLE TIMES, July 26, 2011, available at http://seattletimes.nwsourc.com/html/nation/world/2015730001_apcbclubarevolutionday.html.

56. *Cuba Reform May Permit Foreign Travel, supra* note 52.

57. Franks & Acosta, *supra* note 2.

58. Leyva, *supra* note 4.

59. Elsa Claro, *Reforms and the People*, GRANMA INTERNATIONAL, May 26, 2011, available at <http://www.granma.cu/ingles/cuba-i/26mayo-Reforms%20and.html>.

60. Michael Voss, *How Cuba’s Economic Reforms are Taking Root*, BBC NEWS (June 3, 2011), <http://www.bbc.co.uk/news/world-latin-america-13628854>.

61. Franks & Acosta, *supra* note 2.

update to the Party regarding the status of the implementation process.⁶² Because each guideline is in a different phase in the implementation process, the Commission is currently developing a plan detailing the treatment of each guideline and the order in which guidelines will be transformed into laws.⁶³ To develop the plan, the Commission classified guidelines according to their purpose. Generally, the guidelines are classified in three groups: economic reforms, social policy reforms, and reforms that can be implemented quickly without additional resources.⁶⁴ Under this plan, all guidelines should be implemented by 2015.⁶⁵

In August of 2011, Murillo presented an update of the implementation process to the National Assembly.⁶⁶ Murillo confirmed the goal of the Commission is to ensure “that rights are established by law and thus eliminat[e] the practice of regulating with administrative decisions.”⁶⁷ The Commission is comprised of ninety-eight members and sixty-six collaborators and it will include an “Assessment Council, a secretariat, and eight working groups.”⁶⁸ The working groups will handle various components which include legal, planning, and coordination.⁶⁹ Murillo addressed concerns about delays in implementing the guidelines. Delays are likely inevitable because “the process is complex given the great number of regulations which must be modified.”⁷⁰ The Commission was expected to present its five year implementation plan to the government for approval in September 2011.⁷¹

Cuba’s legislative parliament, the National Assembly, is cooperating with the implementation process. On August 4, 2011, deputies of the National Assembly “endorsed and unanimously passed the implementation of [the guidelines] approved by the 6th Congress of the Communist Party.”⁷² The deputies ordered that the guidelines “become an essential guiding element for the work of all state, government and people’s bodies and officials.”⁷³ The deputies are interested in improving the implementation process by promoting “efficiency and quality.”⁷⁴ For example, they

62. Yaima Puig Meneses, *Central Committee 2nd Plenum Held*, GRANMA INTERNATIONAL, Aug. 1, 2011, available at <http://www.granma.cu/ingles/cuba-i/1agosto-asamblea.html>.

63. *Id.*; *Cuba: New Economic Guidelines Plan to Come Out in Sept*, CARICOM NEWS NETWORK (Aug. 1, 2011), http://www.caricomnewsnetwork.com/index.php?option=com_content&view=article&id=4646:cuba-new-economic-guideline-plan-to-come-out-in-sept&catid=37:caribbean-business&Itemid=396.

64. *Cuba: New Economic Guideline Plan to Come Out in Sept*, *supra* note 63.

65. *Id.*

66. Leyva, *supra* note 4.

67. *Id.*

68. *Cuba: New Economic Guideline Plan to Come Out in Sept*, *supra* note 63.

69. Leyva, *supra* note 4.

70. *Id.*

71. *Cuba: New Economic Plan to Come Out in Sept*, *supra* note 63.

72. *Deputies Support and Approve Implementation of the Economic and Social Policy Guidelines*, GRANMA INTERNATIONAL, Aug. 4, 2011, available at <http://www.granma.cu/ingles/cuba-i/4agosto-32asamblea.html>.

73. *Id.*

74. Leyva, *supra* note 4.

seek to improve methods of communication with the public so people can give feedback regarding the guidelines and the implementation process.⁷⁵

IV. PUBLIC RESPONSE

Cuba's newspaper, *Granma*, featured the first impressions of several Cubans and their opinions of the reforms.⁷⁶ Generally, they have been well received by the majority of Cubans.⁷⁷ Because of these guidelines, Cubans like Juan and Yolanda, who were interviewed by *Granma*, are able to do things they have wanted to do for a long time. For example, as a result of the small business guidelines, Juan will now be able to start his own auto parts store and even get credit.⁷⁸ Juan says, "I've been waiting for that for a long time, and not just me, I tell you."⁷⁹ As for Yolanda, she will now be able to get a loan to fix her house.⁸⁰

Others have mixed feelings about the guidelines. While they believe the reforms are good, they are upset the reforms were not recognized before, which would have prevented many problems.⁸¹ For example, Luis Miguel is glad that he will finally be able to sell his home.⁸² But he is also upset that he has spent months battling the "restrictive and labyrinthine bureaucracy" in trying to exchange his home under the current system.⁸³ According to Oscar Espinoza Chepe, an economist and independent journalist, the guidelines fail to address serious issues that have a significant impact on Cuba's economic development.⁸⁴ Some of the issues that the guidelines do not address include: the need to offer unrestricted internet access, the relationship between Cuba and the United States, and the need for Cuba to once again participate in international organizations such as the World Bank, the International Monetary Fund, and other organizations that could help Cuba obtain financial resources for economic growth.⁸⁵ According to Chepe, the guidelines only update an old economic model that needs to be replaced. Despite the limitations of this updated economic model, it is a "small opening in the totalitarian wall that, in the next few months, could be enlarged to allow the necessary changes."⁸⁶

Yardley Bowen, a Cuban woman living in the United States, shared her opinion regarding the guidelines.⁸⁷ Yardley was born in Cuba, moved to

75. *Id.*

76. Claro, *supra* note 59.

77. Frank, *supra* note 1.

78. Claro, *supra* note 59.

79. *Id.*

80. *Id.*

81. Frank, *supra* note 1.

82. *Id.*

83. *Id.*

84. See, Oscar Espinoza Chepe, *Insufficient & Unclear Guidelines*, CUBA STUDY GROUP 1, 4 (June 14, 2011), http://www.cubastudygroup.org/index.cfm/files/serve?File_id=ebd47087-827e-4dfb-9aaa-ae0fb90a80d0.

85. *Id.* at 4.

86. *Id.* at 5.

87. Telephone interview with Yardley Bowen (Sept. 10, 2011).

the United States as a child, and has lived in the United States the majority of her life.⁸⁸ Yardley has family living in Cuba and she travels to Cuba once a year to visit them.⁸⁹ Her uncle once applied for a visa to travel to the United States.⁹⁰ He underwent a long and complicated application process and his visa was denied.⁹¹ She believes the most important reform of all is the one making it easier for Cubans to travel abroad and she hopes that through this reform, her family will be able to travel to the United States to visit her.⁹² Because most Cubans earn an average of twenty dollars a month, Yardley remains concerned that the lack of money will be a significant barrier to Cubans desiring to travel abroad.⁹³ Her first impression of these guidelines is that they benefit the government more than Cubans.⁹⁴

While some contemplate the possible effects of these guidelines, the Cuba Study Group (the “CSG”), a Washington D.C. based non-profit organization, responded to the guidelines by recommending a series of steps to help small businesses in Cuba.⁹⁵ The CSG is a “non-partisan organization, comprised of business and community leaders of Cuban descent who share a common interest and vision of a free and prosperous Cuba.”⁹⁶ The CSG’s mission is “to facilitate a peaceful reunification of the Cuban nation that would lead to a free and open society with respect for human rights, the rule of law and a market-based economy.”⁹⁷

In April 2011, the CSG published a paper addressing the challenges to the development of Cuba’s small business sector and proposing various steps that “private-sector leaders, foundations, non-governmental organizations (NGOs) and the governments of Cuba and the United States can take to improve conditions for micro and small businesses.”⁹⁸ According to the proposal, individuals and NGOs can help Cuba’s small businesses succeed by delivering business training, conducting market research, and developing systems to allow Americans to send funds and make loans to Cuban entrepreneurs.⁹⁹ The U.S. government can support small businesses by reevaluating U.S. policies toward Cuba. Specifically, the CSG recommends the U.S. government relax its laws and regulations that “restrict U.S. financial transactions with Cuba as well as exports and im-

88. *Id.*

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. *Id.*

95. Juan O. Tamayo, *U.S. Group Wants to Help Small Enterprises in Cuba*, THE MIAMI HERALD, Apr. 7, 2011, available at <http://www.miamiherald.com/2011/04/07/v-print/2156058/cuban-business-group-calls-for.html#ixzz1XOtWLeyF>.

96. CUBA STUDY GROUP, <http://www.cubastudygroup.org/index.cfm/who-we-are> (last visited Sept. 10, 2011).

97. CUBA STUDY GROUP, *Supporting Small Business in Cuba: Recommendations for Private and Public Sector Leaders* (Apr. 2011), http://www.cubastudygroup.org/index.cfm/files/serve?File_id=bafc4d4c-3b3e-4afb-a652-6860ffc80523.

98. *Id.* at 1.

99. *Id.* at 12-15.

ports.”¹⁰⁰ The United States should reevaluate the impact those sanctions may have on the development of Cuba’s private sector and reform its policies to prevent harming Cuba’s small business sector.¹⁰¹ The CSG proposes the Cuban government can promote small businesses by relaxing its laws and regulations directed at the self-employed.¹⁰²

V. CONCLUSION

Reviewed as a whole, the guidelines have the potential to create radical changes. The Commission’s pledge to ensure each guideline is implemented shows the government’s commitment to deliver on its promises. The Cuban population’s overall approval of these guidelines shows the need for change. Even the response of Cubans living abroad demonstrates that individuals are willing to create partnerships to enable Cubans to thrive. All of these circumstances indicate there is a renewed energy to bring change to Cuba. In time, we should be able to see the impact of these guidelines on the quality of life of Cubans.

100. Tamayo, *supra* note 95.

101. CUBA STUDY GROUP, *supra* note 97, at 15-16.

102. Tamayo, *supra* note 95.

