

No. 24-983

IN THE
Supreme Court of the United States

HAVANA DOCKS CORPORATION,
Petitioner,
v.

ROYAL CARIBBEAN CRUISES, LTD., NORWEGIAN CRUISE
LINE HOLDINGS LTD., CARNIVAL CORPORATION,
MSC CRUISES S.A., AND MSC CRUISES (USA), INC.,
Respondents.

**On Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit**

**JOINT APPENDIX
VOLUME II**

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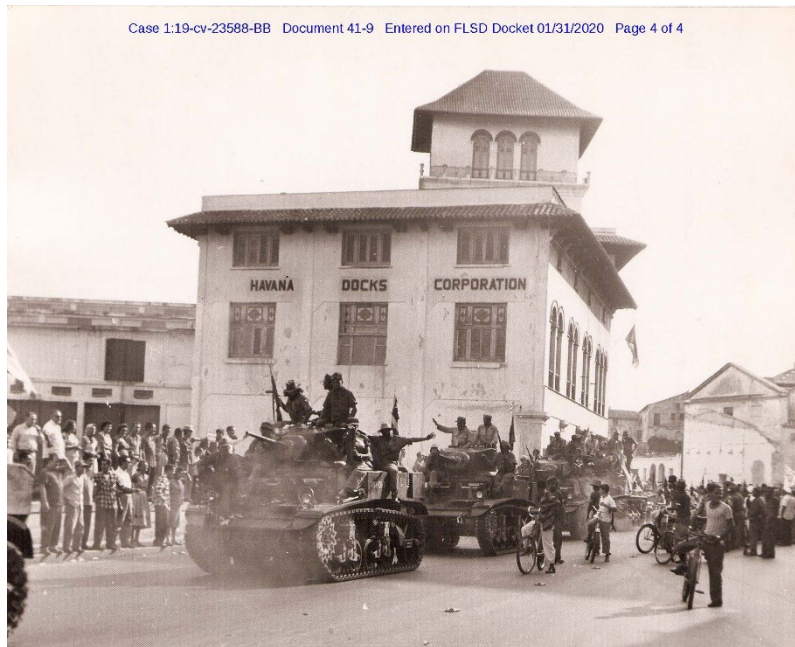
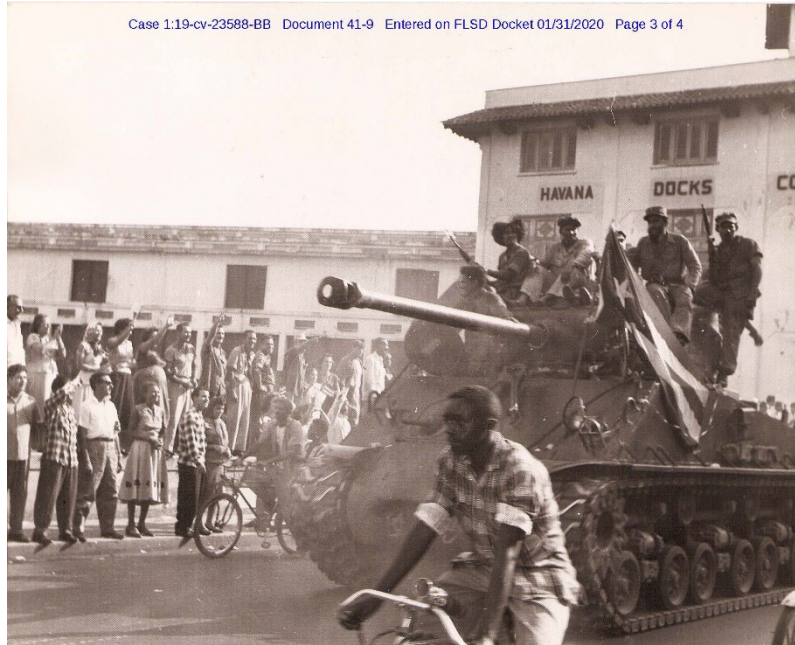
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EXHIBIT "9"





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Exhibit “10”



502
EXHIBIT "10"



Filed Under Seal

Message

From: Kelly Craighead
[kcraighead@cruising.org]
Sent: 2/21/2019 2:39:16 PM
To: CLIA GEC [CLIAGEC@cruising.org]
CC: CLIA GEC Assistants
[CLIAGECAssistants@cruising.org]
Subject: Title III Analysis
Attachments: 22246490_1 CIA Analysis of Title III of
Helms Burton and Private Right....pdf

Dear Global Executive Committee Members,

Attached is a memo from Lindsay Meyer, a partner with Venable who specializes in international trade law and Cuba trade specifically, that provides information on the Administration's review of the Helms Burton Title III suspension issue with essential considerations for the cruise industry. The memo will provide a foundation for discussion among GEC members and expert counsel at Venable. We apologize for sending this memo so close to the GEC call. While the memo was requested last week for distribution well in advance of the GEC call, we received the memo late last night.

Ms. Meyer will join the GEC call for the Cuba agenda item and will provide a verbal summation of key points in the memo. Importantly, she will also address the central question of what we know or do not know at this time about the status of General Permits allowing travel from the U.S. to Cuba if the Administration discontinues suspension of legal claims made under Title III of the Helms Burton Act.

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We will also provide a verbal briefing on the actions that we have taken to date and are currently engaged in with our lobbyists at Alcalde & Fay and other outside resources.

I look forward to speaking with all of you at 12:00 noon U.S. EST.

Best regards,
Kelly

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VENABLE LLP

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PRIVILEGED AND CONFIDENTIAL

TO CLIA
FROM Lindsay B. Meyer, Esq.
Jeffrey G. Weiss, Esq.
cc Lawrence W. Kaye
Michael McGarry
DATE February 20, 2019
EMAIL LBMeyer@Venable.com
PHONE 202-344-4829
RE Analysis of Title III of Helms-Burton Act
and Private Right of Action

You have requested that we analyze Title III of the Helms Burton Act in the context of assessing the potential private right of action that may arise if the current waiver is lifted and its potential impact on the Cruise Lines International Association (“CLIA”). Below please find our preliminary analysis.

I. Background on Title I11 of the Helms-Burton Act

On March 12, 1996, President Clinton signed the Cuban Liberty and Democratic Solidarity (“LIBERTAD”) Act of 1996, also known as the Helms-Burton Act (the “Act”).¹ Title III of the Act established a private right of action allowing U.S. nationals, from whom the Cuban government confiscated property, to file lawsuits for money damages against persons that “traffic” in such property. Any “trafficking” that occurred three months after the effective date of Title

¹ Pub. L. No. 104-114 (1996).

III is actionable, subject to the Act's two-year statute of limitations and other exceptions.

The Act made August 1, 1996 the default effective date of Title III. However, the Act also allowed the President to suspend the effective date of the Act for a period of up to six months, and to renew such suspension for successive periods of up to six months. Once Title III has taken effect, the Act also authorizes the President to suspend the private right of action. Suspensions of the private right of action may be made, and successively renewed, for periods of up to 6 months.

On July 16, 1996, President Clinton announced that he would not suspend Title III's effective date of August 1, 1996. At the same time, however, President Clinton suspended Title III's private right of action provision. In the intervening 23 years, each President has kept the private right of action continuously suspended in successive 6 month periods. In 2013, President Obama delegated the suspension authority to the Secretary of State.²

On January 16, 2019, Secretary of State Pompeo announced that the Administration intended to only renew the suspension for another 45 days, rather than up to six months, as permitted under the Act. On February 1, 2019, the Secretary officially renewed the suspension period for 45 days (*i.e.*, through March 17, 2019), Provided that another waiver is not issued before the end of the 45-day period, U.S. nationals will

² See 78 Fed. Reg. 9,574 (Feb. 8, 2013), available at <https://www.federalregister.gov/documents/2013/02/08/2013-03110/delegation-of-authority-to-suspend-the-provisions-of-title-iii-of-the-cuban-liberty-and-democratic>.

be permitted to initiate claims under Title III beginning on March 18, 2019.

II. Understanding Claims under Title III of the Act

A. “Trafficking in Confiscated Property” and the Potential Impact

A private right of action for civil damages is authorized by Title III by means of lawsuits brought by U.S. nationals against persons who “traffic” in property that was confiscated from U.S. nationals³ by the Government of Cuba on or after January 1, 1959.⁴ Under the Act, a person “traffics” in confiscated property when the person “knowingly⁵ and intentionally” engages in certain activity, *without* the authorization of the United States national who holds a claim to the property. Specifically, such “trafficking” occurs when a person or entity:

- Sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possess, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property;
 - Engages in a commercial activity using or otherwise benefiting from confiscated property;
- or

³ Title III defines “U.S. national” to mean any U.S. citizen or entity organized within the U.S, *See* Act, Section 4 (15).

⁴ Act, Section 102(a).

⁵ Under the Act, “knowingly” is defined to mean “having reason to know.”

- Causes, directs, participates in, or profits from, trafficking by another person, or otherwise engages in trafficking through another person.⁶

Under the terms of Title III, liability is created when any of the above-referenced activities occur. Notably, the activities may only have tangential connection with the property that was actually confiscated. For instance, a court may interpret that the use of port docks, which are associated with confiscated property, constitutes violative “trafficking” under the Act. As such, the scope of Title III has potentially very broad implications. More importantly, a person can be liable for a transaction involving confiscated property even in the absence of any *actual* knowledge of the involvement of such property.

It is also important to understand that, under Title III, certain limited activities have been expressly *excluded* from the definition of “trafficking.” As previously discussed, a potentially important provision under the Act addresses exempted activities regarding “transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel.” This “Travel Exception” is found within the noted “Definitions” section of the Act at Section 4(13)(B)(iii).

B. Understanding the Ambiguities Associated with the Travel Exception

Title III excludes from the definition of “trafficking” “transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of

⁶ Act, Section 4(13)(A).

such travel.” However, it is unclear whether a court would find that carriers and travel service providers, including the cruise lines, are covered by this exception.

As part of its analysis, we would expect that a court would examine how the Office of Foreign Assets Control (“OFAC”) administers similarly worded provisions found within the Cuban Assets Control Regulations (“CACR”), including the CACR’s general and specific licenses for certain travel and travel-related services. A court might also note of the fact that the Act codified the existing CACR into statute - which to that point had only been implemented through Executive Orders and regulations - making the CACR and its general license provisions permanent until amended or repealed by Congress. Thus, a court could view the CACR’s concurrent codification as evidence that Congress intended to exempt transportation-related transactions from claims under Title III.

Since the Act took effect, OFAC’s authorizations for travel and carrier services to and from Cuba have expanded. However, we anticipate that a court could interpret the Travel Exception narrowly, such that only persons engaged in activity that was otherwise authorized under U.S. sanctions at the time the Act was signed in 1996 are exempted from private rights of action.

C. Who Can Bring Claims under Title III?

Any U.S. national who owns a claim to property confiscated by the Government of Cuba after January 1, 1959 may sue those who “traffic” under Title III, subject to certain restrictions.

If the claim was certified by the Foreign Claims Settlement Commission of the United States (“FCSC”)

pursuant to Title V of the International Claims Settlement Act of 1949, as amended (“ISCA”), courts must accept FCSC certification as conclusive proof of an ownership interest in the property in question. The amount certified by the FCSC is presumed to be correct, but can be overcome with clear and convincing evidence. In addition, such claimants are entitled to treble damages. Between October 16, 1964 and July 6, 1972, the FCSC reportedly adjudicated 8,816 claims, and certified losses on 5,911 of those claims, with a total principal value of more than \$1.8 billion. ISCA required that the property subject to a claim had to be owned by a U.S. national *at the time of confiscation*.

If the claim was not certified by the FCSC, a person can still file claims under Title III, but there are certain limitations. For example, if a certified claim exists, no other person can file a Title III claim with regard to the same property. *See also* Sections ILE and 11.0.3 below. Furthermore, a claimant that does not have a certified claim from the FCSC is not automatically entitled to treble damages, unless they meet certain notice requirement, as discussed further below. However, a person raising a non-certified claim does not need to have been a U.S. national at the time the property in question was confiscated.

With regard to the certified claims, there is also potential risk to those seeking to transfer a claim. Specifically, in a July 29, 2008 Notice regarding the transfer of claims against Cuba certified by the FCSC, OFAC stated that it “regards an FCSC-certified claim against Cuba as property in which Cuba has an interest, as defined in 31 C.F.R. § 515.311.” As such, OFAC warned that “the transfer of a certified Cuban claim is generally prohibited absent authorization by OFAC” and advised those considering a possible claim

transfer to get legal guidance before proceeding, or they themselves may be subject to potential civil or criminal penalties and fines or even imprisonment.

D. Who Cannot Bring Claims Under Title III?

U.S. nationals who were eligible to file a claim with the FCSC, but did not, may not bring a lawsuit under Title III.⁷

E. Amount of Damages

Unless the activity in question is excluded from the definition of “trafficking,” a person that traffics in confiscated property is liable in an amount equal to the *greater* of:

- The amount certified to the claimant by the FCSC under ICSA, plus interest;
- An amount determined by a special master appointed by the court, or
- The fair market value of the property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater.⁸

For certified claims, a person that “traffics” is liable for treble damages based on the amounts above. Conversely, a non-certified claim is entitled to treble damages *only if the* claimant provides the person allegedly engaged in “trafficking” at least 30 days’ notice before initiating a claim *and* such person does not cease “trafficking” in confiscated property within 30 days of receiving notice.

⁷ Act, Section 302(a)(5)(A).

⁸ A person who “traffics” is also liable for court costs and attorneys’ fees.

F. When Can Title III Claims be Filed?

As stated above, the Helms-Burton Act was enacted on March 12, 1996, and became effective on August 1, 1996. The Act included what the then-Attorney General referred to in guidance as a “grace period” of three months. Under the Act, a person who “traffics” is only liable for activity occurring three months after the effective date of Title III (meaning any Trafficking occurring *after* November 1, 1996).

Title III also authorized the President to delay Title III’s effective date for up to six months, and suspend the right to initiate claims against persons who “traffic” for up to six months. Moreover, each of these actions could be renewed. President Clinton decided to allow Title III to take effect on August 1, 1996, but he immediately suspended the private right of action. Every subsequent President has also suspended the right to file claims under Title III every six months, until now.

Because President Clinton suspended the right to initiate claims under Title III without suspending Title III’s effective date, a person or entity would be liable for any trafficking activities it conducted that occurred on or after November 1, 1996, subject to the two-year statute of limitations, as discussed below. Further, claims could be filed immediately upon the expiration of the current suspension of the private right of action (*i.e.*, on March 18, 2019).

G. Procedural Requirements

As with any claim in federal court, there are a number of procedural requirements that must be satisfied to bring an action under Title III.

1. Personal Jurisdiction

Congress clearly intended for the Act to have an extraterritorial effect, but a federal court cannot entertain a Title III action without personal jurisdiction. While many companies will have sufficient contacts with the United States to be subject to general *in personam* jurisdiction, or will have assets located in the United States, some claimants could find it difficult to obtain jurisdiction over a person who “traffics” with limited contacts and assets in the United States.

2. Amount in Controversy

Title III has an amount in controversy requirement of \$50,000.⁹ The amount in controversy is calculated without regard to treble damages, and is exclusive of interest, costs, and attorneys’ fees. The Act does not explicitly prohibit joining two or more claims of less than \$50,000 for the purposes of meeting the amount in controversy requirement, although a court would likely apply the requirement on a property-by-property (*i.e.*, claim-by-claim) basis.

3. Notice Requirement for Non-Certified Claims

The Act requires that claimants give notice of an intent to file a Title III action to a person who allegedly “traffics” when the action is based on non-certified claims. Specifically, the notice must be in writing, served in person or by certified mail, and contain (i) a statement of intent to bring an action against the person, (ii) a demand that trafficking cease immediately, and (iii) a copy of the Attorney General’s statement summarizing the provisions of the Act,

⁹ Act, Section 302(b).

published at 61 Fed. Reg. 24955 (May 17, 1996). Failure to satisfy any of these conditions could presumably be a basis to challenge the required notice under the Act.

If the claimant gives the potential defendant the required notice and the potential defendant continues to traffic in confiscated property at the end of the 30 days after notice is provided, then the claimant is eligible for treble damages.¹⁰

4. The Applicable Statute of Limitations

Section 305 of the Act provides that Title III suits may not be brought more than 2 years after the trafficking giving rise to the action has ceased to occur.” Assuming a reinstatement of the private right of action on March 18, 2019, the statute of limitations would bar claims regarding trafficking *that ceased before* March 18, 2017.

It is also possible, but unlikely, that a court could interpret the phrase “trafficking giving rise to the action” to allow tacking of claims against property that has not been the subject of trafficking within the limitations period, but which was connected to broader trafficking activities that have occurred within the limitations period. For example, assume a foreign company began trafficking activities in 2013. From 2013-2016, the company trafficked with respect to Blackacre, a confiscated property owned by U.S. nationals. From 2017 to the present, the company has trafficked in Greenacre, another confiscated property owned by different U.S. nationals. The owners of Greenacre have a viable claim under Title III. Whether the owners of Blackacre have a viable claim depends

¹⁰ Act, Section 303(a)(3).

upon whether the trafficking giving rise to the action” ceases to occur with respect to Blackacre’s owners when the foreign company redirected its trafficking activities to Greenacre. If “trafficking” refers to a continuous course of action, then Blackacre’s owners would have a Title III claim that would not be barred by the statute of limitations. On the other hand, if “trafficking” is applied on a property-by-property basis, the Title III claims related to Blackacre would be barred by the statute of limitations.

However, the definition of “traffics” under the Act makes this interpretation appear unlikely. The Title III right of action establishes the liability of “any person that ... traffics in property” to any U.S. national who “owns the claim to such property.” The Act defines “traffics” by reference to “confiscated property” and specific actions taken in relation to confiscated property without authorization of the U.S. national owner of “the property.” The final definite article supports an interpretation of the Act that would not allow “tacking” a Title III claim to more recent trafficking activities when part of a continuous course of conduct.

III. Considerations for CL1A

A. Risk Assessment (Property-By-Property Due Diligence)

As previously discussed, assuming a reinstatement of the private right of action on March 18, 2019, the statute of limitations would bar claims regarding trafficking that ceased before March 18, 2017. If a company has been “trafficking” within the meaning of the Act since March 18, 2017, there is no way to eliminate its potential liability until the two-year statute of limitations has run.

The risk of Title 111 liability can be assessed through a due diligence analysis of the properties that a company uses or benefits from in Cuba. First, the business should identify each property located in Cuba that the business touches or has touched within the past two years. Then, the business should seek to determine whether any of those properties were the subject of certified claims in the FCSC. This step would be performed by searching the FCSC records. Given the age and poor digitization of the FCSC records, we expect this process could require substantial resources. If a business uses or benefits from a property that is the subject of a certified claim, then the owner of the certified claim is the only person who may sue under Title III. Further due diligence into the owner of the claim could help determine the risk of litigation (*e.g.*, in the case of an entity with a certified claim, whether the entity or a successor entity still exists).

With regard to due diligence of non-certified claims, please recall that the Act does not allow suits by claimants who were eligible to, but did not, have their claim certified by the FCSC. The FCSC was limited to U.S. person claimants. Therefore, the only non-certified claims that would be available for the Title III action would appear to be those held by persons who became U.S. nationals at some point *after* the FCSC ceased its certification of claims. In reality, this may be a very narrow universe of claims. In any case, this due diligence would only be required when the owner of the property in question was not a U.S. national in the period when the FCSC was operational.

If we assume that cruise lines are not covered by the Travel Exemption, the risks to a particular cruise line will depend on that cruise line's relationship with "confiscated property," such as ports. U.S. nationals

who owned property or ports that were confiscated by the Government of Cuba on or after January 1, 1959, could potentially bring claims under Title III. Two claims, in particular, appear to be relevant to the cruise line industry; namely, the certified FCSC claims on the Havana Harbor and on La Maritama Parreno (“Santiago Harbor”). The Havana Docks Corporation, incorporated in Delaware, holds a claim valued at \$9.2 million by the FCSC in 1971 (absent interest) in connection with a concession it then held at the Havana Harbor. Meanwhile, the FCSC certified claim on the Santiago Harbor was valued by the FCSC at \$380,699 in 1970. As with other claims, the accumulation of interest on these claims and the potential appreciation in the properties’ value has significantly increased the value of these claims. Of course, there may be additional claims with potential impact, so each company would need to examine their particular business activities and perform due diligence as to potential claims, in order to understand any associated impact as to their unique circumstances.

B. Statutory Amendment

Amending the Act’s Travel Exception so that it clearly covers cruise lines or travel service providers could help ensure that the activities of CLIA’s members would be exempt from Title III liability. Yet, the difficulty of passing such legislation, which would be in conflict with an Administration initiative, and which the President could veto, makes this option unlikely to succeed.

If a statutory amendment were sought, however, we would recommend proposing to revise the definition of “traffics” in Section 4(13) of the Act to include a specific reference to cruise lines or ocean transportation. As discussed previously, a proposed amendment could

add language to the statutory exceptions to the definition of “traffics” found at Section 4(13)(B)(iii) of the Act (such as suggested statutory language set forth in bold typeface):

(B) The term “traffics” does not include —

* * *

(iii) transactions and uses of property incident to lawful travel to Cuba, including the provision of travel services by any passenger common carrier, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

Given the apparent difficulty of obtaining support for a legislative solution, we would recommend focusing efforts on another mitigation strategy.

C. Partial Suspension of Private Right of Action

Alternatively, the President could decide to allow a subset of claims -- that would otherwise be covered by the private right of action -- to remain in suspension. Under this possible option, the President would allow the current suspension of the private right of action to expire. Then, instead of renewing the suspension in its entirety, as every president has done since 1996, the President could issue a limited suspension of the private right of action but only with respect to a limited number of activities, such as the provision of travel services, while allowing some claims under Title III to proceed. This would assure that the activities subject to the suspension would remain immune from Title III for the duration of the continued suspension. The downside risk to this potential option is that it

could support an argument by potential claimants that the activities identified in the limited suspension are not covered by the terms of the Travel Exception. Moreover, this could become problematic in the event that the limited suspension is allowed to expire in the future.

D. Clarified or Additional Exemptions from Liability

Under another alternative, the Administration could also issue interpretive guidance that would apply after the expiration of the present suspension of the private right of action. For example, the Administration could release guidance stating that cruise line services fall within the Travel Exception in the Act. This would provide a statement of the President's intent with respect to reinstating the private right of action; however, it would constitute non-binding guidance only. Furthermore, please recall that Title III claims will be adjudicated by federal courts, which would be free to interpret the Act differently than an interpretation by the Administration.

* * *

Given the fluid nature of the issues and lack of clear precedent associated with the Title III issues, we recommend that CLIA continue to monitor for any developments that may impact the cruise line industry, either in a beneficial or detrimental manner. In the interim, please let us know if you have any questions.

520

(Comp Ex., May 7, 2015 Authorization
Request to OFAC, HD_0391163; HD_0345572-601)

CARNIVAL
CORPORATION

ARNALDO PEREZ

Senior Vice President and General Counsel

CONFIDENTIAL — FOIA EXEMPT

*BY ELECTRONIC SUBMISSION
AND HAND DELIVERY*

John Smith

Acting Director, Office of Foreign Assets Control
Attn: Davin Blackborow, Assistant Director for Licensing
U.S. Department of the Treasury - Second Floor Annex
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

VIA SNAP-R

Bureau of Industry and Security
Attn: Mark Salinas
U.S. Department of Commerce - Room 1099
14th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20044

June 11, 2015

Re: Supplemental Information Regarding Pending
Requests for Authorization to Provide Carrier
Services to Authorized Travelers to Cuba (OFAC
Case No. CU-2015-319004-1) and to Export
Passenger Vessel to Cuba on Temporary Sojourn
(Z1449096)

Dear Sirs:

Carnival Corporation & Carnival plc (collectively
“Carnival”) hereby submit this letter to provide
supplemental information in support of the original

request for authorization submitted to the Office of Foreign Assets Control (“OFAC”) on May 7, 2015, and related request for authorization submitted to the Bureau of Industry and Security (“BIS”) on May 15, 2015 in connection with Carnival’s proposed provision of carrier services to Cuba by vessel. Carnival has now publicly launched its new brand, Fathom, dedicated to purpose-driven social impact travel with a focus on transformative, holistic impact and long-term sustainable development. Fathom was launched on June 4, 2015 and detailed information regarding the new brand’s first destination, the Dominican Republic, is available online at www.fathom.org. The website includes information regarding Fathom’s vision and plans to provide passengers meaningful impact travel experiences to work alongside local individuals and organizations as they tackle community needs. Carnival’s proposed provision of carrier services in support of people-to-people travel to Cuba would be offered via Fathom.

As set forth in greater detail on the website, Carnival has brought in a social entrepreneur, Tara Russell, to lead this effort. Russell is the Founder and Chairman of Create Common Good (www.createcommongood.org), a food production social enterprise. Russell will serve as President of Fathom and as Global Impact Lead for Carnival Corporation. Russell established and led the team that has been working on the design and business model for Fathom since late 2013. Russell, explaining the mission of Fathom, stated: “We created Fathom to meet the real hunger in the world for purpose, while at the same time tackling profound social issues through a sustainable business model.”

The company’s first destination will be the Dominican Republic, a country known for its spectacular beauty

but also a country where the average household income is approximately \$6,000 USD a year and more than two million Dominicans do not have access to piped water.

Based on extensive market research, Fathom has identified a sizable and growing market of potential social impact travel consumers — approximately one million North Americans who are strongly predisposed, in addition to global travelers already pursuing service-oriented travel experiences worldwide — who will be interested in this type of travel offering.

With respect to Cuba, Carnival would be using the Fathom program to provide meaningful social impact travel for authorized passengers, and such program can be easily tailored to meet the requirements of the full-time schedule for people-to-people travel pursuant to the Cuban Assets Control Regulations (“CACR”).

If you have any questions regarding the information in this letter, or in the original requests for authorization to which this letter pertains, please contact Arnaldo Perez at (305) 406-8608 or via email at aperez@carnival.com. You may also contact Beth Peters at (202) 637-5837 or via email at beth.peters@hoganlovells.com, or Stephen Propst at (202) 637-5894 or via email at stephen.propst@hoganlovells.com, outside counsel to Carnival, with questions related to this application. Thank you in advance for your assistance in this matter.

Sincerely,

/s/ Arnaldo Perez
Arnaldo Perez
General Counsel

cc: Andrew Keller, U.S. Department of State
Ben Barron, U.S. Department of State

OFAC
Office of Foreign Assets Control

License Application

Reference Number: CubaPassengerVessel
Generated on 5/7/2015

Application Information

Application Type: Transactional
Application Reason: New Application
Program(s): Cuba
Description of Subject Matter: Request for specific
authorization to provide carrier services by passenger
vessel
Category: Transactional
Subcategory: Other Services
Previous Case ID:

Contact Information

Applicant
Contact Category: Institution
Organization Name: Carnival Corporation
Point of Contact Name:
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Country: United States
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Office:
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Fax:

524

Principal Place of Business:

Place where Business is Incorporated:

Correspondent

Contact Category: Institution

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Point of Contact Name:

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Principal Place of Business:

Place where Business is Incorporated:

Attachments

Name

Carnival License Application Cuba - FOIA EXEMPT

Document Type

Supplemental Information

Certification

Signature: Samantha Sewall

Email Address: samantha.sewall@hoganlovells.com

Date: 5/7/2015

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CARNIVAL
CORPORATION

ARNALDO PEREZ

Senior Vice President and General Counsel

CONFIDENTIAL — FOIA EXEMPT

BY ELECTRONIC SUBMISSION

John Smith

Acting Director, Office of Foreign Assets Control
Attn: Davin Blackborrow, Assistant Director for Licensing
U.S. Department of the Treasury
Second Floor Annex
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

May 7, 2015

Re: Request for Authorization to Provide Carrier
Services to Authorized Travelers to Cuba

Dear Mr. Smith,

As discussed with Davin Blackborrow and others, Carnival Corporation & Carnival plc, on behalf of itself and its U.S. and non-U.S. affiliates (collectively “Carnival”), hereby requests any required authorization from the Office of Foreign Assets Control (“OFAC”) under the Cuban Assets Control Regulations at 31 C.F.R. Part 515 (“CACR”) to provide vessel carrier services to all authorized travelers such as those traveling under general licenses or specific licenses, including but not limited to authorized travelers engaged in people-to-people (“P2P”) programming to facilitate educational, cultural, humanitarian, religious and artistic exchanges between U.S. and Cuban persons.

Carnival is developing a new brand that uniquely leverages smaller ship assets for an alternative travel

product focused on mission-driven traveler experiences and local destination social impact. This new brand will bring to life a balance of educational training, social impact awareness building, broad non-governmental organizational engagement, micro-enterprise development, and artistic and cultural exchange to the travelers and people engaged in communities visited alike. In short, it is a purpose-oriented travel experience versus a traditional holiday. For example, the leadership team of the new brand already has established a strategic partnership in the Dominican Republic for a long-term social impact program centered on education, economic development, and environmental stewardship. The first travelers in the Dominican Republic cultural exchange program are planned to depart in April 2016.

Two of the Dominican social impact partners have commented on our partnership:

David Luther, Founder and Executive Director of IDDI: “As Founder and Executive Director of IDDI, a Dominican based non-profit, for more than 31 years, I have worked with a very large number of corporations ranging from energy, sugar, chocolate and cigar producers, as well as tourism and free trade zone companies. I have always insisted on a horizontal relationship based on a win-win partnership, but on many occasions it has taken a great deal of convincing on our part for these to understand the benefits to the private sector of improving the over all well-being of Dominican society. Carnival Cruises is without a doubt the exception. They are making a strategic decision on contributing to the development of the Dominican Republic incorporating this initiative into their business plan, to me a remarkable step for a corporation of their size. This is not just Corporate Social

Responsibility but a vision of bringing people together as a catalyst for change, be they passengers on a cruise line or members of low income communities. Very, very innovative. In this, Carnival is demonstrating that it is willing and capable of creating experiences that transform lives.”

John Seibel, Founder and President, Entrena: “Entrena is excited and committed with the concept of impact travel for the north coast of the Dominican Republic. We believe this concept will enhance sustainable development efforts to foster widespread prosperity among these Dominican communities by improving lives, creating hope for the future, and providing profound and meaningful experiences for the Carnival Corporation passengers.”

After the recent Administration executive action to ease U.S. travel restrictions to Cuba, the new brand’s leadership team considered the entity’s unique position in the Caribbean to serve the needs of the Administration and the Cuban people. The new brand is well-positioned to create a program similar to the Dominican Republic program for authorized travelers, primarily those engaged in cultural, artistic, religious and humanitarian exchanges between the American and Cuban people through the deployment of a small vessel focused on American-Cuban P2P exchange in areas that encourage and educate toward independent economic activity throughout the country.

The MV Adonia, a smaller 740-passenger vessel owned by Carnival is already earmarked for year-round Caribbean operations beginning April 2016. The Adonia is committed to the new brand for impact travel at sea in the Caribbean that could easily include Cuba. A 7-night round trip Miami to Cuba itinerary, submitted with this letter as Attachment A, calling in

Havana, Cienfuegos and Santiago de Cuba is illustrative of the type of trip that is feasible. Other feasible trips range from a one day call to Havana as part of a wider Caribbean itinerary to a 14 day itinerary circumnavigating Cuba. This Cuba itinerary offers diverse onboard educational programming and on-ground immersion and social impact experiences in strict compliance with the travel authorizations contained in the CACR with overarching objectives to support independent economic activity by the Cuban people.

In connection with its interest in providing authorized carrier services between the United States and Cuba, Carnival anticipates that a number of its executives will travel to Cuba within the next few weeks pursuant to the authorization set forth in CACR Section 515.564(a) to engage in certain professional research and professional meetings regarding a range of issues related to authorized travel to Cuba. The Carnival representatives will engage in a full time schedule of authorized activities while in Cuba and do not expect to enter into any contracts or other agreements with the Cuban government or Cuban entities while there.

In a joint statement made by Secretary of State John Kerry, Secretary of Commerce Penny Pritzker and Treasury Secretary Jacob Lew, the Administration expressed its intention that the revised Cuba-related measures “will increase communications, commerce and travel between our two countries.”¹ As further

¹ John Kerry, Penny Pritzker and Jacob Lew, President Obama’s new Cuba policy looks forward, not back, *The Miami Herald* (Dec. 22, 2014), <http://www.miamiherald.com/opinion/op-ed/article4746744.html>.

explained below, Carnival believes that the proposed activities fit well within these policy goals.

The information provided herein is confidential and protected from disclosure under the Freedom of Information Act, 5 U.S.C. § 522 et seq. This submission contains proprietary and sensitive business information, which should not be released outside of the U.S. Government.

I. OVERVIEW OF PROPOSED ACTIVITIES

A. Program Principles

Change, however gradual, is taking place in Cuba. President Raul Castro set out policies in 2010 that authorized limited entrepreneurship throughout the country. Entrepreneurial businesses have begun to flourish in farming, hospitality and restaurant operations both in the cities and countryside. The Administration has used its authority under the embargo to take steps to loosen restrictions on travel and other economic activities. As the two governments continue this nascent yet positive dialogue, the private sector can help provide channels to share information and build a bridge of positive human relationships and experiences.

Carnival's new brand is well positioned in missional alignment and physical proximity to be one private sector voice in these efforts to support transformational in-roads with respect to person to person, people to people understanding. Our current work related to the Dominican Republic is designed to foster transformational social impact through systematic, long-term human interaction on a scale that has not been seen before. We are poised to take this same approach as we develop meaningful humanitarian programming in Cuba.

Our sincere desire is to create a unique channel that puts American and Cuban citizens in genuine, ongoing dialogue with the ultimate goal of encouraging independent economic activity throughout Cuba. Harnessing our smaller ship assets allows for ease of movement beyond the ever more congested gateway of Havana, leaving scarce hotel rooms for others.

Carnival has a long history of safe, secure transportation and passenger security, ensuring we can protect and maintain both citizen and homeland security in the process of launching this initiative. We welcome the opportunity to discuss how our efforts might best support and serve the goals of the Administration as we consider a long-term, beneficial partnership for authentic, scalable impact.

B. Traveler Profile

Our target audience is comprised of U.S. citizens eager to unleash their personal gifts and talents and deeply impact the world. We will attract people ready to engage in authorized activities, including P2P activities that focus on humanitarian and social impact initiatives. Carnival believes that it can attract sufficient numbers of authorized travelers under one or more of the general licenses to make its proposed smaller-scale travel program feasible.

As part of the amendments to the CACR implemented by OFAC on 16 January 2015, the Treasury Department authorized twelve categories of travel by general license.² One of these general licenses is for

² The twelve general licenses for travel are listed in 31 C.F.R. § 515.560: (1) Family visits; (2) Official business of the U.S. government, foreign governments, and certain intergovernmental organizations; (3) Journalistic activity; (4) Professional research and professional meetings; (5) Educational activities; (6)

“people-to-people travel,” described in part as “engaging, while in Cuba, in a full-time schedule of activities intended to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people’s independence from Cuban authorities.” 31 C.F.R. § 515.565(b)(2). Another relevant general license appears in Section 515.574, “Support for the Cuban People,” which authorizes travel for activities of “Individuals and non-governmental organizations that promote independent activity intended to strengthen civil society in Cuba.” 31 C.F.R. § 515.574(a)(1)(iii).

C. Schedule of Activities

The itinerary for the proposed program, as well as other possible itineraries, is designed around full compliance with the general licenses for travel to Cuba, such as the general license for P2P exchanges. For example, for P2P programs that Carnival would support, each day ashore will be programmed with at least 8 hours of P2P activity for all 740 passengers. Itinerary development will be collaborative with existing operators in the country or through partnerships with other authorized travel services providers, such as a P2P Licensee or General Licensee to ensure proper compliance is programmed and maintained throughout each voyage.

Religious activities; (7) Public performances, clinics, workshops, athletic and other competitions, and exhibitions; (8) Support for the Cuban people; (9) Humanitarian projects; (10) Activities of private foundations or research or educational institutes; (11) Exportation, importation, or transmission of information or informational materials; and (12) Certain export transactions that may be considered for authorization under existing Department of Commerce regulations and guidelines with respect to Cuba or engaged in by U.S.- owned or -controlled foreign firms.

Travelers will have the opportunity to engage in NGO participation with like-minded organizations such as The Nature Conservancy, Kiva, and others working towards progress for the Cuban people.

Please see the list of programs provided in Attachment B to this submission for a description of the kinds of guided activities that would be provided both on-shore and on board the vessel. We would be pleased to revise and refine these programs with your input.

D. Compliance Program

Carnival is prepared to implement a rigorous compliance program including the collection of individual passenger affidavits and providing any required attestations regarding non-discrimination that are required by the Treasury Department or other agency of the U.S. Government. Carnival is aware of and prepared to comply with recordkeeping and reporting requirements as outlined in the CACR, 31 C.F.R. § 515.601 and 501.601.

Carnival also plans to provide authorized travelers with information regarding limitations in effect on their travel activities while in Cuba, including prohibitions on investment in Cuban real estate, financial transactions with prohibited members of the Cuban government or Cuban Communist Party, and limitations on imports of Cuban-origin items, including alcohol and tobacco products.

II. Identification of the Parties

A. Carnival

Carnival Corporation is a Panamanian corporation with its headquarters in Miami, Florida and Carnival plc is incorporated in England and Wales with offices in Southampton, UK (“Carnival Corporation & plc”).

Together, these companies operate as a single economic enterprise under a dual listed company structure. Each company's shares are publicly traded; on the New York Stock Exchange for Carnival Corporation and the London Stock Exchange for Carnival plc.

Carnival Corporation & plc is a global cruise company that operates nine leading cruise brands with a fleet of over 100 ships worldwide. Carnival Corporation's principal place of business is located at the following address:

Carnival Corporation
3655 NW 87th Avenue
Miami, Florida 33178
Phone: (305) 599-2600
FEI #59.1562976

Contact person: Arnaldo Perez, General Counsel

Carnival plc's principal place of business is located at the following address:

Carnival plc
Carnival House
100 Harbour Parade
Southampton S015 1ST
United Kingdom

Contact person: Arnaldo Perez, General Counsel

III. Analysis

As described in additional detail below, Carnival is requesting authorization to operate a vessel between the U.S. and Cuba for the purpose of facilitating travel to Cuba for authorized persons, such as those engaged in educational exchanges, activities in support of the Cuban people, and humanitarian activities. 31 C.F.R. § 515.572(c). Carnival will require the travelers who

would participate in Carnival's proposed Cuba program to certify that they are eligible to do so under one of the general licenses, such as those for P2P travel, travel for the purpose of engaging in activities in support of the Cuban people, and/or travel related to authorized humanitarian activities. See 31 C.F.R. § 515.565(b), 515.574(a), and 515.575(a). Carnival proposes to offer a full-time schedule of educational, entrepreneurial, cultural, religious and humanitarian activities, both onboard and ashore, that would accommodate all passengers on travel to Cuba. However, in order to accommodate the larger numbers of people able to travel by ship, it may not be possible for all passengers to be engaged in a full-time schedule of activities on shore at all times. Some passengers may remain on the vessel and participate in Cuba-related educational programming. Carnival will utilize its existing sales and marketing assets in the U.S. to inform travelers who would be eligible for authorized travel of Carnival's ability to facilitate their travel via passenger vessel.

Carnival submits that travel by vessel furthers the U.S. government's policy interests by encouraging P2P contact between American and Cuban citizens, providing opportunities for cultural exchange and independent economic activity, and providing humanitarian assistance to the Cuban people. In a joint op-ed by Secretary of State John Kerry, Secretary of Commerce Penny Pritzker and Treasury Secretary Jacob Lew, these officials expressed the intention that the changes in the Cuba-related regulation following the President's announcement of the historic shift in policy toward Cuba would "increase communications, commerce and travel" between the U.S. and Cuba. The op-ed further states that the Administration's policy announcement is "forward-looking and emphasizes the value of

people-to-people relations, increased commerce, more communications and respectful dialogue.”³

Travel by vessel provides certain advantages over air travel in furthering these goals. Travelers by vessel have access to secure and adequate housing for the duration of their visit rather than relying on local accommodations, which may be particularly difficult to find for larger groups, and even smaller groups outside of Havana. According to news reports, the lodging market in Cuba is currently dominated by small local operators and faces challenges like aging infrastructure and older properties in need of repairs.⁴ Travel by vessel allows a greater number of people to engage in the educational, cultural, religious and humanitarian activities authorized under the CACR. Travel by vessel also facilitates the transportation of items to be used in educational, cultural and artistic exchange programs, such as instruments and art work, or the carriage of items to donate to Cuban entrepreneurial enterprises or humanitarian efforts, such as building and school supplies. Thus, travel by vessel encourages greater utilization of the authorized categories of travel and enhances the cultural exchange that takes place as result of such travel.

A. Authorized Travelers and Activities

Carnival has prepared an itinerary of educational, cultural and humanitarian activities for passengers to participate in both onshore and aboard the vessel. Please see the list of proposed activities accompanied by short descriptions of each in Attachment B. A

³ Kerry, et al., *supra* note 1.

⁴ Craig Karmin, US. Hotel Companies Eager to Plant Flags in Cuba, WSJ.com (Dec. 18, 2014), <http://blogs.wsj.com/development/2014/12/18/u-s-hotel-companies-eager-to-plant-flags-in-cuba/>.

similar schedule of activities can be offered for other possible itineraries. Carnival submits that its proposed programming fits within the parameters of the general license authorizing people-to-people programs, activities in support of the Cuban people, and humanitarian activities, as set forth in the CACR. 31 C.F.R. § 515.565(b), 515.574(a), and 515.575(a).

All of the on-shore activities organized and lead by Carnival personnel and its contractors or P2P Licensees are designed to be educational in nature and to provide opportunities for meaningful interaction between the traveler and individuals in Cuba. The on-shore programs will not be individually selected or self-directed and will provide a full-time schedule of activities.

In the event that OFAC determines that any part of the proposed activities are outside the parameters of the general licenses, Carnival respectfully requests the issuance of a specific license authorizing the additional activities.

B. Vessel operation

31 C.F.R. § 515.572(c) authorizes OFAC to issue specific licenses on a case-by-case basis for the provision of travel- and carrier-related services, including the transportation of authorized travelers by vessel. As described above, Carnival proposes to operate the MV Adonia (“Adonia”) between Miami, Florida and Cuba, for the purpose of facilitating authorized travel by persons subject to U.S. jurisdiction. Carnival hereby requests authorization to operate the Adonia on this and similar itineraries and requests authorization for crew members and staff to engage in all activities necessary and ordinarily incident to the provision of carrier services onboard a seagoing vessel.

The Adonia is equipped for passage from Miami to Cuba, with self-contained tender boats that can be operated without local assistance to convey passengers to and from shore in ports where ship docking facilities are not adequate. The Adonia has a sophisticated reverse osmosis system that produces fresh water for passenger and crew use, eliminating the need for any shore side fresh water intake. The ship's generators produce all the power the vessel needs for systems to be maintained, thus no shore power sources are required. Fuel tanks are large enough for a circumnavigation of Cuba, thus eliminating any need for refueling in Cuba. The onboard storage and refrigeration capacity allows the ship to stock all food and provisions required for passengers and crew in Miami. As a self-contained and self-sufficient operation, all daily operational on-ship costs are incurred in the US while the ship is home ported in Miami.

The Adonia which is owned by Carnival plc and operated under its P&O Cruises brand has been committed to the new brand to provide carrier services for authorized travelers. The vessel has a maximum occupancy of 740 passengers, with capacity to carry 385 crew members. The vessel is 591 feet (180 kilometers) in overall length with a 79-foot (24 meter) beam and 18-foot (5.6 meter) draught. The Adonia is a flag-vessel of Bermuda.

Carnival is aware of the specifications of the ports of Havana, Cienfuegos and Santiago de Cuba and other possible ports in Cuba and all have the capacity to harbor the Adonia. Carnival will need to engage in negotiations and enter agreements with Cuban port and harbor officials to make all necessary and ordinarily incident arrangements for bringing a passenger vessel into a Cuban port. Accordingly,

Carnival requests specific authorization to undertake such activities related to the berthing of its vessels in Cuban ports.

C. Vessel Re-entry to U.S. Port

Pursuant to 31 C.F.R. § 515.207, OFAC must specifically authorize by means of regulations, rulings, instructions, licenses or otherwise any vessel carrying goods or passengers to or from Cuba, or carrying goods in which Cuba or a Cuban national has an interest, to enter a U.S. port. As described above, Carnival is requesting authorization by submission of the attached application to conduct carrier services for authorized travelers to Cuba. Carnival hereby requests specific authorization to reenter the port of Miami after transporting passengers from the U.S. to Cuba and back.

D. Marketing Activities

In connection with the above proposed travel and carrier services to be provided to authorized travelers to Cuba, Carnival plans to engage in a narrowly tailored marketing campaign for the limited purpose of informing eligible travelers that Carnival can accommodate their travel to Cuba within the parameters of the general licenses contained in the CACR. The CACR does not explicitly place restrictions on efforts to market carrier services to U.S. persons. However, Carnival is mindful of its responsibility under the CACR to ensure that it does not engage in prohibited facilitation of transactions that are proscribed for persons subject to U.S. jurisdiction with respect to Cuba, such as tourist travel. Therefore, Carnival's marketing of the proposed activities will be separate and distinct from its marketing of its "cruise" brands. As described above, eligible travelers would include

persons subject to U.S. jurisdiction who have a sincere interest in engaging in educational, cultural, artistic, religious and humanitarian projects, such as religious groups, non-governmental organizations, musical groups and students.

E. Vessel Insurance, Financial Transactions and Other Incidental Activities

Carnival requests that OFAC authorize all necessary and incidental activities related to the proposed activities related to insurance for the vessel and travelers, related financial transactions and use of subcontractors and third parties in the United States and elsewhere.

F. U.S. Department of Commerce Bureau of Industry and Security (“BIS”) Authorization

In addition to the present request for authorization, Carnival plans to submit a separate license application to the U.S. Department of Commerce Bureau of Industry and Security (“BIS”) for the export of a vessel on temporary sojourn to Cuba pursuant to 15 C.F.R. § 746.2(5).

IV. License Request

Carnival respectfully requests authorization under the CACR to engage in the proposed activities, including the provision of carrier services to authorized travelers to Cuba for the purpose of engaging in programming to facilitate educational, cultural, humanitarian, religious and artistic exchanges between U.S. and Cuban persons, as well as any transactions and activities that are related to providing such carrier and travel-related services to the extent not authorized under existing regulations.

Specifically, Carnival requests authorization to engage in the following activities:

1. Provide carrier services, including all necessary and ordinarily incidental crew member and staff activities related to the provision of travel services at sea, to persons subject to U.S. jurisdiction for purposes of authorized travel by vessel between the U.S. and the ports of call in Cuba.
2. To provide travel-related services for the purpose of facilitating authorized travel for travelers under the CACR, including P2P exchanges, activities in support of the Cuban people, cultural and artistic, religious and humanitarian activities to the extent such activities do not meet the criteria of an existing general license and promote U.S. policy interests by facilitating the meaningful interaction of U.S. travelers and Cuban nationals and providing opportunities to engage in independent cultural, artistic and economic activity.
3. To reenter U.S. ports after providing the above-described carrier services to persons subject to U.S. jurisdiction.
4. To allow crewmembers to go ashore on a limited and escorted basis for non-touristic purposes.
5. All other transactions ordinarily incident to the provision of carrier services by vessel between the United States and Cuba, including financial and insurance-related transactions and vessel berthing arrangements.

To the extent that OFAC were to determine that certain of these activities cannot be authorized,

Carnival respectfully requests that OFAC authorize the subset of activities that can be authorized consistent with U.S. foreign policy and national security interests.

Carnival would be pleased to submit to any reporting or other conditions in the issuance of such authorization.

* * * * *

If you have any questions regarding this request, please contact Arnaldo Perez at (305) 406-8608 or via email at aperez@carnival.com. You may also contact Beth Peters at (202) 637-5837 or via email at beth.peters@hoganlovells.com, or Stephen Propst at (202) 637-5894 or via email at stephen.propst@hoganlovells.com, outside counsel to Carnival, with questions related to this application. Thank you in advance for your assistance in this matter.

Sincerely,

/s/ Arnaldo Perez
 Arnaldo Perez
 General Counsel

cc: Andrew Keller, Office of Counter Threat Finance
 & Sanctions, U.S. Department of State
 Ben Barron, U.S. Department of State

Attachments

APPENDIX A

Illustrative Cuba Itinerary

MIAMI Cuba MIAMI		Arrive	Depart	Speed	Miles
0	Miami		4:00 PM	TBA	TBA
1	Havana	8:00 AM			TBA
2	Havana		Noon		
3	“Cuba Immersion Day” At Sea				
4	Cienfuegos	7:00 AM	1:00 PM	TBA	TBA
5	Santiago de Cuba	9:00 AM	3:00 PM	TBA	TBA
6	“Cuba Immersion Day” At Sea				
7	Miami	7:00 AM			

APPENDIX B

PROGRAM DETAILS

All shore activities and onboard programming will be included in the trip fare and prepaid in the USA. Each day of the trip will have sufficient capacity of organized P2P shore activities to accommodate all 740 passengers in motor coaches, vans or other conveyances with English speaking Cuban guides leading the activity.

Ashore in Havana — Day 1

Activity: Old City Walking Experience (Cultural Heritage and Micro-Enterprise Development)
Duration: 3 - 6 hours

Capacity: 10 groups of 25-40 passengers per guide in morning and afternoon (500-800 passengers per day)

Social Impact Opportunity: Connecting to the cultural heritage in Cuba and encouraging economic development and micro-enterprise through a focus on the local entrepreneurs and business leadership community.

Special Features: Havana's Old City is an UNESCO World Heritage Site. Walk lead by a preservationist expert, highlighting how this rich collection of architectural history will be preserved for future generations. Along the way, stop in at local businesses and meet the workers. Six-hour duration will feature lunch in the Old Town at a restaurant featuring traditional Cuban cuisine.

Activity: Afro-Cuban Community Meeting (Cultural Exchange and Artistic Impact)

Duration: 3 hours

Capacity: 5 groups of 25-40 passengers per guide in morning and afternoon (250-400 passengers per day)

Social Impact Opportunity: Encourage cultural preservation for the local Cuban artist and musician community.

Special Features: Meet with community members at an Old Havana socio-cultural project that focuses on preserving traditional Afro-Cuban religion, dance, music and culture. Enjoy a live concert of Afro-Cuban music and interact with the band members in a Q&A session.

Activity: Cuba Art's Today: Muraleando, La Colmenita (Arts History and the Humanitarian Impact of Arts + Music)

Duration: 3 hours

Capacity: 5 groups of 25-40 passengers per guide in morning and afternoon (250-400 passengers per day)

Social Impact Opportunity: Connect with the Artist Entrepreneurs and support the after-school community development programs in motion. Offer workshop and brainstorm session for new community development opportunities.

Special Features: Visit Muraleando, a downtrodden neighborhood that has been brought back to life and turned into a living work of art by local and international artists. Later meet instructors and students of La Colmenita, an after-school program that uses song and dance performance as a social development tool.

Activity: Journalistic Perspective (Journalism + Documentary)

Duration: 2 hours

Capacity: 1 group of 120 passengers in morning and afternoon (120 -240 passengers per day) Social Impact Opportunity: Understand the power of story and encourage the Cuban people to further share their stories with the world.

Special Features: Attend a special Q&A session with American author and Havana resident Marc Frank. Marc will be joined by other Cuban journalists to share their perspectives on Cuba's past, present and future in regards to local and international journalism/reporting. Come prepared with your candid questions.

Activity: Hemingway (Literature and Micro-enterprise History)

Duration: 3 hours

Capacity: 10 groups of 25-40 passengers per guide in morning and afternoon (500-800 passengers per day)

Social Impact Opportunity: Understand historic micro-enterprise involvement and help envision new micro-enterprise opportunities for the Cuban people through workshop and brainstorm sessions.

Special Features: See the fishing village of Cojimar, the setting for Ernest Hemingway's book *The Old Man and the Sea*, and visit Finca Vigia, the mansion where he lived from 1939-1960. Enjoy fresh sugar cane and lemon, pressed in manual presses by locals as it has been done for centuries.

Activity: Alamar: Planned Soviet-style Community (Infrastructure + Community Gardens)

Duration: 4 hours

Capacity: 5 groups of 25-40 passengers per guide in morning and afternoon (250-400 passengers per day)

Social Impact Opportunity: Understand the Cuban housing infrastructure and discuss opportunities for improvement through community workshop. Visit the community garden and demonstrate new crops and seeds of interest in American small farm developments.

Special Features: Drive on Soviet-era designed roadways reminiscent of Moscow and visit the District of Alamar, a 1970s social housing project of Soviet-style concrete apartments—that today is home to thousands of Cubans. Visit a home in the area and speak with local residents about housing arrangements in Cuba. The complex also has an organic co-op farm called the Alamar Community Gardens.

Onboard Activities

Lecture Series: Cuban Painting -- Classic & Contemporary (Art History)

Film Series: Cuban Social Impact Film Series — Our Man in Havana (1959), I Am Cuba (1964),

First Look (1983) (Humanitarian)

Lecture Series: My Cuba Experience (Passenger Interaction)

Lecture Series: Serving the Foreign Visitor (Professional Research Topics)

Lecture Series: Humanitarian Opportunities in Cuba (Brainstorming Session & Workshop Led by Global Social Impact Leader)

Lecture Series: Cuban Economy Post Soviet Collapse (Independent Economic Education)

Cuban Book Club Discussion: Hemingway in Cuba (2003) by Hilary Hemingway and Carlene

Brennen (Cultural Awareness)

Ashore in Havana — Day 2

Activity: Rural Cuba (Micro-Enterprise, Community Health + Medical Workshop)

Duration: 6 hours

Capacity: 5 groups of 25-40 passengers per guide per day (125-200 passengers per day)

Social Impact Opportunity: Get to know and support the local Cuban health workers. Support micro-entrepreneurs and answer questions about American techniques, sharing ideas and brainstorming session for future local business opportunities for the Cubans.

Special Features: Visit Las terrazas, a self-sustaining community and UNESCO Biosphere Reserve, surrounded by lush, forested hills. Get a rare glimpse into rural Cuba's medical services at a local clinic. Cross-cultural medical lecture exchange and workshop to share new technologies and findings amongst the American medical community. Sample coffee at Café Maria, where the owner and her family welcome visitors and explain the role of coffee in Cuba's culture. Learn about independent artist Lester Campa's unique paper recycling process at his private studio in this same area.

Activity: Old Havana Booksellers (literacy, literature + micro-enterprise)

Duration: 2 hours

Capacity: 10 groups of 25-40 passengers per guide in morning and afternoon (500-800 passengers per day)

Social Impact Opportunity: Support local entrepreneurs and see how Cuban history and social develop-

ment have progressed through the literature offered by these booksellers.

Special Features: Meet with independent Cuban booksellers at a vast used book market in the historical center of town and learn about the culture and impact of literature on society. These booksellers are the “de facto” library system for the locals and hugely important barometer of social trends.

Activity: Casa Fuster and Fusterlandia (Art + Immersion + Micro-enterprise Development)

Duration: 2 hours

Capacity: 5 groups of 25-40 passengers per guide per day (125-200 passengers per day)

Social Impact Opportunity: Support the arts and understand how art is a vital bridge between people who do not share a common language or history otherwise.

Special Features: Meet famous contemporary Cuban artists Jose Rodriguez Fuster at his studio/residence/wild kingdom on the outskirts of Havana. Through vision and brightly colored mosaic tile, Fuster has transformed his neighborhood into a living art project beyond compare. Fuster will talk about his beginnings 30 years ago and how the art environment has changed over the years and where he sees things going.

Activity: Interaction with Cuban Professionals (Professional Exchange, Meeting and Research, Economic Development)

Duration: 3 hours

Capacity: 10 groups of 25-40 passengers per day (250-400 passengers per day)

Social Impact Opportunity: Encouraging and educating on independent economic activity.

Special Features: Engage in a specially arranged highly interactive Q&A session with Cuban professionals discussing education, economics, the role of government and how the Cuban economy has changed post-Soviet era and post-entrepreneurial era. Cultural exchange sharing both the state of Cuba and the state of America across these various topics.

Activity: Organic Farm: Visit an organopónico (Urban Organic Farm and Agriculture + Micro-enterprise)

Duration: 4-6 hours

Capacity: 5 groups of 25 passengers per guide per day (125 passengers per day)

Social Impact Opportunity: Encouraging and educating on independent economic activity.

Special Features: Learn about this growing agrarian movement. The longer duration includes lunch featuring crops from the garden. Lunch is at a family owned restaurant, another growing trend throughout Cuba.

Activity: Paladares: The Entrepreneurs of Modern Cuba (Economic Development, Entrepreneurship and Micro-Enterprise)

Duration: 3 hours

Capacity: 5 groups of 25 passengers per guide per day (125 passengers per day)

Social Impact Opportunity: Encouraging and educating on independent economic activity.

Special Features: Enjoy lunch held in privately owned restaurants or private homes known as paladares.

Hear first-hand from the owners about the entrepreneurial climate in Cuba that is changing the way business gets done throughout the country.

Onboard Activities — Days 2-3 (at sea)

Film Series: Cuban Social Impact Film Series — Strawberry & Chocolate (1993), Fidel: The

Untold Story (2001) (Humanitarian)

Lecture Series: What is a Change Maker? Unleashing the gifts and talents in every human being. (Humanitarian)

Lecture Series: Cuba History 101 (Political Awareness)

Lecture Series: Fidel Castro & The Revolution (Political Awareness)

Lecture Series: Why so many Cuban doctors throughout the world? (Cultural Understanding)

Lecture Series: Cuban Culture, Music and Food (Cultural Awareness)

Entertainment: Cuban Music & Dance (Cultural Awareness)

Activity: Art + Activism (Mercy Corps social impact workshop)

Activity: From Aid to Enterprise (Poverty Cure, Humanitarian)

Activity: Change Maker Program - Unleashing the change maker within you! (Humanitarian)

Entertainment: Buena Vista Social Club (Cultural Awareness)

Cuban Book Club Discussion: The Island That Dared: Journeys in Cuba (2010) by Deryla Murphy (Cultural Awareness)

Ashore in Cienfuegos — Day 4

Activity: Elementary School Visit (Education, Cultural Exchange, Humanitarian)

Duration: 3 hours

Capacity: 10 groups of 25-40 passengers per day (250-400 passengers per day)

Social Impact Opportunity: Encourage and educate on independent economic and political activity.

Special Features: Interact with children at a primary school, while taking part in their lessons. Engage with administrators and teachers to discuss the challenges and opportunities of Cuba's educational system. Conduct language exchange and English as a Second Language (ESL) workshops.

Activity: UNESCO World Heritage Site (History, Cultural Heritage)

Duration: 3-4 hours

Capacity: 15 groups of 25-40 passengers per day (375-600 passengers per day)

Social Impact Opportunity: Connecting to the cultural heritage in Cuba and encouraging economic development and micro-enterprise through a focus on the local entrepreneurs and business leadership community.

Special Features: Admire the colonial architecture of Cienfuegos, a UNESCO World Heritage Site known as the "Pearl of the South," and see the Punta Gorda Peninsula. Engage local cuentapropistas (self-employed workers) who are an expanding private sector that

disappeared in 1959. Meet with a local choir and visit Benny More Art School to discuss the role of art and music in Cuban society.

Activity: Cuba: A Cappella Today (Cultural Heritage, Music)

Duration: 2.5 hours

Capacity: 1 group of 120 passengers in morning and afternoon (120 -240 passengers per day) Social Impact

Opportunity: Connect with the Artist Entrepreneurs and encourage continued entrepreneurial activity. Offer workshop and brainstorm session for new development opportunities.

Special Feature: Enjoy a choral performance and discussion with a world-renowned a cappella group, the Choir of Cienfuegos. After the performance, enjoy coffee and traditional Cuban desserts as you get to know individuals of the group one-on-one.

Activity: Paladares: The Entrepreneurs of Modern Cuba (Micro-enterprise and Entrepreneurship)

Duration: 3 hours

Capacity: 5 groups of 25 passengers per guide per day (125 passengers per day)

Social Impact Opportunity: Encouraging and educating on independent economic activity. Special Features: Enjoy lunch held in privately owned restaurants or private homes known as paladares. Hear first-hand from the owners about the entrepreneurial climate in Cuba that is changing the way business gets done throughout the country.

Activity: Interaction with Cuban Professionals (Professional Meetings + Professional Research)

Duration: 3 hours

Capacity: 5 groups of 25 passengers per guide per day (125 passengers per day)

Social Impact Opportunity: Encouraging and educating on independent economic activity. Special Features: Engage in a specially arranged highly interactive Q&A session with Cuban professionals from the area discussing education, economics, the role of government and how the Cuban economy has changed post-Soviet era and post-entrepreneurial era.

Ashore in Trinidad (operated from Cienfuegos)
— Day 4

Activity: Trinidad Colonial Splendor (History, Cultural Heritage)

Duration: 6 hours

Capacity: 5 groups of 25-40 passengers per day (125-200 passengers per day)

Social Impact Opportunity: Connecting to the cultural heritage in Cuba and encouraging economic development and micro-enterprise through a focus on the local entrepreneurs and business leadership community.

Special Features: Explore Trinidad, Cuba's best-preserved colonial city, with a restoration expert and interact with local community members, including a Santeria (Afro-Cuban) priest. Then meet Julio Muñoz, a local photographer and "horse whisperer" whose wife and niece appeared in an October 1999 National Geographic magazine article, and learn about his casa particular (guest house) business. Visit Julio's colonial-era house and stables, the base for his program promoting equine care.

Activity: The People of and Life in Trinidad (Micro-enterprise, Humanitarian, Cultural Exchange)

Duration: 6 hours

Capacity: 5 groups of 25-40 passengers per day (125-200 passengers per day)

Social Impact Opportunity: Connecting to the cultural heritage in Cuba and encouraging economic development and micro-enterprise through a focus on the local entrepreneurs and business leadership community.

Special Features: Learn about traditional ceramic techniques at the Casa de la Alfarero, a pottery house founded and operated by the Santander family for generations. Visit a ration store where the store manager will explain rationing, the two-currency system and the difference between Ration Stores, Cuban Peso Stores and CUC stores. Visit a bed and breakfast where you will learn about this new entrepreneurial opportunity for Cubans, a business typically operated by the state. Enjoy lunch or dinner in a private home (paladares), where you can meet with a multigenerational family and experience a bit of local daily life.

Activity: Interaction with Cuban Professionals in Trinidad (Professional Meetings + Professional Research)

Duration: 6 hours

Capacity: 5 groups of 25-40 passengers per day (125-200 passengers per day)

Social Impact Opportunity: Encouraging and educating on independent economic activity. Special Features: Engage in a specially arranged highly interactive Q&A session with Cuban professionals from the area discussing education, economics, the role of government and how the Cuban economy has changed post-Soviet era and post-entrepreneurial era.

Ashore in Santiago de Cuba — Day 5

Activity: Spanish & French & Afro-Cuban Heritage
(Cultural Heritage)

Duration: 4 hours

Capacity: 15 groups of 25-40 passengers per day (375-600 passengers per day)

Social Impact Opportunity: Connecting to the cultural heritage in Cuba and encouraging economic development and micro-enterprise through a focus on the local entrepreneurs and business leadership community.

Special Features: Santiago De Cuba is one of the most interesting and historically significant places in Cuba. Founded by Spanish conquistador Diego Velazquez de Cuellar in 1514, Santiago was the capital of the Spanish colony of Cuba from 1522 until 1589. Today, Santiago remains the most important urban area outside of Havana, and is home to the birth of most forms of Cuba's long-lasting and globally renowned music. Visit the ruins of French coffee plantations to the east of the city in the mountains that are recognized by UNESCO as a world cultural heritage site. This region has the largest concentration of Afro-Cubans and is the center for Afro-Cuban culture. No doubt this has influenced the proliferation of music from the area over the centuries. Several music venues are to be found here, showcasing the diverse range and forms of Cuban music. Meet with musicians and understand why this musical tradition is kept so vital.

Activity: Cradle of the Revolution (Professional Meetings, Professional Research, Cultural Heritage)

Duration: 3 hours

Capacity: 15 groups of 25-40 passengers per day (375-600 passengers per day)

Social Impact Opportunity: Connecting to the cultural heritage in Cuba and encouraging economic development and micro-enterprise through a focus on the local entrepreneurs and business leadership community.

Special Features: Santiago is known for being the Cradle of the Revolution. It was here, in 1953, Fidel Castro led an ill-prepared attack on Batista's Barracks at Moncada. And finally, a few years later after successfully toppling Batista and his dictatorship, Castro gave his victory speech in Parque Cespedes in Santiago. Speak with local university professors on the role of Santiago in the Castro story.

Activity: Elementary School Visit

Duration: 3 hours

Capacity: 10 groups of 25-40 passengers per day (250-400 passengers per day)

Social Impact Opportunity: Encourage and educate on independent economic activity.

Special Features: Interact with children at a primary school, while taking part in their lessons. Engage with administrators and teachers to discuss the challenges and opportunities of Cuba's educational system. Conduct language exchange and English as a Second Language (ESL) workshops.

Activity: Paladares: The Entrepreneurs of Modern Cuba (Micro-enterprise and Entrepreneurship)

Duration: 3 hours

Capacity: 5 groups of 25 passengers per guide per day (125 passengers per day)

Social Impact Opportunity: Encouraging and educating on independent economic activity. **Special Features:** Enjoy lunch held in privately owned restaurants

or private homes known as paladares. Hear first-hand from the owners about the entrepreneurial climate in Cuba that is changing the way business gets done throughout the country.

Activity: Interaction with Cuban Professionals (Professional Meetings + Professional Research)

Duration: 3 hours

Capacity: 5 groups of 25-40 passengers per day (125-200 passengers per day)

Social Impact Opportunity: Encouraging and educating on independent economic activity. Special Features: Engage in a specially arranged highly interactive Q&A session with Cuban professionals from Holguin discussing education, economics, the role of government and how the Cuban economy has changed post-Soviet era and post-entrepreneurial era.

Onboard Activity CUBA IMMERSION DAY AT SEA — Day 6

Cuban Social Impact Film Series: — [FILMS TO TBD]

Activity: Change Maker Program (Humanitarian)

Lecture Series: Cuban Economy 2015 and Beyond (Independent Economic Activity)

Lecture Series: Cuban Culture, Music and Food (Cultural Immersion)

Lecture Series: TNC: Cuban Micro-climates (Environmental Awareness)

Entertainment: Cuban Music & Dance (Cultural Awareness)

Activity: Art + Activism (Mercy Corps social impact workshop)

Activity: From Aid to Enterprise (Poverty Cure, Humanitarian)

Activity: Social Impact Scavenger Hunt (Cultural Awareness)

Activity: Cuban Marketplace (Independent Economic Activity)

Reflection: How can I best serve and support the Cuban people? (Humanitarian)

Reflection: How will I unleash the Changemaker within me back home? (Humanitarian)

Impact Commitment: What commitment will I make to my onboard traveling community taking action for change? (Humanitarian)

From: Peters, M. E.
To: Smith, Heather
Cc: Propst, Stephen F.; Sewall, Samantha C.;
Peters, M. E.
Subject: FW: Application for Carnival Corporation
with the Office of Foreign Assets Control
CU-2015-319004-1
Date: Tuesday, May 26, 2015 11:05:33 AM

Confidential and FOIA Exempt

Heather,

Thank you for your follow-up questions. We have included our responses below, following each question:

OFAC seeks some additional clarification on a few matters before continuing to process the Application. Please provide detailed responses to the below questions:

1. Could passengers decide to opt out of the on-the-ground P2P/other authorized activities altogether at certain destinations?

Passengers will be expected to participate in the on-the-ground P2P programs. As discussed below, on-the-ground P2P programs will be included in the voyage fare. Carnival will take steps to identify and monitor the passengers that sign up for the full-time program-ming onshore provided by Carnival. Specifically, all passengers will be expected to participate in one or more of the authorized onshore P2P programs. Carnival will obtain certifications from passengers and will advise them that should they disembark the ship to go on an unauthorized excursion, such activity may be a violation of the OFAC rules.

1. For those that choose to remain on board, would the educational programming mentioned in the Application be a requirement or a suggestion for such passengers?

As noted in the prior response, onboard P2P programming is intended primarily for when the ship is at sea. Onboard P2P programming while in port will be more limited, thus passengers will be advised that they will not be able to satisfy their license requirements by remaining on board the ship for the duration of the port call. Carnival wants to emphasize that the ship will be purposed to support the mission driven traveler experiences which is at the center of the overall product. Accordingly, the ship will not offer many of the entertainment programs found on traditional cruise holidays, such as a casino, Broadway shows, etc. Any activities offered on-board while in port, although limited, would be centered on the P2P Programs and local destination impact. Carnival does not expect that many, if any, guests will elect to remain on board during port calls (other than for medical reasons).

2. In terms of Carnival's proposed model, would the authorized travel activities ashore in Cuba be offered at an additional cost, or would travelers be paying for their participation in such activities up front as part of the broader travel package?

Carnival is seeking authorization to provide carrier services as part of a broader P2P program package that also would cover the expenses associated with the on-shore activities. It is anticipated that Carnival would offer all-inclusive pricing for its PIP programming so that the land-based authorized activities will be included and pre-paid by passengers as part of the program. This would reduce the risk that the

passengers would opt out of the Carnival sponsored programming once onshore. Once booked, Carnival may also offer travelers additional or supplemental packages for authorized excursions and activities for travelers who wish to become further immersed in the P2P program.

We also take this opportunity to thank your staff for the prompt manner in which this application has been placed for review. While we understand that this review process may take several more weeks, if not months, if an expedited approval could occur, we respectfully request that it not occur before June 15, unless approval(s) of applications of other major cruise lines will occur in this time frame. This courtesy would allow us to plan appropriate public relations and other necessary external communications, as well as to prepare for the unlikely event of any inadvertent disclosures of the decision.

We would be pleased to discuss any questions you may have with respect to the above responses or the license application.

Best,

Beth

From: Heather.Smith@treasury.gov
[mailto:Heather.Smith@treasury.gov]
Sent: Monday, May 18, 2015 1:43 PM
To: Sewall, Samantha C.
Cc: Peters, M. E.; Propst, Stephen F.
Subject: Application for Carnival Corporation
with the Office of Foreign Assets Control
CU Z015-319004-1

Dear Ms. Sewall, Ms. Peters, and Mr. Propst,

This message is in regards to your request (the “Application”), submitted on behalf of Carnival Corporation, seeking authorization to provide carrier service by vessel to authorized travelers under the Cuban Assets Control Regulations (CACR).

OFAC seeks some additional clarification on a few matters before continuing to process the Application. Please provide detailed responses to the below questions:

1. Could passengers decide to opt out of the on-the-ground P2P / other authorized activities altogether at certain destinations?
2. For those that choose to remain on board, would the educational programming mentioned in the Application be a requirement or a suggestion for such passengers?
3. In terms of Carnival’s proposed model, would the authorized travel activities ashore in Cuba be offered at an additional cost, or would travelers be paying for their participation in such activities up front as part of the broader travel package?

Thank you in advance for your assistance on this matter.

Best Regards,
Heather

Heather Smith
Sanctions Licensing Officer
Licensing Division
Office of Foreign Assets Control
U.S. Department of the Treasury

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Hogan Lovells

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www.hoganlovells.com

June 11, 2015

CONFIDENTIAL — FOIA EXEMPT
BY HAND DELIVERY AND ELECTRONIC MAIL

John Smith

Acting Director, Office of Foreign Assets Control
Attn: Davin Blackborow, Assistant Director for Licensing
Office of Foreign Assets Control
U.S. Department of the Treasury — Second Floor Annex
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Re: Supplemental Information Regarding Pending
Requests for Authorization to Provide Carrier
Services to Authorized Travelers to Cuba
(OFAC Case No. CU-2015-319004-1) and to
Export Passenger Vessel to Cuba on Temporary
Sojourn (Z1449096)

Dear Mr. Smith:

On behalf of our client, Carnival Corporation & Carnival plc (collectively “Carnival”), please find enclosed supplemental information related to Carnival’s request for authorization previously submitted to the Treasury Department’s Office of Foreign Assets Control on May 7, 2015, and related request for authorization submitted to the Commerce Department’s Bureau of Industry and Security (“BIS”) on May 15, 2015.

Please do not hesitate to contact the undersigned with any questions regarding this submission.

Sincerely,

/s/ Beth Peters

Beth Peters
Hogan Lovells US LLP
(202) 637-5837
beth.peters@hoganlovells.com

Counsel to Carnival Corporation & Carnival plc

Encl.

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566

CARNIVAL
CORPORATION

ARNALDO PEREZ

Senior Vice President and General Counsel

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*BY ELECTRONIC SUBMISSION AND
HAND DELIVERY*

John Smith

Acting Director, Office of Foreign Assets Control

Attn: Davin Blackborow, Assistant Director for Licensing

U.S. Department of the Treasury - Second Floor Annex

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20220

VIA SNAP-R

Bureau of Industry and Security

Attn: Mark Salinas

U.S. Department of Commerce - Room 1099

14th Street and Pennsylvania Avenue, N.W.

Washington, D.C. 20044

June 11, 2015

Re: Supplemental Information Regarding Pending
Requests for Authorization to Provide Carrier
Services to Authorized Travelers to Cuba
(OFAC Case No. CU-2015-319004-1) and to
Export Passenger Vessel to Cuba on Temporary
Sojourn (Z1449096)

Dear Sirs:

Carnival Corporation & Carnival plc (collectively
“Carnival”) hereby submit this letter to provide
supplemental information in support of the original
request for authorization submitted to the Office of
Foreign Assets Control (“OFAC”) on May 7, 2015, and

related request for authorization submitted to the Bureau of Industry and Security (“BIS”) on May 15, 2015 in connection with Carnival’s proposed provision of carrier services to Cuba by vessel. Carnival has now publicly launched its new brand, Fathom, dedicated to purpose-driven social impact travel with a focus on transformative, holistic impact and long-term sustainable development. Fathom was launched on June 4, 2015 and detailed information regarding the new brand’s first destination, the Dominican Republic, is available online at www.fathom.org. The website includes information regarding Fathom’s vision and plans to provide passengers meaningful impact travel experiences to work alongside local individuals and organizations as they tackle community needs. Carnival’s proposed provision of carrier services in support of people-to-people travel to Cuba would be offered via Fathom.

As set forth in greater detail on the website, Carnival has brought in a social entrepreneur, Tara Russell, to lead this effort. Russell is the Founder and Chairman of Create Common Good (www.createcommongood.org), a food production social enterprise. Russell will serve as President of Fathom and as Global Impact Lead for Carnival Corporation. Russell established and led the team that has been working on the design and business model for Fathom since late 2013. Russell, explaining the mission of Fathom, stated: “We created Fathom to meet the real hunger in the world for purpose, while at the same time tackling profound social issues through a sustainable business model.”

The company’s first destination will be the Dominican Republic, a country known for its spectacular beauty but also a country where the average household income is approximately \$6,000 USD a year and more

than two million Dominicans do not have access to piped water.

Based on extensive market research, Fathom has identified a sizable and growing market of potential social impact travel consumers — approximately one million North Americans who are strongly predisposed, in addition to global travelers already pursuing service-oriented travel experiences worldwide — who will be interested in this type of travel offering.

With respect to Cuba, Carnival would be using the Fathom program to provide meaningful social impact travel for authorized passengers, and such program can be easily tailored to meet the requirements of the full-time schedule for people-to-people travel pursuant to the Cuban Assets Control Regulations (“CACR”).

If you have any questions regarding the information in this letter, or in the original requests for authorization to which this letter pertains, please contact Arnaldo Perez at (305) 406-8608 or via email at aperez@carnival.com. You may also contact Beth Peters at (202) 637-5837 or via email at beth.peters@hoganlovells.com, or Stephen Propst at (202) 637-5894 or via email at stephen.propst@hoganlovells.com, outside counsel to Carnival, with questions related to this application. Thank you in advance for your assistance in this matter.

Sincerely,

/s/ Arnaldo Perez

Arnaldo Perez

General Counsel

cc: Andrew Keller, U.S. Department of State
Ben Barron, U.S. Department of State

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

Case No. CU-2015-319004-1

Carnival Corporation
c/o Hogan Lovells US LLP
555 13th Street NW
Washington, D.C. 20004
Attn: Beth Peters, Esq. and Stephen Propst, Esq.

Dear Ms. Peters and Mr. Propst:

This is in response to your request of May 7, 2015, as supplemented on May 26, 2015 and June 11, 2015 (collectively, the "Application"), on behalf of Carnival Corporation & Carnival plc (collectively, "Carnival"), to the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), seeking authorization to operate commercial carrier services by vessel between the United States and Cuba and to provide lodging aboard the vessel for crew and passengers while the vessel is docked at a port in Cuba.

As you know, the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (CACR), administered by OFAC, prohibit all persons subject to the jurisdiction of the United States from dealing in property in which Cuba or a Cuban national has an interest; however, on January 16, 2015, OFAC published amendments to the CACR to implement changes in Cuba sanctions policy announced by the President on December 17, 2014. 80 FR 2291. As amended, section 515.572 of the CACR authorizes, with certain limitations, the provision of air carrier services, travel services, and the collection or forwarding of remittances. In addition, section 515.572(c) of the CACR states that specific licenses may be issued on a case-by-case basis authorizing the provision of carrier services other than those authorized

by section 515.572(a) of the CACR, including the transportation of authorized travelers by vessels.

In response to the Application, please find enclosed License No. CU-2015-319004-1 (the “License”), which authorizes Carnival to provide carrier services by vessel to, from, or within Cuba in connection with travel or transportation between the United States and Cuba of persons, baggage, or cargo authorized pursuant to the CACR, and to provide lodging aboard the vessel for crew and passengers engaged in activities in Cuba authorized by the CACR, subject to the conditions and limitations stated therein. Carnival should carefully review the License and ensure that its activities are consistent with the authorization granted.

Note that the License does not authorize certain activities described in the Application. Specifically, the Application presents the possibility of trips that would involve a one day call to Havana as part of a wider Caribbean itinerary. To the extent that this was part of Carnival’s request for a license, it is hereby denied; the license is limited to trips between the United State and Cuba. You also note in the Application your intent that passengers on your trips may be authorized to travel to Cuba as a result of their full time participation in people-to-people trips authorized by the general license at section 515.565(b)(2) of the CACR. As provided in section 501.801 of the Reporting, Procedures and Penalties Regulations, 31 C.F.R. Part 501, it is the policy of OFAC not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Provided that the organization sponsoring and organizing the program and individuals participating in the program comply with the requirements of the general license, no further authorization would

be required. Please note, however, that OFAC does not view onboard lectures while in port as satisfying the requirements of the general license at section 515.565(b)(2). That general license authorizes educational exchanges to promote people-to-people contact, namely contact between the traveler *and nationals of Cuba*, which would not occur in the case of an onboard lecture or similar activity. Finally, you request in the Application authorization for crew members to go ashore on a limited and escorted basis for non-touristic purposes. Carnival may only transport crew members who disembark in Cuba provided that the crew members satisfy the requirements of any of the general licenses authorizing Cuba travel-related transactions or are engaging in activities related to the safety and security of the vessel. The enclosed specific license does not authorize Carnival to transport any person who will disembark in Cuba and who is not authorized by a general license or a separate specific license.

Please also note that section 515.564 of the CACR contains a general license authorizing persons subject to U.S. jurisdiction, including employees, officials, consultants, or agents of the Licensee to engage in the travel-related transactions set forth in section 515.560(c) and such additional transactions as are directly incident to travel to Cuba for professional meetings in Cuba, such as those related to safety and security of voyages to and from Cuba, or necessary to arrange for carrier services by vessel between the United States and Cuba.

Please note that compliance with the requirements of the CACR does not excuse a U.S. person from the need to comply with other provisions of 31 C.F.R. chapter V, and with other applicable provisions of law. Such requirements include laws and regulations administered

by the U.S. Coast Guard, U.S. Customs and Border Protection, the Federal Maritime Commission, or the U.S. Department of Commerce.

Thank you for your time and cooperation on this matter. Please feel free to visit our website at www.treasury.gov/ofac or call our office at (202) 622-2480.

Sincerely,

/s/ Davin J. Blackborow

Davin J. Blackborow
Assistant Director for Licensing
Office of Foreign Assets Control

July 2, 2015

Date

Enclosure

573

From: Palma, Amanda (PCL)
<apalma@hagroup.com>
Sent: Thursday, April 13, 2017 4:10 PM
To: Pereda, Leslie (CCL); Hoshal, Richard
(CarnCorp)
Cc: Martin, Milly (CCL); Young, Steven
(CUK); Micklos, Dustin (HAL); Ann
Overby; Tim Murphy; Donaldson, Kevin
(Fathom); Wade, Toni (PCL)
Subject: RE: FW: Affidavit - CBA Sailings -
FATHOM
Attachments: FTHM - OFAC P2P Cuba Affidavit -
MCCARTHY, JANE -.pdf; FTHM -
OFAC P2P Cuba Affidavit - HOUGH,
WENDAY LYNN -.pdf

Hi there,

For reference, attached are document samples of the
2 & 7 page OFAC forms that we have stored in
OnBase, The 2 page forms are physically filled out and
the 7 page forms are filled out electronically.

Thank you,

Amanda Palma

574

From: Wade, Toni (PCL)
Sent: Thursday, April 13, 2017 12:56 PM
To: Palma, Amanda (PCL)
<apalma@hagroup.com>
Subject: FW: FW: Affidavit - CBA Sailings

Toni Wade

Manager | Record Management

Holland America Group | Serving Princess Cruises,
Holland America Line, Seabourn, and P&O Australia
+1-661-284-4050 office | +1-661-312-4273 mobile |
twade@hagroup.com

*My hours are 8:30 a.m. - 6:15 p.m. and my 9/80 day off
is Monday (non-payday week)*

575

From: Wade, Toni (PCL)
Sent: Thursday, April 06, 2017 2:03 PM
To: 'Pereda, Leslie (CCL)'
<LPereda@carnivaLcom>; Kevin
Donaldson <kevin@fathom.org>
Cc: Martin, Milly (CCL)
Martin@carnival.com>; Young, Steven
(CUK)
<Steven.Young@carnivalukgroup.com>;
Micklos, Dustin (HAL)
<DMicklose@hollandamericagroup.com>;
Ann Overby <ann@fathom.org>; Tim
Murphy <tim@fathom.org> Subject:
RE: FW: Affidavit - CBA Sailings

Hello Everyone,

As the Record Manager for HAgroup, we have established a record series and retention under the Legal Department and I am ultimately responsible for the records. For the Cuba Affidavit, we have applied the OFAC retention of 5 years, from the end of the voyage calendar year and the Cuba Affidavit Documents are stored in our company record management system, OnBase. In theory, the traveler is responsible for maintaining the form but we keep it for them as a back-up. I am not sure of the requirements for those passengers from other countries.

The verbiage from the Affidavit:

Persons subject to U.S. jurisdiction providing travel or carrier services are required to retain for at least five years from the date of the transaction a certification from each customer indicating the section of the CACR, or a copy of the specific license or the specific license number, that authorizes the person to travel to Cuba.

Certifications may be collected and maintained in any form, including electronically, and must be retained for at least five years from the date of the transaction.

The keywords on the Affidavits are:

fore name

sur name

voyage date

voyage number

passport number

passport country

booking number (I'm still waiting to receive access to Fathom in POLAR to fix any spelling mistakes).

So that is the good news. The bad news is that these Affidavits are often handwritten (and often hard to read) which makes the scanning and indexing process very long and tedious.

For example:

I understand, comprehend and conditions on activities applicable to
immigration traveling from the United States to Cuba, regardless of
activity. I understand that failure to do so may result in personal
liability under U.S. law, including the CACB, and I declare without
fear any claims or liability.

Am Henry J. Webb
Name (please print)

395 NW 5th Ave, Suite 100
Port St. Lucie, FL 34986
Residential Address

772 876 5700
Phone number

01-1887493-1234
Passport number and country of issuance

1-10-12
Date of birth

Henry J. Webb
Signature

6-26-16
Date

577

Please let me know if you have any other questions or can help in any way.

Kind regards,

Toni

Toni Wade

Manager | Record Management

Holland America Group | Serving Princess Cruises,
Holland America Line, Seabourn, and P&O Australia
+1.-661-284-4050 office | +1-661-312-4273 mobile |
twade@hagroup.com

*My hours are 8:30 a.m. - 6:15 p.m. and my 9/80 day of
is Monday (non-payday week)*

From: Pereda, Leslie (CCL)
[mailto:LPereda@carnival.com]
Sent: Wednesday, April 05, 2017 12:52 PM
To: Ann Overby <ann@fathom.org>; Wade,
Toni (PCL) <twade@hagroup.com>; Tim
Murphy <tim@fathom.org>; Kevin
Donaldson <kevin@fathom.org>;
Micklos, Dustin (HAL)
<DMicklos@hollandamericagroup.com>
Cc: Martin Milly (CCL)
<MMartin@carnival.com>; Young,
Steven (CUK)
<Steven.Young@carnivalukgroup.com>
Subject: RE: FW: Affidavit – CBA Sailings

Hello everyone!

We appreciate you sharing your process.

In terms of ‘ownership/custody’ of the affidavits (whether paper or electronic), what department has assumed this role and who, within the department, would qualify as the “people who are given access?” We need to determine an owner on our end; given this is a legal document, perhaps it needs to live in with the legal team? Also, if there are best practices and lessons learned specific to this task, we are all ears.

Thanks again for your time and insight.

FUN-fully yours,

Leslie Pereda

Manager, Special projects & Content Management –
Guest Port Services | Carnival Cruise Line
3655 NW 87th Avenue | Miami, FL 33178 | Mailstop:
MSRZ-251s

p: 305.999.2600 or 1.800.438.6744 Ext. 22349 |
f: 305.406.7450 | e: lpereda@carnival.com
I AM *Carnival*!

From: Ann Overby [mailto:ann@fathom.org]
Sent: Tuesday, April 04, 2017 12:26 PM
To: Young, Steven (CUK); Martin, Milly (CCL)
Cc: Pereda, Leslie (CCL); Kevin Donaldson; Micklos Dustin (HAL); Wade, Toni (PCL); Tim Murphy
Subject: RE: FW: Affidavit - CBA Sailings

Good morning

The Fathom paper P2P Cuba affidavits are sent here to me in Seattle from the ship after each sailing. We utilize OnBase Unity Client which is an information platform for records management (and other things). It is currently used by HAL, PCL, Seabourn for legal, medical, hr, marine operations and others as well as Fathom. OnBase was recommended to us by Toni Wade who is the Record Management Manager for HAGroup. Dustin is on her team and is located here in Seattle. They are both copied on this email for you to reach out to directly with questions.

Once I receive the box of paper affidavits here in Seattle I then send them to URM Scanning in CA to do the scanning. They are then put into OnBase and available for retrieval only by those people who are given access. Although there is a record retention requirement for the affidavits we were advised by Jose Fernandez (Carnival Corp) *"Fathom does not need to retain paper copies. Electronic copies are sufficient."*

I hope this is helpful and am sure that Toni and Dustin can provide more information for you. If I can help further please don't hesitate to contact me.

580

Kind regards,

Ann Overby

Executive Assistant | Fathom Impact + Travel

450 Third Ave West

Seattle WA 98119

office 206.626.9879 | mobile 206-979-4445

581

From: Kent Donaldson
[mailto:kevin@fathom.org]
Sent: Tuesday, April 04, 2017 8:21 AM
To: Steven Young; Martin, Milly (CCL)
Cc: Pereda, Leslie (CCL); Ann Overby
Subject: RE: FW: Affidavit - CBA Sailings

Hi All,

Ann is fathoms office manager in Seattle. She is not in legal. I have copied her on this email if you want to reach out with further questions. She worked with our IT manager Josh on this process. Your question of WHO is a good one. If a decision is made on this that carries across the entire corporate body, please let us know, and we can figure out a way to get ours moved. Since the Adonia was the only ship going to Cuba our focus was on:

- Ensuring the affidavits were approved by legal (which they were.. there were a few different variations over the past year as the regs changed and we received feedback from customers about confusing wording)
- That they were archived electronically (I believe we are still in the process of converting some of the paper ones and will continue to do so through end of sailing)

My very best regards,

Kevin

582

From: Steven Young
[mailto:StevenYoung@carnivalukgroup.com]
Sent: Tuesday, April 04, 2017 1:01 AM
To: Martin, Mill (CCL)
Cc: Pereda, Leslie (CCL); Kevin Donaldson
Subject: RE: FW: Affidavit - CBA Sailings

Hi Milly

No I believe Sally works for Fathom (no idea where she's based) who deal with these – they don't come back to CUK.

Haves copied in Kevin at Fathom who should be able to clarify this.

Steve

Steven Young
Director of Port Services & Government Affairs | P&O
Cruises and Cunard
Carnival UK | t: +44 (0)23 8065 5486 |
m: +44 (0)7557 540315
E: steven@young@carnivalukgroup.com
Carnival House, 100 Harbour Parade, Southampton
SO15 1ST, UK
Carnival UK P&O Cruises Cunard

583

From: "Martin, Milly (CCL)"
<MMartin@carnival.com>
To: "Young, Steven (CUK)"
<Steven.Young@carnivalukgroup.com>
Cc: "Pereda, Leslie (CCL)"
<LPereda@carnival.com>
Date: 03/04/2017 22:24
Subject: RE: FW: Affidavit - CBA Sailings

Thanks so much, Steve. Sorry, is Ann in your Legal department. That is what we were trying to figure out, WHO should keep them.

Milly Martin
Sr. Director, Guest Port Services | Carnival Cruise Line
3655 NW 87th Avenue | Miami, FL 33178
P: 305.599.2600 Ext. 64852 | c: 305.5862514 |
e: mmartin@carnival.com

584

From: Steven Young
[mailto:Steven.Young@carnivalukgroup.com]
Sent: Friday, March 31, 2017 12:02 PM
To: Martin, Milly (CCL)
Cc: Pereda, Leslie (CCL)
Subject: Re: FW: Affidavit - CBA Sailings

Milly

Got the answer back now, they are stored in Seattle. Electric ones are archived automatically. Paper ones are shipped there and are being scanned in for archival by Ann Overby.

Best Regards

Steve

585

From: Steven Young/OPS/CarnivalUK
To: "Martin, Milly (CCL)"
<MMartin@carnival.com>
Cc: "Pereda, Leslie (CCL)"
<LPereda@carnival.com>
Date: 31/03/2017 16:39
Subject: Re: FW: Affidavit - CBA Sailings

Hi Milly

How could I do that!

I had asked the question and was waiting for the answer – have just chased this up for you.

Steven

Steven Young
Director of Port Services & Government Affairs | P&O
Cruises and Cunard
Carnival UK | t: +44 (0)23 8065 5486 |
m: +44 (0)7557 540315
E: steven@young@carnivalukgroup.com
Carnival House, 100 Harbour Parade, Southampton
SO15 1ST, UK

586

From: "Martin, Milly (CCL)"
<MMartin@carnival.com>

To: "Young, Steven (CUK)"
<Steven.Young@carnivalukgroup.com>

Cc: "Pereda, Leslie (CCL)" <LPereda@carnival.com>

Date: 31/03/2017 16:16

Subject: FW: Affidavit - CBA Sailings

Hi there,

Did you forget about me? Can you advise of direct me to someone that may be able to answer this question for us?

Thanks so much!

Milly Martin
Sr. Director, Guest Port Services | Carnival Cruise Line
3655 NW 87th Avenue | Miami, FL 33178
P: 305.599.2600 Ext. 64852 | c: 305.5862514 |
e: mmartin@carnival.com

From: Martin, Milly (CCL)
Sent: Tuesday, March 21, 2017 4:55 PM
To: Young, Steven (CUK)
Cc: Pereda, Leslie (CCL)
Subject: Affidavit – CBA Sailings

Hi Steve,

Hope all is well. We are in the process of setting up a company to scan the guests affidavit for Cuba sailings and were wondering WHO needs to retain this information (once it is stored for us). For Fathom, is it your legal department that stores it? Imagine so, but wondering if you could validate that for me or tell me who would use this information.

Many thanks!

Milly Martin

Sr. Director, Guest Port Services | Carnival Cruise Line
3655 NW 87th Avenue | Miami, FL 33178
P: 305.599.2600 Ext. 64852 | c: 305.5862514 |
e: mmartin@carnival.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination, or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you receive this in error, please contact the sender and delete the material from any computer. Carnival plc, a company incorporated in England registered number: 4039524, registered office: Carnival House, 100 Harbour Parade, Southampton, SO15 1ST, UK VAT Reg No: GB 761 4300 58

(Comp Ex., July 1, 2015, BIS Granted Carnival Export License Number D1020321, HD_0359965; HD_0359958; HD_0493820; HD_0493829; HD_0346045)

Export License D1020321

Validated: July 01, 2015

Expires: July 31, 2016

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

Unless limited by a condition set forth below, the export, reexport or transfer (in-country) authorized by this license is for the item(s), end-use(s), and parties described in the license application and any letters of explanation. The applicant is responsible for informing the other parties identified on the license, such as ultimate consignees and end-users, of the license's scope and of the specific conditions applicable to them. BIS has granted this license in reliance on representations the applicant made in the license application, letters of explanation, and other documents submitted.

Applicant Reference Number: CAR0001

APPLICANT: C706087

Carnival Corporation
C/O HOGAN LOVELLS US LLP
555 13TH STREET
WASHINGTON, DC 20004
United States

PURCHASER:

ULTIMATE CONSIGNEE:

Carnival Corporation
Port of Havana
Havana
Cuba

**INTERMEDIATE
CONSIGNEE:**

COMMODITIES:

QTY	DESCRIPTION (May Include Product Name or Model Number	ECCN	TOTAL PRICE
1	Please see attached Letter of Explanation	8A992	\$.00
			TOTAL: \$.00

The Export Administration Regulations require you to take the following actions when exporting under the authority of this license.

- A. Record the Export Commodity Control Number in the block provided in the Automated Export System (AES).
- B. Record your validated License Number in the block provided by AES.
- C. Place a Destination Control Statement on all bills of lading, airway bills, and commercial invoices.

CONDITIONS:

1. A.) The vessel must sail directly to Cuba. B.) The licensee is responsible for ensuring that the vessel only transports items authorized by the Bureau of Industry and Security (BIS), U.S. Department of Commerce, or another U.S. Government agency with appropriate jurisdiction, if export authorization is required. However, this license does not authorize the transportation of vehicles. C.) The licensee is responsible for ensuring that the vessel only transports travelers licensed by the Office of Foreign Assets Control (OFAC), U.S. Department of the Treasury, and that any associated carrier services are also licensed by OFAC. D.) This license does not authorize the on-loading of items in Cuba except for items that have been licensed by

OFAC to be transported from Cuba or that are information and information materials, which are exempt from regulation under the Cuban Assets Control Regulations (CACR). Separate export authorization from BIS may be required to return items to Cuba. E.) This license authorizes as many trips as necessary, by as many vessels as necessary, during the validity period. F.) If the subject vessel becomes unavailable, a vessel of like size and capacity may be substituted. G.) Regarding the return trip of the vessel to the United States, the applicant is advised to contact OFAC for information on waiver of the 180-day wait mandated for vessels seeking to enter U.S. ports from Cuba.

RIDERS:

1. A.) Please note that other U.S. Government agencies administer regulations that may impact your temporary sojourn to Cuba. For example, U.S. Coast Guard (USCG) regulations require a permit for certain vessels entering Cuban territorial waters. Please contact USCG directly for additional information.

591

From: Arnie <cuatropapi@aol.com>
Sent: Thursday, July 2, 2015 8:30 PM
To: Perez, Arnaldo (CarnCorp)
Subject: Fwd: OFAC
Attachments: image001.jpg; ATT00001.htm;
image001.jpg; ATT00002.htm;
Validation_Z1449096.pdf;
ATT00003.htm

Sent from my iPhone

Arnaldo Perez

Begin forwarded message:

From: "Sewall, Samantha C."
<samantha.sewall@hoganlovells.com>
Date: July 2, 2015 at 12:57:47 PM EDT
To: "arnaldo perez (cuatropapi@aol.com)
(cuatropapi@aol.com)"
<cuatropapi@aol.com>,
"Miguez, Enrigue (CarnCorp)
(EMiguez@carnival.com)"
<EMiguez@carnival.com>
Cc: "Propst, Stephen F."
<stephen.propst@hoganlovells.com>,
"Peters, M.E."
<beth.peters@hoganlovells.com>,
"Sewall, Samantha C."
<samantha.sewall@hoganlovells.com>
Subject: FW: OFAC

Arnie and Rick,

We are pleased to report that BIS has granted Carnival a license for the export on temporary sojourn of a passenger vessel directly between the U.S. and Cuba. Please see the attached license document received today from BIS.

The license contains the following conditions under which Carnival may operate the vessel:

- A. The vessel must sail directly to Cuba
- B. The licensee is responsible for ensuring that the vessel only transports items authorized by the Bureau of Industry and Security (BIS), U.S. Department of Commerce, or another US Government agency with appropriate jurisdiction, if export authorization is required. However, this license does not authorize the transportation of vehicles.
- C. The licensee is responsible for ensuring that the vessel only transports travelers licensed by the Office of Foreign Assets Control (OFAC), U.S. Department of the Treasury, and that any associated carrier services are also licensed by OFAC.
- D. This license does not authorize the on-loading of items in Cuba except for items that have been licensed by OFAC to be transported from Cuba or that are information and information materials, which are exempt from regulation under the Cuban Assets Control Regulations (CACR). Separate export authorization from BIS may be required to return items to Cuba.
- E. This license authorizes many trips as necessary, by as many vessels as necessary, during the validity period.
- F. F) If the subject vessel becomes unavailable, a vessel of like size and capacity may be substituted.
- G. Regarding the return trip of the vessel to the United States, the applicant is advised to

contact OFAC for information on waiver of the 180-day wait mandated for vessels seeking to enter U.S. ports from Cuba.

RIDERS:

- A. Please note that other U.S. Government agencies administer regulations that may impact your temporary sojourn to Cuba. For example, U.S. Coast guard (USCG) regulations require a permit for certain vessels entering Cuban territorial waters. Please contact USCG directly for additional information.

We will be in touch with further thoughts and to address your questions.

Best,

Sam

From: Propst, Stephen F.
Sent: Thursday, June 25, 2015 2:58 PM
To: Sewall, Samantha C.
Subject: FW: OFAC

FYI

From: Propst, Stephen F.
Sent: Thursday, June 25, 2015 2:57 PM
To: 'Perez, Arnaldo (CarnCorp)'
Cc: Peters, M. E.
Subject: RE: OFAC

Arnie—I just heard back from the BIS licensing officer. He said he could not give details on exactly where the application is in the process, but said that they are currently “trying to wrap it up” and should have a response for us very soon. I interpret that to mean we should have a response within a matter of a couple week (not months), but it’s not possible to be more

precise than that. He said he would let me know as soon as a decision has been made.

Thanks,

Stephen

Stephen Propst
Partner

Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
Tel: +1 202 637 5600
Direct: +1 202 637 5894
Fax: +1 202 637 5910
Email: stephen.propst@hoganlovells.com
www.hoganlovells.com

Please consider the environment before printing this e-mail.

CARNIVAL
CORPORATION & PLC

ARNOLD W. DONALD

President & Chief Executive Officer

July 7, 2017

The Honorable Elaine L. Chao
U.S. Secretary of Transportation
1200 New Jersey Avenue, SE
9th Floor
Washington, D.C. 20590-9898

Re: Travel and Carrier Services and Forthcoming
Changes to Cuba Sanctions Regulations

Dear Secretary Chao:

Following our meeting with Secretary of Commerce Wilbur J. Ross of June 21, Carnival Corporation & plc (“Carnival”) is writing to provide its views regarding the forthcoming changes to Cuba sanctions announced by President Trump on June 16, 2017. In light of the Administration’s stated goal to amplify efforts to support the Cuban people including through expansion of lawful travel,¹ Carnival urges the Office of Foreign Assets Control (“OFAC”), the Bureau of Industry and Security (“BIS”), and the Department of State (collectively, “the Agencies”) to consider regulatory changes that accommodate the continued lawful operations of American travel and carrier service providers in Cuba. Carnival understands that OFAC and BIS will be issuing changes to the Cuban Assets Control Regulations

¹ See National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba, June 16, 2017, Section 2(d), available at: <https://whitehouse.gov/the-press-office/2017/06/18/national-security-presidential-memorandum-strengthening-policy-united>.

(“CACR”) and the Export Administration Regulations, respectively, to implement the policy on Cuba set forth in the Presidential Memorandum of June 16 (the “Policy Memo”). Given the importance of ensuring that our operations are fully aligned with the policies announced by the President, we respectfully request an opportunity to provide our comments and suggestions regarding the draft regulatory changes before final publication to help avoid any unintended consequences.

As we expressed to Secretary Ross at our meeting, we strongly believe that Carnival’s travel and carrier service between the United States and Cuba provides significant and much needed benefits directly to the Cuban people and that the continuation of this service would be fully consistent with our interpretation of the policies of the Trump Administration. A clear example of the direct benefits to the Cuban people provided by engagement with the Cuban government was a major change announced on April 22, 2016 concerning a long standing Cuban practice with respect to Cuban born individuals traveling to or from Cuba by sea. This prohibition caused controversy here in the U.S. ahead of the inaugural voyage of Carnival’s Adonia to Cuba on April 30, 2016. Following discussions between Carnival and Cuban officials, the more than 40-year old policy was changed by Cuba to allow all Cubans to travel to and from Cuba by sea. This clear benefit to all Cubans would not have occurred without permissible travel from the U.S. to Cuba.

I. Introduction

Carnival is a single economic enterprise operating under a dual-listed company structure, comprised of Carnival Corporation, with its headquarters in Miami, Florida, and Carnival plc, with offices in Southampton,

UK. Carnival is publicly traded on the New York Stock Exchange (Carnival Corporation) and the London Stock Exchange (Carnival plc). Carnival is a global cruise company that operates nine leading cruise brands with offices throughout the world including Miami, Florida, Santa Clarita, California; and Seattle, Washington. Carnival's North American cruise brands (comprised of Carnival Cruise Line, Princess Cruises, Holland America Line and Seabourn) employ roughly 9,000 shoreside employees, plus thousands more individuals on our ships. Globally, Carnival employs approximately 120,000 individuals and operates a fleet of over 103 cruise ships. Ensuring compliance with U.S. and other relevant sanctions and export controls is a top priority for Carnival.

Since May 2016, Carnival has offered travel and carrier services by vessel for travelers approved to travel between the U.S. and Cuba, consistent with licenses or other authorizations provided by the U.S. Government and set forth in the relevant regulations. Carnival's provision of such services by vessel furthers the U.S. government's policy interests by encouraging meaningful interaction between American and Cuban citizens, providing opportunities for cultural exchange, promoting independent economic activity, and providing much-needed assistance to the Cuban people. Carnival's people-to-people programs foster greater understanding and the exchange of ideas between American travelers and local Cuban people. In addition, Carnival's travel services benefit independent Cuban entrepreneurs through the purchase of goods and services by American travelers. The economic benefit to these independent entrepreneurs contributes to the growth of private business in Cuba.

Carnival appreciates the Administration's interest in avoiding negative impacts on American businesses engaged in lawful commercial activity in Cuba. Carnival is therefore providing its comments for the Agencies' consideration in developing regulations and guidance that accommodate the pursuit of beneficial opportunities in Cuba by American businesses in the travel and carrier industries. Carnival seeks to continue providing travel and carrier services to Cuba in full compliance with U.S. law and in a manner that advances the President's Cuba policy.

II. Comments Regarding New Regulations

Carnival respectfully submits the following comments for the Agencies' consideration:

a. Prohibited Entities

Carnival understands the State Department will be publishing a list of entities under control of, or acting for or on behalf of, the Cuban military, intelligence, or security services or personnel with which direct transactions will be prohibited. Carnival further understands from Section 3(a)(i) of the Policy Memo and Carnival's June 21, 2017 discussions with the Agencies that the State Department will undertake an assessment of the proportional benefits to the Cuban military and Cuban government versus the Cuban people or private enterprise on the island, in order to determine which entities should be included on this list. Carnival appreciates that the President has mandated in the Policy Memo that regulatory changes shall not prohibit transactions that the Agencies determine are consistent with the Administration's policy and "concern air and sea operations that support permissible travel." We are confident that the final regulations will permit our continued

engagement with all relevant Cuban entities, such as Aries Transportes (affiliated with the military), which is the port authority that controls access and operations at Cuban ports.

For purposes of the required proportionality assessment, Carnival urges the State Department to take into account the vital roles of particular Cuban entities and the lack of alternative business partners in Cuba, particularly in the travel industry. Havanatur (unaffiliated with the military) currently provides people-to-people travel services to all of the U.S. cruise operators, but it has limited capacity which can cause delays and other issues. Services are especially strained when two ships are in port at the same time. Military-linked enterprises are major providers of travel services on the island with the experience and hardware to supplement our main tour provider, Havanatur. If American enterprises are prohibited from engaging with certain of these entities, it may not be possible to maintain proper sea operations supporting authorized travel. The loss of these travel services would only serve to isolate the Cuban people even further and prevent meaningful engagement between Americans and the Cuban people.

The following is a list of some of the other Cuban government entities with which Carnival currently engages in connection with Carnival's provision of travel and carrier services. To the best of our knowledge, the entities below are not under the control of or acting for or on behalf of the Cuban military, intelligence, or security services.

- Havanatur is a tour operator that is part of the Ministry of Tourism. Carnival partners with Havanatur to provide people-to-people exchange programming.

- Empresa Consignataria Mambisa is a ship agent that is part of the Ministry of Transport with which Carnival engages to provide local assistance with vessel, crew and guest matters arising in Cuban ports.
- Consultores Maritimos, S.A. is a law and accounting firm that is part of the Ministry of Transport, specializing in issues related to the transport sector with an emphasis on maritime law. Carnival engages with this entity for legal advice related to Cuban maritime law.

If Carnival were to become unable to engage with these entities, it would become impossible or extremely burdensome for it to provide travel and carrier services in Cuba. Carnival encourages the State Department to refrain from listing these entities as prohibited or, in the alternative, for OFAC and BIS to continue to provide the necessary authorizations for U.S. travel and carrier service providers to engage with these entities in relation to providing authorized services.

b. Commercial Engagements

In Question 6 of OFAC's FAQ document published on June 16, 2017 (the "OFAC FAQ") the agency stated that "commercial engagements" in place prior to the issuance of the new regulations will be permitted, including transactions with the Cuban military, intelligence, or security services. Carnival appreciates that OFAC has taken this position in furtherance of the Administration's interest in not negatively impacting U.S. companies engaged in lawful business in Cuba. Consistent with this interest and intent, Carnival encourages OFAC to adopt a practical approach to defining the limits of grandfathered "commercial

engagements” in recognition of the fact that many U.S. businesses just began such engagements last year, after incurring significant start-up costs, and that the set-up and needs of these businesses may still be evolving. Carnival submits that “commercial engagements” should include business presentations, negotiations, letters of intent, memorandums of understanding, and other informal agreements or arrangements, as well as formal executed contracts. Please see Attachment 1 for a proposed FAQ on this issue.

c. Group People-to-People Programming

Carnival understands from the OFAC FAQ, Question 3, that group people-to-people travel to Cuba will still be authorized under the new regulations. Carnival currently provides group people-to-people programming to authorized travelers as an organization subject to U.S. jurisdiction sponsoring such exchanges and pursuant to the existing regulations. Carnival respectfully submits that it would be consistent with the Administration’s announced policy for OFAC to remove the authorization for individual people-to-people travel and return to a general authorization allowing group people-to-people travel. This approach continues the general authorization for entities such as Carnival to continue facilitating meaningful engagement between Americans and the Cuban people, while avoiding the administrative burden imposed by specific license requirements for such travel. Please see Attachment 2 for proposed regulatory language on this issue.

d. Full-time Schedule

Carnival understands from the OFAC FAQ, Question 3, that travelers going to Cuba for people-to-people

exchange must maintain a “full-time schedule of educational exchange activities.” OFAC’s prior informal guidance has indicated that a full-time schedule would consist of roughly 8 hours of qualifying activities. Carnival submits that accompanying guidance for the new regulations should provide clarity for travelers and service providers, particularly with respect to cases where travelers may arrive with less than a full day available onshore. This is especially important as service providers like Carnival require adequate time to manage the logistics of a vessel’s arrival in port and people-to-people programs offered to travelers. Carnival often has ships that arrive in Cuba mid-day or in the early afternoon, leaving only half day or less for onshore activities. People-to-people excursions must be coordinated with local Cuban partners and scheduled with sufficient time to transfer large groups of travelers from place to place. All Carnival operations must also account for the vessel’s clearance into Cuban ports upon arrival and the immigration, customs, and disembarkation process, which necessitates at least 90 minutes to complete.

Carnival suggests an approach to full days in port that permits a flexible 6-8 hours to take into account the logistical and other factors discussed above. With respect to mid-day or afternoon arrivals, Carnival suggests that travelers be permitted to have a shortened or pro-rated amount of time devoted to educational exchange activities in order to meet the “full-time” schedule requirement. For example, if a Carnival vessel arrives mid-day in Cuba, it would be reasonable to have approximately 3 hours of scheduled educational exchange activities rather than the 6 hours required on a full day in port. Carnival respectfully suggests that an OFAC FAQ providing

information consistent with the approach noted above would assist travelers and travel service providers alike in their efforts to comply with the CACR. Please see Attachment 1 for a proposed FAQ on this issue.

e. Traveler Certifications

Under the existing regulations, travel and carrier service providers such as Carnival are required to collect and retain certifications from travelers stating the general license under which their travel is authorized (see 31 CFR § 515.572(b)). Service providers are not currently required to independently confirm the passengers' statements under the current regulations or guidance. Carnival encourages OFAC to refrain from imposing new requirements for independent verification of traveler certifications by service providers, as this would impose a significant, and likely potentially insurmountable, burden on American travel and carrier businesses. Such requirements would be a departure from OFAC's longstanding approach towards certifications from customers regarding Cuba-related travel activities. For example, under previous OFAC guidance, U.S. banks are not generally required to independently verify certifications of authorized travel from customers when processing financial transactions related to travel in Cuba.² Please see Attachment 1 for a proposed FAQ on this issue.

f. Audit and Recordkeeping Requirements

Carnival understands that the Treasury Department will "regularly" audit travel to Cuba to ensure compliance with relevant regulations. Carnival encourages OFAC

² See OFAC Frequently Asked Questions Related to Cuba, Jan. 6, 2017, Question 61, available at: https://www.treasury.gov/resourcecenter/sanctions/Programs/Documents/cuba_faqs_new.pdf.

to set clear standards in the new regulations for audits of travel and carrier service providers engaged in Cuba. In particular, Carnival seeks to understand what records would be subject to audits. Carnival recommends maintaining the status quo for record-keeping requirements of travel service providers and organizations sponsoring people-to-people programs, as set forth in 31 CFR § 515.565(b)(5) and 31 CFR § 515.572(b). Carnival understands that under the recordkeeping requirements (1) with respect to travel carrier services, service providers are required only to maintain copies of traveler certifications and (2) with respect to the provision of people-to-people excursions and programs onshore in Cuba, service providers are required only to maintain the relevant records pertaining to traveler participation in such people-to-people excursions and programs. Carnival also recommends that OFAC issue guidance regarding the frequency of audits and the format of audit requests and responses. Consistent with the above, travelers who purchase and participate in compliant people-to-people excursions and programs offered by the service provider will need only to maintain a copy of their travel certification for purposes of any subsequent inquiry by OFAC.

g. Relevant OFAC and BIS Licensing

Carnival and other carrier service providers currently rely on certain general licenses and license exceptions, including for the provision of travel, carrier, other transportation-related, and remittance forwarding services (31 CFR § 515.572) and License Exception Aircraft, Vessels, and Spacecraft (15 CFR § 740.15), authorizing qualifying vessels to travel to Cuba on temporary sojourn. Carnival urges OFAC and BIS to maintain these authorizations as currently written, as

doing so would permit U.S. carrier service providers to continue offering services for lawful travel to Cuba that advances the President's policy with minimal disruption.

h. Grace Period

Carnival suggests that in order to provide assurance and notice to American travelers, the new regulations should provide for a grace period after issuance and before travel-related changes take effect. Travelers and service providers will need additional time to adjust travel plans that are impacted by the new rules. For example, Carnival's vessels frequently travel to and from Cuba and it is possible that a Carnival ship would be docking in Cuba on the day of or after the new regulations are issued. Provision of a grace period after issuance of the new regulations, with an explicit date of effectiveness for the new rules, would give travelers and service providers adequate notice to comply with the new regulations.

Carnival notes that Question 4 of the OFAC FAQ indicates that "provided a traveler has already completed at least one travel-related transaction" prior to June 16, 2017, all additional travel-related transactions for that trip are authorized under the current existing OFAC regulations, regardless of whether the trip occurs before or after OFAC's new regulations are issued. Carnival commends OFAC for providing for such authorization for travelers who have already begun making travel arrangements. However, Carnival would encourage OFAC to provide further clarification on what would be considered a qualifying completed "travel-related transaction" and how the June 16, 2017 cut-off date for qualifying transactions impacts travelers when the date of effectiveness for the new regulations will fall on a later

date. The lack of clarity on these points may have the effect of deterring individuals from engaging in legitimate travel.

III. Conclusion

Carnival appreciates this opportunity to engage with the Agencies to allow for the continuation of lawful commercial activity that promotes U.S. foreign policy interests in Cuba, especially through meaningful engagement between the people of the U.S. and the Cuban people.

Carnival would welcome the opportunity to engage with your respective teams prior to publication of the amended regulations to help ensure that they do not have unintended, negative consequences for U.S. travel and carrier service providers. We would be appreciative of any opportunity to review the draft regulations prior to publication and to answer any questions that arise during the drafting process.

Thank you for your consideration of Carnival's views. Please do not hesitate to contact the undersigned should you have any questions.

Respectfully submitted,

/s/ Arnold W. Donald

Arnold W. Donald

President & Chief Executive Officer

Attachments

CC: Mr. Michael Britt, Chief of Staff
Mr. Kirk Bell, White House Liaison

Attachment 1

Proposed FAQs

1. What types of “commercial engagements” in place prior to issuance of the new regulations are U.S. persons authorized to continue engaging in, including with Cuban military, intelligence, or security services?

The term “commercial engagements” includes, but is not limited to, business presentations, negotiations, contracts, contingent contracts, executory contracts, executory pro forma invoices, agreements in principle, executory offers capable of acceptance such as bids or proposals in response to public tenders, memorandums of understanding, and letters of intent. If such engagements began prior to issuance of the new regulations, U.S. persons may continue to engage with relevant parties, perform under agreements, or otherwise advance and consummate such engagements, even if they would be otherwise prohibited under the new regulations.

2. What constitutes a “full-time schedule” of authorized activities on days when travelers have less than a full day in Cuba?

Typically, OFAC views a schedule of roughly 6-8 hours per day of authorized activities to be considered a “full-time schedule” of authorized activities when a traveler has a full day in Cuba. However, on days where travelers have less than a full day in Cuba (for example, on days arriving in or departing from Cuba), a pro-rated amount of time devoted to authorized activities would be considered consistent with the full-time schedule requirement. For example, if a traveler arrives in the afternoon in Cuba, it would be reasonable for that traveler to participate in roughly

3 hours of authorized activities onshore rather than the 8 hours expected for a full day in Cuba.

3. Are providers of travel or carrier services required to independently verify that an individual's travel is authorized when engaging in Cuba travel-related transactions?

No. A travel or carrier service provider may rely on the certification of authorized travel provided by a traveler when engaging in Cuba travel-related transactions, unless the travel or carrier service provider knows or has reason to know that the travel is not authorized by a general or specific license.

Attachment 2

Proposed Regulatory Language Regarding
People-to-People Programming

§515.565 Educational activities.

(b) *General license for people-to-people travel.* The travel-related transactions set forth in §515.560(c) and such additional transactions as are directly incident to educational exchanges not involving academic study pursuant to a degree program are authorized, provided that:

(1) Travel-related transactions pursuant to this authorization must be for the purpose of engaging, while in Cuba, in a full-time schedule of activities intended to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities;

(2) Each traveler has a full-time schedule of educational exchange activities that will result in meaningful interaction between the traveler and individuals in Cuba;

(3) The predominant portion of the activities engaged in by travelers is not with a prohibited official of the Government of Cuba, as defined in §515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in §515.338 of this part;

(4) Travel is conducted under the auspices of an organization that is a person subject to U.S. jurisdiction that sponsors such exchanges to promote people-to-people contact, where an employee, paid consultant, or agent of the sponsoring organization must accompany each group traveling to Cuba to ensure that each traveler has a full-time schedule of educational exchange activities; and

NOTE TO §515.565(B)(4): An organization that sponsors and organizes trips to Cuba in which travelers engage in individually selected and/or self-directed activities would not qualify for the general license. Authorized trips are expected to be led by the organization and to have a full-time schedule of activities in which the travelers will participate.

(5) In addition to all other information required by §501.601 of this chapter, an organization that is a person subject to U.S. jurisdiction and that sponsors such exchanges to promote people-to-people travel as described in paragraph (b) of this section must retain records sufficient to demonstrate that each individual traveler has engaged in a full-time schedule of activities that satisfy the requirements of paragraphs (b)(1) through (3) of this section. In the case of an individual traveling under the auspices of an organization that is a person subject to U.S. jurisdiction and that sponsors such exchanges to promote people-to-people contact, the individual may rely on the entity sponsoring the travel to satisfy his or her recordkeeping requirements with respect to the requirements of paragraphs (b)(1) through (3) of this section. These records must be furnished to the Office of Foreign Assets Control on demand pursuant to §501.602 of this chapter.

Example 1 to §515.565(b). An organization wishes to sponsor and organize educational exchanges not involving academic study pursuant to a degree program for individuals to learn side-by-side with Cuban individuals in areas such as environmental protection or the arts. The travelers will have a full-time schedule of educational exchange activities that will result in meaningful interaction between the travelers and individuals in Cuba. The organization's

activities qualify for the general license, and the individual may rely on the entity sponsoring the travel to satisfy his or her recordkeeping requirement.

NOTE TO §515.565(A) AND (B): Entities sponsoring travel pursuant to the authorization in §515.565(b) must retain specific records related to the authorized travel transactions. See §§501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements.

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From: Matthew Borman
<Matthew.Borman@bis.doc.gov>
Sent: Wednesday, June 21, 2017 12:19 PM
To: Perez, Arnaldo (CarnCorp)
Subject: RE: Cuba - Cruise Meeting

Thanks Arnie. Matt

Original Message

From: Perez, Arnaldo (CarnCorp)
[mailto:APerez@carnival.com]
Sent: Wednesday, June 21, 2017 11:48 AM
To: Matthew Borman
Subject: Cuba - Cruise Meeting

Deputy Assistant Secretary Borman:

I was with the cruise industry group that just left your offices. First, thank you very much for the warm reception and willingness to consider our concerns.

Apologies for my having run out of business cards. You may contact me on my direct line at the office or my cell phone, both of which are provided below:

(O) 305 406-8608

(C) 305 775-0428

Please do not hesitate to call me with any questions you may have with respect to our operations and the revise regulations.

Sincerely,

Arnie

Sent from my iPhone
Arnaldo Perez
General Counsel
Carnival Corporation

CARNIVAL
CORPORATION & PLC

ARNOLD W. DONALD

President & Chief Executive Officer

July 7, 2017

The Honorable Wilbur L. Ross, Jr.
U.S. Secretary of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

Re: Travel and Carrier Services and Forthcoming
Changes to Cuba Sanctions Regulations

Dear Secretary Ross:

Following our meeting on June 21, 2017, Carnival Corporation & plc (“Carnival”) is writing to provide its views regarding the forthcoming changes to Cuba sanctions announced by President Trump on June 16, 2017. In light of the Administration’s stated goal to amplify efforts to support the Cuban people including through expansion of lawful travel,¹ Carnival urges the Office of Foreign Assets Control (“OFAC”), the Bureau of Industry and Security (“BIS”), and the Department of State (collectively, “the Agencies”) to consider regulatory changes that accommodate the continued lawful operations of American travel and carrier service providers in Cuba. Carnival understands that OFAC and BIS will be issuing changes to the Cuban Assets Control Regulations (“CACR”) and the Export Administration Regulations, respectively,

¹ See National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba, June 16, 2017, Section 2(d), available at: <https://whitehouse.gov/the-press-office/2017/06/16/national-security-presidential-memorandum-strengthening-policy-united>.

to implement the policy on Cuba set forth in the Presidential Memorandum of June 16 (the “Policy Memo”). Given the importance of ensuring that our operations are fully aligned with the policies announced by the President, we respectfully request an opportunity to provide our comments and suggestions regarding the draft regulatory changes before final publication to help avoid any unintended consequences.

As we expressed to Secretary Ross at our meeting, we strongly believe that Carnival’s travel and carrier service between the United States and Cuba provides significant and much needed benefits directly to the Cuban people and that the continuation of this service would be fully consistent with our interpretation of the policies of the Trump Administration. A clear example of the direct benefits to the Cuban people provided by engagement with the Cuban government was a major change announced on April 22, 2016 concerning a long standing Cuban practice with respect to Cuban born individuals traveling to or from Cuba by sea. This prohibition caused controversy here in the U.S. ahead of the inaugural voyage of Carnival’s Adonia to Cuba on April 30, 2016. Following discussions between Carnival and Cuban officials, the more than 40-year old policy was changed by Cuba to allow all Cubans to travel to and from Cuba by sea. This clear benefit to all Cubans would not have occurred without permissible travel from the U.S. to Cuba.

I. Introduction

Carnival is a single economic enterprise operating under a dual-listed company structure, comprised of Carnival Corporation, with its headquarters in Miami, Florida, and Carnival plc, with offices in Southampton, UK. Carnival is publicly traded on the New York Stock Exchange (Carnival Corporation) and the London

Stock Exchange (Carnival plc). Carnival is a global cruise company that operates nine leading cruise brands with offices throughout the world including Miami, Florida, Santa Clarita, California; and Seattle, Washington. Carnival's North American cruise brands (comprised of Carnival Cruise Line, Princess Cruises, Holland America Line and Seabourn) employ roughly 9,000 shoreside employees, plus thousands more individuals on our ships. Globally, Carnival employs approximately 120,000 individuals and operates a fleet of over 103 cruise ships. Ensuring compliance with U.S. and other relevant sanctions and export controls is a top priority for Carnival.

Since May 2016, Carnival has offered travel and carrier services by vessel for travelers approved to travel between the U.S. and Cuba, consistent with licenses or other authorizations provided by the U.S. Government and set forth in the relevant regulations. Carnival's provision of such services by vessel furthers the U.S. government's policy interests by encouraging meaningful interaction between American and Cuban citizens, providing opportunities for cultural exchange, promoting independent economic activity, and providing much-needed assistance to the Cuban people. Carnival's people-to-people programs foster greater understanding and the exchange of ideas between American travelers and local Cuban people. In addition, Carnival's travel services benefit independent Cuban entrepreneurs through the purchase of goods and services by American travelers. The economic benefit to these independent entrepreneurs contributes to the growth of private business in Cuba.

Carnival appreciates the Administration's interest in avoiding negative impacts on American businesses engaged in lawful commercial activity in Cuba.

Carnival is therefore providing its comments for the Agencies' consideration in developing regulations and guidance that accommodate the pursuit of beneficial opportunities in Cuba by American businesses in the travel and carrier industries. Carnival seeks to continue providing travel and carrier services to Cuba in full compliance with U.S. law and in a manner that advances the President's Cuba policy.

II. Comments Regarding New Regulations

Carnival respectfully submits the following comments for the Agencies' consideration:

a. Prohibited Entities

Carnival understands the State Department will be publishing a list of entities under control of, or acting for or on behalf of, the Cuban military, intelligence, or security services or personnel with which direct transactions will be prohibited. Carnival further understands from Section 3(a)(i) of the Policy Memo and Carnival's June 21, 2017 discussions with the Agencies that the State Department will undertake an assessment of the proportional benefits to the Cuban military and Cuban government versus the Cuban people or private enterprise on the island, in order to determine which entities should be included on this list. Carnival appreciates that the President has mandated in the Policy Memo that regulatory changes shall not prohibit transactions that the Agencies determine are consistent with the Administration's policy and "concern air and sea operations that support permissible travel." We are confident that the final regulations will permit our continued engagement with all relevant Cuban entities, such as Aries Transportes (affiliated with the military), which is the

port authority that controls access and operations at Cuban ports.

For purposes of the required proportionality assessment, Carnival urges the State Department to take into account the vital roles of particular Cuban entities and the lack of alternative business partners in Cuba, particularly in the travel industry. Havanatur (unaffiliated with the military) currently provides people-to-people travel services to all of the U.S. cruise operators, but it has limited capacity which can cause delays and other issues. Services are especially strained when two ships are in port at the same time. Military-linked enterprises are major providers of travel services on the island with the experience and hardware to supplement our main tour provider, Havanatur. If American enterprises are prohibited from engaging with certain of these entities, it may not be possible to maintain proper sea operations supporting authorized travel. The loss of these travel services would only serve to isolate the Cuban people even further and prevent meaningful engagement between Americans and the Cuban people.

The following is a list of some of the other Cuban government entities with which Carnival currently engages in connection with Carnival's provision of travel and carrier services. To the best of our knowledge, the entities below are not under the control of or acting for or on behalf of the Cuban military, intelligence, or security services.

- Havanatur is a tour operator that is part of the Ministry of Tourism. Carnival partners with Havanatur to provide people-to-people exchange programming.

- Empresa Consignataria Mambisa is a ship agent that is part of the Ministry of Transport with which Carnival engages to provide local assistance with vessel, crew and guest matters arising in Cuban ports.
- Consultores Maritimos, S.A. is a law and accounting firm that is part of the Ministry of Transport, specializing in issues related to the transport sector with an emphasis on maritime law. Carnival engages with this entity for legal advice related to Cuban maritime law.

If Carnival were to become unable to engage with these entities, it would become impossible or extremely burdensome for it to provide travel and carrier services in Cuba. Carnival encourages the State Department to refrain from listing these entities as prohibited or, in the alternative, for OFAC and BIS to continue to provide the necessary authorizations for U.S. travel and carrier service providers to engage with these entities in relation to providing authorized services.

b. Commercial Engagements

In Question 6 of OFAC's FAQ document published on June 16, 2017 (the "OFAC FAQ") the agency stated that "commercial engagements" in place prior to the issuance of the new regulations will be permitted, including transactions with the Cuban military, intelligence, or security services. Carnival appreciates that OFAC has taken this position in furtherance of the Administration's interest in not negatively impacting U.S. companies engaged in lawful business in Cuba. Consistent with this interest and intent, Carnival encourages OFAC to adopt a practical approach to defining the limits of grandfathered

“commercial engagements” in recognition of the fact that many U.S. businesses just began such engagements last year, after incurring significant start-up costs, and that the set-up and needs of these businesses may still be evolving. Carnival submits that “commercial engagements” should include business presentations, negotiations, letters of intent, memorandums of understanding, and other informal agreements or arrangements, as well as formal executed contracts. Please see Attachment 1 for a proposed FAQ on this issue.

c. Group People-to-People Programming

Carnival understands from the OFAC FAQ, Question 3, that group people-to-people travel to Cuba will still be authorized under the new regulations. Carnival currently provides group people-to-people programming to authorized travelers as an organization subject to U.S. jurisdiction sponsoring such exchanges and pursuant to the existing regulations. Carnival respectfully submits that it would be consistent with the Administration’s announced policy for OFAC to remove the authorization for individual people-to-people travel and return to a general authorization allowing group people-to-people travel. This approach continues the general authorization for entities such as Carnival to continue facilitating meaningful engagement between Americans and the Cuban people, while avoiding the administrative burden imposed by specific license requirements for such travel. Please see Attachment 2 for proposed regulatory language on this issue.

d. Full-time Schedule

Carnival understands from the OFAC FAQ, Question 3, that travelers going to Cuba for people-to-people

exchange must maintain a “full-time schedule of educational exchange activities.” OFAC’s prior informal guidance has indicated that a full-time schedule would consist of roughly 8 hours of qualifying activities. Carnival submits that accompanying guidance for the new regulations should provide clarity for travelers and service providers, particularly with respect to cases where travelers may arrive with less than a full day available onshore. This is especially important as service providers like Carnival require adequate time to manage the logistics of a vessel’s arrival in port and people-to-people programs offered to travelers. Carnival often has ships that arrive in Cuba mid-day or in the early afternoon, leaving only half day or less for onshore activities. People-to-people excursions must be coordinated with local Cuban partners and scheduled with sufficient time to transfer large groups of travelers from place to place. All Carnival operations must also account for the vessel’s clearance into Cuban ports upon arrival and the immigration, customs, and disembarkation process, which necessitates at least 90 minutes to complete.

Carnival suggests an approach to full days in port that permits a flexible 6-8 hours to take into account the logistical and other factors discussed above. With respect to mid-day or afternoon arrivals, Carnival suggests that travelers be permitted to have a shortened or pro-rated amount of time devoted to educational exchange activities in order to meet the “full-time” schedule requirement. For example, if a Carnival vessel arrives mid-day in Cuba, it would be reasonable to have approximately 3 hours of scheduled educational exchange activities rather than the 6 hours required on a full day in port. Carnival respectfully suggests that an OFAC FAQ providing information consistent with the approach noted above

would assist travelers and travel service providers alike in their efforts to comply with the CACR. Please see Attachment 1 for a proposed FAQ on this issue.

e. Traveler Certifications

Under the existing regulations, travel and carrier service providers such as Carnival are required to collect and retain certifications from travelers stating the general license under which their travel is authorized (see 31 CFR § 515.572(b)). Service providers are not currently required to independently confirm the passengers' statements under the current regulations or guidance. Carnival encourages OFAC to refrain from imposing new requirements for independent verification of traveler certifications by service providers, as this would impose a significant, and likely potentially insurmountable, burden on American travel and carrier businesses. Such requirements would be a departure from OFAC's longstanding approach towards certifications from customers regarding Cuba-related travel activities. For example, under previous OFAC guidance, U.S. banks are not generally required to independently verify certifications of authorized travel from customers when processing financial transactions related to travel in Cuba.² Please see Attachment 1 for a proposed FAQ on this issue.

f. Audit and Recordkeeping Requirements

Carnival understands that the Treasury Department will "regularly" audit travel to Cuba to ensure compliance with relevant regulations. Carnival encourages OFAC to set clear standards in the new regulations for audits of travel and carrier service providers engaged

² See OFAC Frequently Asked Questions Related to Cuba, Jan. 6, 2017, Question 61, available at: https://www.treasury.gov/resourcecenter/sanctions/Programs/Documents/cuba_faqs_new_pdf.

in Cuba. In particular, Carnival seeks to understand what records would be subject to audits. Carnival recommends maintaining the status quo for record-keeping requirements of travel service providers and organizations sponsoring people-to-people programs, as set forth in 31 CFR § 515.565(b)(5) and 31 CFR § 515.572(b). Carnival understands that under the recordkeeping requirements (1) with respect to travel carrier services, service providers are required only to maintain copies of traveler certifications and (2) with respect to the provision of people-to-people excursions and programs onshore in Cuba, service providers are required only to maintain the relevant records pertaining to traveler participation in such people-to-people excursions and programs. Carnival also recommends that OFAC issue guidance regarding the frequency of audits and the format of audit requests and responses. Consistent with the above, travelers who purchase and participate in compliant people-to-people excursions and programs offered by the service provider will need only to maintain a copy of their travel certification for purposes of any subsequent inquiry by OFAC.

g. Relevant OFAC and BIS Licensing

Carnival and other carrier service providers currently rely on certain general licenses and license exceptions, including for the provision of travel, carrier, other transportation-related, and remittance forwarding services (31 CFR § 515.572) and License Exception Aircraft, Vessels, and Spacecraft (15 CFR § 740.15), authorizing qualifying vessels to travel to Cuba on temporary sojourn. Carnival urges OFAC and BIS to maintain these authorizations as currently written, as doing so would permit U.S. carrier service providers to continue offering services for lawful travel to Cuba

that advances the President's policy with minimal disruption.

h. Grace Period

Carnival suggests that in order to provide assurance and notice to American travelers, the new regulations should provide for a grace period after issuance and before travel-related changes take effect. Travelers and service providers will need additional time to adjust travel plans that are impacted by the new rules. For example, Carnival's vessels frequently travel to and from Cuba and it is possible that a Carnival ship would be docking in Cuba on the day of or after the new regulations are issued. Provision of a grace period after issuance of the new regulations, with an explicit date of effectiveness for the new rules, would give travelers and service providers adequate notice to comply with the new regulations.

Carnival notes that Question 4 of the OFAC FAQ indicates that "provided a traveler has already completed at least one travel-related transaction" prior to June 16, 2017, all additional travel-related transactions for that trip are authorized under the current existing OFAC regulations, regardless of whether the trip occurs before or after OFAC's new regulations are issued. Carnival commends OFAC for providing for such authorization for travelers who have already begun making travel arrangements. However, Carnival would encourage OFAC to provide further clarification on what would be considered a qualifying completed "travel-related transaction" and how the June 16, 2017 cut-off date for qualifying transactions impacts travelers when the date of effectiveness for the new regulations will fall on a later date. The lack of clarity on these points may have the

effect of deterring individuals from engaging in legitimate travel.

III. Conclusion

Carnival appreciates this opportunity to engage with the Agencies to allow for the continuation of lawful commercial activity that promotes U.S. foreign policy interests in Cuba, especially through meaningful engagement between the people of the U.S. and the Cuban people.

Carnival would welcome the opportunity to engage with your respective teams prior to publication of the amended regulations to help ensure that they do not have unintended, negative consequences for U.S. travel and carrier service providers. We would be appreciative of any opportunity to review the draft regulations prior to publication and to answer any questions that arise during the drafting process.

Thank you for your consideration of Carnival's views. Please do not hesitate to contact the undersigned should you have any questions.

Respectfully submitted,

/s/ Arnold W. Donald

Arnold W. Donald

President & Chief Executive Officer

Attachments

CC: Mr. Matthew S. Borman, Deputy Assistant Secretary
Ms. Nicole R. Grove, Special Assistant, Office of Business Liaison
Mr. Eric D. Branstad, Senior White House Advisor

Attachment 1

Proposed FAQs

1. What types of “commercial engagements” in place prior to issuance of the new regulations are U.S. persons authorized to continue engaging in, including with Cuban military, intelligence, or security services?

The term “commercial engagements” includes, but is not limited to, business presentations, negotiations, contracts, contingent contracts, executory contracts, executory pro forma invoices, agreements in principle, executory offers capable of acceptance such as bids or proposals in response to public tenders, memorandums of understanding, and letters of intent. If such engagements began prior to issuance of the new regulations, U.S. persons may continue to engage with relevant parties, perform under agreements, or otherwise advance and consummate such engagements, even if they would be otherwise prohibited under the new regulations.

2. What constitutes a “full-time schedule” of authorized activities on days when travelers have less than a full day in Cuba?

Typically, OFAC views a schedule of roughly 6-8 hours per day of authorized activities to be considered a “full-time schedule” of authorized activities when a traveler has a full day in Cuba. However, on days where travelers have less than a full day in Cuba (for example, on days arriving in or departing from Cuba), a pro-rated amount of time devoted to authorized activities would be considered consistent with the full-time schedule requirement. For example, if a traveler arrives in the afternoon in Cuba, it would be reasonable for that traveler to participate in roughly 3

hours of authorized activities onshore rather than the 8 hours expected for a full day in Cuba.

3. Are providers of travel or carrier services required to independently verify that an individual's travel is authorized when engaging in Cuba travel-related transactions?

No. A travel or carrier service provider may rely on the certification of authorized travel provided by a traveler when engaging in Cuba travel-related transactions, unless the travel or carrier service provider knows or has reason to know that the travel is not authorized by a general or specific license.

Attachment 2

Proposed Regulatory Language Regarding
People-to-People Programming

§515.565 Educational activities.

(b) *General license for people-to-people travel.* The travel-related transactions set forth in §515.560(c) and such additional transactions as are directly incident to educational exchanges not involving academic study pursuant to a degree program are authorized, provided that:

(1) Travel-related transactions pursuant to this authorization must be for the purpose of engaging, while in Cuba, in a full-time schedule of activities intended to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities;

(2) Each traveler has a full-time schedule of educational exchange activities that will result in meaningful interaction between the traveler and individuals in Cuba;

(3) The predominant portion of the activities engaged in by travelers is not with a prohibited official of the Government of Cuba, as defined in §515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in §515.338 of this part;

(4) Travel is conducted under the auspices of an organization that is a person subject to U.S. jurisdiction that sponsors such exchanges to promote people-to-people contact, where an employee, paid consultant, or agent of the sponsoring organization must accompany each group traveling to Cuba to ensure that each traveler has a full-time schedule of educational exchange activities; and

NOTE TO §515.565(B)(4): An organization that sponsors and organizes trips to Cuba in which travelers engage in individually selected and/or self-directed activities would not qualify for the general license. Authorized trips are expected to be led by the organization and to have a full-time schedule of activities in which the travelers will participate.

(5) In addition to all other information required by §501.601 of this chapter, an organization that is a person subject to U.S. jurisdiction and that sponsors such exchanges to promote people-to-people travel as described in paragraph (b) of this section must retain records sufficient to demonstrate that each individual traveler has engaged in a full-time schedule of activities that satisfy the requirements of paragraphs (b)(1) through (3) of this section. In the case of an individual traveling under the auspices of an organization that is a person subject to U.S. jurisdiction and that sponsors such exchanges to promote people-to-people contact, the individual may rely on the entity sponsoring the travel to satisfy his or her recordkeeping requirements with respect to the requirements of paragraphs (b)(1) through (3) of this section. These records must be furnished to the Office of Foreign Assets Control on demand pursuant to §501.602 of this chapter.

Example 1 to §515.565(b). An organization wishes to sponsor and organize educational exchanges not involving academic study pursuant to a degree program for individuals to learn side-by-side with Cuban individuals in areas such as environmental protection or the arts. The travelers will have a full-time schedule of educational exchange activities that will result in meaningful interaction between the travelers and individuals in Cuba. The organization's activities qualify for the general license, and the

individual may rely on the entity sponsoring the travel to satisfy his or her recordkeeping requirement.

NOTE TO §515.565(A) AND (B): Entities sponsoring travel pursuant to the authorization in §515.565(b) must retain specific records related to the authorized travel transactions. See §§501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements.

(Comp. Ex., HD_0442586; HD_0424405–408; HD_0424410–411; HD_0376977; HD_0439351–352; HD_0440019; HD_0440189–190)

FATHOM TRAVEL LTD.

CUBA OPERATIONS COMPLIANCE PLANS

1. BACKGROUND

Although the United States continues to maintain an economic embargo against Cuba, the U.S. Government has made a number of changes to the applicable regulations since January 2015 to ease trade and travel restrictions. As a result of these changes, Carnival Corporation & Carnival plc (collectively “Carnival”) and its subsidiaries are now authorized to provide carrier and travel services to passengers traveling between the United States and Cuba.

Specifically, Carnival relies upon certain general licenses set forth in the applicable U.S. regulations that authorize the company to engage in the necessary activities, so long as Carnival complies with the terms and conditions of those general licenses:

- Pursuant to the Cuban Assets Control Regulations (“CACR”), administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), Carnival is authorized to provide carrier services by vessel to, from, or within Cuba in connection with travel or transportation between the U.S. and Cuba (directly and indirectly) of authorized persons, baggage, or cargo.
- Pursuant to the Export Administration Regulations (“EAR”), administered by the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”), Carnival is authorized to

export passenger vessels on temporary sojourn from the U.S. to Cuba.

This Cuba Travel Compliance Plan (“Compliance Plan”) sets forth the legal requirements, conditions, and limitations on the provision of travel and carrier services and the export of a vessel to Cuba imposed by the general licenses, and by the economic sanctions and export control laws of the United States.

You are required to comply with the terms and requirements of this Compliance Plan, and to implement guidelines and procedures to ensure that travelers comply with the terms and requirements of this Compliance Plan while traveling to, from and within Cuba.

2. POLICY

It is the policy of Carnival to comply with the economic sanctions and export control laws of the United States, including those applicable to Cuba. These laws and regulations with respect to Cuba apply to Carnival and to Carnival’s non-U.S. subsidiaries and impose a comprehensive embargo on Cuba. While there are certain exceptions to the embargo that are defined in the relevant statutes and regulations, or in licenses issued pursuant to those laws, as a general matter, the U.S. continues to prohibit most trade and financial transactions with Cuba. Therefore, it is Carnival’s policy to comply with all of the restrictions, conditions and limitations included in the OFAC and BIS regulations and the licenses granted to Carnival to provide carrier services to Cuba and to export appropriate vessels on temporary sojourn to Cuba.

3. GUIDELINES

All Cuba-related travel services provided by Carnival must comply at all times with the conditions and limitations contained in the following regulations:

- The CACR, 31 C.F.R. Part 515
- The EAR, 15 C.F.R. Parts 730-774

Specific conditions and limitations imposed by these regulations are addressed in this Compliance Plan.

The OFAC regulations allow Carnival and its subsidiary, Fathom, to provide travel and carrier services to Cuba by vessel. Carnival will be claiming the General License 515.565(b) in the CACR to be an authorized travel service provider (“TSP”), Carrier Service Provider (“CSP”), and sponsor of people-to-people (“P2P”) exchange programs. However, there are numerous conditions and restrictions to these authorizations, as described in more detail herein.

If you have questions about any of the requirements described in this Plan, please contact **the General Counsel of Carnival Corporation**.

3.1 Guidelines for Carnival/Fathom Acting as a TSP and CSP for Trips to Cuba

This section outlines authorized TSP and CSP activities that Carnival and Fathom can engage in, including information on who Carnival and Fathom may take to Cuba, what marketing activities are permitted, what types of programs are permitted, obtaining travel affidavits from passengers, what items can be taken to and from Cuba, and authorized activities of crew members on trips to Cuba.

In all cases, the entity providing the TSP and CSP services must be subject to U.S. jurisdiction (i.e., a U.S. entity, or owned or controlled by a U.S. entity) or an entity or consultant under contract with Carnival or Fathom.

3.1.1 What TSP and CSP Activities are Authorized?

Authorized Activities:

The OFAC general licenses authorize the following TSP and CSP services related to Cuba, subject to the conditions and limitations described in the CACR and in this Compliance Plan:

- To provide travel services as a TSP for travelers authorized by OFAC to travel to Cuba (including making reservations and issuing tickets for authorized travel; acting as a tour operator for authorized P2P tours as outlined herein; arranging hotel accommodations, ground transportation, and authorized local tours);
- To provide carrier services by vessel to, from, or within Cuba as a CSP, in connection with travel between the United States and Cuba of persons, baggage, or cargo authorized to go to Cuba (including, as of January 2016, provision under the general licenses of carrier services indirectly between the United States and Cuba with intermediate stops in third countries);
- To provide lodging aboard a vessel providing authorized carrier services to crew and to passengers engaged in activities authorized pursuant to the CACR during the period of time

when the vessel is traveling to, from, or within Cuba, including when docked at a port in Cuba;

- To reenter U.S. ports after visiting ports of call in Cuba for the purpose of engaging in authorized activities.

Prohibited Activities:

The CACR require in some instances that property of the Cuban government and certain Cuban parties listed on OFAC's Specially Designated National, or "SDN" list, be "blocked" or "frozen". Carnival is not authorized to transfer any blocked property, to debit any blocked account, or to enter any judgment or order that effects a transfer of blocked property, or the execution of any judgment against property blocked pursuant to any Executive Order, statute, the CACR, or any other economic sanctions program administered by OFAC.

In practice, this means that Carnival may not (i) enter into contracts or otherwise engage in transactions with the Cuban government or Cuban nationals, except to the extent that such transactions are directly incident to and required for the provision of the authorized TSP and CSP services; or (ii) enter into contracts or otherwise engage in transactions with any other entity or individual identified on the SDN List, which is available on-line at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>. See additional information in Carnival's OFAC Compliance Policy, a copy of which can be obtained from the Carnival Corporation Legal Department.

3.1.2 Who May Travel To Cuba?

Carnival may accept bookings for trips from the United States to Cuba from any of the following categories of authorized travelers who must be traveling from the United States:

- Any individual who is a citizen or permanent resident (“green card” holders) of the United States who was not born in Cuba (see below);
- Third-country (non-U.S., non-Cuban) nationals who will travel from the U.S. with a valid visa (regardless of type) or other travel authorization issued by the U.S. government (this includes foreign persons in the United States on tourist visas);

Bookings can be accepted from persons outside the United States provided that they will be traveling on a valid visa from the United States. See **Appendix 1** for guidance for the Booking Department.

Pursuant to existing Cuban policy, individuals who were born in Cuba, but no longer reside in Cuba, may not travel to Cuba via ship or other seafaring vessel. Therefore, Carnival cannot accept bookings for trips from any individual who was born in Cuba, but no longer resides in Cuba.

3.1.3 What Types of Travelers Can Carnival and Fathom Take to Cuba?

Carnival and Fathom **cannot** support or facilitate tourist trips to Cuba or take customer travelers to Cuba solely for tourist purposes.

Carnival and Fathom can support trips to Cuba where all customer travelers onboard the vessel are authorized under one of the twelve generally licensed categories of travel approved by OFAC. A list of these

twelve categories is provided below. Carnival and Fathom can also support trips to Cuba where customer travelers have obtained a specific license from OFAC for their travel. For any given trip, travelers aboard the vessel may be using one or more of the approved categories of travel—they do not have to all be traveling for the same purpose.

Carnival may take an entire trip to Cuba for purposes of participation in a P2P program offered either by Carnival or another sponsoring company subject to U.S. jurisdiction, or for purposes of “self-guided” P2P travel. Requirements for these types of trips are outlined herein as well.

For all trips, traveler affidavits must be obtained for all customers on an individual basis, not on a family or group basis. The requirement to have individual affidavits (also called “certifications”) is explicitly stated in the regulations, at 31 C.F.R. § 515.572(b). **It is of utmost importance that Carnival implement and enforce procedures to disseminate, collect and keep for at least 5 years individual customer traveler affidavits. Failure to do so would constitute a breach of the OFAC regulations.** Such a breach could result in the imposition of monetary penalties. The guidance for the Booking/Reservations Department at **Appendix 1** outlines requirements regarding obtaining traveler affidavits. It is important to provide affidavits to customers when they book trips to Cuba, so that passengers do not pay for and arrive for their travel and then state that they are unable to sign the affidavit. Each passenger must bring his or her signed affidavit with them when boarding the vessel, and these affidavits must be collected and main-

tained consistent with the recordkeeping requirements outlined in this Compliance Plan.

The Twelve Categories of Travel Authorized by OFAC under General Licenses in the CACR

- Family visits;
- Official business of the U.S. government, foreign governments, and certain intergovernmental organizations;
- Journalistic activity;
- Professional research and professional meetings;
- Educational activities, including P2P exchange programs;
- Religious activities;
- Public performances, clinics, workshops, athletic and other competitions, and exhibitions;
- Support for the Cuban people;
- Humanitarian projects;
- Activities of private foundations or research or educational institutes;
- Exportation, importation, or transmission of information or informational materials; and
- Certain export transactions that may be considered for authorization under existing Department of Commerce regulations and guidelines with respect to Cuba.

A copy of the traveler affidavit that must be obtained for travelers who wish to travel to Cuba under one (or more) of these categories is attached at **Appendix 2**.

Each passenger must **separately and individually** qualify for the type of activity listed in their affidavit. Under the Family visits general license, the family members may accompany individuals traveling under certain of the authorized travel categories, including:

- Official government business;
- Journalistic activity;
- Professional research;
- Educational activities;
- Religious activities;
- Humanitarian projects;
- Activities of private foundations or research or educational institutes.

However, individuals cannot assume that they are authorized to travel because a member of their family qualifies for authorized travel.

Example: If an athlete is traveling to Cuba pursuant to the general license for athletic competitions, he cannot take his wife with him unless she separately and on her own qualifies for one of the above listed general licenses or has a specific license.

Carnival/Fathom must provide travelers with copies of their Cuba Passenger Affidavit, once they have signed it, to maintain in their personal records for at least 5 years.

More detailed information regarding the categories of generally licensed travel outlined above are included at **Appendix 4**.

3.1.4 P2P Programs

P2P programs are permitted by a general license in the CACR, as long as activities are for the purpose of engaging, while in Cuba, in a full-time schedule of activities intended to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities.

Each traveler must have a full-time schedule of organized educational exchange activities that will result in meaningful interaction between the traveler and individuals in Cuba.

- Travelers cannot engage in tourist activities, but must follow the program of organized educational activities provided by either a U.S. Carnival/Fathom or other U.S. entity, or engage in educational exchange activities pursuant to a “self-guided” P2P program, as set forth below.
- The predominant portion of the activities engaged in by individual travelers cannot be with individuals or entities acting for or on behalf of a prohibited official of the Government of Cuba or a prohibited member of the Cuban Communist Party.
- Note that onboard activities while in port in Cuba do not qualify for part of the “full-time schedule of organized educational exchange activities”. A full-time schedule of onshore activities for all passengers must be provided while the vessel is in port in Cuba. While the vessel is at sea, whether in transit between ports of call in Cuba or between the U.S. and Cuba, onboard educational programming can be provided.

Passengers have two options for participating in qualifying P2P exchange programs: (i) participation in a “Fathom-Guided” group program fully arranged and sponsored by Fathom; or (ii) participation in a “self-guided” P2P program arranged individually by the passenger.

Fathom-Guided P2P Programs

Under the OFAC regulations, group P2P programs organized by a sponsoring organization or company must be conducted under the auspices of a person subject to U.S. jurisdiction. This means that either a U.S. Carnival/Fathom entity or entity owned or controlled by a U.S. Carnival/Fathom entity, or another U.S. entity (or entity owned or controlled by a U.S. entity) must sponsor the P2P exchanges to promote P2P contact to qualify under the CACR.

The sponsor can hire paid consultants, agents and contractors that are not subject to

U.S. jurisdiction to perform certain tasks. However, the sponsor would remain primarily liable to the U.S. Government.

In addition the following rules apply:

- An employee, paid consultant, or agent of the sponsoring organization (whether a U.S. Carnival/Fathom entity or otherwise) must accompany each group traveling to and within Cuba to ensure that each traveler has a full-time schedule of educational exchange activities.
- Carnival/Fathom must obtain from any travelers on a P2P Program a signed customer affidavit in the form attached hereto at **Appendix 2, PART 1.**

- If Carnival/Fathom engages another U.S. company to run the P2P Program for passengers traveling abroad Carnival/Fathom vessels, that other U.S. company must acknowledge and agree to the terms set forth in **Appendix 3**, which may form part of a broader contractual agreement with that entity.
- Carnival/Fathom must maintain records for at least 5 years demonstrating that the sponsored P2P Program complied with the requirement for a full-time schedule of authorized activities.

Carnival/Fathom must provide travelers with copies of their Cuba Passenger Affidavit, once they have signed it, to maintain in their personal records for at least 5 years.

“Self-Guided” P2P Travel

Passengers who wish to organize their own self-guided P2P exchange are authorized to do so pursuant to the same OFAC general license as P2P travel organized by a sponsoring organization. Such passengers still must arrange a full-time schedule of educational activities intended to enhance contact with the Cuban people, support civil society in Cuba or promote the Cuban people’s independence from Cuban authorities. Such self-guided passengers must maintain their own records demonstrating compliance with the full-time schedule requirement, and must provide Carnival/Fathom with a written affidavit in the form attached hereto at **Appendix 2, PART 2** as to their compliance with these requirements.

3.1.5 Specific Licenses

If a traveler is traveling to Cuba pursuant to a specific license issued by OFAC, the traveler must present a copy of the specific license to Carnival and fill out an affidavit in the form attached here at **Appendix 2**.

Carnival/Fathom must provide travelers with copies of their Cuba Passenger Affidavit, once they have signed it, to maintain in their personal records for at least 5 years.

3.1.6 What Marketing Activities Can Carnival and Fathom Engage in?

Carnival may engage in activities to market the travel on Fathom both inside as well as outside the United States (with the exception of Cuba). For any activities within Cuba, please contact the Legal Department before proceeding.

Marketing activities, whether in the U.S. or abroad, undertaken by Carnival or Fathom must be consistent with the conditions and limitations placed on the provision of Cuba travel and carrier services, as described in this Compliance Plan. As such, all marketing materials related to Cuba travel must highlight the following points:

- All customer travelers must be eligible for one of the twelve general licenses provided by OFAC that authorize travel to Cuba, or by a specific license issued by that agency. The scope of activities authorized under the twelve general licenses is explained in more detail below.
- The purpose of travel is to engage in a full-time schedule of OFAC authorized activities.

- The trips are from the United States to Cuba and back. All passengers must begin their trips to Cuba from the United States and must terminate in the United States. Fathom voyages may make intermediary stops in third-country locations between the United States and Cuba, but Fathom is not permitted to take on additional passengers any such locations.

See **Appendix 5** for guidance for the Marketing Department.

3.1.5 What Items Can Customer Passengers and Crew Take to Cuba and What Items Can be Brought Back from Cuba?

Going to Cuba

Individuals leaving the U.S. may export any of the following items for personal use of the individuals or members of their immediate families traveling with them. Travelers must bring back items exported under this authorization, unless they consume the items abroad:

- Personal effects: Usual and reasonable kinds and quantities for personal use of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, games, and similar personal effects, and their containers.
- Tools of trade: Usual and reasonable kinds and quantities of tools, instruments, or equipment and their containers and also technology for use in the trade, occupation, employment, vocation, or hobby of the traveler or members of the household who are traveling. This would include most commercially available cell phones,

smart phones, tablets and laptop computers with pre-loaded commercial software applications.

The items must be owned by the individuals transporting them as baggage, and the items must be intended for and appropriate for use by the individuals or their family members traveling with them and not intended for sale.

Motor vehicles may not be transported to Cuba.

Details of these requirements are set forth in the attached Cuba Passenger Affidavits.

Coming Back to the United States

Only the following items for personal use (not for commercial resale) may be brought back from Cuba:

- Travelers may purchase and bring back goods with a value not to exceed \$400 per person, and no more than \$100 of the merchandise can consist of alcohol or tobacco products.
- Informational materials of unlimited value, such as publications like books or magazines, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, CDs, certain artworks (such as paintings, drawings or pastels executed entirely by hand; engravings, prints or lithographs; sculptures or statuary) and news wire feeds.
- The authorized travelers' baggage that they took with them to Cuba and did not consume while abroad.
- There are also certain exceptions on value limitations for goods that have been produced by independent (non-government) Cuban entre-

preneurs (this must be proven by the traveler by taking a picture or obtaining a copy of the Cuban entrepreneur's license from the Cuban government to work as an independent entrepreneur, or documentable confirmation that the entity providing the goods is not owned by the Cuban government, which must be kept in the traveler's records):

- Animal and vegetable fats and oils;
- Prepared foodstuffs, beverages, spirits, vinegar and tobacco;
- Mineral products;
- Textiles and textile articles;
- Base metals and base metal articles;
- Electrical equipment.

Details of these requirements are set forth in the attached Cuba Passenger Affidavits.

APPENDIX 2

CARNIVAL/FATHOM - CUBA PASSENGER
AFFIDAVIT FOR TRAVEL TO CUBA

Instructions:

- Passengers who intend to participate fully in the Carnival/Fathom arranged people-to-people exchange program (the “Carnival/Fathom-Guided P2P Program”), and do not intend to rely on any other travel authorization to engage in any self-directed activities while in Cuba, must complete PART 1 of this Affidavit. You are NOT required to complete PART 2.
- Passengers who intend to rely on one of the other available travel authorizations to engage in alternative activities in Cuba, instead of or in addition to the Carnival/Fathom-Guided P2P Program, must complete PART 2. You are NOT required to complete PART 1.

PART 1: CARNIVAL/FATHOM-GUIDED P2P PROGRAM

I hereby acknowledge and understand that U.S. laws currently prohibit persons subject to U.S. jurisdiction from traveling to Cuba unless specifically licensed or otherwise authorized under “general licenses” set forth in the Cuban Assets Control Regulations (“CACR”), 31 C.F.R. Part 515, administered by of the U.S. Department of Treasury’s Office of Foreign Assets Control of the (“OFAC”). I further understand that, as a participant in Fathom Travel Ltd. cruises provided by Carnival Corporation & Carnival plc (“Carnival”), I am authorized to travel to Cuba pursuant to one or more “general licenses” set forth in the CACR, provided that I participate fully in

the planned people-to-people (“P2P”) educational exchange program arranged by Carnival and that I comply with all of the applicable regulatory requirements and restrictions. Accordingly, I acknowledge and/or agree to comply with the following conditions:

- I will participate in the full-time schedule of educational and people-to-people exchange activities arranged by Carnival.
- I am traveling for the purpose of participating in people-to-people and educational exchanges. An employee, paid consultant or agent of Carnival will accompany each group traveling to Cuba pursuant to an organized P2P exchange program during on-shore excursions to confirm that each traveler participates in a full-time schedule of educational exchange activities. The predominant portion of the activities of individual travelers will not involve individuals or entities acting for or on behalf of a prohibited official of the Government of Cuba, or a prohibited member of the Cuban Communist Party.
- The items I may carry with me to Cuba are limited to (1) usual and reasonable kinds and quantities of personal effects for personal use of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects, and their containers; and (2) usual and reasonable kinds and quantities of tools, instruments, or equipment and their containers appropriate for use by the traveler or members of the household who are traveling.
- I am permitted to acquire in Cuba and import as accompanied baggage into the United States

merchandise with a value not to exceed \$400 per person, provided that no more than \$100 of the merchandise consists of alcohol or tobacco products, and the merchandise is imported for personal use only (not for resale).

- I am required to keep a copy of records establishing my eligibility to travel to Cuba for at least 5 years.

I understand that I am required to abide by the policies and procedures of Carnival for purposes of this travel. I understand that failure to do so may result in personal liability under U.S. law, including the CACR, and I absolve Carnival from any claims or liability.

My signature below indicates my agreement with the above terms and conditions:

Name (please print)

Permanent Address:

Phone number

Passport number and country of issuance

Date of birth

Signature

Date

PART 2: ALTERNATIVE CATEGORIES AFFIDAVIT

I acknowledge and understand that U.S. law currently prohibits persons subject to U.S. jurisdiction from traveling to Cuba unless specifically licensed or otherwise authorized under “general licenses” set forth in the Cuban Assets Control Regulations (“CACR”), 31 C.F.R. Part 515, administered by the U.S. Department of Treasury’s Office of Foreign Assets Control (“OFAC”). All travelers, regardless of nationality or U.S. visa status, must comply with the CACR when traveling from the United States on travel with Carnival/Fathom (also “Carrier”). By signing my name at the bottom of this Affidavit, I declare that I fall under the category for licensed travel to Cuba that I have checked below, and that I will comply with statements below and all the applicable regulatory requirements and restrictions related to my travel to Cuba (all travelers must review and check the last box below).

1. P2P TRAVEL

☐ 515.565 (b). *People-to-People Exchange Arranged by a Sponsoring Organization*: I am traveling as part of an educational exchange (not a degree program) and my travel (1) takes place under the auspices of an organization that is a person subject to the U.S. jurisdiction and that sponsors such exchanges to Cuba to promote people-to-people contact; (2) the travel is for the purpose of engaging while in Cuba in a full time schedule (at least 8 hours a day) of activities intended to enhance contact with the Cuban people, support civil society, or promote the Cuban people’s independence from Cuban authorities, resulting in meaningful interaction with individuals in Cuba; (3) an employee, paid consultant or agent of the sponsoring organization is accompanying

the group to ensure that each traveler has a full time schedule of educational exchange activities; and (4) the predominant portion of activities to be engaged in will not be with individuals or entities acting for or on behalf of a prohibited member of the Government of Cuba or the Cuban communist Party as those terms are defined in the CACR; or

☐ 515.565(b). *Self-Guided People-to-People Exchange*: I am traveling on a “self-guided” people-to-people exchange program, and my travel (1) is for the purpose of engaging while in Cuba in a full time schedule (at least 8 hours a day) of activities intended to enhance contact with the Cuban people, support civil society, or promote the Cuban people’s independence from Cuban authorities, resulting in meaningful interaction with individuals in Cuba; (2) the predominant portion of activities to be engaged in will not be with individuals or entities acting for or on behalf of a prohibited member of the Government of Cuba or the Cuban communist Party as those terms are defined in the CACR; and (3) I will maintain records demonstrating my compliance with these requirements for a period of no less than five (5) years.

2. FAMILY VISITS

☐ 515.561. I am traveling either by myself or with persons who share a home as a family with me, for purposes of visiting a “close relative” in Cuba who is either a national of Cuba, a person ordinarily resident in Cuba, or located in Cuba, or for the purposes of accompanying a family member traveling to Cuba pursuant to the OFAC authorizations for official government business, journalistic activity, professional research, educational activities, religious activities, humanitarian projects, or activities of private

foundations or research or educational institutes. (The term “close relative” means any individual related by blood, marriage, or adoption who is no more than three generations removed from you or from a common ancestor. For example, your mother’s first cousin is your “close relative”, because you are both no more than three generations removed from your great-grandparents, who are the ancestors you have in common. Similarly, your husband’s great-grandson is your “close relative”, because he is no more than three generations removed from your husband. Your daughter’s father-in-law is not your “close relative”, because you have no common ancestor.)

3. OFFICIAL BUSINESS OF THE U.S. GOVERNMENT, FOREIGN GOVERNMENTS AND CERTAIN INTERGOVERNMENTAL ORGANIZATIONS

☐ 515.562. I am an employee, contractor or grantee of the U.S. government, a foreign government or any intergovernmental agency of which the United States is a member or holds observer status, and I am traveling on official business of my government or intergovernmental organization.

4. JOURNALISTIC ACTIVITIES

☐ 515.563. I am traveling to engage in journalistic activities and I am regularly employed as a journalist, supporting broadcast or technical personnel by a news reporting organization, or as a freelance journalist with a record of previous journalistic experience working on a freelance journalistic project, or as broadcast or technical personnel with a record of previous broadcast or technical experience who are supporting a freelance journalist. My sched-

ule of activities in Cuba will constitute of a full-time schedule (at least 8 hours a day) of journalistic activities that do not include free time or recreation in excess of that consistent with a full-time schedule.

5. PROFESSIONAL RESEARCH OR MEETINGS

□ 515.564(1). I am traveling to conduct research directly related to my profession, professional background, or area of expertise, including area of graduate-level full-time study. My professional research in Cuba will comprise a full-time schedule (at least 8 hours a day) and I will not engage in recreational travel, tourist travel, travel in pursuit of a hobby, or research for personal satisfaction only.

□ 515.564(2). I am traveling to attend or organize a professional meeting or conference directly related to my profession, professional background, or area of expertise, including area of graduate-level full-time study, or on behalf of an entity organizing a professional meeting or conference for which I am an employee or contractor. The purpose of the meeting or conference is not to promote tourism in Cuba. I will not engage in recreational travel, tourist travel, or travel in pursuit of a hobby, and my activities in Cuba will not include free time or recreation in excess of that consistent with a full-time schedule (at least 8 hours a day) of attendance or organization of the professional meeting or conference.

6. EDUCATIONAL ACTIVITIES

□ 515.565(a). I am a faculty member, staff person, or student of an academic institution, and my travel is incident to (1) participation in a structured educational program in Cuba as part of a course offered for by a U.S. graduate or undergraduate degree-

granting academic institution that is sponsoring the program, (2) noncommercial academic research in Cuba specifically related to Cuba and for the purpose of obtaining an undergraduate or graduate degree, (3) participation in a formal course of study at a Cuban academic institution, provided that you are a student in the United States and the formal course of study in Cuba will be accepted for credit toward your graduate or undergraduate degree, (4) teaching at a Cuban academic institution related to an academic program at the Cuban institution, provided that you are regularly employed by a U.S. or other non-Cuban academic institution, (5) educational exchanges sponsored by Cuban or U.S. secondary schools involving secondary school students' participation in a formal course of study or in a structured educational program offered by a secondary school or other academic institution and led by a teacher or other secondary school official (this includes participation by a reasonable number of adult chaperones to accompany the secondary school students to Cuba), (6) sponsorship or co-sponsorship of noncommercial academic seminars, conferences, and workshops related to Cuba or global issues involving Cuba and attendance at such events by faculty, staff, and students of a participating U.S. academic institution, (7) the organization of, and preparation for, activities described above by members of the faculty and staff of the sponsoring U.S. academic institution or secondary school. I am not traveling to Cuba to engage in activities that are primarily tourist-oriented, including self-directed educational activities that are intended only for personal enrichment.

7. RELIGIOUS ACTIVITIES IN CUBA

☐ 515.566. I am a person subject to U.S. jurisdiction, including religious organizations located in the U.S. and members and staff of such organizations, traveling to engage in a full-time schedule (at least 8 hours a day) of religious activities in Cuba and transactions directly incident to such religious activities.

8. PUBLIC PERFORMANCES, CLINICS, WORKSHOPS, ATHLETIC AND OTHER COMPETITIONS, AND EXHIBITIONS

☐ 515.567(a). I am authorized to travel to engage in activities directly incident to athletic competition by amateur or semi-professional athletes or athletic teams traveling to participate in athletic competition in Cuba or directly incident to organization of such competitions, where the athletic competition in Cuba is held under the auspices of the international sports federation for the relevant sport, the U.S. participants in the athletic competition are selected by the U.S. federation for the relevant sport, and the competition is open for attendance, and in relevant situations, participation, by the Cuban public.

☐ 515.567(b). I am authorized to travel to Cuba to engage in activities directly incident to participation in or organization of a public performance, clinic, workshop, athletic competition not covered by the preceding paragraph, non-athletic competition, or exhibition in Cuba, where the event is open for attendance, and in relevant situations participation, by the Cuban public.

9. SUPPORT FOR THE CUBAN PEOPLE

☐ 515.574. I am a person whose travel to Cuba is directly incident to activities for the support of the

Cuban people, and I am one of the following: (1) an employee of a recognized human rights organization, (2) an employee of an independent organization designed to promote a rapid, peaceful transition to democracy in Cuba, (3) an employee of a non-governmental organization that promotes independent activity intended to strengthen civil society in Cuba, or (4) an individual that promotes independent activity intended to strengthen civil society in Cuba. My activities in Cuba will not include free time or recreation in excess of that consistent with a full time schedule (at least 8 hours a day) of activity in support of the Cuban people.

10. HUMANITARIAN PROJECTS

□ 515.575. My travel is directly related to humanitarian projects designed to directly benefit the Cuban people that relates to one of the following: (1) medical and health-related projects, (2) construction projects intended to benefit legitimately independent civil society groups, (3) disaster preparedness, relief, and response, (4) environmental projects, (5) projects involving formal or non-formal educational training on the following topics: entrepreneurship and business, civil education, journalism, advocacy and organizing, adult literacy, or vocational skills, (6) community-based grassroots projects, (7) projects suitable to the development of small-scale private enterprise, (8) projects that are related to agricultural and rural development that promote independent activity, (9) microfinancing projects, except for loans, extensions of credit, or other financing related to confiscated property in Cuba the claim to which is owned by a United States national, or 10) projects to meet basic human needs. My activities in Cuba will not include free time or

recreation in excess of that consistent with a full time schedule (at least 8 hours a day) of humanitarian activities designed to directly benefit the Cuban people.

11. ACTIVITIES OF PRIVATE FOUNDATIONS
OR RESEARCH OR EDUCATIONAL INSTI-
TUTES

□ 515.576. I am employed by a private foundation or research or education institute with an established interest in international relations and I am traveling to collect information related to Cuba for non-commercial purposes. My schedule of activities in Cuba will not include free time or recreation in excess of that consistent with a full time schedule (at least 8 hours a day) of activity for the private foundation or research or educational institute of which I am an employee or member.

12. TRANSACTIONS RELATED TO INFORM-
ATION OR INFORMATIONAL MATERIALS

□ 515.545(b)(1). I am authorized to travel for activities directly incident to the exportation, importation or transmission of information or informational materials, which are defined as publications like books or magazines, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, CDs, certain artworks (such as paintings, drawings or pastels executed entirely by hand, engravings, prints or lithographs, sculptures or statuary) and news wire feeds. My schedule of activities in Cuba will not include free time or recreation in excess of that consistent with a full time schedule (at least 8 hours a day) of activities related to the exportation, importation or transmission of information or informational materials.

□ 515.545(b)(2). I am authorized to travel for activities directly incident to professional media or artistic productions of information or informational materials for exportation, importation, or transmission, including the filming or production of media programs (such as movies or television programs), the recording of music, and the creation of artworks in Cuba, and I am regularly employed in or have demonstrated professional experience in a field relevant to such professional media or artistic productions. My schedule of activities in Cuba will not include free time or recreation in excess of that consistent with a full time schedule (at least 8 hours a day) of activities related to professional media or artistic productions.

13. CERTAIN AUTHORIZED EXPORTS

□ 515.533(d). I am authorized to travel to conduct market research, commercial marketing, sales or contract negotiation, accompanied delivery, installation, leasing, or servicing in Cuba of items consistent with the export or reexport licensing policy of the Department of Commerce. My schedule of activities in Cuba will not include free time or recreation in excess of that consistent with a full time schedule (at least 8 hours a day) of such market research, commercial marketing, sales negotiation, accompanied delivery, or servicing activities.

○ In addition to signing this affidavit, I will provide Carnival a copy of my license from the U.S. Department of Commerce authorizing the export of the relevant items to Cuba, or a copy of the regulatory citation in the Export Administration Regulations that demonstrates that the U.S. Department of Commerce will likely approve my request for a license to export the relevant items to Cuba.

14. SPECIFIC LICENSE

☐ I hereby certify and attest that I am authorized to travel to Cuba pursuant specific license number _____ issued by OFAC and valid until _____. A copy of my specific license is attached hereto.

☐ **ALL TRAVELERS MUST CHECK THIS BOX CONFIRMING THEIR AGREEMENT WITH THESE STATEMENTS**

The items I may carry with me to Cuba are limited to the following personally owned items (1) usual and reasonable kinds and quantities of personal effects for personal use of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, games, and similar personal effects, and their containers; and (2) usual and reasonable kinds and quantities of tools, instruments, or equipment and their containers appropriate for use by the traveler. These items must be intended for and appropriate for my use on this trip, and not for sale in Cuba. I must bring these items back with me from Cuba unless I consume them abroad.

I am permitted to acquire in Cuba for personal use (not for resale), and import as accompanied baggage into the United States, only the items authorized under the CACR, including:

- Goods with a value not to exceed \$400 per person, and no more than \$100 of the merchandise can consist of alcohol or tobacco products.
- Informational materials of unlimited value, such as publications like books or magazines, films, posters, phonograph records, photo-

graphs, microfilms, microfiche, tapes, CDs, certain artworks (such as paintings, drawings or pastels executed entirely by hand; engravings, prints or lithographs; sculptures or statuary) and news wire feeds.

- My baggage that I took with me to Cuba and did not consume while abroad.

I am required to keep a copy of records establishing my eligibility to travel to Cuba and bring the above listed items back, for at least 5 years.

I understand that my bank and/or credit card companies may restrict my ability to conduct transactions while in Cuba, and I will comply with any applicable rules regarding my financial activities while in Cuba.

I understand that I am required to abide by U.S. law as well as the policies and procedures of Carnival for purposes of this travel. I agree to comply with all requirements of U.S. law and regulations and all Carrier instructions with respect to this Cruise, including the specific limitations, restrictions and conditions on activities applicable to Travelers traveling from the United States to Cuba, regardless of nationality. I understand that failure to do so may result in personal liability under U.S. law, including the CACR, and I absolve Carnival from any claims or liability.

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Name (please print)

Permanent Address:

Phone number

Passport number and country of issuance

Date of birth

Signature

Date

APPENDIX 4

DETAILED INFORMATION REGARDING
CATEGORIES OF TRAVEL

1. Family Visits

Traveler is traveling to Cuba either alone or with persons who share a common dwelling as a family with the traveler, for purposes visiting a “close relative” (as that term is defined in this affidavit) of one of the persons in their group, and that “close relative” is either a national of Cuba, a person ordinarily resident in Cuba, or located in Cuba, or for purposes of accompanying a family member traveling to Cuba pursuant to the OFAC authorizations for official government business, journalistic activity, professional research, educational activities, religious activities, humanitarian projects, or activities of private foundations or research or educational institutes.

The term “close relative” means any individual related to you by blood, marriage, or adoption who is no more than three generations removed from you or from a common ancestor. For example, your mother’s first cousin is your “close relative”, because you are both no more than three generations removed from your great-grandparents, who are the ancestors you have in common. Similarly, your husband’s great-grandson is your “close relative”, because he is no more than three generations removed from your husband. Your daughter’s father-in-law is not your “close relative”, because you have no common ancestor.

2. Official Business of the U.S. government, foreign governments and certain intergovernmental organizations

Traveler is an employee, contractor or grantee of the U.S. government, a foreign government or any intergovernmental agency of which the United States is a member or holds observer status, and is traveling on the official business of the U.S. or a foreign government, or a qualifying intergovernmental organization.

3. Journalistic Activity

Traveler is regularly employed as a journalist by a news reporting organization, or as supporting broadcast or technical personnel, or as a freelance journalist with a record of previous journalistic experience working on a freelance journalistic project, or as broadcast or technical personnel with a record of previous broadcast or technical experience who are supporting a freelance journalist working on a freelance journalistic project.

Traveler's schedule of activities in Cuba will constitute a full-time schedule (at least 8 hours a day) of journalistic activities that do not include free time or recreation in excess of that consistent with a full time schedule of activities.

4. Professional Research and Professional Meetings

The purpose of the research or meetings which the traveler is participating in or organizing in Cuba directly relates to traveler's profession, professional background, or area of expertise, including area of graduate-level full-time study, or the traveler is an

employee or contractor of an entity that is organizing the professional meeting or conference.

The purpose of the research or meetings in Cuba is **not** to promote tourism in Cuba.

Traveler will not engage in recreational travel, tourist travel, travel in pursuit of a hobby, or research for personal satisfaction only.

Traveler's activities in Cuba will not include free time or recreation in excess of that consistent with a full-time schedule (at least 8 hours a day) of professional research and/or professional meetings.

5. Educational Activities

Traveler is authorized to travel to Cuba for one of the following types of educational activity:

- a. Participation in a structured educational program in Cuba as part of a course offered for credit by a U.S. graduate or undergraduate degree-granting academic institution that is sponsoring the program
- b. Noncommercial academic research in Cuba specifically related to Cuba and for the purpose of obtaining an undergraduate or graduate degree
- c. Participation in a formal course of study at a Cuban academic institution, provided that you are a student in the United States and the formal course of study in Cuba will be accepted for credit toward your graduate or undergraduate degree
- d. Teaching at a Cuban academic institution related to an academic program at the Cuban institution, provided that you are regularly

employed by a U.S. or other non-Cuban academic institution

- e. Educational exchanges sponsored by Cuban or U.S. secondary schools involving secondary school students' participation in a formal course of study or in a structured educational program offered by a secondary school or other academic institution and led by a teacher or other secondary school official (this includes participation by a reasonable number of adult chaperones to accompany the secondary school students to Cuba)
- f. Sponsorship or co-sponsorship of noncommercial academic seminars, conferences, and workshops related to Cuba or global issues involving Cuba and attendance at such events by faculty, staff, and students of a participating U.S. academic institution
- g. The organization of, and preparation for, activities described in the bullets above by members of the faculty and staff of the sponsoring U.S. academic institution or secondary school

Traveler is **not** traveling to Cuba to engage in activities that are primarily tourist-oriented, including self-directed educational activities that are intended only for personal enrichment.

6. Religious Activities

Traveler is traveling to Cuba to engage in religious activities in Cuba and transactions directly incident to such religious activities.

Traveler will engage in a full-time schedule (at least 8 hours a day) of religious activity in Cuba.

7. Public Performances, Clinics, Workshops, Athletic and Other Competitions, and Exhibitions

Traveler is authorized to travel to Cuba for participation in or organization of public performances, clinics, workshops, athletic and other competitions, and exhibitions, as follows:

- a. Athletic competition by amateur or semi-professional athletes or athletic teams traveling to participate in athletic competition in Cuba, or organization of such competitions, where the athletic competition in Cuba is held under the auspices of the international sports federation for the relevant sport, the U.S. participants in the athletic competition are selected by the U.S. federation for the relevant sport, and the competition is open for attendance, and in relevant situations, participation, by the Cuban public.
 - b. Participation in or organization of a public performance, clinic, workshop, athletic competition not covered by the preceding bullet, non-athletic competition, or exhibition in Cuba, where the event is open for attendance, and in relevant situations participation, by the Cuban public.
8. Support for the Cuban People Traveler is one of the following:
- a. An employee of a recognized human rights organization
 - b. An employee of an independent organization designed to promote a rapid, peaceful transition to democracy in Cuba

- c. An employee of a non-governmental organization that promotes independent activity intended to strengthen civil society in Cuba
- d. An individual that promotes independent activity intended to strengthen civil society in Cuba

Traveler's schedule of activities in Cuba does not include free time or recreation in excess of that consistent with a full time schedule (at least 8 hours a day) of activity in support of the Cuban people.

9. Humanitarian Projects

Traveler is authorized to travel to Cuba for humanitarian projects designed to directly benefit the Cuban people.

Traveler's activities in Cuba will not include free time or recreation in excess of that consistent with a full-time schedule (at least 8 hours a day) of humanitarian activities designed to directly benefit the Cuban people.

The activity traveler will engage in in Cuba relates to one of the following:

- a. Medical and health-related projects
- b. Construction projects intended to benefit legitimately independent civil society groups
- c. Disaster preparedness, relief, and response
- d. Environmental projects
- e. Projects involving formal or non-formal educational training on the following topics: entrepreneurship and business, civil education, journalism, advocacy and organizing, adult literacy, or vocational skills

- f. Community-based grassroots projects
 - g. Projects suitable to the development of small-scale private enterprise
 - h. Projects that are related to agricultural and rural development that promote independent activity
 - i. Microfinancing projects, except for loans, extensions of credit, or other financing related to confiscated property in Cuba the claim to which is owned by a United States national
 - j. Projects to meet basic human needs.
10. Activities of Private Foundations or Research or Educational Institutes

Traveler is employed by a private foundation or research or educational institute with an established interest in international relations and they are traveling to Cuba to collect information related to Cuba for noncommercial purposes.

Traveler's schedule of activities will not include free time or recreation in excess of that consistent with a full-time schedule (at least 8 hours a day) of activity for the private foundation or research or educational institute of which they are an employee or member.

11. Exportation, Importation or Transmission of Information or Informational Materials

Traveler is authorized to travel to Cuba for activities related to the exportation, importation, or transmission of information or informational materials, which are defined as publications like books or magazines, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, CDs, certain artworks (such as paintings, drawings or pastels

executed entirely by hand, engravings, prints or lithographs, sculptures or statuary) and news wire feeds, or for activities related to professional media or artistic productions of information or informational materials for exportation, importation, or transmission, including the filming or production of media programs (such as movies or television program), the recording of music, and the creation of artworks in Cuba.

If traveling to Cuba for activities related to professional media or artistic productions, traveler is regularly employed in or has demonstrated professional experience in a field relevant to such professional media or artistic productions.

Traveler's schedule of activities in Cuba does not include free time or recreation in excess of that consistent with a full-time schedule (at least 8 hours a day) of transactions related to the exportation, importation, or transmission of information or informational materials.

12. Exports to Cuba of Items Authorized or Able to be Authorized by the U.S. Commerce Department

Traveler is authorized to travel to Cuba for travel directly incident to the conduct of market research, commercial marketing, sales or contract negotiation, accompanied delivery, installation, leasing, or servicing in Cuba of items consistent with the export or reexport licensing policy of the Department of Commerce.

Traveler's schedule of activities in Cuba will not include free time or recreation in excess of that consistent with a full-time schedule (at least 8 hours a day) of market research, commercial marketing,

sales or contract negotiation, accompanied delivery, installation, leasing, or servicing activities.

Traveler will provide to Carnival a copy of their license from the U.S. Department of Commerce authorizing the export of the relevant items to Cuba, or a copy of the regulatory citation in the Export Administration Regulations that demonstrates that the U.S. Department of Commerce will likely approve their request for a license to export the relevant items to Cuba.

13. P2P Programs

The people-to-people exchanges in Cuba will take place under the auspices of an entity subject to U.S. jurisdiction that sponsors such exchanges to promote people-to-people contact, or may be “self-guided” by the travelers themselves, who will be responsible for arranging a full-time schedule of educational activities and maintaining their own records demonstrating compliance with this requirement.

The purpose of the travel is engaging, while in Cuba, in a full-time schedule of activities intended to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people’s independence from Cuban authorities.

Activities in Cuba will constitute a full-time schedule (at least 8 hours a day) of educational exchange activities that will result in meaningful interaction between the traveler and individuals in Cuba.

An employee, paid consultant, or agent of sponsoring organization will accompany travelers participating in an organized people-to-people trip to ensure a full-time schedule of educational exchange activities.

The predominant portion of the activities engaged in will not be with individuals or entities acting for or on behalf of a prohibited official of the government of Cuba or a prohibited member of the Cuban Communist Party.

Transactions related to activities in Cuba that are primarily tourist-oriented, including self-directed educational activities that are intended only for personal enrichment, are not authorized by the U.S. government.

HAVANA INFORMATION

Arrival: 11:30AM on Friday

Back on board time: 11:30AM on Saturday

Please read the information below to make your debarkation experience in Havana simple and smooth!

GUESTS WITH CARNIVAL SHORE EXCURSIONS:

Meeting times and location are printed on your Carnival Adventures tickets; please read carefully. Our team will lead groups to the terminal tour departure area.

GUESTS GOING ASHORE INDEPENDENTLY TO DO A SELF-GUIDED PEOPLE 2 PEOPLE EXPERIENCE:

All guests not participating in a Carnival Adventure excursion who wish to go ashore independently, will need to collect a numbered sticker from 10:00AM to 1:00PM on Promenade Deck 9, Midship.

As soon as we receive clearance to go ashore, guests on Carnival Adventure tours will disembark first. Shortly after, announcements will be made for guests with numbered stickers to proceed ashore accordingly. Please proceed only when your number is announced, to ensure a safe and efficient process.

IMMIGRATION & CUSTOMS

Upon entering the cruise terminal, all guests will need to go through an Immigration and Customs inspection. Immigration officers will collect your visa, stamp your passport and take your picture (please do not smile or they will ask to retake your picture).

All guests (including minors) *must* bring the following items ashore:

- Passport
- Cuban Visa
- Sail & Sign® card

Note: For your awareness, while being processed through immigration, there are infra-red cameras located at each immigration area that will check each guest's temperature. If you have a temperature higher than 98.96 Fahrenheit, you will receive additional screening by medical professionals on-site.

Additionally, upon your return to the ship, all guests will need to go through Immigration and Customs again before boarding the ship. You will need to present your passport once more. If a guest loses their visa before debarking, they will need to purchase a new visa onboard at an additional cost of \$75.

All of the above applies should you wish to go ashore in the evening again and on Day 2 in Havana. Since your visa will be taken on Day 1, you will only need to show the stamp in your passport.

LOCAL CURRENCY IN CUBA:

You will also have the opportunity to exchange US dollars to Cuban currency before exiting the terminal. There are two types of currencies in Cuba: CUC (Cuban Convertible Peso) and CUP (Cuban Peso). The CUC is the currency used by tourists. We do not carry CUCs on board, but you may exchange money to CUCs at the terminal in Havana, as well as in hotels, banks, nearby arts and crafts market and exchange offices for a fee. Please bear in mind US

credit/debit cards are not accepted in Cuba and ATMs for US banks are not available.

For exchange purposes, you can usually expect to receive 87 Cuban Cucs for \$100 (this includes taxes and fees). To expedite the currency exchange process at the CADECAs (Currency exchange kiosk) in the terminal, it is recommended you be prepared to exchange in multiples of \$50. Please remember to exchange any leftover currency back to US dollars when you return to the terminal.

Currency exchange booths will be open from 8:00am to 8:00pm daily. You should allow ample time for currency exchange in the terminal. Alternatively, a currency exchange kiosk is also available in the Market near the terminal.

AGRICULTURE

Due to local laws, no fruits, vegetables or food may be taken off the ship.

WATER

We encourage you to bring bottled water with you ashore. Water will be available for sale on deck.

SHOPPING

While there is no limit on the value of the goods that may be brought back from Cuba for personal use, goods brought back to the US are subject to the normal customs value limits on duty and tax exemptions for imported merchandise. Any liquor purchases ashore will be collected at the gangway upon boarding and returned to you on the last night of the cruise.

PEOPLE-TO-PEOPLE US TRAVEL REQUIREMENT

All guests must participate in a people-to-people program on each day in Cuba. These programs must include a full-time schedule of activities that will create educational interactions between guests and the Cuban people. All daytime Carnival Adventure excursions fulfill this requirement. Alternatively guests may opt to participate in a self-guided program. However, such self-guided guests must still have a full-time schedule on both port days of meaningful interaction between the traveler and the local people of Cuba, and cannot be primarily tourist-oriented. Guests must maintain their own records demonstrating such a full-time schedule.

MEDICAL INSURANCE

Cuban Health Insurance is included in your cruise's taxes, fees and port expenses. In the event you require medical assistance while ashore, please present your ship Sail & Sign® card as proof of insurance. You should not pay for medical services as the cost of medical care is covered by this insurance. If you are asked for payment, please request the clinic to contact Asistur, the insurance provider.

In case of an accident or health care assistance while ashore, request to be taken directly to Clinica Cira Garcia.

Asistur emergency line: +53 5 2803563

WHEELCHAIRS

Accessibility in Cuba is limited due to a lack of adequate infrastructure. While accessible facilities (such as hotels) may exist, these facilities may not be comparable to accessible facilities found in the US.

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Guests using wheelchairs may be limited to ground floor facilities, as there are often no elevators to access upper levels and many roads and sidewalks are made of cobblestone and uneven pavements.

EMERGENCY CONTACT INFORMATION

Address: Servimar Shipping Agency - Havana
 Paula No. 4 Cuba

Telephone: +53 52 63 02 88

Alternate Ship contact number: +53 5 5395299

KEEP THIS FLYER WITH YOU!

Have this flyer handy for meeting locations, times, and for emergency contact information located above.

(Comp Ex., HD_0371277-278; HD_0424501-504;
HD_0358028; HD_0390822; HD_0424410; HD_0345558)

Fathom
IMPACT+TRAVEL

Cuba- A Meeting of People and Cultures

Important Details Regarding Your Program - Please
Be Sure To Review

Cruise Check-In and Embarkation Information:

Port Information:

Cruise Port of Miami- Terminal J

1120 Caribbean Way

[Click here for more info](#)

Terminal doors will open at approximately 10:30am.
Check-in will commence at 11:00p m. Check-in ends
promptly at 2: pm Those arriving later may not be
able to board. (These times have been moved forward
an hour to give a it more time in Havana. If this
causes travel issues, please call customer service.)

Passport & Visa Information

If you are holding a passport other than a U.S.
passport, please check with the respective consulates
as to the most current visa requirements. [http://
travel.state.gov/content/passports/en/country/cuba.ht
ml](http://travel.state.gov/content/passports/en/country/cuba.html)

For non-Cuban born travelers who participate in
Fathom-guided or individually led educational act-
ivities, the only document you need to bring is your
passport and we will coordinate the rest. The
following documentation is needed for travel to Cuba:

- A valid U.S. passport expiring no less than 6
months from your scheduled departure date

- A completed U.S. Travel Affidavit — If completed electronically it is recommended that you print and bring a copy with you. Please be sure to complete your affidavit prior to check-in in Miami. If you have not yet received this form via email please contact our customer service team at 1855-932-8466.
- Cuban-issued Tourist Visa — This will be provided to you by Fathom on day of sailing.
- Cuban Medical Insurance — This has been coordinated for you through Fathom and is included in the cost of your cruise.
- A copy of Fathom's itinerary for Fathom-Guided People to People (P2P) programs— This will be provided to you by Fathom. Please note you will need to retain a copy of this for at least five years if you participate in the Fathom-Guided P2P programs.

If you are a Cuban-born traveler or you intend to travel under a separate authorized activity (e.g. press, business meetings or family visit) you will need additional passport/visa documentation. For more information please see our or contact our customer service team at 1-855-932-8466.

TRIP ACTIVITIES

Q: Can guests go as tourists to Cuba?

A: Travel to Cuba for tourist activities is not allowed. Examples of activities that are not permitted in Cuba include purely recreational activities, tourist activities, travel in pursuit of a hobby, or research for personal satisfaction only.

Q: How do the people-to-people programs work?

A: People-to-people programs are a permitted category for U.S. guests to visit Cuba. These programs must include a full-time schedule of activities that will create educational interactions between guests and the Cuban people. Activities can include shore excursions offered by Carnival and/or guests can opt to participate in a self-guided program. However, such self-guided guests must still have a full-time schedule of authorized activities and must maintain their own records demonstrating such a full-time schedule.

Q: Does Carnival offer shore excursions that comply with one of the 12 general licenses?

A: Carnival will offer optional shore excursion programs that will fully comply with all the requirements for people-to-people programs. In planning activities ashore, guests should keep in mind that people-to-people activities must be fulfilled before guests can engage in free time. Evening shore excursions offered by Carnival do not comply with the people-to-people guidelines and cannot be considered to be part of the required full schedule of activities.

Q: How much free time is there?

A: After completion of a full-time schedule of people-to-people activities, guests are free to explore as they wish.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 19-cv-21724-Bloom/McAliley

HAVANA DOCKS CORPORATION
v.
CARNIVAL CORPORATION d/b/a CARNIVAL CRUISE LINE,
a foreign corporation

Case No. 1:19-cv-23588-BLOOM/Louis

HAVANA DOCKS CORPORATION
v.
MSC CRUISES (USA) INC., MSC CRUISES SA CO.,
and MSC CRUISES S.A.

Case No. 19-cv-23590-BLOOM/Louis

HAVANA DOCKS CORPORATION
v.
ROYAL CARIBBEAN CRUISES LTD.

Case No. 19-cv-23591-BLOOM/Louis

HAVANA DOCKS CORPORATION
v.
NORWEGIAN CRUISE LINE HOLDINGS LTD.

EXPERT REPORT OF AMBAR DIAZ, ESQ.
ASSIGNMENT

I have prepared this report at the request of Counsel for the Defendants: Carnival Corporation; Royal Caribbean Cruises Ltd.; MSC Cruises (USA) Inc.; MSC Cruises Sa Co.; MSC Cruises S.A.; and Norwegian Cruise Line Holdings Ltd. I have been asked:

- I. To review the concession (“Concession”) held by the Havana Docks Corporation (“Havana Docks”) related to the construction of three piers in the port of Havana, (hereinafter “Piers¹”) and to opine on what rights the Concession provides under the laws of Cuba.
- II. I have also been asked to opine on Cuban laws and regulations applicable to ports in Cuba that were in effect during 2015 to the present. Specifically, I have been asked to opine on the effect of these administrative laws and regulations with respect to requirements for the mooring of cruise ships in the Port of Havana.

QUALIFICATIONS

I hold a law degree from University of Havana, where I graduated with honors in 1993. I practiced law in Cuba with emphasis on maritime and insurance law until I immigrated to the United States in March 2000.

¹ These three piers were originally named from North to South: San Francisco, Machina and Santa Clara. *See* Exhibit 1, *see also* Map of Piers circa 1970 (source CU-2492, p. 387). The San Francisco pier is currently in operation and known in Cuba as the Sierra Maestra Terminal and will be referred to in this report interchangeably as the San Francisco pier or “Cruise Terminal” in Section II.

From 1995 through 2000, I worked as an in-house attorney for the marine division of the Cuban national insurance company, ESICUBA, S.A. In the course of my responsibilities there, I became familiar with the port of Havana and dealt with the regulations pertaining to the port and maritime operations. During my time there, I handled protection and indemnity claims for various cargo fleets. I also handled third party liability claims on behalf of port terminals and freight forwarders and provided advice on loss prevention matters in the maritime industry as well as on the implementation of the International Safety Management Code.

In Cuba, both during law school and in practice, I was required to review and analyze the laws applicable to navigation and mooring in Cuban waters, and, in particular, the port of Havana. I have developed a deep familiarity with these laws and regulations that are pertinent to the subject matter of this opinion.

Following my arrival in the United States, I obtained a Juris Doctor degree at the University of Miami, School of Law, where I also graduated with honors, in 2003. During law school I clerked for the admiralty/maritime law firm Hayden & Milliken, P.A. I have practiced law in the United States since 2003, first with the admiralty/maritime law firm Houck, Hamilton & Anderson, P.A., and thereafter at my own law firm.

Since 2003, my law practice has centered on around assisting U.S. companies enter the Cuban market and advising them about the lawful activities permitted under the laws of the United States with respect to dealings with Cuba. I also advise clients on Cuban law and regularly provide legal opinions on different topics of Cuban law, including but not limited to corporate,

real estate, maritime, probate, and immigration law. I also assist with registering trademarks, organizing humanitarian projects, and entering into agreements with Cuban counterparts, among others, within the boundaries of what U.S. laws permit.

For the past three years, Chambers & Partners has recognized me as one of the few U.S. attorneys who specializes in Cuban law. I am also often invited to speak on Cuban topics in specialized forums like the Juncadella Corporate Counsel Group and the Conference of the Americas for the Florida Customs Brokers & Forwarders Association, Inc. Accordingly, keeping up to date with Cuban law is an integral part of my practice.

In the course of my work, I have been to the Cruise Terminal at the port of Havana. Therefore, I am familiar with the premises and the current layout of the terminal, and I am familiar with the requirements and procedures required for a cruise line to call that port.

My current hourly rate is \$350. My compensation is not contingent on the analysis and opinions offered, nor on the outcome of this litigation.

PREAMBLE

This report is separated into two sections. Section I describes and analyzes the decrees spanning from 1905-1934 that form and modify the Concession as well as certain Cuban laws, including the Law of Ports (*Ley de Puertos*) of 1890 and the General Law of Public Works (*Ley de Obras Publicas*) of 1883 that were incorporated into and govern the Concession.

Section II describes the current legal system in place in Cuba applicable to ships calling on ports in the island.

SECTION I

THE CONCESSION GRANTED BY THE GOVERNMENT OF CUBA TO HAVANA DOCKS CORPORATION

SUMMARY OF OPINIONS

I have been asked to opine on the Concession held by Havana Docks related to the construction of the Piers and to opine on what rights the Concession provided under the laws of Cuba. Havana Docks' rights with regard to the port related exclusively to cargo operations. This right had nothing to do with the Cuban government's rights to allow passenger ships to moor at the Piers for the transportation of passengers. The Cuban government reserved all rights related to passengers without limitation.

These rights held and reserved by the Cuban government regarding passengers existed prior to 1905 to the present regardless of the political party in control of the government. Based on my knowledge of the applicable laws and regulations, and my review of the documents and laws relevant to the administrative Concession, it is my expert opinion that:

- 1) Before the Concession, during the Concession and thereafter the Cuban government (also referred to herein as the "State") has owned the Piers.²
- 2) Before the Concession, during the Concession and thereafter the Cuban government has controlled port operations, supervised the work performed

² Exhibit 2, Law of Ports, Arts. 1, 2 and 4.

and as a sovereign authority controlled who could use the Piers.³

- 3) The Concession provided to Havana Docks a non-exclusive right to operate a cargo loading and unloading business on the Piers. The State granted Havana Docks this non-exclusive right for the benefit of the public subject to the laws of Cuba for administrative Concessions which include: Presidential Decrees, the Law of Ports and the Law of Public Works.⁴
- 4) Havana Docks was not granted any rights in connection with operating a passenger terminal and had no right to control or restrict the right of the public, including a cruise line, to use the Piers to embark and disembark passengers.⁵
- 5) Havana Docks did not have a monopoly to provide services at the Piers. Thus, the government could allow other entities to provide similar services and there was no legal obligation for third parties who used the Piers to use Havana Docks' services.⁶
- 6) If the Concession were still in effect today, cruise lines and other vessel owners could use the Piers without any legal obligation to contract with or use the services of Havana Docks.⁷

³ Exhibit 3 (*in globo*), Decree 467 of 1905, Arts. 28 and 29. See also Exhibit 2, Law on Ports, Arts. 1.2, 18 and 21.

⁴ Decree 467, Art. 2.

⁵ Law of Ports, Arts. 12, 48.

⁶ Law of Ports, Art. 44.

⁷ Law of Ports, Arts. 12, 44, 48.

- 7) Pursuant to Cuban law, the Cuban government had the unilateral right to terminate the Concession at any time.⁸
- 8) The Cuban government originally granted the Concession in 1905 for a fixed term of fifty years.⁹ The Cuban government later extended the term to ninety-nine years.¹⁰ Pursuant to Cuban law and the terms of the Concession itself, the expiration date of the Concession was 2004.¹¹
- 9) By the very terms of the Presidential Decree that granted the Concession and the Law of Ports, Havana Docks was on notice that in the event of an expropriation of the Concession by the government of Cuba, the only party from whom it could recover compensation was the Cuban government and the maximum compensation to which it could be entitled was capped by the value of the construction work performed.¹²

I. THE HAVANA DOCKS CONCESSION

A. Background on Administrative Concessions

The Havana Docks Concession, including its subsequent amendments, was a public works' project.¹³ Pursuant to the law in force in Cuba between 1904 and

⁸ Exhibit 4, General Law of Public Works, Art. 67.

⁹ Decree 467 of 1905, Art. 2.

¹⁰ Decree 467 of 1905, Art. 2 and Ex. 3 (*in globo*), Decree 1944 of 1920, Art. 2.

¹¹ Law of Public Works, Art. 54 limits as a matter of law the term of these concessions to a maximum of ninety-nine years.

¹² Decree 467 of 1905, Articles 6-8, citing Article 50 of the Law of Ports.

¹³ Decree 467 of 1905, Visto and Resultando 1.

1960, the State had the duties of organizing, providing for, and supervising public services, and therefore the necessary powers to discharge those duties.¹⁴ Public works projects (concessions) were characterized by State ownership, public interest, State rights and with the purpose to benefit the public. Public services included the construction, management, and operation of ports and of the port's infrastructure under the supervision and regulatory powers of the State.¹⁵ By law, all ports were the property of the State.¹⁶ By law, the port of Havana was a port of general interest of first class given the quality and convenience of its facilities and warehouses, the high volume of international trade taking place at it, and the connection of the port to the domestic business and transportation networks.¹⁷

Havana Docks and its predecessors were administrative concessionaires of public works and public port services.¹⁸ The administrative concession was a hybrid legal institution that combined public and private law, statutory and contractual provisions, and public interests.¹⁹ The concession created obligations

¹⁴ Law of Ports, Arts. 18-35.

¹⁵ Law of Ports, Arts. 21-24.

¹⁶ Law of Ports, Arts. 1, 2, 13.

¹⁷ Law of Ports, Arts. 15-16.

¹⁸ Law of Ports, Arts. 28; Decree 467; Ex. 3 (*in globo*), Decree 184 of March 13, 1911, Ex. 3 (*in globo*), Decree 2424 of September 7, 1934.

¹⁹ Exhibit 5 (*in globo*), [Tribunal Supremo de Justicia, Sala Civil y Contencioso-Administrativa], El Banco Español de la Isla de Cuba contra Resolución de la Secretaria de Hacienda. Sentencia núm. 2 (Febrero 28 de 1902), 188, 204; [Pleno del Tribunal Supremo de Justicia], Materia de inconstitucionalidad. Sentencia No. 36 de 1913.- 30 de Septiembre de 1913. [Sanitary Dungcart

between the State and the private entity or concessionaire where the former authorized the construction of public works on port infrastructure for the discharge of public services and the latter, as a contractor, assumed the costs of carrying out those works and providing the services.²⁰ In compensation for the construction expenses, the State authorized the concessionaire to make profits according to a State-approved fee schedule.²¹ Notwithstanding the rules and elements of private law, private interests, and stipulations present in this legal institution, the rules, principles and procedures of Administrative law controlled the life of the administrative concession.²² The legal and contractual framework of the administrative concessions reserved for the State the powers necessary to guarantee that public interests

Company vs. República de Cuba], 73-74; [Tribunal Supremo de Justicia. Sala Contencioso-Administrativa], Sentencia No. 91 de 1915.- 8 de noviembre de 1915 [Compañía de Puertos de Cuba vs. República de Cuba], 215-216.

²⁰ Law of Public Works, Arts. 93, 95; Law of Public Works, Arts. 123.1, 124, 126-127; Law of Ports, Arts. 44, 49; Decree 467, Conditions 3-5, 17; Exhibit 5, [Tribunal Supremo de Justicia. Sala Contencioso-Administrativa], Sentencia No. 91 de 1915.- 8 de noviembre de 1915 [Compañía de Puertos de Cuba vs. República de Cuba], 216.

²¹ Decree 467 of November 29, 1905, Conditions 19-20.

²² Exhibit 5, [Tribunal Supremo de Justicia, Sala Civil y Contencioso-Administrativa], El Banco Español de la Isla de Cuba contra Resolución de la Secretaría de Hacienda. Sentencia núm. 2 (Febrero 28 de 1902), 188, 204; Exhibit 5, [Tribunal Supremo de Justicia, Sala Civil y Contencioso-Administrativa], Henry P. Booth contra el Ayuntamiento de la Habana. Sentencia núm. 68 (Septiembre 14 de 1905), 649, 661; [Pleno del Tribunal Supremo de Justicia], Materia de inconstitucionalidad. Sentencia No. 36 de 1913.- 30 de Septiembre de 1913. [Sanitary Duncart Company vs. República de Cuba], 73-74.

and public services took precedence over any interest of the concessionaire.²³

B. History Behind the Havana Docks Concession

On August 24, 1904, Mr. Sylvester Scovel, submitted to the Governor of Havana a proposal for the construction of a pier and a system to unload and load cargo, the expansion of the Customs offices, the Department of “Vistas” and the passengers booth for the benefit and use of the State.²⁴ Once the construction works were completed, the Concessionaire would be authorized to operate a cargo service on the premises subject to the regulations and fees determined by the Cuban State.²⁵ This proposal was later known as the “Scovel Proposal”. The Scovel Proposal was just that, an offer to carry out a construction project on State owned land under certain conditions. The Presidential Decrees awarding the Concession, detailed below, form the Concession and identify which parts of the Scovel Proposal were accepted.²⁶

On February 27, 1905, the President of the Republic of Cuba issued Decree 85 declaring that the public works involved and to be constructed through the Proposal filed by Mr. Sylvester Scovel, were for the benefit of the public (“utilidad pública”).²⁷ Decree 85 of

²³ Law of Ports, Arts. 18, 21, 23-24, 50.

²⁴ Exhibit 6, Sylvester Scovel, Proyecto de un Espigón Oficinas Nuevas de Aduana, Edificio de Vistas y Muelle de Uso Publico; August 24, 1904; p. 5-6.

²⁵ Decree 467, Art. 19.

²⁶ Decrees 85, 467, 1022, 184, and 1944.

²⁷ Decree 85 of 1905, p. 284. Like Decree 467, Decree 85 also references the Scovel Proposal. See Exhibit 3, (*in globo*) Decree

1905 defined as a matter of Cuban law the nature of the proposal for the construction of the docks in the Havana port as a matter of public interest. This declaration meant that the entire project was for the interest of the Cuban state, was to be constructed for the benefit of general interests, and was governed by public law and was defined by a formal presidential declaration of public purpose.²⁸ Notably, the title of Mr. Scovel's Proposal states is a project "...to build a dock for public use."²⁹

Decree 85 specifically refers to state interests and the general public interests of commerce and navigation.³⁰ Under these strong public law principles, the rights of the concessionaire were limited and distinguishable from private ownership rights and leasehold rights.

On November 29, 1905, President Estrada Palma issued Presidential Decree 467 granting the administrative Concession to *Compañía del Puerto* for a 50-year term.³¹ The public works administrative Concession was granted by the government of Cuba to *Compañía del Puerto* as successor in interest of Sylvester Scovel.³² It should be noted that, at this point, the Concession only contemplated the construction of one

85, last paragraph: "The proposal presented by Mr. Sylvester Scovel are hereby declared for public use".

²⁸ Decree 85 of 1905.

²⁹ Sylvester Scovel, *Proyecto de un Espigón Oficinas Nuevas de Aduana, Edificio de Vistas y Muelle de Uso Público*; August 24, 1904; p. 1.

³⁰ Decree 85 of 1905.

³¹ Decree 467 of 1905, Condition No. 2.

³² Decree 467 of 1905, Resultando No. 5.

pier in front of the San Francisco church, and thus the pier was named the San Francisco pier.³³

Compafiía del Puerto, the Concessionaire, promised to build a pier with mechanical installations on an area of the State-owned San Francisco Wharf.³⁴ The Concessionaire further promised to build a new Custom's House and to expand the passenger booth for the exclusive use of the State and the public.³⁵ The Concessionaire would collect the state-approved fees for the loading, unloading and temporarily storage of cargo.³⁶ Mr. Scovel's proposal did not request to offer passenger related services.³⁷ Likewise, pursuant to Decree 467 the concessionaire was not authorized to offer passenger services. All the construction activities and the commercial operations of Compafiía del Puerto would proceed under the supervision and control of the State.³⁸ In issuing Decree 467 the government of Cuba confirmed the nature of this project as a matter of public purpose ("utilidad pública").³⁹ Importantly, Decree 467 states that the Concession cannot hinder the rights of third parties.⁴⁰

³³ Decree 467 of 1905, Conditions Nos. 1, 4, and 5 (b) and (c).

³⁴ Decree 467 of 1905, Condition No. 1.

³⁵ Decree 467 of 1905, Condition No. 5 (e).

³⁶ Decree 467 of 1905, Conditions Nos. 19-22.

³⁷ Sylvester Scovel, Proyecto de un Espigón Oficinas Nuevas de Aduana, Edificio de Vistas y Muelle de Uso Público; August 24, 1904.

³⁸ Law of Ports, Arts. 18, 21, 24, 27, 32 and 35; Decree 467 of 1905, Conditions No. 16, 25, 28, 29 and 32.

³⁹ Decree 467 of 1905, Resultando [1].

⁴⁰ Decree 467, Art. 31.

The construction works started on March 29, 1906.⁴¹ Soon thereafter, the works were halted because the Concessionaire wanted to occupy other areas of the San Francisco pier.⁴² The State refused, and invited the Concessionaire, *Compafiía del Puerto*, to submit technical modifications to the project according to the suggestions made by the Secretary of Public Works.⁴³ The construction of the pier was suspended on October 2, 1906.⁴⁴

In 1910, the State issued Decree 1022, approving modifications to the Concession whereby *Compafiía del Puerto* would then build four piers: the San Francisco Pier (Pier A); the Custom's House Pier (Pier B); La Machina Pier (Pier C); and the Obrapía Pier (Pier D).⁴⁵ The Concession's 50-year term set in 1905, the approved fee's schedule, and all other legal terms were ratified.⁴⁶ Decree 1022 also reiterated that the Concession's main purpose was to benefit the public.⁴⁷

Compafiía del Puerto assigned all its rights and interests under the Concession to Port of Havana Docks Co. Presidential Decree 184 dated March 13, 1911 approved this assignment.⁴⁸ Unlike private property rights in which the owner may transfer at any time, under a state granted concession, as a matter of law, the interests, rights and obligations

⁴¹ Decree 1022/1910, Resultando [2].

⁴² Decree 1022/1910, Resultando [3].

⁴³ Decree 1022/1910, Resultandos [4-6].

⁴⁴ Decree No. 1022 of 1910, Resultando [7].

⁴⁵ Decree 1022/1910, Condition No. 1.

⁴⁶ Decree No. 1022 of 1910, Condition No. 14.

⁴⁷ Decree 1022.

⁴⁸ Exhibit 3, (*in globo*) Decree 184 of 1911.

under concession may only be assigned if authorized by the State. Through Presidential Decree 184 of 1911 the president of Cuba, approved the assignment of the concession to Port of Havana Docks Company. The Presidential Decree specifically provided that all terms and conditions, including all the obligations of the beneficiary imposed by the presidential decrees issued in 1905 and 1910 applied to the concession.⁴⁹

On December 13, 1920, President Mario García Menocal issued the Decree 1944, amending the terms of the Concession once again. Piers C and D projected in 1910 would become a single pier of larger capacity for cargo handling.⁵⁰ The Concession term was extended from the initial 50 years to 99 years, counted from November 29, 1905, the day when the Concession was granted.⁵¹ All other terms from the Concession decrees of November 29, 1905, and November 11, 1910, not in contradiction with Decree 1944, remained in force.⁵²

In 1928, Port of Havana Docks Company sold all its corporate stock to Havana Docks Corporation, a Delaware corporation, and the deed was notarized in Cuba on April 11, 1928.⁵³ Havana Docks Corporation thus acquired the administrative Concession. In both June of 1928 and January of 1931, Havana Docks applied for the State's recognition as successor

⁴⁹ Decree 184 of 1911, Paragraph 3.

⁵⁰ Decree 1944 of 1920, Por Cuanto No. 2 and Resuelvo No.1.

⁵¹ Decree 1944 of 1920, Resuelvo No. 2.

⁵² Decree 1944 of 1920, Resuelvo No. 10.

⁵³ Decree 2424 of 1934, Visto and Resultando No. 1.

concessionaire.⁵⁴ The construction of the Piers was completed in 1930.⁵⁵

On September 7, 1934, through Presidential Decree 2424, the Cuban government approved the assignment of the Concession by Port of Havana Docks Co. to Havana Docks Corporation.⁵⁶ In approving the assignment of the Concession, the Cuban State reiterated that these works were declared a matter of public purpose (“utilidad pública”).⁵⁷ The State also noted that, in 1910, through Presidential Decree 1022, amendments were introduced to the public works involved to preserve and ensure that at all times, the Concession’s purpose which was to serve the public interest (“los intereses públicos”).⁵⁸

C. The Laws Governing the Havana Docks Concession

i. The General Law of Public Works (Ley General de Obras Públicas)

This administrative Concession was granted in 1905 pursuant to the provisions of the Law of Public

⁵⁴ Decree 2424 of 1934, Resultandos Nos. 1 and 7.

⁵⁵ Decree 2424 of 1934, Resultando No. 7. Pursuant to a record dated September 1, 1930 the state acknowledged receipt of the works.

⁵⁶ Decree 2424 of 1934, Resuelvo fJnico. Presidential Decree 2424 of 1934 notes that on April 11, 1928 pursuant to Public Deed 49 before Habana Public Notary Oscar Montero a contract was executed by and between Port of Havana Docks Company and Havana Docks Corporation for the assignment of the concession originally granted by the Cuban State in 1905.

⁵⁷ Decree 2424 of 1934, Resultando 2.

⁵⁸ Decree 2424 of 1934, Resultando 6; Decree 1022/1920, Resultando No. 5.

Works.⁵⁹ The law defines “public works” as all construction works devoted to the general use, such as roads and *ports*, or to provide State services, such as State owned buildings.⁶⁰ Any project for the construction, maintenance, use and supervision of public works could only be approved by the State.⁶¹ The law reserved as projects that could only be conducted and controlled by the State the roads contemplated under the general plan (*carreteras incluidas en el plan general*) and the ports of commerce of general interest (*puertos de comercio de interés general*).⁶²

Pursuant to Article 52 of the General Law of Public Works, in place when the Concession was initially granted and in place through all its modifications, individuals and private companies could build and exploit public works for general use such as roads, railroads and ports through concessions granted by the State.⁶³ Chapter VI of the law provides the terms and conditions under which administrative concessions for the construction of public works are granted by the State. The Law of Public Works provided how a concession could be granted by the State, including the importance of *protecting at all times the public interest*,⁶⁴ as follows:

1. Concessions could only be granted for a maximum term of ninety-nine (99) years. Unlike

⁵⁹ Decree 467 of 1905, Art. 2.

⁶⁰ General Law of Public Works, Art. 1.

⁶¹ General Law of Public Works, Art. 2.

⁶² General Law of Public Works, Art. 4.

⁶³ General Law of Public Works, Art. 7.

⁶⁴ General Law of Public Works, Art. 61.

private property rights, any rights granted to the beneficiary of a concession have a fixed term which expires.

2. Article 59 of the Law provided some of the mandatory clauses to be included under all concessions. Those mandatory clauses included the amount of the bond to be posted by the concessionaire;⁶⁵ the terms for starting and finishing the construction works;⁶⁶ the conditions for the construction and use of the works;⁶⁷ and, the right granted to the State to unilaterally terminate the concession (“caducidad”).⁶⁸
3. The private party interested in obtaining a concession for public use from the State was required to present a project explaining the details of the construction works and how the construction works would benefit the general interest⁶⁹ of the public, through a request filed with the Ministerio de Ultramar.⁷⁰
4. The private party must have previously made public the project and request for a concession in the official gazette.⁷¹

⁶⁵ General Law of Public Works, Art .59.1 and article 28 of its Regulations.

⁶⁶ General Law of Public Works, Art. 59.2.

⁶⁷ General Law of Public Works, Art. 59.3.

⁶⁸ General Law of Public Works, 67.

⁶⁹ General Law of Public Works, Art.55: “las ventajas que de su construcción han de reportar los intereses generales.”

⁷⁰ General Law of Public Works, Art. 57.

⁷¹ General Law of Public Works, Art. 63.

5. The State would supervise the construction of the works and the exploitation of the works.⁷²
6. When concessions involve works to be performed on State property, public tenders were mandatory.⁷³

Article 113 of the Law of Public Works provides that whenever a public construction work is intended for public use a formal public purpose declaration (“declaración de utilidad pública”) is required. Lastly, Chapter X of the law provided that the disputes related to concessions granted by the State were subject to the exclusive jurisdiction of Cuban administrative courts (*jurisdicción contencioso administrativa*).⁷⁴

Significantly, Decrees 85 and 467 of 1905, referenced above, specifically determined that the concession granted to Compañía del Puerto was a concession as described and Article 97 of the General Law of Public Works and Articles 44 and 45 of the Law of Ports.⁷⁵ The Scovel Proposal followed the procedure for the submission or concession proposals under the Law of Public Works.

⁷² General Law of Public Works, Art. 64.

⁷³ General Law of Public Works, Art. 72.

⁷⁴ General Law of Public Works, Art. 119.

⁷⁵ Pursuant to a Royal Decree issued on May 30, 1883, the Spanish government ruled that the General Law of Public Works issued on April 13, 1877, would apply to the Island of Cuba.

- ii. The Law of Ports for the Island of Cuba - Royal Decree 202 dated October 31, 1890.⁷⁶

Decree 467 of 1905 specifically provides that the concession was granted pursuant to the provisions of the Law of Ports.⁷⁷ The Law of Ports includes a complete regulation of all ports in Cuba, including their legal nature, classification, ownership and purpose. Specifically, the Law of Ports provides:

1. That ports are public property; are owned by the State (del dominio nacional) and for public use (uso público).⁷⁸
2. That ports are part of the maritime zone owned and controlled by the state along with the territorial sea.⁷⁹
3. That areas within the territory of Cuba, owned by the State and defined as maritime zones include: the land maritime zone (*zona marítima terrestre*), which corresponds to costal or maritime frontier areas bathed by the sea; and the littoral sea (*mar litoral*), which includes the maritime zone surrounding the coast, or State

⁷⁶ On October 31, 1890, a Royal Decree was issued in Madrid, to provide a “Law of Ports” for the Island of Cuba. Pursuant to Royal Decree 202, the Law of Ports (*Ley de Puertos*) in force in Spain at that time and issued on March 7, 1880, would apply to the Island of Cuba. Thus, the Law of Ports for Cuba (“*Ley de Puertos para la Isla de Cuba*”) was promulgated.

⁷⁷ Decree 467 of 1905 including recitals and Art. 2.

⁷⁸ Law on Ports, Art. 1.

⁷⁹ Law on Ports, Art. 1.

borders determined by international law and which include coves, bays and ports.⁸⁰

4. Pursuant to Article 12, the public has a fundamental right to the use of the littoral sea, which includes coves, bays and ports. One of the specific uses of the littoral sea is the public's right to embark and disembark passengers.⁸¹
5. These areas of the State's territory, which are public property, are dedicated primarily for maritime services which are deemed a matter of public purpose ("utilidad pública").⁸²

Accordingly, absent any rules or regulations to the contrary, pursuant to Article 12 of the Law on Ports, as incorporated by the Concession, the public, including cruise lines, could use the Piers to embark and disembark passengers.

The law provides the basic definition of a port under Article 13, which includes natural coast configurations and man-made constructions ("obras construidas al efecto"). The dedicated permanent use for maritime traffic is essential under the definition ("en los cuáles exista de una manera permanente y en debida forma tráfico marítimo").

Pursuant to the Law of Ports any construction on Cuban ports could only be performed through administrative concessions granted by the State through the "Ministerio de Ultramar". Articles 19 and

⁸⁰ Law on Ports, Art. 1. ("el mar litoral, o bien la zona marítima, que ciñe las costas o fronteras de los dominios de España, en toda la anchura determinada por el derecho internacional, con sus ensenadas, radas, bahías, puertos ..")

⁸¹ Law on Ports, Art. 12.

⁸² Law of Ports, Art. 2.

28 of the law of Ports provide that whenever a port construction would impact public property land (terrenos de dominio público), the General Law of Public Works would apply.

Article 31 of the Law of Ports refers to a mandatory legal requirement pursuant to which every Cuban port must include a litoral service zone (“zona litoral de servicio”) to perform loading and unloading operations. The law specifically provides that including such mandatory zone in all port projects is a matter of public purpose (“lleva consigo la declaratoria de utilidad pública”).⁸³

Further discussion of the Law of Ports, particularly Articles 44, 48 and 49 is provided below.

D. Scope and Nature of the Concession

A close review of the laws that granted the Concession to Havana Docks and its predecessors to operate a cargo service in the port of Havana reveal the scope of the rights granted, and more importantly: what was not granted. Per the Presidential Decree No. 467 of 1905, the Concession consisted of the construction in the port of Havana of a pier⁸⁴ with mechanical installations to be used for the docking, loading, and unloading of vessels as required for the operations of import and export of goods. (“an administrative concession for the construction of a jetty/dock with mechanical installations, a building for Customs Offices, a special Department for Customs Inspectors, apparatus for loading and unloading, and

⁸³ Law of Ports, Art. 31.

⁸⁴ The project was amended in 1920 to extend the construction to three piers instead of one. See Exhibit 3 (*in globo*) Decree 1944 of 1920.

other accessory works at the port of this Capital.”)⁸⁵ The concessionaire would reserve for itself the operation of the cargo service for a term of 50 years.⁸⁶

This project was contingent on the Cuban State granting the use of State property.⁸⁷ As consideration for said grant, Mr. Scovel offered the State the construction of the pier, a system to unload and load cargo, and the expansion of the Customs offices, the Department of “Vistas” and the passengers booth for the benefit and use of the State.⁸⁸ Once the construction works were completed, the concessionaire would be authorized to operate a cargo service on the premises subject to the regulations and tariffs determined by the Cuban State.⁸⁹

The concessionaire had limited autonomy inasmuch they could not decide which vessels would use their service, not even the order of the services, nor the fees they would charge.⁹⁰

i. Concession granted to operate a non-exclusive cargo service

Decree 467 of 1905 granted the concession pursuant to the provisions of the Law of Ports of 1890.⁹¹ The Law of Ports regulated all ports in Cuba, addressing their legal nature, classification, ownership and purpose,

⁸⁵ Decree 467, preamble.

⁸⁶ Decree 467, Art. 2. The term was extended to 99 years by Decree 1944 of 1920.

⁸⁷ Decree 467, Conditions Nos. 4 and 5.

⁸⁸ Decree 467, Condition No. 5.

⁸⁹ Decree 467, Visto and Conditions Nos. 19-22.

⁹⁰ Decree 467 of 1905, Conditions Nos. 5(d), 19 and 23.

⁹¹ Decree 467 of 1905.

and provided that ports were public property; owned by the state (del dominio nacional) and for public use (uso público).⁹² Of significance, the Law of Ports made clear that:

Article 44: It is the duty of the colonial secretary to grant authorization, after hearing the naval authorities, for the construction on the sea or beaches and adjoining lands, or in ports, whether for private or public use, of such wharves, quays, dockyards, floating docks, shipyards, and other similar works as are complementary and auxiliary to those existing for the service of the port. *Such authorization shall not constitute a monopoly, and therefore others may be granted for the same class of works in the same harbor, beach or stretch of coast provided the public service or use does not suffer thereby.* (Emphasis added)

Pursuant to Article 44, the Concession did not grant Havana Docks exclusive rights on the Piers. To the contrary, the State could offer similar concessions if it deemed it necessary: “others may be granted for the same class of works in the same harbor, beach or stretch of coast provided the public service or use does not suffer thereby.” The purpose of this provision was to guarantee that the project was for the public benefit, rather than the benefit of Havana Docks. Presidential Decree 467 of 1905 creating the Concession at issue

⁹² Law on Ports, Art. 1.

specifically references this Article to define the type of concession being granted.⁹³

Articles 48 and 49 further imposed important limitations on the Concession, precluding the creation of exclusivity grants that would prevent third parties from using the very same premises covered by the concession:

Article 48. When the works of a port the concession of which is applied for, whether in conformity with the plan of the of the applicant, or subject to the one surveyed and approved by the colonial department, refers to one in which, although no work has yet been executed, there exists a legally authorized maritime commerce, and services are performed with more or less perfection, ***the concession must be granted under such conditions as may be necessary to reserve in full force the existing rights of entering the port, loading, and unloading, afloat or on the coast, so that none of the services that are freely exercised or enjoyed by the public may be made compulsory.***

Accordingly, pursuant to Article 48, the Concession could not impair the preexisting right of the public, including cruise lines, to use the Piers for cargo and passenger services. Further, the public, including cruise lines, was not obligated to use the services of

⁹³ See Condition No. 2 of Decree 467 of 1905 “This concession is understood among the ones described in article 44 and 45 of the Law of Ports of October 31 of 1890”

Havana Docks. These points are again mentioned in Article 49, as noted below.

Article 49. Proper authorization may also be granted to a private company for executing the works of a port in charge of the State or for completing those which are constructed or suspended, or carrying out one part of the plan while the State executes the other, in which case special conditions may be established in compensation of the expenses thereof and for the benefit of the company in the shape of the cession of the land where the works are carried on, for a limited time, or other privileges, according to the available portion of the work, the cost of those that may be executed and the nature or importance of the public services existing in the port, ***provided prior rights to the use of the port and its works are reserved in full force***, as stated in the preceding article.

Per the Law of Ports, Havana Docks enjoyed an administrative concession limited by the legal mandate forbidding preclusion of third parties from using the premises. The State granted the concession for the benefit of the public within the strict limits set by the Law of Ports, which expressly outlawed the granting of exclusive rights to the detriment of third parties. Moreover, the Law of Ports and the Presidential Decrees that authorized the Concession expressly maintain the superior power of the State as the grantor of the Concession, and specify the Concession to be a limited grant of rights to operate a service on property owned by the State for a finite period of time.

- ii. Havana Docks never had the right to provide passenger services on the premises

The previous section discussed the nature and scope of the Concession held by Havana Docks: a non-exclusive right to operate a cargo service on the premises once construction of the pier was completed. The Concession did not include or mention the provision of passenger services.

Going back to Mr. Scovel's Proposal, when describing the economics behind the operation of this proposed Concession asked to be allowed to charge a loading and unloading fee of sixty-five cents to one dollar and five cents per ton of cargo, plus other charges to the consigners and merchants sending or receiving the cargo. None of the fees that Mr. Scovel projected to charge for the services under the Concession included an amount for work related to, or services provided, to passengers or to ships carrying passengers.⁹⁴ This is significant because Mr. Scovel proposed to rebuild the passengers' booth that existed at the premises as consideration for receiving the cargo Concession, but expressed no interest or intent related to being involved in the passenger business. To the contrary, per Presidential Decree No. 467, authorizing the Concession,⁹⁵ the *Compafiía del Puerto* agreed to *deliver the passengers booth to the State* upon completion of the construction works.

The Scovel Proposal confirms that by 1904 passenger services were rendered at the pier, because of the

⁹⁴ Sylvester Scovel, Proyecto de un Espigón, Oficinas Nuevas de Aduana, Edificio de Vistas y Muelle de Uso Público; August 24, 1904, pages 33, 35 and 129-147.

⁹⁵ Decree 467 of 1905, Condition No. 17.

existence of the passenger booth. Also, the fact that Mr. Scovel proposed to reconstruct said booth for the State to use indicates that the State intended to continue offering passenger services on the premises independently of the cargo services to be offered by Compañía del Puerto. Consistent with the Law of Ports, the State preserved the right to continue using the area for passenger services.

According to Article 48 and 49 of the Law of Ports, since passenger services already existed at the subject location, the granting of the Concession did not in any fashion affect the future provision of said services as “*prior rights to the use of the port and its works are reserved in full force*”.⁹⁶ The Scovel Proposal, which was quite detailed, exclusively focused on cargo services.

The relevant articles of the Law of Ports, which protected the rights of the general public *vis-a-vis* with the rights of the concessionaire, safeguarded the availability of passenger services on the docks used by Havana Docks prior and during the life of the Concession as well as thereafter. In other words, through the Concession, the State maintained its rights to provide passenger services as it had before the issuance of the Concession.

Furthermore, by reconstructing and delivering the passenger booth to the State, the concessionaire acknowledged it had notice of the intent of the State to provide passenger services on the premises. The Havana Docks Concession was based on Mr. Scovel’s plan to provide cargo service on State property without detriment to the rights of the State to provide passen-

⁹⁶ Law of Ports, Art. 49.

ger services on the same premises, either by itself or through the services of another concessionaire.

iii. Concession only granted for ninety-nine years

Though not initially granted, Mr. Scovel asked in his Proposal that the Concession be for ninety-nine years counted from the date of the completion of the construction works,⁹⁷ acknowledging this was the maximum term permitted under the Law of Public Works of 1883.⁹⁸ The Law of Public Works, Article 100, states:

The concessions referred to in the previous articles of this Chapter shall be granted from *ninety-nine years at most*, except in the cases wherein the special laws of public works establish a longer period, or when the concession is granted by means of a special law which may thus determine.

However, Decree 467 of 1905, condition No. 2, states: “This concession is understood among the ones described in article 44 and 45 of the Law of Ports of October 31 of 1890 and the 97 of General Law of Public Works of April 19 of 1883, and it is granted *for a term of fifty (50) years counted from the date of the concession.*”

The term of the Concession was later extended to ninety-nine years on December 13, 1920 by virtue of presidential decree No. 1944. However, once again the

⁹⁷ Sylvester Scovel, Proyecto de un Espigón, Oficinas Nuevas de Aduana, Edificio de Vistas y Muelle de Uso Público; August 24, 1904, 49.

⁹⁸ See Law of Public Works, Art. 100.

term was counted from the date of the Concession on November 29, 1905. Decree 1944 states:

Second: to extend the term of reversion to the State as stated on the second condition of the decree No. 467 of November 29, 1905 up to ninety-nine years counted from the date of the concession.

Importantly, the governing administrative law regarding the term and existence of Havana Docks' rights related to the property is found in the Law of Public Works and the Law of Ports. These two laws take precedence over any general article of the Civil Code of 1889. Under Cuban law, the Civil Code only applies in the absence of a more specific or "special" law.⁹⁹ Here, the more specific/special laws are the Law of Public Works and the Law of Ports, both of which expressly reference administrative concessions for the development of ports and both are incorporated by the aforementioned decrees that make up the Concession.

The Law of Public Works established ninety-nine years as the maximum term a concession could be granted. Neither the Concession documents nor any Cuban law in effect at the time the Concession Decrees were issued provide for any type of tolling of the Concession term, or reversionary interest to the concessionaire, should the concessionaire's interest be interrupted or terminated during the original term of the concession. To the contrary, the Cuban government has already enforced the running of the period *of this very Concession* when the concessionaire's use of the Concession was previously suspended. Here, the

⁹⁹ See Civil Code of 1889, Articles 16 and 1456. The Civil Code of 1889 was abrogated on July 16, 1987 by Law 59, the current Civil Code.

concessionaire experienced an interruption in use in 1906. From October 2, 1906, until November 11, 1910, construction works were suspended on the Pier because the initial project was deemed inadequate for the operations of the port, and the Concessionaire was asked to present modifications to the initial proposal.¹⁰⁰ The Cuban government did not “stop the clock” on the Concession for the four years during which the concessionaire’s operations were suspended, nor did the Cuban government otherwise suspend the running of the period of the Concession. The Cuban Government did not award an extra four years to the Concessionaire as a reversionary interest, or as compensation, or as a future or contingent possessory right. Instead, Decree 1022 of 1910 approved the concessionaire’s proposed modifications to the project, but *did not extend the term to make an allowance for the four-year interruption*. The Concession was still set to expire in the year 2004 – *not 2008* – whereupon the concessionaire’s rights would still terminate.

Accordingly, Havana Dock’s claim in the Second Amended Complaint, that “under the terms of the concession and the Cuban law in force at the time, Havana Docks still retains, to this day, a reversionary interest of 44 years remaining in the Subject Property,” is misplaced. Under the language of the Concession, under the governing law - Law of Public Works and the Law of Ports, and under the State’s own interpretation and actions taken upon a previous suspension of use, Havana Docks has no such reversionary interest or future or contingent possessory right.

¹⁰⁰ Decree 1022 of 1910, Resultandos 6-9.

Havana Docks conceded as much in footnote 1 of the Balance Sheet of December 31, 1959, submitted to the Foreign Claims Settlement Commission. Luis Parajon, who submitted an expert appraisal of the Concession to the Foreign Claims Settlement Commission, also confirmed “the Concession ran for 99 years, to the year 2004”.¹⁰¹ Thus, the Concession was not simply for 99 years in the abstract, but for a period that would terminate in 2004.

iv. Termination of the Concession

The State had the unilateral right to terminate the Concession¹⁰², and the State had the right to determine if the concessionaire was timely complying with all terms and conditions for the Concession to stay operative.¹⁰³ The State could also terminate the Concession if the concessionaire failed to properly maintain the works completed, or failed to provide the services as obligated. In those situations, the Concession was forfeited.¹⁰⁴ Further, the Concession contemplated termination via expropriation. Such was the case of expropriations under Law of Ports and the General Law of Public Works, when the State decided to take or destroy an existing public work project to start another one that better fit the needs of public services

¹⁰¹ See page 16, paragraph b of Luis Parajon’s appraisal report.

¹⁰² Law of Public Works, Art. 67.

¹⁰³ Exhibit 5, [Tribunal Supremo de Justicia, Sala Civil y Contencioso-Administrativa], Materia Contencioso-Administrativa. Sentencia No.91.- 8 de noviembre de 1915 [Compañía de Puertos de Cuba vs. República de Cuba], 220. *See also* Law of Public Works, Art. 67 and Law of Ports, Art. 58.6.

¹⁰⁴ Decree 467, Conditions 10 and 32.

and of public interests.¹⁰⁵ Article 50 of the Law of Ports states:

In case works declared of public utility are to be executed in a port by the State, the deputations, or municipal councils, and in order to carry them out it should become necessary to utilize or destroy those constructed by private persons by virtue of concessions granted them, the concessionaries shall have a right to be indemnified only for the value of the material employed in said works, after an appraisalment by experts made in conformity with the general regulations for the execution of this law.

Article 50 of the Law of Ports confirms the superior right of the State to terminate the Concession leaving the concessionaire with the limited and exclusive recourse of seeking compensation from the State for the value of the works performed. This limitation of rights was acknowledged by Mr. Scovel in the proposal incorporated into the Havana Docks concession. Specifically, in the general condition No. 6, Mr. Scovel stated that in case of expropriation pursuant to article 50 of the Law of Ports, then the concessionaire would remove from the dock all its chattel and equipment.¹⁰⁶

¹⁰⁵ Law of Ports, Arts.50; Decree 467 of November 29, 1905, Condition 7.

¹⁰⁶ Sylvester Scovel, Proyecto de un Espigón, Oficinas Nuevas de Aduana, Edificio de Vistas y Muelle de Uso Público; August 24, 1904; p. 50.

CONCLUSIONS

- 1) Before the Concession, during the Concession and thereafter the Cuban government (also referred to herein as the “State”) has owned the Piers.¹⁰⁷
- 2) Before the Concession, during the Concession and thereafter the Cuban government has controlled port operations, supervised the work performed and as a sovereign authority controlled who could use the Piers.¹⁰⁸
- 3) The Concession provided to Havana Docks a non-exclusive right to operate a cargo loading and unloading business on the Piers. The State granted Havana Docks this non-exclusive right subject to the laws of Cuba for administrative Concessions which include: Presidential Decrees, the Law of Ports and the Law of Public Works.¹⁰⁹
- 4) Havana Docks was not granted any rights in connection with operating a passenger terminal and had no right to control or restrict the right of the public, including a cruise line, to use the Piers to embark and disembark passengers.¹¹⁰
- 5) Havana Docks did not have a monopoly to provide services at the Piers. Thus, the government could allow other entities to provide similar services and there was no legal obligation for third parties who used the Piers to use Havana Docks’ services.¹¹¹

¹⁰⁷ Exhibit 2, Law of Ports, Arts. 1, 2 and 4.

¹⁰⁸ Exhibit 3 (*in globo*), Decree 467 of 1905, Arts. 28 and 29. *See* also Exhibit 2, Law on Ports, Arts. 1.2, 18 and 21.

¹⁰⁹ Decree 467, Art. 2.

¹¹⁰ Law of Ports, Art. 48.

¹¹¹ Law of Ports, Art. 44.

- 6) If the Concession were still in effect today, cruise lines and other vessel owners could use the Piers without any legal obligation to contract with or use the services of Havana Docks.
- 7) Pursuant to Cuban law, the Cuban government had the unilateral right to terminate the Concession at any time.¹¹²
- 8) The Cuban government originally granted the Concession in 1905 for a fixed term of fifty years. The Cuban government later extended the term to ninety-nine years.¹¹³ Pursuant to Cuban law and the terms of the Concession itself, the expiration date of the Concession was 2004.¹¹⁴
- 9) By the very terms of the Presidential Decree that granted the Concession and the Law of Ports, Havana Docks was on notice that in the event of an expropriation of the Concession by the government of Cuba, the only party from whom it could recover compensation was the Cuban government and the maximum compensation to which it could be entitled was capped by the value of the construction work performed.¹¹⁵

¹¹² Exhibit 4, General Law of Public Works, Art. 67.

¹¹³ Decree 467 of 1905, Art. 2 and Ex. 3 (*in globo*), Art. 2, Decree 1944 of 1920.

¹¹⁴ Law of Public Works, Art. 54 limits as a matter of law the term of these concessions to a maximum of ninety-nine years.

¹¹⁵ Decree 467 of 1905, Articles 6-8, citing Article 50 of the Law of Ports.

ATTACHMENT 16
(REDACTED COPY OF ECF NO. 212-12)

Message

From: JGB Home [jgb@bellsouth.net]
Sent: 5/11/2016 12:42:48 AM
To: Jerry Johnson
[o=ExchangeLabs/ou=Exchange
Administrative Group (FYDIBOHF23SP
DLT)/cn=Recipients/cn=302f3ed959214d
d5b5a435d77a9fc8d1-jjohnson]
Subject: Carnival

Jerry,

We would discuss what your/our options are legally and my strategy.

The options are basically are three:

To do nothing and wait for the POTUS settle your claim. While the formula has your claim worth —4-5x today, it is likely it would be settled with or without your advocacy for 5-10cents on the original dollar. That's \$500- 900k for your clients. Obama has little interest in settling your claim fairly.

To threaten to sue US traffickers hoping to bring them to the negotiating table and sign leases with each of us (and not go to court if possible); and/or,

To get Title IV actions from the State Dept and have the visas to the US revoked of the executives and their families of foreign companies who are trafficking in your property.

The second one is riskier, but could be more lucrative. If Carnival pays Cuba \$500,000 in port fees, at least half should go to you with each cruise, and there will be 24 cruises/yr (\$6,000,000).

This third one is most important to you and where the more straightforward path lies. You've got several foreign companies already trafficking in your property. More importantly, trafficking is very clearly defined and the State Dept MUST revoke these if there is trafficking- there is no discretion allowed.

I decided to hire these lobbyists because my a Title IV request had basically been ignored for 6 months (probably illegally), likely at the instruction of the White House. Since these lobbyists are close to Sec Kerry and have a financial interest in getting the visas revoked, I believe they'll make the case to him to make it happen.

It is also possible that a foreign entity could buy the claim. However, I believe the cash flow from licenses could be significant with the benefit of keeping the claim with possible restitution of the property in the event the Castro clan is overthrown.

That is the strategy in broad strokes.

Javier

Sent from my iPad

From: JGB Home <jgb@bellsouth.net>
 Sent: Sunday, April 23, 2017 11:50 PM
 To: Mickael Behn
 Subject: Re: Miami Herald Op Ed

Absolutely on the logistics. That is why they will negotiate with us if we can get visas threatened. The admission by the CEO they don't need to dock is very damning as far as the OFAC licenses providing immunity. The State Dept lawyer specifically told me they viewed docking on our property as "necessary" and so they wouldn't consider it trafficking.

JGB

Sent from my iPad

On Apr 23, 2017, at 6:36 PM, Mickael Behn <mickaelbehn@gmail.com> wrote:

Interesting and agreed on the point that cruise do not need to dock to service a route. but of course docking on our ports makes it cheaper for them on fuel and getting 800 people on and off is a long process, so it becomes an advantage for them to dock. so the value is there. and that value is gained as a profit to the cruise lines on illegally taken

American property.

My full name is Mickael Sosthenes Behn .so S middle initial.

Great news there is a path forward for your property. whats the angle on the Chinese using your property in the sense of recovery. I have had a bit a dealings in the media world and they are hard to deal with in general.

If we can get one Cruise line to negotiated, i think that would be enough of a threat to bring most to the table, Mickael

On 23 Apr 2017, at 16:44, JGB Home <jgb@bellsouth.net> wrote:

Yes. I know the writer at the Herald who outed Carnival and I'm going to ask her to help get this published. I'm going to clean the piece up a bit. I'm hopefully that the timing makes it relevant. I think another piece I did is being published today in the Orlando Sentinel. It's less about our specific problem and more on the disinformation campaign of the Castro regime. #FakeNews Cuba

I'm speaking with the chief of staff of my Congressman tomorrow about getting in front of someone at State and the White House to discuss not waiving Title III and enforcing Title IV, He is very willing to help make this happen. We can't wait around for the Trump Admin to shape up, although I may have mentioned the Deputy Sec of Sec nominee is the son in law of a former Bacardi CEO (and Cuban exile).

On a related front, it appears that DC attorney Greg Craig may be interested in my situation with the Chinese on my property. Craig has been chief White House council and has represented former Presidents and other very high profile clients, including Elian Gonzalez' father. Evidently, he's known in DC as the "expert" in all things Cuba. Rodney got connected with him through an attorney friend at Skadden Arps, Craig's firm.

Finally, watch this short video clip below of cNBC's Michelle Caruso-Cabrera's interview of Norwegian Cruise Lines CEO, Frank Del Rio, at a Cuba conference almost 2 years ago. He actually boasts that it is not necessary for cruise ships to dock at a port- this is at a Cuba conference. Below is the language in the law re

exemptions to trafficking. This is proof positive the licenses are not immunity from trafficking.

The significance is that with this evidence, we may be able to threaten the cruise lines with visa revocations of their foreign directors. The effect would be that it would bring them to the table to negotiate with us-- basically its the same as If we were threatening litigation.

Mickael, what's your middle initial? I was just going to put your full name and list Havana Docks Corp. below.

[Click to Download](#)

IMG_0052.MOV
67.7 MB

Javier

Sent from my iPad

(B) The term "traffics" does not include--

- (i) the delivery of international telecommunication signals to Cuba;
- (ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;
- (iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or
- (iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

JGB

Sent from my iPad

On Apr 23, 2017, at 7:28 AM, Mickael Behn
<mickaelbehn@gmail.com> wrote:

Javier,

Thats great and to the point, Seeing the current evolution of Trumps foreign policy failures, it starting to feel as this might be an easy win for him, if it gets to his attention. Hopefully Miami Herald will jump to publish this.

Thank you and you need anything from me please let me know.

Mickael

On 22 Apr 2017, at 17:57, JGB Home
<jgb@bellsouth.net> wrote:

Gentlemen,

I was going to submit this opinion piece to the Miami Herald and or USA Today with Mickael's and my name attached. Any comments to this draft? I still make some changes, but you get the gist. The limit is 600 words.

<Miami Herald Op Ed.docx>

I hope you are both well.

Javier

Sent from my iPad

From: Javier Garcia-Bengochea
<jgb@icloud.com>
Sent: Friday, December 22, 2017 9:05 PM
To: Escobar, Gabriel
Cc: Alpert, Rachel K; Jerry Johnson; Mickael Behn
Subject: Re: Suspension of Title III of Libertad

Yes. Thanks, Gabriel, I have a copy of the actual letter to the committees.

There's no lack of irony that the Kerry letter explicitly states that the waiver is "necessary to the national interests of the United States and will expedite a transition to democracy in Cuba".

This is proven to be patently false. It's a complete fabrication. After 21 years of waivers and not enforcing the law Cuba is further from democracy than ever- it's a full fledged white male military dictatorship and apartheid with institutionalized slavery (the 2 currencies) that was validated by the the previous administration and now supported by US tourism.

Why is it in the national interests to allow American companies to traffic in the stolen property of other Americans and exploit Cuban slave labor?

What's definition of insanity again?

I'm sorry, but I would also be remiss not to mention the absolutely surreal if not incomprehensible moment in our meeting regarding your response to the video of the CEO of Norwegian Cruise Lines at a conference at Wharton Business School specifically on the subject of "doing business" in Cuba during a session specifically about cruising Cuba.

He explicitly stated and incontrovertibly refuted, when specifically asked about the need for a port, your

assertion that the cruise lines were not trafficking by virtue of Sec. 401(c)(2)(B)(iii) of H-B. He was indisputably clear: that using a port was “not necessary” to cruise Cuba. He arrogantly scoffed at-ridiculed that notion.

If the cruise lines want to dock at a port while cruising Cuba so be it. They do so at their own risk. However, if they dock at our properties they are trafficking. Period.

Let’s be intellectually honest and frank, he was basically confirming that they are trafficking and and you should have acknowledged that fact, rather than double down on an obviously incorrect position.

The cruise lines must be subjected to a Title IV action and we will not relent until this occurs. It’s a matter of law. I hope you both have a happy and safe holiday season and I look forward to pursuing this issue January 2, 2018.

Javier

Sent from my iPad

On Dec 21, 2017, at 1:29 PM, Escobar, Gabriel <EscobarG@state.gov> wrote:

Perhaps this can be useful:

<https://2009-2017.state.gov/p/wha/rts/prsrt/2017/266595.htm>

Official

UNCLASSIFIED

721

From: Escobar, Gabriel
Sent: Thursday, December 21, 2017 1:21 PM
To: 'Javier Garcia-Bengochea'
<jgb1@icloud.com>
Cc: Alpert, Rachel K <AlpertRK@state.gov>
Subject: Suspension of Title III of Libertad

Dr. Garcia-Bengochea,

It was a pleasure to meet with you yesterday. During the meeting you had asked for an official announcement or note for the suspension of Title III of Libertad in relation to your lawsuit. The document you left had no date stamp. Can you remind me what year you need this for?

Gabe

Official
UNCLASSIFIED

Message

From: Kim, Deanna G [KimDG@state.gov]
Sent: 8/2/2018 12:51:47 PM
To: Jerry Johnson
 Uo=ExchangeLabs/ou=Exchange
 Administrative Group (FYD1B01-1F235
 PDLT)/cn=Recipients/cn=302f3ed959214
 dd5b5a435c177a9fc8c11-jjohnson];
 Javier Garcia-Bengochea
 (jgb@bellsouth.net) [jgb@bellsouth.net]
CC: Mickael Behn
 [mickaelbehn@gmail.com]; Aaron
 Johnson (ajohnson.hdc@gmail.com)
 [ajohnson.hdc@gmail.com]; Tarantolo,
 Sonia S [TarantoloSS@state.gov]; Alpert,
 Rachel K [AlpertRK@state.gov]; Patel,
 Nutan B [PatelNB@state.gov]; Magallon,
 Erica G [MagallonEG@state.gov]
Subject: RE: (5) Javier Garcia-Bengochea, MD
 Title IV Cuba Claims

Mr. Johnson, Dr. Garcia:

Given Gabe's departure, I wanted to take stock and make sure that we have addressed the specific concerns you identified below. I have confirmed that we have opened cases/files for each of the requests noted in the chain below, including Title IV enforcement requests in relation to the port, port facilities, and area surrounding the harbor of Santiago de Cuba; port properties in Havana; and entities that may be docking at both properties. As previously discussed, given the clear exclusion in Title IV's definition of "traffics" of transactions and uses of property incident to lawful travel to Cuba, we are not currently pursuing Title IV actions in relation to commercial cruise lines. As we receive multiple requests for Title IV enforce-

ment action and are operating under limited resources, we prioritize cases according to a number of factors, including the availability of information and our assessment of the strength of the Title IV case. That said, we are actively working on Title IV enforcement actions regarding activities related to the port, port facilities, and area surrounding the harbor of Santiago de Cuba, including seeking additional information from foreign entities concerned. We have also opened a file for your request regarding port properties in Havana and will reach out should additional information be necessary for our investigation.

Thank you

Deanna Kim

Acting Coordinator for Cuban Affairs

From: Jerry Johnson
<jjohnson@bankofthebluegrass.com>
Sent: Friday, July 6, 2018 4:46 PM
To: Escobar, Gabriel <EscobarG@state.gov>
Cc: Mickael Behn
<mickaelbehn@gmail.com>; Javier Garcia-Bengochea (jgb@bellsouth.net)
<jgb@bellsouth.net>; Aaron Johnson
(ajohnson.hdc@gmail.com)
<ajohnson.hdc@gmail.com>; Patel, Nutan B <PatelNB@state.gov>
Subject: RE: (5) Javier Garcia-Bengochea, MD
Title IV Cuba Claims

Excellent Gabriel. I see from Nutan's out-of-office e-mail response of today that she is on Temporary Duty Assignment in Havana. I was thinking that she may be able to see first hand what is happening with our property there.

Very best wishes,

Jerry

Jerry M. Johnson

Senior Vice President, Director of Wealth Management

BANK OF THE BLUEGRASS

Wealth Management

Direct Telephone: (859) 233-8903

Fax. (859) 252-0304

215 Southland Drive, Lexington, Kentucky 40503

From: Escobar, Gabriel <EscobarG@state.gov>

Sent: Friday, July 06, 2018 4:40 PM

To: Jerry Johnson
<jjohnson@bankofthebluegrass.com>

Subject: RE: (5) Javier Garcia-Bengochea, MD
Title IV Cuba Claims

Jerry,

Yes, all of the information that you and Dr. Garcia-Bengochea have shared is being looked into by both our Legal Department (Rachel and Jeff Kovar) and our Cuban Affairs team (Nutan and Erica). We largely overlap but we each have a piece of it, which is why you may get separate emails requesting different information. We coordinate closely. Thank you as well.

Best regards,

Gabriel

From: Jerry Johnson
<jjohnson@bankofthebluegrass.com>
Sent: Friday, July 06, 2018 4:35 PM
To: Escobar, Gabriel <EscobarG@state.gov>;
Mickael Behn <mickaelbehn@gmail.com>;
Home <jgb@bellsouth.net>
Cc: Magallon, Erica G
<MagalionEG@state.gov>; Patel, Nutan
B <PatelNB@state.gov>; Murakami,
Kevin T <MurakamiKT@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
Aaron Johnson
<aamjohnson17@gmail.com>
Subject: RE: (5) Javier Garcia-Bengochea, MD
Title IV Cuba Claims

Thank you for the clarification Gabriel. One last clarification question for today if I may. Does your response below, where you say - "Despite my transfer, it will not require to be restarted.", include our Title IV action request for our Havana Docks Corporation property in Havana as well as for Dr. Carcia-Bengochea's Title IV action request for his docks in Santiago de Cuba?

Again, many sincere thanks, and very best regards for your new endeavor related to your transfer.

Jerry

Jerry M. Johnson
Senior Vice President, Director of Wealth Management

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215 Southland Drive, Lexington, Kentucky 40503

726

From: Escobar, Gabriel <EscobarG@state.gov>
Sent: Friday, July 06, 2018 4:17 PM
To: Jerry Johnson
<jjohnson@bankofthebluegrass.com>;
Mickael Behn <mickaelbehn@gmail.com>;
Home <jgb@bellsouth.net>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel, Nutan
B <PatelNB@state.gov>; Murakami,
Kevin T <MurakamiKT@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
Aaron Johnson
<aamjohnson17@gmail.com>
Subject: RE: (5) Javier Garcia-Bengochea, MD
Title IV Cuba Claims

All of the people you have copied will continue to work on this issue with the exception of Kevin Murakami and myself. Despite my transfer, it will not require it to be restarted.

From: JerryJohnson
 <jjiohnson@bankofthebluegrass.com>
Sent: Friday, July 06,2018 4:06 PM
To: Escobar, Gabriel <EscobarG@state.gov>;
 Mickael Behn <mickaelbehn@gmail.com>;
 Home <jgb@bellsouth.net>
Cc: Magallon, Erica G
 <MagallonEG@state.gov>; Patel, Nutan
 B <PatelNB@state.gov>; Murakami,
 Kevin T <MurakarniKT@state.gov>;
 Alpert, Rachel K <AlpertRK@state.gov>;
 Aaron Johnson
 <aamjohnson17@gmail.com>
Subject: RE: (5) Javier Garcia-Bengochea, MD
 Title IV Cuba Claims

Thank you for your prompt reply Gabriel. Respectfully, when you say "...please stay in touch with the folks who are continuing to work on Cuban issues", can you tell me specifically who those folks are as it relates to our Title IV action request for the trafficking violations that we perceive are happening to our port properties in Havana and Santiago de Cuba? Again, and respectfully, we seem to have received a bit of conflicting messages from a couple of prior e-mail exchanges, one from you on 6/5/18 (attached), and one from your colleague, Rachel Alpert from the legal team, that she sent on 6/12/18 (attached) in response to my e-mail to her. Let me attempt to explain as follows:

In your e-mail of 6/5/18, you write in part, "I have passed this information and the information provided by Dr. Bengochea to our legal team. Once they have additional requests For information or a response, I will be back in touch."

In Rachel Alpert's e-mail to me of 6/12/18, she writes, 'Jerry- Thank you for your email. Per the attached

Federal Register notice, the Office of Cuban Affairs is the appropriate POC for Title IV-related inquiries.”

With your pending departure (and based on what appears to be conflicting e-mails above in terms of center of responsibility) frankly we are concerned that we may not have an open file at the State Department dealing with our Title IV request. In other words, we would hate to have to start our process over again once you are gone. We hope there is an active file presently established for us, and if you could confirm this point we would appreciate.

To further clarify, we are asking for Title IV enforcement action for the docks properties in both Santiago de Cuba and Havana. The Santiago docks are owned by Dr. Javier Garcia-Bengochea, and the docks in Havana are owned by Havana Docks Corporation, with whom I am affiliated. Dr. Garcia has requested Title IV action against the Chinese companies that are trafficking in his stolen property in Santiago, and we appreciate your forwarding of his information to your colleagues who work on China.

For the docks in Havana, owned by Havana Docks Corporation, we in particular would like to commence Title IV proceedings by the denying of United States visas to the officers and directors of Global Ports Holding, PLC as outlined in my e-mail to you of 5/29/18 (attached). Global Ports Holding, a Turkish company, has struck a deal with the Cuban company Aries S.A. (a probable shell company of the Cuban regime) to operate Havana Docks for the next 15 years. If this is not a clear example of trafficking in our confiscated Havana Docks property, we don't know what an example of trafficking as defined by Helms-Burton would be.

Further, for both of our Santiago de Cuba and Havana port properties, we respectfully request that Title IV action be brought against non-U.S. directors and officers of all of the commercial cruise lines that are docking at our properties (Norwegian Cruise Lines Holdings, Carnival, PLC, an Royal Caribbean Cruises, Ltd., Viking Ocean Cruises, Pearl Seas Cruises, Victory Cruise Lines, Et al.). We feel the trafficking in our properties by the cruise lines is the most egregious situation of all, as here we have a situation where U.S. companies are stealing from Dr. Garcia and Havana Docks Corporation, a U.S. citizen and a U.S. Corporation respectively, who are supposed to be protected from such action by Helms-Burton. Respectfully, I site again for you and the persons copied on this e-mail the section in Title IV that was written to give us this protection, which reads in part:

TITLE IV—EXCLUSION OF CERTAIN ALIENS

SEC.401. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS OR WHO TRAFFIC IN SUCH PROPERTY.

reading in part:

- (a) Grounds for Exclusion.—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien who the Secretary of State determines is a person who, after the date of the enactment of this Act—
 - (1) Has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;

- (2) Traffics in confiscated property, a claim to which is owned by a United States national;
- (3) Is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

If we have not proved our case for you that we have been and are continuing to be wronged as outlined above, or if we have not proven to you that we are the legitimate owners of the docks properties stolen by the Cuban government, we would appreciate directive from the State Department as to what we may do in order to activate the provisions of Helms-Burton.

Very respectfully yours,

Jerry

Jerry M. Johnson

Senior Vice President, Director of Wealth Management

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Fax. (859) 252-0304

215 Southland Drive, Lexington, Kentucky 40503

731

From: Escobar, Gabriel (EscobarG@state.gov>
Sent: Friday, July 06, 2018 12:14 PM
To: Jerry Johnson
<ijohnson@bankofthebluegrass.com>;
Mickael Behn <mickaelbehn@gmail.com>;
Home <jgb@bellsouth.net>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel, Nutan
B <PateINB@state.gov>; Murakami,
Kevin T <IVlurakamila@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
Aaron Johnson
<aarniohnson17@gmail.com>
Subject: RE: (5) Javier Garcia-Bengochea, MD
Title IV Cuba Claims

Jerry,

We've looked at all the information you've provided and found it to be a good start for moving toward further investigation. We have taken the information you provided and shared it with our colleagues who work on China to ask for information about the Chinese companies operating in the port. We will continue to monitor developments on the port as well. That's as much as I can share at this point, but please stay in touch with the folks who are continuing to work on Cuban issues.

Best regards,

Gabriel

From: Jerry Johnson
<jjohnson@bankofthebluegrass.com>
Sent: Friday, July 06, 2018 10:31 AM
To: Escobar, Gabriel <EscobarG@state.gov>;
Mickael Behn <mickaelbehn@gmail.com>;
Home <jgb@bellsouth.net>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel, Nutan
B <PatelNB@state.gov>; Murakami,
Kevin T <MurakamiKT@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
Aaron Johnson
<aamjohnson17@grnail.com>
Subject: RE: (5) Javier Garcia-Bengochea, MD
Title IV Cuba Claims

Good morning Gabriel. I hope all is well for you. Hope you don't mind, but I just wanted to check in with you for a moment as I know your departure date is soon. Do you have any update for us in regard to our request for Title IV action?

Best regards,

Jerry

Jerry M. Johnson

Senior Vice President, Director of Wealth Management

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733

From: Escobar, Gabriel <EscobarG@state.gov>
Sent: Tuesday, June 05, 2018 3:42 PM
To: Jerry Johnson
<jjohnson@bankofthebluegrass.com>;
Mickael Behn <mickaelbehn@gmail.com>;
Home <jgb@bellsouth.net>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel, Nutan
B <PatelNB@state.gov>; Murakami,
Kevin T <MurakamiKT@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
Aaron Johnson
<aamjohnson17@gmail.com>
Subject: RE: (5) Javier Garcia-Bengochea, MD
Title IV Cuba Claims

Mr. Johnson,

I depart this position in mid-July. I will aim to get something substantive back to you before then.

Gabriel

From: Jerry Johnson
<jjohnson@bankofthebluegrass.com>
Sent: Tuesday, June 05, 2018 2:03 PM
To: Escobar, Gabriel <EscobarG@state.gov>;
Mickael Behn <mickaelbehn@gmail.com>;
Home <igb@bellsouth.net>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel, Nutan
B <PatelNB@state.gov>; Murakami,
Kevin T <MurakamiKT@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
Aaron Johnson
<aamjohnson17@gmail.com>
Subject: RE: Javier Garcia-Bengochea, MD Title
IV Cuba Claims

Thank you very much for the reply Gabriel, and understood. Not to hold you to any time frame commitment in regard to your answer, but would you have an estimate as to how long your legal team might need to provide us with their analysis?

Please forgive if we sound a bit impatient, but what Global Ports Holding and the cruise lines are doing with our Havana and Santiago Docks properties in our opinion is just blatantly wrong.

Thank you again and best regards,

Jerry

Jerry M. Johnson
Senior Vice President, Director of Wealth Management

BANK OF THE BLUEGRASS
WEALTH MANAGEMENT

Direct Telephone: (859) 233-8903

Fax. (859) 252-0304

215 Southland Drive, Lexington, Kentucky 40503

735

From: Escobar, Gabriel <EscobarG@state.gov>
Sent: Tuesday, June 05, 2018 1:45 PM
To: Jerry Johnson
<jjohnson@bankofthebluegrass.com>;
Mickael Behn <mickaelbehn@gmail.com>;
Home <jgb@bellsouth.net>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel, Nutan
B <PatelNB@state.gov>; Murakami,
Kevin T <MurakamiKT@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
Aaron Johnson
<aamjohnson17@gmail.com>
Subject: RE: Javier Garcia-Bengochea, MD Title
IV Cuba Claims

Mr. Johnson,

Apologies for my late response. I was out all of last week. I have passed this information and the information provided by Dr, Bengochea to our legal team. Once they have additional requests for information or a response, I will be back in touch.

Best regards,

Gabriel Escobar

From: Jerry Johnson
<jjohnson@bankofthebluegrass.com>
Sent: Tuesday, June 05, 2018 10:45 AM
To: Escobar, Gabriel <EscobarG@state.gov>;
Mickael Behn <mickaelbehn@gmail.com>;
Home <jgb@bellsouth.net>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel, Nutan
B <PatelNB@state.gov>; Murakami,
Kevin T <MurakarniKT@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
Aaron Johnson
<aamjohnson17@gmail.com>
Subject: RE: Javier Garcia-Bengochea, MD Title
IV Cuba Claims

Good morning Gabriel. I just wanted to send a follow-up in regard to my e-mail to you of last Tuesday (listed below). Have you had an opportunity to review the listed points and our request for action in reference to Title IV?

Best regards,

Jerry

Jerry M. Johnson

Senior Vice President, Director of Wealth Management

**BANK OF THE BLUEGRASS
WEALTH MANAGEMENT**

Direct Telephone: (859) 233-8903

Fax. (859) 252-0304

215 Southland Drive, Lexington, Kentucky 40503

From: Jerry Johnson
Sent: Tuesday, May 29, 2018 12:44 PM
To: Home <jgb@beilsouth.net>;
escobarg@state.gov; Mickael Behn
<mickaelbehn@gmail.com>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel, Nutan
B <PatelNB@state.gov>; Murakami,
Kevin T <MurakamiKT@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
Aaron Johnson
<aamjohnson17@grnail.com>
Subject: RE: Javier Garcia-Bengochea, MD Title
IV Cuba Claims

Dr. Garcia,

Thank you very much for forwarding the copy of your correspondence from last week with Gabriel regarding a request to him to give us a status update on the State Department's efforts in enforcing Title IV of the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996 (the Act), regarding our Title IV claims against Norwegian Cruise Lines Holdings, Carnival, PLC, an Royal Caribbean Cruises, Ltd., Viking Ocean Cruises, Pearl Seas Cruises, Victory Cruise Lines, Et al. (the cruise lines). This being the claims request (attached) that you had sent to Gabriel in your 2/22/18 correspondence.

Gabriel,

I would like to come into the conversation with you as well, if that would be ok. By way of refresher, I am the gentleman who visited with you on behalf of Havana Docks Corporation when Dr. Garcia and I came to your office on Wednesday December 20th of last year. Quite a bit has Napped on the world stage since that time,

including a very disturbing event regarding our Havana Docks property that was announced on Tuesday of last week through a news report at the following link (if you would kindly click on the link for a moment and review, I would appreciate): <http://www.globalportsholding.com/news-details/113/awarded-agreement-for-operation-of-havana-cruise-port-cuba>.

The picture of the docks that Global Ports Holding, Plc so proudly touts in their news article through the link above is our very same Havana Docks Corporation property. You will note on the picture the name of the building, "Terminal Sierra Maestra". This is the same building where Mr. William C. Behn's office was located in reference to the picture I've attached for you showing Castro's thugs when they came to steal the property from Mr. Behn in 1960 (Mr. Behn is seated at his desk. Note the gun belts on the rebels and their rifles between their legs. The gentlemen standing are officers of Havana Docks Corporation). This picture of Mr. Behn is the same picture I gave for your file to your associate who was with us in our December 201h meeting.

I've also attached for your review our Certified Claim for the property (Claim CU-2492), as certified by the Foreign Claims Settlement Commission of the United States on April 21, 1971 (copy of this document was also given to your associate at our meeting on December 20th). Further, I've attached for you a copy of our Havana Docks Corporation's Form 1120 U.S. Corporate Income Tax Return for 2016 (Tax Identification Numbers on the Form 1120 are redacted for security purposes for this e-mail transmission, however, I can supply you with those Tax ID's if you would like. Also, our 2017 filing of Form 1120 is on

extension, but I will be happy to supply you with a copy of that return when completed).

The reason that I am attaching the Certified Claim and the Corporate Tax Return for your review is to show you that Havana Docks is indeed a legitimate corporation that has never ceased to be in existence, even though the core of its business assets were stolen by the Castro regime. The company had a small amount of investment assets (bank accounts, etc.) in the United States at the time the docks in Cuba were stolen, and the earnings on those U.S. investments represents the income we have reported to the IRS faithfully every year through the filing of Form 1120, like the one attached. I provide you with this proof of legitimacy in support of the requirement of the Act (Helms-Burton).

I know that you and your staff know the Act backwards and forwards, but on this legitimacy of ownership issue I would like to cite a brief section of the Act for the parties to this e-mail, with that citation found under "*Title III-Protection of Property Rights of United States Nationals, SEC. 303. Proof of Ownership of Claims to Confiscated Property*", which reads in part:

- (a) Evidence of Ownership.—
- (1) Conclusiveness of certified claims.—In any action brought under this title, the court shall accept as conclusive proof of ownership of an interest in property a certification of a claim to ownership of that interest that has been made by the Foreign Claims Settlement Commission under title V of the International Claims

Settlement Act of 1949 (22 U.S.C. 1643
and following).

In that Havana Docks Corporation has conclusive proof of ownership and is further considered a “United States National”, it is my hope and belief that we are an entity that is under your protectorate, and that part of your department’s role is to help entities such as ours with the enforcement of domestic and international laws, laws that might alleviate the injustice we are blatantly being further subjected to by the wholesale trafficking in our Certified Claim property by other U.S. domiciled companies (i.e. Carnival, Royal Caribbean, Norwegian, etc.), and now a Turkish company, Global Ports Holding, Plc.

On the point of aiding with the enforcement of laws, admittedly I wasn’t exactly sure of what the U.S. Department of State does, so I looked at your Mission Statement on your web site. One part of that Mission Statement that caught my eye was in reference to the aims set forth in the President’s National Security Strategy and its three underlying and interdependent components of diplomacy, development, and defense. The component objective regarding development was of particular interest to me, whereby your Mission Statement sets forth:

Third, in confronting the intersection of traditional and transnational challenges, we will combine our diplomatic skills and development assistance to act boldly to foster a more democratic and prosperous world integrated into the global economy. We will not waver in our belief that all human beings deserve lives of dignity and the opportunity to achieve their aspirations. We will promote freedom of speech, conscience, and religion, the

rule of law, and economic freedom. In concert with civil society organizations, we will speak out against human rights abuses and the trafficking of human beings.

Obviously I was focused in on the “rule of law” part above in reference to our Certified Claims for Havana Docks and the port of Santiago de Cuba on behalf of Dr. Garcia, but so many of the other poignant words in this paragraph I believe probably apply toward the State Department’s goals for Cuba as whole.

In further review of the Act, another section I would like to briefly quote for our readers of this e-mail is also found under Title 111, in the opening part of “SEC.301. FINDINGS”, which reads:

The Congress makes the following findings:

- (1) Individuals enjoy a fundamental right to own and enjoy property which is enshrined in the United States Constitution.
- (2) The wrongful confiscation or taking of property belonging to United States nationals by the Cuban Government, and the subsequent exploitation of this property at the expense of the rightful owner, undermines the comity of nations, the free flow of commerce, and economic development.

As a final quote from the Act, I bring our readers’ attention to:

***TITLE IV—EXCLUSION OF CERTAIN ALIENS
SEC.401. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS OR WHO TRAFFIC IN SUCH PROPERTY.***

reading in part:

- (a) Grounds for Exclusion.—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien who the Secretary of State determines is a person who, after the date of the enactment of this Act—
 - (1) Has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;
 - (2) Traffics in confiscated property, a claim to which is owned by a United States national;
 - (3) Is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

Well, enough of my rambling and back to the purpose of my writing to you Gabriel and in support of Dr. Garcia's request to you for an information status.

The purpose of my writing is basically a single question. Is the State Department going to help us by enforcement of Title IV of the Act through notification to the appropriate officers and directors of the cruise lines (Norwegian Cruise Lines Holdings, Carnival. PLC, an Royal Caribbean Cruises, Ltd., Viking Ocean

Cruises, Pearl Seas Cruises, Victory Cruise Lines, Et al.) of the pending denial of U.S. visas?

In hopes that the answer to the above question is yes, and given the events that I mentioned above that transpired last week regarding Global Ports Holding, Plc's announcement of the agreement they reached with the Cuban shell entity to manage Havana Docks for the next 15 years, we also respectfully ask that Title IV action be brought against the appropriate officers and directors of Global Ports Holding, Pic. From their annual report of last year, I've attached for your review a listing of Global Port Holding, Plc's officers and directors.

I close with a couple of points. First, I thank you for reading this long plea to you for help. Second, I would ask you to note the "To" copy on this e-mail to Mr. Mickael Sosthenes Behn, President of Havana Docks Corporation and the grandson of Mr. William C. Behn, the gentleman seated at the desk in the attached photograph. Further, Mickael is the great-grandson of Sosthenes Behn, the founder of international Telephone & Telegraph.

My sincere thanks to all readers on this e-mail.

Jerry

Jerry M. Johnson

Senior Vice President, Director of Wealth Management

**BANK OF THE BLUEGRASS
WEALTH MANAGEMENT**

Direct Telephone: (859) 233-8903

Fax. (859) 252-0304

215 Southland Drive, Lexington, Kentucky 40503

744

From: Home <jgb@bellsouth.net>
Sent: Tuesday, May 29, 2018 11:25 AM
To: Mickael Behn <mickaelbehn@gmail.com>;
Jerry Johnson
<ijohnson@bankofthebtuegrass.corn>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel, Nutan
B <PatelNB@state.gov>; Murakami,
Kevin T <MurakamiKT@state.gov>;
Alpert, Rachel K <AlpertRK@state.gov>;
escobarg@state.gov
Subject: Re: Javier Garcia-Bengochea, MD Title
IV Cuba Claims

FYI.

JGB

Sent from my iPhone

On May 23, 2018, at 4:42 PM, Escobar, Gabriel
<EscobarG@state.gov> wrote:

Dr. Garcia-Bengochea:

I apologize for the delay in responding to your earlier
messages. I was on travel last week.

Thank you for the information you have thus far
provided in response to our February 22, 2018 letter
requesting additional documentation. We continue
to review and assess available documentation and
information related to the port, port facilities, and area
surrounding the harbor of Santiago de Cuba (the
Property). We have carefully evaluated the infor-
mation you have provided. and have a few follow-on
requests:

Can you explain how you came to learn of and acquire
the deeds/documents showing ownership in the
Property? In the affidavit of Desiderio Parreno. page 4

refers to the whereabouts of “all the real estate property deeds and all of the stock certificates in the various corporations in which we owned stock.” He notes that such documents were originally with his aunt, Mrs. Maria Luisa Velazquez de Salcedo, but that it was unclear where these documents were at the time of his writing the affidavit. He explains that some documents may have been sent to a Havana attorney, Dr. Fernando Figueredo, who had subsequently moved to New York City, and that some may have been left with Mr. Angel del Castillo, someone who had managed the family’s real estate investments and who never left Cuba before his passing. However, in your March 29 letter you stated that “the deeds could not be removed from Cuba without jeopardizing our safety and, thus, remain there. They are hidden in a place known only to me.”

- Could you provide copies of the deeds to the Property, demonstrating your ownership interests. If such documentation is unavailable, please explain why and additionally provide an affidavit attesting to the contents of the deeds as you understand them and any other information or documentation that is available regarding their contents.

Sincerely,
Gabriel

-----Original Message-----

From: Home <jgb@bellsouthnet>
Sent: Thursday, March 29, 2018 6:58 AM
To: Escobar, Gabriel <EscobarG@state.gov>
Cc: Magallon, Erica G
<MagallonEG@state.gov>; Patel. Nutan
B <PatelNB@state.gov>
Subject: Javier Garcia-Bengochea, MD Title IV
Cuba Claims

Gabriel,

Please see the attached letter in regards to your 2/22/18 correspondence to me relating to my Title 1V claims against CCCC and the cruise lines..

Thank you.

Javier

Official

UNCLASSIFIED

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754

From: Javier Garcia-Bengochea
<jgb@icloud.com >
Sent: Monday, December 17, 2018 11:19 PM
To: OFAC_Feedback@treasury.gov
Cc: Mickael Behn; Jerry Johnson; Zuniga-Brown
Browntp@state.gov
Subject: Re: Cuban Assets Control Regulations

Dear Sir or Madam,

I'm sorry, But I have already done that and Mr. Tim Zúñiga-Brown at the State Department instructed me this issue is clearly an OFAC concern and to contact OFAC. I have cc'ed Mr. Zuniga-Brown.

Please connect me with the appropriate person in your office responsible for CACR/OFAC sanctions violations.

Thank you,

Javier Garcia-Bengochea, MD
Sent from my iPad

On Dec 17, 2018, at 3:47 PM, OFAC_Feedback@treasury.gov wrote:

Thank you for the additional detail. For claims related to property confiscated in Cuba, you should address your concerns to the U.S. State Department.

Regards,

Office of Foreign Assets Control
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220
Toll Free: 1-800-540-6322
Email: OFAC_Feedback@treasury.gov
Website: OFAC FAQs
bv

From: Javier Garcia-Bengochea
<jgb1@icloud.com>
Sent: Saturday, December 15, 2018 1:11 PM
To: OFAC_Feedback <OFAC_Feedback@treasury.gov>
Cc: Mickael Behn
<mickaelbehn@havanadockscorp.com>;
Jerry Johnson
<jjohnson@bankofthebluegrass.com>
Subject: Re: Cuban Assets Control Regulations

Thank you for the prompt reply.

As stated previously, I am a US citizen and the claimant and legitimate owner of the port facilities in Santiago de Cuba. I am also partnered with the American owners of the cruise facilities in Havana, Cuba, who are copied above.

Specifically, we are referring to the CACR, Title 31,
“§515.208 Restrictions on loans, credits and other financing.

No United States national, permanent resident alien, or United States agency may knowingly make a loan, extend credit or provide other financing for the purpose of financing transactions involving confiscated property the claim to which is owned by a United States national, except for financing by a United States national owning such a claim for a transaction permitted under United States law.”

This was incorporated into the Federal Register on July 18, 1996 from The Cuban Liberty and Democratic Solidarity Act of 1996 (Helms-Burton), Sec. 103(a), which states,

“Prohibition.--Notwithstanding any other provision of law, no loan, credit, or other financing may be extended

knowingly by a United States national, a permanent resident alien, or a United States agency to any person for the purpose of financing transactions involving any confiscated property the claim to which is owned by a United States national as of the date of the enactment of this Act, except for financing by the United States national owning such claim for a transaction permitted under United States law

We also note that Helms-Burton explicitly states in Sec. 102(c) regarding “Existing Regulations.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.” This is certainly the position of the Trump Administration as reflected in the NSPM 5 from 11/17.

Thank you for your prompt attention to this important matter. We eagerly await a response from the appropriate person and look forward to discussing this situation in more detail.

Javier Garcia-Bengochea, MID
Mickael S. Behn, Havana Docks Corp.
Jerry Johnson, Havana Docks Corp.
Sent from my iPad

On Dec 14, 2018, at 5:39 PM, OFAC_Feedback@treasury.gov wrote:

Good afternoon and thank you for your email.

Would you please tell us more about question regarding the Cuban Assets Control Regulations so that we can better direct your inquiry?

Regards,

Office of Foreign Assets Control
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220
Toll Free: 1-800-540-632
Email: OFAC Feedback@treasury.gov
Website: OFAC FAQs
bv

-----Original Message-----

From: Javier Garcia-Bengochea
<jgb1@icloud.com>
Sent: Friday, December 14, 2018 1:13 PM
To: OFAC Feedback
<OFAC_Feedback@treasury.gov>
Subject: Cuban Assets Control Regulations

Dear Sir or Madam,

I am the claimant and legitimate owner of the port facilities in Santiago de Cuba and represent the American claimants to the cruise port facilities in Havana, Cuba. We have serious ongoing concern regarding the trafficking in our confiscated properties by the cruise line industry in clear violation of U.S. law.

This trafficking has been compounded by serial violations of Helms-Burton and the CACR prohibiting knowingly financing any transaction involving a confiscated property. The cruise line companies and some or many of the group tour operators who book these cruises -know" these ports are confiscated.

I would like to speak with someone regarding this important matter. Thank you

Javier Garcia-Bengochea, MD
Sent from my iPad

Message

From: Mickael Behn
[mickaelbehn@havanaclockscorp.corn]
Sent: 12/22/2018 7:44:31 PM
To: Javier Garcia-Bengochea
[jgb1@icloud.corn]
CC: Otto Reich [oreich@ottoreich.com]; Jose
Cardenas [jcard5000@msn.coml;
Jonathan Slade [js@thecormacgroup.com];
Jerry Johnson [/o-ExchangeLabs/ou=Exc
hange Administrative Group (FYDIB01-
1F23SPIDLT)/cn=Recipients/cn=302f3ed
959214dd5135a435d77a9fc8d1-jjohnson];
ajohnson.hdc@gmail.com
Subject: Re: CCCC Letter 2.docx

I think we still need State to hit up global ports before
the cruise lines,

Once we get action of GPH in any form then we can
use that as leverage

And reasoning to attack cruise lines. Personally I
would say to attack cruise lines via letters and state
backing

and

Then attack treasury in the media. Giving out licenses
without consideration To Owners of the property.
Maybe even giving rumours of actions on treasury.

Even if that isn't the case it will get media attention.

On Covington I would talk to them on the phone. Make
sure it's clear and decisive on What we are trying to
achieve.

I have a distrust in lawyers wanting to expand
"explanations" Because I have been burnt in the past

by that and greedy hourly rate Lawyers. If there is a flat fee on the letters then it should be fine.

Mickael

Sent from my iPhone

On 22 Dec 2018, at 19:12, Javier Garcia-Bengochea <jgb1@icloud.com> wrote:

Thanks. Those are good. Will include them.

When can we send Tim the Title IV requests against the foreign cruise lines such as MSC (Switzerland), Fred Olsen (UK) and Celestyal (Cyprus)? I'm told he's looking for claimants Title IV actions

JGB

Sent from my Pad

On Dec 22, 2018, at 12:10 PM, Otto Reich <oreich@ottoreich.com> wrote:

I agree with Jose's edits. I made one minor grammatical correction in another paragraph. See attachment below.

Otto.

<CCCC Letter 2 01R Rev 1.docx>

Otto J. Reich,
Ambassador of the United States of America, Ret
Otto Reich Associates, LLC
Cell 703-627-200
oreich@ottoreich.com
www.ottoreich.com

760

On Dec 22, 2018, at 11:40 AM, Jose Cardenas
<jcard50007a msn.com.> wrote:

had just a few suggested tweaks...tracked.

From: Javier Garcia-Bengochea
<igb1@icloud.com>
Sent: Saturday, December 22, 2018 10:13 AM
To: Jonathan Slade; Otto Reich; Mickael
Behn; Jose Cardenas; Jerry M. Johnson;
ajohnson.hdc@gmail.com
Subject: CCCC Letter 2.docx

Attached is a draft of the letter I am going to send to
CCCC's lawyers. Any comments?

JGB

Sent from my iPad

<CCCC Letter 2.docx>

WARNING: This email originated outside of our
organization's email system. Do not click links or open
attachments unless you recognize the sender and you
are expecting the message.

761

Filed Under Seal

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SINGAPORE
TOKYO

February 22, 2017

WRITER'S DIRECT DIAL
(202) 383-5249

WRITER'S E-MAIL ADDRESS:
glitchtenbaum@omm.com

CONFIDENTIAL

Ms. Andrea Gacki
Acting Director
Office of Foreign Assets Control
U.S. Department of Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Re: *License Application Pursuant to 31 C.F.R. Part 515*

Dear Ms. Gacki:

We write on behalf of Norwegian Cruise Line Holdings Ltd. ("NCLH"), a Bermuda company headquartered in Miami, Florida, to request a license pursuant to the Cuba Assets Control Regulations ("CACRs," 31 C.F.R.

Part 515) to permit NCLH to enter into a joint venture with Aries Transportes, S.A. (“Aries”), a Cuban government-owned company that operates the Port of Havana, or another entity designated by Aries. Pursuant to the joint venture, NCLH would repair an existing pier at the Port of Havana in return for priority berthing rights. For the reasons set forth below, we believe that licensing the proposed joint venture is squarely consistent with current U.S. policy *vis-a-vis* Cuba.

I. Scope of Proposed Joint Venture

OFAC has issued a general license for the provision of carrier services (including by vessel) for authorized travelers to Cuba. This general license is set forth in Section 515.572 of the CACRs. NCLH will begin providing carrier services consistent with the general license in March 2017, when its first cruise vessel embarks for Cuba. NCLH has also received approval from the Cuban Government to operate cruises through 2018. Thereafter, NCLH expects to receive approval to continue operating cruises in the future.

NCLH will dock in Havana pursuant to a standard berthing agreement with Aries. While the Port of Havana has many piers, there is currently only one pier, Shed One, that is fit for docking cruise vessels of the type used by NCLH. The other piers are in a state of disrepair and therefore cannot be used.

Aries approached NCLH about entering into a joint venture to repair one of the other existing piers, Shed Three. NCLH would undertake the work needed to repair Shed Three such that it would be fit to embark and disembark cruise passengers. The first step in the project would be the retention of an architect and an engineering and construction firm. Original plans of Shed Three would need to be sourced and a compre-

hensive development plan created in coordination with the Cuban partner. This plan would include an environmental study to ensure that the project does not have deleterious effects on the surrounding ecosystem. Once in place, the French construction firm of Bouygues Batimentes International (“Bouygues”), which has a local office in Havana, would likely be retained. In conjunction with local drafters, engineers, craftsman, and laborers, Bouygues would commence and oversee the construction process. It is anticipated that locally sourced concrete would be used for the project, while other materials including but not limited to steel, windows, and HVAC products would be imported, most likely from the United States (consistent with any Export Administration Regulation licensing requirements).

In exchange for undertaking the pier repair project, NCLH would receive a lease to use the pier with preferential berthing rights. NCLH contemplates that it would seek approximately four out of seven days of the week for preferential berthing, with Aries making alternative arrangements for the other three days with other carriers, including other authorized U.S. carriers.

NCLH has reviewed the U.S. Foreign Claims Settlement Commission claims, and from that review, there are no apparent certified claims associated with Shed Three at the Port of Havana.¹

¹ We note that there are two Foreign Claims Settlement Commission decisions that reference the Port of Havana. However, we have no basis to conclude that the pier that NCLH proposes to repair is property within the scope of either claim. The first claim, *In the Matter of Havana Docks Corporation*, Claim No. CU-2492, Decision No. CU-6165 (Apr. 21, 1971), relates to a concession for the operation of certain docks at the Port of Havana. The second claim with an even more tangential

II. Factors Supporting Granting of a License

OFAC should grant this license because the proposed joint venture is consistent with U.S. foreign policy objectives *vis-a-vis* Cuba.² The general license set forth in Section 515.572(a)(2) of the CACRs authorizes the provision of carrier services to authorized travelers, from, or within Cuba. The joint venture is in furtherance of enabling NCLH to provide such authorized travel services. Failure to grant the proposed joint venture will limit NCLH's ability to operate all of the itineraries it anticipates will be desired by its passengers and/or add additional calls that may be required to fulfill demand. Currently, only one pier is fit for use by NCLH's cruise vessels.

Repairing another pier provides NCLH, a company headquartered in the United States, an additional opportunity to expand its authorized travel services under Section 515.572. In addition, repairing the pier will directly benefit the Cuban people by creating jobs in the construction sector and eventually the maritime transport sector, and will assist with rebuilding a city that has fallen into disrepair. These benefits are

connection to the Port is *In the Matter of John. K. Teafor and Jacqueline Teafor*, Claim No. CU-2319, Decision No. CU-6075 (Feb, 17, 1971). This is not a claim related to port property. Rather, it is a claim for "debts owed by National Institute of Fishing" to Teafor for "prepar[ing] the design and plans for the construction of a fishing terminal in the Port of Havana" and "design[ing] and constructing] a number of ice plants and cold storage warehouses to be built in the interior ports of Cuba."

² In our view, existing general licenses described below could be construed to cover the activity in question. In a discussion between Greta Lichtenbaum and the Licensing Division, however, the Licensing Division advised that it had concluded that this activity would require a specific license.

consistent with the broader policies underlying the new general licenses.

The joint venture is also consistent with the policy underlying the general licenses in Section 515.573, which recognize that providers of travel and carrier services operating under Section 515.572, like NCLH, must establish a physical and business presence in Cuba in order to provide authorized services. These include the following types of transactions. First, Section 515.573(a)(1) authorizes all transactions necessary to establish and maintain a physical presence in Cuba, including “leasing physical premises. . . [and] securing related goods and services, including for use in and to pay fees related to the operation of the physical premises.” Second, Section 515.573(b) authorizes “all transactions necessary to establish and maintain a business presence in Cuba,” including “establishing and maintaining...joint ventures...with any Cuban national, and entering into all necessary agreements or arrangements with such entity or individual.” Priority berthing rights are — for a cruise vessel operator — the equivalent of maintaining a physical presence in Cuba.

In sum, OFAC stated that the amendments to the CACRs, including the general licenses in §§515.572-573, “further implement certain policy measures announced on December 17, 2014 to engage and empower the Cuban people.”³ As described above, the joint venture is consistent with and advances those goals.

³ U.S. Department of the Treasury, Cuban Assets Control Regulations, 80 Fed. Reg. 2299 (Jan. 16, 2015); U.S. Department of the Treasury, Cuban Assets Control Regulations, 80 Fed. Reg. 56915 (Sept. 21, 2015); U.S. Department of the Treasury, Cuban Assets Control Regulations, 81 Fed. Reg. 13993 (Mar. 16, 2016).

III. License Request

Consistent with the circumstances and proposed scope of activity discussed above, NCLH respectfully requests that OFAC grant this application for a license to permit NCLH to enter into a joint venture with Aries for the purpose of restoring Shed Three at the Port of Havana, and to engage in all activities in furtherance of the pier repair, including development of the space with an architecture and engineering firm, and the eventual construction of a modern cruise terminal in which to embark and disembark its cruise passengers.

NCLH requests prompt consideration of this request given the long lead time that will be necessary to begin planning, constructing and seeing this project through completion. We welcome any questions. Please do not hesitate to contact the undersigned at (202) 383-5249 or (202) 383-5299; or via email at glichtenbaum@omm.com or najimbo@omm.com. This license request contains commercial information regarding the business of NCLH that is confidential and therefore is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. §552(b)(4).

Sincerely,

/s/ McAllister Jimbo

Greta Lichtenbaum

McAllister Jimbo

of O'MELVENY & MYERS LLP

OFAC

Office of Foreign Assets

License Application

Reference Number: NCLH Cuba Joint Venture License Application

Generated on 2/22/2017

Application Information

Application Type: Transactional

Application Reason: New Application

Program(s): Cuba

Category: Transactional

Subcategory: Commercial Transactions

Previous Case ID:

Description of Subject Matter:

Norwegian Cruise Line Holdings Ltd. ("NCLH") requests a license pursuant to the CACRs to permit NCLH to enter into a joint venture with Aries Transportes, SA., a Cuban government-owned company that operates the Port of Havana, or another entity designated by Aries. Pursuant to the joint venture, NCLH would repair an existing pier at the Port of Havana in return for priority berthing rights.

Contact Information

Applicant

Contact Category: Institution

Organization Name: Norwegian Cruise Line
Holdings Ltd.

Point of Contact Name:

Address:

Line1: 7665 Corporate Center Drive

Line2:

Line3:

City: Miami

State: FL

Zip: 33126

Country: United States

Email Address:
Phone:
Office:
Mobile:
Fax:
Principal Place of Business:
Place where Business is Incorporated:

Correspondent

Contact Category: Institution
Organization Name: O'Melveny & Myers LLP
Point of Contact Name:
Address:
Line1: 1625 Eye Street N.W.
Line2:
Line3:
City: Washington
State: District of Columbia
Zip: 20009
Country: United States
Email Address: glichtenbaum@omm.com
Phone:
Office: (202) 383-5249
Mobile:
Fax:
Principal Place of Business:
Place where Business is Incorporated:

Attachments

Name	Document Type
NCLH Cuba Joint Venture	
License Application	Supplemental Information
Application Summary	License Request
Certification	
Signature: Greta Lichtenbaum	
Date: 2/22/2017	
Email Address: glichtenbaum@omm.com	

ATTACHMENT 32

(REDACTED COPY OF ECF NO. 234-24)

REGENT
SEVEN SEAS CRUISES'REGENT SEVEN SEAS CRUISES TRAVEL
AFFIDAVIT

I understand that the Office of Foreign Assets Control of the U.S. Department of Treasury ("OFAC") administers and enforces the Cuban Assets Control Regulations ("CACR"). I further understand that the CACR prohibits U.S. persons from engaging in travel transactions and from traveling to Cuba, unless they qualify for a general license. I have reviewed the CACR and/or OFAC's guidance on the travel restrictions.

I, the undersigned, declare and certify that (a) I am subject to U.S. jurisdiction and (b) I qualify for a general license, as marked below. I further confirm that as a licensed traveler, I am obligated to retain all records relating to my travel to Cuba for a period of five years.

I SELECT THE GENERAL LICENSE THAT
AUTHORIZES MY TRAVEL

- ☐ 515.561 Family visit
- ☐ 515.562 Official business of U.S. or foreign
Government, or
intergovernmental organization
- ☐ 515.563 Journalistic activities
- ☐ 515.564 Professional research or meetings
- ☐ 515.565(a) Educational activities – for credit
or in connection with degree

- ☐ 515.565(b) Educational exchanges – individual people-to-people (applicable to passengers who booked before June 16, 2017 only and who choose to engage in these exchanges)
- ☒ 515.565(b) Educational exchanges — group people-to-people through Regent Seven Seas Cruises
- ☐ 515.566 Religious activities
- ☐ 515.567(8) Amateur or semi-professional international sports federation competitions
- ☐ 515.567(b) Public performance, clinics, workshops, other competitions, and/or exhibitions
- ☐ 515.574 Support for the Cuban people
- ☐ 515.575 Humanitarian projects
- ☐ 515.576 Activities of private foundations or research/educational institutes
- ☐ 515.545(b)(1) Activities related to the exportation or importation of informational materials
- ☐ 515.545(b)(2) Activities in connection with the temporary sojourn of aircraft/vessels
- ☐ 515.533(d)(1) Activities related to Department of Commerce licenses or authorized exports
- ☐ 515.533(d)(2) Activities related to professional media & artistic productions

- ☐ 515.559(d) Activities related to the exportation of DOC-authorized medicines & medical supplies
- ☐ 515.570 Returning Cuban nationals
- ☐ OR I will not disembark the vessel while in Cuba to participate in any of the above referenced activities during this sailing.

I solemnly affirm under penalty of perjury that to the best of my knowledge, the foregoing is true and accurate.

Please note that pursuant to changes in U.S. law certain direct financial transactions (i.e., credit card or cash) with restricted entities designated by the U.S. Government appearing on the Cuba Restricted List found at <https://www.state.gov/e/eb/tfs/spi/cuba/cubarestrictedlist/275331.htm> are prohibited. We recommend that you review this website to familiarize yourself with these restrictions.

[REDACTED]

Signature of Traveler

[REDACTED]

Date Signed

[REDACTED]

Telephone Number

[REDACTED]

Name of Traveler

[REDACTED]

Home Address

ship: Voyager

Departure Date: 3-12-2019

Booking #: [REDACTED]

772

ATTACHMENT 33

(REDACTED COPY OF ECF NO. 234-25)

NCL

NORWEGIAN
CRUISE LINE®

NORWEGIAN CRUISE LINE TRAVEL AFFIDAVIT

I understand that the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") administers and enforces the Cuban Assets Control Regulations ("CACR"). I further understand that the CACR prohibits U.S. persons from engaging in travel transactions and from traveling to Cuba, unless they qualify for a general license. I have reviewed the CACR and/or OFAC's guidance on the travel restrictions.

I, the undersigned, declare and certify that (a) I am subject to U.S. jurisdiction and (b) I qualify for a general license, as marked below. I further confirm that as a licensed traveler, I am obligated to retain all records relating to my travel to Cuba for a period of five years.

I SELECT THE GENERAL LICENSE THAT
AUTHORIZES MY TRAVEL:

- ☐ 515.561 Family Visit
- ☐ 515.562 Official business of U.S. or foreign Government, or intergovernmental organization
- ☐ 515.563 Journalistic activities
- ☐ 515.564 Professional research or meetings
- ☐ 515.565(a) Educational activities - for credit or in connection with degree

- ☐ 515.565(b) Educational exchanges - individual people-to-people
- ☒ 515.565(b) Educational exchanges – group people-to-people through Norwegian or other organization
- ☐ 515.566 Religious activities
- ☐ 515.567(a) Amateur or semi-professional international sports federation competitions
- ☐ 515.567(b) Public performance, clinics, workshops, other competitions, and/or exhibitions
- ☐ 515.574 Support for the Cuban people
- ☐ 515.575 Humanitarian projects
- ☐ 15.576 Activities of private foundations or research/educational institutes
- ☐ 515.545(b)(1) Activities related to the exportation or importation of informational materials
- ☐ 515.565(b)(2) Activities in connection with the temporary sojourn of aircraft/vessels
- ☐ 515.533(d)(1) Activities related to Department of Commerce licensed or authorized exports
- ☐ 515.533(d)(2) Activities related to professional media & artistic productions
- ☐ 515.559(d) Activities related to the exportation of DOC-authorized medicines & medical supplies
- ☐ 515.570 Returning Cuban nationals

☐ OR I will not disembark the vessel while in Cuba to participate in any of the above referenced activities during this sailing

I solemnly affirm under penalty of perjury that to the best of my knowledge, the foregoing is true and accurate.

Please note that pursuant to changes in U.S. law certain direct financial transactions (i.e., credit card or cash) with restricted entities designated by the U.S. Government appearing on the Cuba Restricted List found at <https://www.state.gov/e/eb/tfs/spi/cuba/cubarrestrictedlist/275331.htm> are prohibited. We recommend that you review this website to familiarize yourself with these restrictions.

[REDACTED]

Signature of Traveler

[REDACTED]

Date Signed

[REDACTED]

Telephone Number

[REDACTED]

Name of Traveler

[REDACTED]

Home Address

Ship: Norwegian Sun

Departure Date: [REDACTED]

Booking#: [REDACTED]

ATTACHMENT 34

(REDACTED COPY OF ECF NO. 234-26)

OCEANIA CRUISES®
Your World Your Way®

OCEANIA CRUISES TRAVEL AFFIDAVIT

I understand that the Office of Foreign Assets Control of the U.S. Department of Treasury ("OFAC") administers and enforces the Cuban Assets Control Regulations ("CACR"). I further understand that the CACR prohibits U.S. persons from engaging in travel transactions and from traveling to Cuba, unless they qualify for a general license. I have reviewed the CACR and/or OFAC's guidance on the travel restrictions.

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I SELECT THE GENERAL LICENSE THAT
AUTHORIZES MY TRAVEL

- ☐ 515.501 Family visit
- ☐ 515.562 Official business of U.S. or foreign Government. or intergovernmental organization
- ☐ 515.563 Journalistic activities
- ☐ 516.564 Professional research or meetings
- ☐ 515.565(a) Educational activities – for credit or in connection with degree

- ☒ 515.565(b) Educational exchanges – group people-to-people through Oceania Cruises
- ☐ 515.565(b) Educational exchanges – group people-to-people through other organization
- ☐ 515.566 Religious activities
- ☐ 515.567(8) Amateur or semi-professional international sports federation competitions
- ☐ 515.567(b) Public performance, clinics, workshops, other competitions. and/or exhibitions
- ☐ 515.574 Support for the Cuban people
- ☐ 515.575 Humanitarian projects
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- ☐ 515.545(b)(2) Activities in connection with the temporary sojourn of aircraft/vessels
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- ☐ 515.533(d)(2) Activities related to professional media & artistic productions
- ☐ 515.559(d) Activities related to the exportation of DOG-authorized medicines & medical supplies

- ☐ 515.570 Returning Cuban nationals
- ☐ OR I will not disembark the vessel while in Cuba to participate in any of the above referenced activities during this sailing.

I solemnly affirm under penalty of perjury that to the best of my knowledge, the foregoing is true and accurate.

Please note that pursuant to changes in U.S. law certain direct financial transactions (i.e., credit card or cash) with restricted entities designated by the U.S. Government appearing on the Cuba Restricted List found at <https://www.state.gov/e/eb/tfs/spi/cuba/cubarstrictedlist/275331.htm> are prohibited.

[REDACTED]

Signature of Traveler

[REDACTED]

Date Signed

[REDACTED]

Telephone Number

[REDACTED]

Name of Traveler

Ship: MS REGATTA

Departure Date: 01 APRIL 2019

Booking #: [REDACTED]

OCEANIA CRUISES®
Your World Your Way®

OCEANIA CRUISES TRAVEL AFFIDAVIT

I understand that the Office of Foreign Assets Control of the U.S. Department of Treasury ("OFAC") administers and enforces the Cuban Assets Control Regulations ("CAGR"). I further understand that the CACR prohibits U.S. persons from engaging in travel transactions and from traveling to Cuba, unless they qualify for a general license. I have reviewed the CACR and/or OFAC's guidance on the travel restrictions.

I, the undersigned, declare and certify that (a) I am subject to U.S. jurisdiction and (b) I qualify for a general license, as marked below. I further confirm that as a licensed traveler, I am obligated to retain all records relating to my travel to Cuba for a period of five years.

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- ☐ 515.565(b) Educational exchanges – group people-to-people through other organization
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- ☐ 515.545(b)(2) Activities in connection with the temporary sojourn of aircraft/vessels
- ☐ 515.533(d)(1) Activities related to Department of Commerce licenses or authorized exports
- ☐ 515.533(d)(2) Activities related to professional media & artistic productions
- ☐ 515.559(d) Activities related to the exportation of DOG-authorized medicines & medical supplies
- ☐ 515.570 Returning Cuban nationals

☐ OR I will not disembark the vessel while in Cuba to participate in any of the above referenced activities during this sailing.

I solemnly affirm under penalty of perjury that to the best of my knowledge, the foregoing is true and accurate.

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[REDACTED]

Signature of Traveler

[REDACTED]

Date Signed

[REDACTED]

Telephone Number

[REDACTED]

Name of Traveler

Ship: MS REGATTA

Departure Date: 01 APRIL 2019

Booking #: [REDACTED]

OCEANIA CRUISES®
Your World Your Way®

OCEANIA CRUISES TRAVEL AFFIDAVIT

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- ☐ 516.564 Professional research or meetings
- ☐ 515.565(a) Educational activities – for credit or in connection with degree
- ☒ 515.565(b) Educational exchanges – group people-to-people through Oceania Cruises

- ☐ 515.565(b) Educational exchanges – group people-to-people through other organization
- ☐ 515.566 Religious activities
- ☐ 515.567(8) Amateur or semi-professional international sports federation competitions
- ☐ 515.567(b) Public performance, clinics, workshops, other competitions. and/or exhibitions
- ☐ 515.574 Support for the Cuban people
- ☐ 515.575 Humanitarian projects
- ☐ 515.576 Activities of private foundations or research/educational institutes
- ☐ 515.545(b)(1) Activities related to the exportation or importation of informational materials
- ☐ 515.545(b)(2) Activities in connection with the temporary sojourn of aircraft/vessels
- ☐ 515.533(d)(1) Activities related to Department of Commerce licenses or authorized exports
- ☐ 515.533(d)(2) Activities related to professional media & artistic productions
- ☐ 515.559(d) Activities related to the exportation of DOG-authorized medicines & medical supplies
- ☐ 515.570 Returning Cuban nationals

☐ OR I will not disembark the vessel while in Cuba to participate in any of the above referenced activities during this sailing.

I solemnly affirm under penalty of perjury that to the best of my knowledge, the foregoing is true and accurate.

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[REDACTED]

Signature of Traveler

[REDACTED]

Date Signed

[REDACTED]

Telephone Number

[REDACTED]

Name of Traveler

Ship: MS REGATTA

Departure Date: 01 APRIL 2019

Booking #: [REDACTED]

784

NCLH

NORWEGIAN CRUISE LINE
HOLDINGS LTD.

FRANK J. DEL RIO
PRESIDENT & CEO

Via electronic mail
elaine.chao@dot.gov

July 7, 2017

The Honorable Elaine L. Chao
U.S. Secretary of Transportation
1200 New Jersey Avenue, SE
9th Floor
Washington, D.C. 20590-9898

Re: Forthcoming Changes to Cuba
Sanctions Regulations

Dear Secretary Chao:

Following the meeting between cruise industry executives and Secretary of Commerce Wilbur J. Ross on June 21st, Norwegian Cruise Line Holdings Ltd., (“Norwegian” or the “Company”) is submitting this letter to provide its views regarding the forthcoming changes to the Cuba sanctions first announced by President Trump on June 16, 2017. In light of the Administration’s stated goal to amplify efforts to support the Cuban people including through expansion of lawful travel (See National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba, June 16, 2017 (hereinafter “Presidential Memorandum”)), Norwegian urges the Office of Foreign Assets Control (“OFAC”), the Bureau of Industry and Security (“BIS”) and the Department of State (“State Department”) (collectively, “Agencies”) to consider regulatory changes

that accommodate the provision of continued lawful operations of permissible American travel and carrier service to and from Cuba.

We strongly believe that Norwegian's ongoing authorized carrier service between the United States and Cuba provides significant and much needed benefits directly to the Cuban people and that the continuation of this service is fully consistent with the Administration's recently articulated policies on the matter.

I. Introduction

Norwegian is a Bermuda cruise corporation that employs approximately 3,000 full-time employees worldwide in our shoreside operations and approximately 27,000 shipboard employees. The Company operates a fleet of twenty-five (25) cruise vessels under the brands Norwegian Cruise Line, Oceania Cruises and Regent Seven Seas Cruises and is publicly traded on the NASDAQ stock exchange. With its headquarters in Miami, Florida, home to the United States' largest Cuban-exile and Cuban-American populations, the Company is acutely aware of the issues which the Agencies are balancing. While these issues are important to all in our unique community, they are particularly personal and important to me as President and CEO of the Company. I emigrated from Cuba at the age of nearly seven (7) to the United States in 1961 and have called Miami, Florida home for almost fifty (50) years. As the founder of Oceania Cruises and a cruise executive for the past twenty-five (25) years, I have a unique perspective on U.S.-Cuba policy, particularly as it relates to travel to and from the island by cruise vessel. Most importantly, I understand the Admin-

istration's agenda and stated goals and am fully supportive of its intent.

Since March 2017, Norwegian has offered continuous permitted travel and carrier services by vessel for travelers approved to travel between the United States and Cuba, consistent with licenses or other authorizations provided by the U.S. government and set forth in the relevant regulations. Norwegian's provision of such services by vessel furthers the U.S. government's policy interests by encouraging meaningful and ongoing interaction between the people of the United States and the Cuban people, providing opportunities for unique cultural exchange, promoting independent economic activity, and providing much-needed assistance to the Cuban people.

When traveling to Cuba, Norwegian's passengers currently explore the island either as part of organized tours arranged through the Company or on their own in compliance with current regulations; either scenario is completely consistent with the goals articulated in the Presidential Memorandum. Whether they tour the island in classic American cars, eat at bars and restaurants, listen to local musicians, tour a cigar factory or visit local Cuban artisans, Norwegian's passengers are directly interacting with the people and often making direct purchases. These business transactions are in most cases directly with the provider, artisan or performer in the local currency and have played a large role in the private sector economic resurgence currently taking place under the current travel regulations. These interactions and local-level transactions have created a burgeoning private enterprise that includes *paladares* (privately-owned restaurants), Cuban music and dance workshops, "pop-up" art galleries, and

other street vendor businesses. Private enterprise means freedom and liberty, therefore, promoting private enterprise in the Republic of Cuba promotes freedom and liberty.

Norwegian appreciates the Administration's interest in avoiding negative impacts on U.S. businesses engaged in lawful commercial activity in Cuba and therefore provides its comments below to assist the Agencies in developing regulations and guidance that accommodate the pursuit of beneficial opportunities in Cuba by American businesses in the authorized travel and carrier industries. It is Norwegian's strong desire to continue providing travel and carrier services to Cuba in full compliance with U.S. law and in a manner that is consistent with the President's recent pronouncement on the matter.

II. Comments Regarding New Regulations

Norwegian respectfully submits the following comments for the Agencies' consideration: a. New Regulation Implementation

Norwegian believes that in order to provide appropriate notice and assurances to American travelers, the new regulations should provide clear instructions to carriers and passengers alike as to how and when the new regulations will be implemented. The cruise industry is somewhat unique in how its guests book their travel and a brief explanation as to the booking process may prove instructive in clarifying the issue. Unlike airline passengers or others in the hospitality industry such as lodging, cruise passengers are more likely to book their voyage up to one (1) year in advance of their date of travel, securing their travel with a deposit comprised of a percentage of the cruise fare which varies

depending on the cruise brand they choose to book (the “Booking”). In each case, the full cruise fare is due ninety (90) days prior to travel.

Norwegian notes that with respect to individual people-to-people travel Question 4 of the OFAC Frequently Asked Questions (“FAQ”) on President Trump’s Cuba Announcement issued June 16, 2017 (“OFAC FAQ”) indicates that “provided that the traveler has already completed at least one travel-related transaction” prior to June 16, 2017, all additional travel-related transactions for that trip are authorized under the existing OFAC regulations, regardless of whether the trip occurs before or after OFAC’s new regulations are issued.

Norwegian suggests that ambiguity surrounding the term “travel-related transactions” may have the effect of deterring individuals from engaging in long anticipated, legitimate travel and recommends that any paid deposit on a cabin should be considered among other actions, a “travel-related transaction.” Moreover, in order to prevent any chilling effect on travel and to further eliminate the confusion and challenges centered upon operating a voyage with guests subject to two distinctly different sets of travel regulations, Norwegian recommends that all guests with Bookings made on any individual cruise voyage to Cuba (no matter its scheduled departure date) whose capacity was at least fifty percent (50%) booked (or sold) on or before June 15, 2017 should all qualify for travel under the existing OFAC regulations irrespective of when the individual guest may have ultimately booked passage.

b. Identified Cuban Government Entities

Norwegian understands that the State Department will publish a list of entities under control of, acting for or on behalf of, the Cuban military, intelligence, or security services or personnel (“Identified Cuban Government Entities”) with whom direct transactions will be prohibited. Norwegian appreciates that the Presidential Memorandum expressly states that the regulatory changes shall not prohibit transactions that the Agencies determine are consistent with the Administration’s policy and “concern air and sea operations that support permissible travel...”

It is extremely difficult for American businesses providing services for permissible travel to avoid altogether engaging with any Identified Cuban Government Entities. By way of example, we believe that Aries S.A., the port authority that controls access to the port of Havana for cruise vessels, may be related to the Cuban military. In addition, in the course of our operations we engage the following entities: Empresa Consignataria Mambisa, the Cuban port agent, Consultores Maritimos, S.A., counsel for Norwegian, and Havanatur, the tour operator that provides people-to-people exchanges; which, to the best of our knowledge, the aforementioned entities are not related to the Cuban military. We do not believe, however, that we will be able to provide vessel service for passengers or cargo, without engaging these and any other similarly situated entities. Moreover, to continue to provide OFAC compliant group people-to-people excursions as a qualifying organization under the regulations, Norwegian may likely be required to engage or contract with Cuban tour operators or entities that may be Identified Cuban Government Entities. To provide travel con-

sistent with the Administration's new policy, Norwegian urges the State Department to expressly exempt these and any other similarly situated entities from this prohibition so that it can continue to provide meaningful engagement between Americans and the Cuban people.

Alternatively, we believe that the exemption for air and sea operations as well as group people-to-people travel should be fully permitted in the forthcoming regulations. Therefore, we would suggest the following:

- Engaging, dealing or contracting with an Identified Cuban Government Entity shall not be prohibited when associated with authorized air and sea operations that support permissible travel as well as permitted group people-to-people travel, including all transactions ordinarily incident to a licensed transaction and necessary to give effect thereto.
- Financial transactions with an Identified Cuban Government Entity shall not be prohibited when associated with authorized air and sea operations that support permissible travel as well as permitted group people-to-people travel, including all transactions ordinarily incident to a licensed transaction and necessary to give effect thereto. With respect to sea operations, such authorized transactions with an Identified Cuban Government Entity include, but are not limited to, port permits, other port fees, cargo and baggage inspection fees, warehousing fees, vessel-related services (e.g., water, garbage and trash removal, emergency situations, ship stores).

- In order to further the President's policy of expanded lawful travel, authorized travelers should be able to purchase low value goods and services (e.g., bottled water, food and beverages, local hand-crafted goods, etc.) from an Identified Cuban Government Entity that are necessary to support authorized travel (i.e., de minimis transactions). For example, the new regulations should not prohibit a person subject to U.S. jurisdiction from engaging in de minimis transactions of \$100 or less with an Identified Cuban Government Entity that would otherwise be unauthorized.

c. Group People-to-People Programming

Norwegian understands from Question 3 of the OFAC FAQ that group people-to-people travel to Cuba will still be authorized under the new regulations. Norwegian currently provides group people-to-people programming to authorized travelers pursuant to the existing regulations. To ensure Norwegian's group people-to-people tours remain compliant with any new regulations, Norwegian recommends that the Company prepare a catalog of detailed shoreside excursion itineraries including destination name, location, stated activity and length of experience for pre-approval by OFAC. In connection therewith, Norwegian recommends the provision of a mandatory passenger presentation conducted on each voyage to all guests reviewing the then current OFAC travel requirements prior to arrival in Cuba as a reminder of these policies and the need for compliance with same. It further recommends the provision of a record keeping journal or similar instrument which contains a concise overview of

the new regulations to assist in documenting their compliant activities while in Cuba.

d. Full-time Schedule

Norwegian understands from Question 3 of the OFAC FAQ that travelers going to Cuba for people-to-people exchanges must maintain a “full-time schedule of educational exchange activities.”

Norwegian submits that accompanying guidance for the new regulations should define “full-time schedule” as four (4) or more hours of compliant activity on a daily basis. The need for this requested modification is best understood by an explanation of the demographic of the current Cuba cruise passenger. To date, Norwegian’s experience has been that those passengers choosing to visit Cuba range from the mid-fifties to their late seventies. Cuba, with its hot, humid climate, limited public hygiene facilities and equally limited access to fresh water and/or air-conditioned shelters does take a toll on this demographic and could prove a health hazard to those trying to maintain compliance with a more stringent “full-time schedule” requirement. Most importantly, additional time (if any) allows guests to explore the local environment and encourages time spent engaging with and making purchases from *cuentapropistas* (self-employed workers) - consistent with and in furtherance of stated U.S. policy. Finally, this modified “full-time schedule” will further allow for the scenario where travelers arrive with less than a full day available onshore due to delays caused by weather, mechanical issues, or some other unscheduled vessel deviation.

e. Traveler Certifications

Under the existing regulations, travel and carrier service providers such as Norwegian are required to collect and retain certifications from travelers stating the general license under which their travel is authorized (*see* 31 CFR § 515.572(b)). Service providers are not currently required to independently confirm the passengers' statements under the current regulations or guidance as explicitly set forth in Question 39 of a separate set of OFAC FAQs with respect to Cuba updated on January 6, 2017. Norwegian encourages OFAC to refrain from imposing new requirements for independent verification of traveler certifications by service providers, as this would impose a significant, and potentially insurmountable, burden on authorized American travel and carrier businesses. Such requirements would be a departure from OFAC's longstanding approach towards certifications from customers regarding Cuba-related travel activities.

f. Audit and Recordkeeping Requirements

Norwegian understands that the Treasury Department will "regularly" audit travel to Cuba to ensure compliance with relevant regulations. Norwegian encourages OFAC to set clear standards in the new regulations for audits of travel and carrier service providers engaged in Cuba travel. In particular, Norwegian seeks to understand what records would be subject to audits such that it can maintain same and clearly advise guests as to how best to document their OFAC complaint experiences. With respect to carrier services, service providers should be required only to maintain copies of traveler certifications for the current required five (5) year period. With respect to the provision of authorized travel services (i.e.,

people-to-people excursions and programs on shore in Cuba), service providers should be required only to maintain the traveler certifications and relevant records pertaining to traveler participation for the current required five (5) year period in such permitted people-to-people excursions and programs to assist, with, among others things, the anticipated high volume of traveler inquiries. Norwegian also recommends that OFAC issue guidance regarding the frequency of audits and the format of audit requests and responses. Consistent with the above, travelers who purchase and participate in compliant group people-to-people excursions and programs offered by the service provider, will need only to maintain a copy of their travel certification for purposes of any subsequent inquiry by OFAC.

III. Conclusion

Since beginning cruise passage to Cuba this past spring, Norwegian has been providing OFAC compliant travel experiences that we truly believe have not only enriched the lives of those who chose to travel with us to the island nation, but continue to advance the stated goals of U.S. policy toward Cuba.

Norwegian views its initial itinerary offerings to Cuba as not simply another destination for our guests to visit, but rather as a nation that has a population particularly well-suited for a long-term business relationship. We believe in the power of partnership and are of the opinion that continuous calls to Cuba offer us the chance to educate the population on American culture, offer onboard internships to Cuban nationals in all aspects of hospitality (to the extent legally permissible), and provides opportunities for community outreach from our crew that are so popular at many of the other ports which

we visit. Exploring these and other opportunities to advance the culture of private enterprise with the local individuals who provide goods and services to our passengers is an essential ingredient of and drives our strong sense of corporate responsibility. It is in this spirit that we furnish the above comments and hope that they prove meaningful and instructive.

Norwegian respectfully requests the opportunity to engage with your respective teams prior to publication of the amended regulations to help ensure that they do not have unintended or negative consequences. As part of this proposed review process, it is critical that we be given the opportunity to review the draft regulations prior to publication ensuring the language therein accurately reflects the consensus reached through our interactions.

Thank you for your consideration. Please do not hesitate to contact the undersigned should you have any questions.

Respectfully submitted,

/s/ Frank J. Del Rio

Frank J. Del Rio

cc: Mr. Michael Britt, Chief of Staff
michael.britt@dot.gov

Mr. Kirk Bell, White House Liaison
kirk.bell@dot.gov

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NORWEGIAN CRUISE LINE
HOLDINGS LTD.

FRANK J. DEL RIO
PRESIDENT & CEO

Via electronic mail to
Mr. Eli H. Miller, Chief of Staff
eli.miller@treasury.gov

July 7, 2017

The Honorable Steven T. Mnuchin
U.S. Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Re: Forthcoming Changes to Cuba
Sanctions Regulations

Dear Secretary Mnuchin:

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that accommodate the provision of continued lawful operations of permissible American travel and carrier service to and from Cuba.

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current required five (5) year period in such permitted people-to-people excursions and programs to assist, with, among others things, the anticipated high volume of traveler inquiries. Norwegian also recommends that OFAC issue guidance regarding the frequency of audits and the format of audit requests and responses. Consistent with the above, travelers who purchase and participate in compliant group people-to-people excursions and programs offered by the service provider, will need only to maintain a copy of their travel certification for purposes of any subsequent inquiry by OFAC.

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drives our strong sense of corporate responsibility. It is in this spirit that we furnish the above comments and hope that they prove meaningful and instructive.

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Thank you for your consideration. Please do not hesitate to contact the undersigned should you have any questions.

Respectfully submitted,

/s/ Frank J. Del Rio

Frank J. Del Rio

cc: Mr. John E. Smith, Director
Office of Foreign Assets Control
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Ms. Anita Hunt,
Executive Assistant
anita.hunt@treasury.gov

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NORWEGIAN CRUISE LINE
HOLDINGS LTD.

FRANK J. DEL RIO
PRESIDENT & CEO

Via electronic mail to Lisa D. Kenna,
Executive Assistant
kennald.@state.gov

July 7, 2017

The Honorable Rex W. Tillerson
U.S. Secretary of State
Harry S. Truman Building
2201 C Street, NW
Washington, D.C. 20520

Re: Forthcoming Changes to Cuba
Sanctions Regulations

Dear Secretary Tillerson:

Following the meeting between cruise industry executives and Secretary of Commerce Wilbur J. Ross on June 21st, Norwegian Cruise Line Holdings Ltd., (“Norwegian” or the “Company”) is submitting this letter to provide its views regarding the forthcoming changes to the Cuba sanctions first announced by President Trump on June 16, 2017. In light of the Administration’s stated goal to amplify efforts to support the Cuban people including through expansion of lawful travel (See National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba, June 16, 2017 (hereinafter “Presidential Memorandum”)), Norwegian urges the Office of Foreign Assets Control (“OFAC”), the Bureau of Industry and Security (“BIS”) and the Department of State (“State Department”) (collec-

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and other street vendor businesses. Private enterprise means freedom and liberty, therefore, promoting private enterprise in the Republic of Cuba promotes freedom and liberty.

Norwegian appreciates the Administration's interest in avoiding negative impacts on U.S. businesses engaged in lawful commercial activity in Cuba and therefore provides its comments below to assist the Agencies in developing regulations and guidance that accommodate the pursuit of beneficial opportunities in Cuba by American businesses in the authorized travel and carrier industries. It is Norwegian's strong desire to continue providing travel and carrier services to Cuba in full compliance with U.S. law and in a manner that is consistent with the President's recent pronouncement on the matter.

II. Comments Regarding New Regulations

Norwegian respectfully submits the following comments for the Agencies' consideration: a. New Regulation Implementation

Norwegian believes that in order to provide appropriate notice and assurances to American travelers, the new regulations should provide clear instructions to carriers and passengers alike as to how and when the new regulations will be implemented. The cruise industry is somewhat unique in how its guests book their travel and a brief explanation as to the booking process may prove instructive in clarifying the issue. Unlike airline passengers or others in the hospitality industry such as lodging, cruise passengers are more likely to book their voyage up to one (1) year in advance of their date of travel, securing their travel with a deposit comprised of a percentage of the cruise fare which varies depending on the cruise brand they

choose to book (the “Booking”). In each case, the full cruise fare is due ninety (90) days prior to travel.

Norwegian notes that with respect to individual people-to-people travel Question 4 of the OFAC Frequently Asked Questions (“FAQ”) on President Trump’s Cuba Announcement issued June 16, 2017 (“OFAC FAQ”) indicates that “provided that the traveler has already completed at least one travel-related transaction” prior to June 16, 2017, all additional travel-related transactions for that trip are authorized under the existing OFAC regulations, regardless of whether the trip occurs before or after OFAC’s new regulations are issued.

Norwegian suggests that ambiguity surrounding the term “travel-related transactions” may have the effect of deterring individuals from engaging in long anticipated, legitimate travel and recommends that any paid deposit on a cabin should be considered among other actions, a “travel-related transaction.” Moreover, in order to prevent any chilling effect on travel and to further eliminate the confusion and challenges centered upon operating a voyage with guests subject to two distinctly different sets of travel regulations. Norwegian recommends that all guests with Bookings made on any individual cruise voyage to Cuba (no matter its scheduled departure date) whose capacity was at least fifty percent (50%) booked (or sold) on or before June 15, 2017 should all qualify for travel under the existing OFAC regulations irrespective of when the individual guest may have ultimately booked passage.

b. Identified Cuban Government Entities

Norwegian understands that the State Department will publish a list of entities under control of, acting

for or on behalf of, the Cuban military, intelligence, or security services or personnel (“Identified Cuban Government Entities”) with whom direct transactions will be prohibited. Norwegian appreciates that the Presidential Memorandum expressly states that the regulatory changes shall not prohibit transactions that the Agencies determine are consistent with the Administration’s policy and “concern air and sea operations that support permissible travel...”

It is extremely difficult for American businesses providing services for permissible travel to avoid altogether engaging with any Identified Cuban Government Entities. By way of example, we believe that Aries S.A., the port authority that controls access to the port of Havana for cruise vessels, may be related to the Cuban military. In addition, in the course of our operations we engage the following entities: Empresa Consignataria Marnbisa, the Cuban port agent, Consultores Maritimos, S.A., counsel for Norwegian, and Havanatur, the tour operator that provides people-to-people exchanges; which, to the best of our knowledge, the aforementioned entities are not related to the Cuban military. We do not believe, however, that we will be able to provide vessel service for passengers or cargo, without engaging these and any other similarly situated entities. Moreover, to continue to provide OFAC compliant group people-to-people excursions as a qualifying organization under the regulations. Norwegian may likely be required to engage or contract with Cuban tour operators or entities that may be Identified Cuban Government Entities. To provide travel consistent with the Administration’s new policy. Norwegian urges the State Department to expressly exempt these and any other similarly situated entities from this prohibition so that it can

continue to provide meaningful engagement between Americans and the Cuban people.

Alternatively, we believe that the exemption for air and sea operations as well as group people-to-people travel should be fully permitted in the forthcoming regulations. Therefore, we would suggest the following:

- Engaging, dealing or contracting with an Identified Cuban Government Entity shall not be prohibited when associated with authorized air and sea operations that support permissible travel as well as permitted group people-to-people travel, including all transactions ordinarily incident to a licensed transaction and necessary to give effect thereto.
- Financial transactions with an Identified Cuban Government Entity shall not be prohibited when associated with authorized air and sea operations that support permissible travel as well as permitted group people-to-people travel, including all transactions ordinarily incident to a licensed transaction and necessary to give effect thereto. With respect to sea operations, such authorized transactions with an Identified Cuban Government Entity include, but are not limited to, port permits, other port fees, cargo and baggage inspection fees, warehousing fees, vessel-related services (e.g., water, garbage and trash removal, emergency situations, ship stores).
- In order to further the President's policy of expanded lawful travel, authorized travelers should be able to purchase low value goods and services (e.g., bottled water, food and beverages,

local hand-crafted goods, etc.) from an Identified Cuban Government Entity that are necessary to support authorized travel (i.e., de minimis transactions). For example, the new regulations should not prohibit a person subject to U.S. jurisdiction from engaging in de minimis transactions of \$100 or less with an Identified Cuban Government Entity that would otherwise be unauthorized.

c. Group People-to-People Programming

Norwegian understands from Question 3 of the OFAC FAQ that group people-to-people travel to Cuba will still be authorized under the new regulations. Norwegian currently provides group people-to-people programming to authorized travelers pursuant to the existing regulations. To ensure Norwegian's group people-to-people tours remain compliant with any new regulations, Norwegian recommends that the Company prepare a catalog of detailed shoreside excursion itineraries including destination name, location, stated activity and length of experience for pre-approval by OFAC. In connection therewith, Norwegian recommends the provision of a mandatory passenger presentation conducted on each voyage to all guests reviewing the than current OFAC travel requirements prior to arrival in Cuba as a reminder of these policies and the need for compliance with same. It further recommends the provision of a record keeping journal or similar instrument which contains a concise overview of the new regulations to assist in documenting their compliant activities while in Cuba.

d. Full-time Schedule

Norwegian understands from Question 3 of the OFAC FAQ that travelers going to Cuba for people-to-people exchanges must maintain a “full-time schedule of educational exchange activities.”

Norwegian submits that accompanying guidance for the new regulations should define “full-time schedule” as four (4) or more hours of compliant activity on a daily basis. The need for this requested modification is best understood by an explanation of the demographic of the current Cuba cruise passenger. To date, Norwegian’s experience has been that those passengers choosing to visit Cuba range from the mid-fifties to their late seventies. Cuba, with its hot, humid climate, limited public hygiene facilities and equally limited access to fresh water and/or air-conditioned shelters does take a toll on this demographic and could prove a health hazard to those trying to maintain compliance with a more stringent “full-time schedule” requirement. Most importantly, additional time (if any) allows guests to explore the local environment and encourages time spent engaging with and making purchases from *cuentapropistas* (self-employed workers) - consistent with and in furtherance of stated U.S. policy. Finally, this modified “full-time schedule” will further allow for the scenario where travelers arrive with less than a full day available onshore due to delays caused by weather, mechanical issues, or some other unscheduled vessel deviation.

e. Traveler Certifications

Under the existing regulations, travel and carrier service providers such as Norwegian are required to collect and retain certifications from travelers stating

the general license under which their travel is authorized (*see* 31 CFR § 515.572(b)). Service providers are not currently required to independently confirm the passengers' statements under the current regulations or guidance as explicitly set forth in Question 39 of a separate set of OFAC FAQs with respect to Cuba updated on January 6, 2017. Norwegian encourages OFAC to refrain from imposing new requirements for independent verification of traveler certifications by service providers, as this would impose a significant, and potentially insurmountable, burden on authorized American travel and carrier businesses. Such requirements would be a departure from OFAC's longstanding approach towards certifications from customers regarding Cuba-related travel activities.

f. Audit and Recordkeeping Requirements

Norwegian understands that the Treasury Department will "regularly" audit travel to Cuba to ensure compliance with relevant regulations. Norwegian encourages OFAC to set clear standards in the new regulations for audits of travel and carrier service providers engaged in Cuba travel. In particular, Norwegian seeks to understand what records would be subject to audits such that it can maintain same and clearly advise guests as to how best to document their OFAC complaint experiences. With respect to carrier services, service providers should be required only to maintain copies of traveler certifications for the current required five (5) year period. With respect to the provision of authorized travel services (i.e., people-to-people excursions and programs on shore in Cuba), service providers should be required only to maintain the traveler certifications and relevant records pertaining to traveler participation for the

current required five (5) year period in such permitted people-to-people excursions and programs to assist, with, among others things, the anticipated high volume of traveler inquiries. Norwegian also recommends that OFAC issue guidance regarding the frequency of audits and the format of audit requests and responses. Consistent with the above, travelers who purchase and participate in compliant group people-to-people excursions and programs offered by the service provider, will need only to maintain a copy of their travel certification for purposes of any subsequent inquiry by OFAC.

III. Conclusion

Since beginning cruise passage to Cuba this past spring, Norwegian has been providing OFAC compliant travel experiences that we truly believe have not only enriched the lives of those who chose to travel with us to the island nation, but continue to advance the stated goals of U.S. policy toward Cuba.

Norwegian views its initial itinerary offerings to Cuba as not simply another destination for our guests to visit, but rather as a nation that has a population particularly well-suited for a long-term business relationship. We believe in the power of partnership and are of the opinion that continuous calls to Cuba offer us the chance to educate the population on American culture, offer onboard internships to Cuban nationals in all aspects of hospitality (to the extent legally permissible), and provides opportunities for community outreach from our crew that are so popular at many of the other ports which we visit. Exploring these and other opportunities to advance the culture of private enterprise with the local individuals who provide goods and services to our passengers is an essential ingredient of and

drives our strong sense of corporate responsibility. It is in this spirit that we furnish the above comments and hope that they prove meaningful and instructive.

Norwegian respectfully requests the opportunity to engage with your respective teams prior to publication of the amended regulations to help ensure that they do not have unintended or negative consequences. As part of this proposed review process, it is critical that we be given the opportunity to review the draft regulations prior to publication ensuring the language therein accurately reflects the consensus reached through our interactions.

Thank you for your consideration. Please do not hesitate to contact the undersigned should you have any questions.

Respectfully submitted,

/s/ Frank J. Del Rio

Frank J. Del Rio

cc: Ms. Joan Perkins, Acting Coordinator
Office of Cuban Affairs
perkinsjc@state.gov

820
NCLH
NORWEGIAN CRUISE LINE
HOLDINGS LTD.

FRANK J. DEL RIO
PRESIDENT & CEO

Via electronic mail
wlross@doc.gov

July 7, 2017

The Honorable Wilbur L. Ross, Jr.
U.S. Secretary of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

Re: Forthcoming Changes to Cuba Sanctions
Regulations

Dear Secretary Ross:

Following the meeting between cruise industry executives and yourself on June 21st, Norwegian Cruise Line Holdings Ltd., (“Norwegian” or the “Company”) is submitting this letter to provide its views regarding the forthcoming changes to the Cuba sanctions first announced by President Trump on June 16, 2017. In light of the Administration’s stated goal to amplify efforts to support the Cuban people including through expansion of lawful travel (See National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba, June 16, 2017 (hereinafter “Presidential Memorandum”)), Norwegian urges the Office of Foreign Assets Control (“OFAC”), the Bureau of Industry and Security (“BIS”) and the Department of State (“State Department”) (collectively, “Agencies”) to consider regulatory changes that accommodate the provision of continued lawful operations of

permissible American travel and carrier service to and from Cuba.

We strongly believe that Norwegian's ongoing authorized carrier service between the United States and Cuba provides significant and much needed benefits directly to the Cuban people and that the continuation of this service is fully consistent with the Administration's recently articulated policies on the matter.

I. Introduction

Norwegian is a Bermuda cruise corporation that employs approximately 3,000 full-time employees worldwide in our shoreside operations and approximately 27,000 shipboard employees. The Company operates a fleet of twenty-five (25) cruise vessels under the brands Norwegian Cruise Line, Oceania Cruises and Regent Seven Seas Cruises and is publicly traded on the NASDAQ stock exchange. With its headquarters in Miami, Florida, home to the United States' largest Cuban-exile and Cuban-American populations, the Company is acutely aware of the issues which the Agencies are balancing. While these issues are important to all in our unique community, they are particularly personal and important to me as President and CEO of the Company. I emigrated from Cuba at the age of nearly seven (7) to the United States in 1961 and have called Miami, Florida home for almost fifty (50) years. As the founder of Oceania Cruises and a cruise executive for the past twenty-five (25) years, I have a unique perspective on U.S.-Cuba policy, particularly as it relates to travel to and from the island by cruise vessel. Most importantly, I understand the Administration's agenda and stated goals and am fully supportive of its intent.

Since March 2017, Norwegian has offered continuous permitted travel and carrier services by vessel for travelers approved to travel between the United States and Cuba, consistent with licenses or other authorizations provided by the U.S. government and set forth in the relevant regulations. Norwegian's provision of such services by vessel furthers the U.S. government's policy interests by encouraging meaningful and ongoing interaction between the people of the United States and the Cuban people, providing opportunities for unique cultural exchange, promoting independent economic activity, and providing much-needed assistance to the Cuban people.

When traveling to Cuba, Norwegian's passengers currently explore the island either as part of organized tours arranged through the Company or on their own in compliance with current regulations; either scenario is completely consistent with the goals articulated in the Presidential Memorandum. Whether they tour the island in classic American cars, eat at bars and restaurants, listen to local musicians, tour a cigar factory or visit local Cuban artisans, Norwegian's passengers are directly interacting with the people and often making direct purchases. These business transactions are in most cases directly with the provider, artisan or performer in the local currency and have played a large role in the private sector economic resurgence currently taking place under the current travel regulations. These interactions and local-level transactions have created a burgeoning private enterprise that includes *paladares* (privately-owned restaurants), Cuban music and dance workshops, "pop-up" art galleries, and other street vendor businesses. Private enterprise means freedom and liberty, therefore, promoting

private enterprise in the Republic of Cuba promotes freedom and liberty.

Norwegian appreciates the Administration's interest in avoiding negative impacts on U.S. businesses engaged in lawful commercial activity in Cuba and therefore provides its comments below to assist the Agencies in developing regulations and guidance that accommodate the pursuit of beneficial opportunities in Cuba by American businesses in the authorized travel and carrier industries. It is Norwegian's strong desire to continue providing travel and carrier services to Cuba in full compliance with U.S. law and in a manner that is consistent with the President's recent pronouncement on the matter.

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and responses. Consistent with the above, travelers who purchase and participate in compliant group people-to-people excursions and programs offered by the service provider, will need only to maintain a copy of their travel certification for purposes of any subsequent inquiry by OFAC.

III. Conclusion

Since beginning cruise passage to Cuba this past spring, Norwegian has been providing OFAC compliant travel experiences that we truly believe have not only enriched the lives of those who chose to travel with us to the island nation, but continue to advance the stated goals of U.S. policy toward Cuba.

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Thank you for your consideration. Please do not hesitate to contact the undersigned should you have any questions.

Respectfully submitted,

/s/ Frank J. Del Rio
Frank J. Del Rio

cc: Mr. Matthew S. Borman,
Deputy Assistant Secretary
matthew.borman@bis.doc.gov

Ms. Nicole R. Grove, Special Assistant
Office of Business Liaison
ngrove@doc.gov

Mr. Eric D. Branstad,
Senior White House Advisor
ebranstad@doc.gov

Answers to:

INFORMATION QUESTIONNAIRE FOR UNITED
STATES PROPERTY OWNERS IN CUBA

I. The HAVANA DOCKS CORPORATION owns and operates in Havana Harbor, three Ocean Steamship piers, named respectively, the San Francisco, Machina and Santa Clara piers linked by a marginal building. This terminal company offers docking and warehousing facilities for import and export, bonded warehouses and provisional cargo deposits for merchandise pending customs appraisalment, etc.

Each pier consists of a two story concrete building with an apron equipped with platforms, and a double railroad track to permit direct unloading of cargo from ships to railroad cars.

The 1,153 foot marginal building faces the Avenida del Puerto. Its main floor is used as a deposit for bulky merchandise with ready access to elevators, and has central and lateral entrances to each pier, vehicle loading platforms at the head of the elevators, etc.

Length of piers in feet:

San Francisco,	North Side	662 -	South Side	662
Machina,	" "	661 -	" "	602
Santa Clara,	" "	625 -	" "	562

The eastern end of each pier measures 210 feet.

At December 31, 1959 the corporation held in Havana, Cuba cash in banks and on hand of \$126,577 and Accounts Receivable of \$522,446.

II. The two oldest piers were acquired from the predecessor Port of Havana Docks Company, a Maine corporation, and the Santa Clara pier was constructed in 1921-2 by the Havana Docks Corporation. The entire pier properties are held under the terms of a

concession granted by the Cuban Government in 1905 and as modified in 1910, 1920 and 1922. The terms provide for transfer of ownership of the pier properties to the Cuban Government in the year 2004, in good state of preservation and service without payment to the company.

III. (a) -

(b) (i) Incorporated August 14, 1917 under the laws of the State of Delaware.

(ii) 97.5% of the stock of the Havana Docks Corporation is owned by citizens of the United States.

IV. Not applicable - All urban property.

V. As in I. above.

VI. Total value of all property owned in Cuba:

Cash in Banks and on Hand at	
December 31, 1959	\$126,577
Accounts Receivable at December 31, 1959	522,446
Cuban Telephone Company (1,000	
shares at cost)	100,000
Piers, equipment and concession	<u>5,000,000*</u>
Total	\$5,749,023

* Estimated value which is materially less than replacement cost.

VII. As of July 28, 1960, there has been no intervention or expropriation. However, labor laws require large forces of pier personnel to be maintained on the payrolls, far beyond the requirements of the business, and very heavy losses are being sustained.

U.S.A. Address:
Havana Docks Corporation
67 Broad Street
New York, N. Y.

Message

From: Kim, Deanna G [KimDG@state.gov]
Sent: 8/2/2018 12:51:47 PM
To: Jerry Johnson [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=302f3ed959214dd5b5a435d77a9fc8d1-jjohnson]; Javier Garcia-Bengochea (jgb@bellsouth.net) [jgb@bellsouth.net]
CC: Mickael Behn [mickaelbehn@gmail.com]; Aaron Johnson (ajohnson.hdc@gmail.com) [ajohnson.hdc@gmail.com]; Tarantolo, Sonia S [TarantoloSS@state.gov]; Alpert, Rachel K [AlpertRK@state.gov]; Patel, Nutan B [PatelNB@state.gov]; Magallon, Erica G [MagallonEG@state.gov]
Subject: RE: (5) Javier Garcia-Bengochea, MD Title IV Cuba Claims

Mr. Johnson, Dr. Garcia:

Given Gabe's departure, I wanted to take stock and make sure that we have addressed the specific concerns you identified below. I have confirmed that we have opened cases/files for each of the requests noted in the chain below, including Title IV enforcement requests in relation to the port, port facilities, and area surrounding the harbor of Santiago de Cuba; port properties in Havana; and entities that may be docking at both properties. As previously discussed, given the clear exclusion in Title IV's definition of "traffics" of transactions and uses of property incident to lawful travel to Cuba, we are not currently pursuing Title IV actions in relation to commercial cruise lines. As we receive multiple requests for Title IV enforcement action and are operating under limited resources, we prioritize cases according to a number of factors,

including the availability of information and our assessment of the strength of the Title IV case. That said, we are actively working on Title IV enforcement actions regarding activities related to the port, port facilities, and area surrounding the harbor of Santiago de Cuba, including seeking additional information from foreign entities concerned. We have also opened a file for your request regarding port properties in Havana and will reach out should additional information be necessary for our investigation.

Thank you

Deanna Kim

Acting Coordinator for Cuban Affairs

From: Jerry Johnson
<jjohnson@bankofthebluegrass.com>
Sent: Friday, July 6, 2018 4:46 PM
To: Escobar, Gabriel <EscobarG@state.gov>
Cc: Mickael Behn <mickaelbehn@gmail.com>;
Javier Garcia-Bengochea
(jgb@bellsouth.net) <jgb@bellsouth.net>;
Aaron Johnson (ajohnson.hdc@gmail.com)
<ajohnson.hdc@gmail.com>; Patel,
Nutan B <PateINB@state.gov>
Subject: RE: (5) Javier Garcia-Bengochea, MD
Title IV Cuba Claims

Excellent Gabriel. I see from Nutan's out-of-office e-mail response of today that she is on Temporary Duty Assignment in Havana. I was thinking that she may be able to see first hand what is happening with our property there.

Very best wishes,

Jerry

Jerry M. Johnson
Senior Vice President, Director of Wealth Management

BANK OF THE BLUEGRASS
WEALTH MANAGEMENT

Direct Telephone: (859) 233-8903

Fax: (859) 252-0304

215 Southland Drive, Lexington. Kentucky 40503

In May of 2015 the US Treasury began issuing licenses to cruise ship and ferry lines to travel to Cuba. On May 1, 2016 the first cruise ship to Cuba from the United States left the port of Miami for Havana, Cienfuegos and Santiago de Cuba.

The cruise ship terminals in Havana and Santiago are confiscated properties claimed by us. The former was privately held US corporation owned by the Behn Family, whose claim for loss has been certified by the Foreign Claims Settlement Commission (FCSC Claim number CU#2492; see attached). The Santiago property, as you know, was privately held Cuban Corporation with a major shareholder who was a US citizen at the time the business was confiscated (FCSC Claim CU#1231).

Cruises that use these properties are clear violation of US law trafficking in stolen property in Cuba on at least 3 counts.

They are in violation of Section 103(a),

“(a) Prohibition.--Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to any person for the purpose of financing transactions involving any confiscated property the claim to which is owned by a United States national as of the date of the enactment of this Act, except for financing by the United States national owning such claim for a transaction permitted under United States law. “

They are engaging in a commercial relationship with the Cuban Revolutionary Armed Forces (FAR) and its financial arm, GAESA (Grupo de Administracion Empresarial).

They are in violation of Sec. 306(a) and Sec. 401(a)(2),
 “(2) traffics in confiscated property, a claim to which is
 owned by a United States national;”,

and, therefore, are subject to a Title IV action based on
 the definition of trafficking below,

“(A) Except as provided in subparagraph (B), a person
 “traffics” in confiscated property if that person
 knowingly and intentionally-

(i)(I) transfers, distributes, dispenses, brokers, or
 otherwise disposes of confiscated property, (II) purchases,
 receives, obtains control of, or otherwise acquires
 confiscated property, or (III) improves (other than for
 routine maintenance), invests in (by contribution of
 funds or anything of value, other than for routine
 maintenance), or begins after the date of the
 enactment of this Act to manage, lease, possess, use, or
 hold an interest in confiscated property,

(ii) enters into a commercial arrangement using or
 otherwise benefiting from confiscated property”.

Heretofore The State Department has asserted that
 the use of the confiscated port properties in Cuba has
 been “necessary” to the conduct of such travel as
 allowed for in the law,

“(iii) transactions and uses of property incident to
 lawful travel to Cuba, to the extent that such
 transactions and uses of property are necessary to the
 conduct of such travel;”

This is false.

The cruise lines are clearly trafficking in our confis-
 cated property. They do not remotely meet any of the
 criteria for an exemption to trafficking stated as well
 in the law. In particular, subparagraph (iii) above does

not apply to the cruise lines as previously argued by Mr. Kovar and Mr. Richard Figueroa of the U.S. State Department.

The use of our confiscated properties is NOT necessary for the purpose of the license to cruise Cuba. This has been publicly stated by the CEO of Norwegian Cruise Lines Holdings when asked explicitly by CNBC reporter Michelle Caruso-Cabrera at a conference specifically dealing with cruising Cuba at Wharton Business School at the University of Pennsylvania about the “necessity” of a “good port”. The CEO, Frank Del Rio, arrogantly dismissed this notion, explicitly stating that a port was “not necessary” to cruise Cuba, citing the numerous ports of call made by cruise ships around the world where they do not dock and ferry passengers to shore by the use of tenders.

Title IV requires that if the Secretary of State determines trafficking occurs involving stolen Cuban property then the visas of the officers and agents, as well as their family members, of the trafficking entities must be revoked.

Title IV notifications have been issued on five previous occasions and enforced in two instances. The following is from then Deputy National Security Advisor Sandy Berger and Under Secretary of State for Political Affairs Peter Tarnoff at a press conference in July of 1996 on behalf of President Clinton,

“Title IV has come into effect. And as you know, Title IV prohibits or requires us to not permit visas for individuals whose companies are engaged in trafficking in confiscated Cuban property. We have enforced -- are enforcing Title IV very vigorously. A number of companies have received notices indicating that their

executives and officers will not receive visas to the United States.”

Although the largest cruise lines now going to Cuba as a result of the commercial engagement of the Cuban dictatorship are US entities, many of their officers and Board members are not US citizens. We have attached a list of the foreign Board members of Norwegian Cruise Lines Holdings, Carnival, PLC and Royal Caribbean Cruises, Ltd.

We respectfully request that the Secretary of State review the facts involving the use of our properties and US law to determine that these companies are in violation of the law and are trafficking in our confiscated properties. We then respectfully request that the State Department issue notifications of pending Title IV actions in 45 days to these companies as required in the law.

Thank you,

Javier Garcia-Bengochea, MD representing the port of Santiago de Cuba

Mickael Behn and Jerry Johnson representing the Havana Docks Corporation.

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From: JGB Home <jgb@bellsouth.net>
Sent: Sunday, April 23, 2017 11:50 PM
To: Mickael Behn
Subject: Re: Miami Herald Op Ed

Absolutely on the logistics. That is why they will negotiate with us if we can get visas threatened. The admission by the CEO they don't need to dock is very damning as far as the OFAC licenses providing immunity. The State Dept lawyer specifically told me they viewed docking on our property as "necessary" and so they wouldn't consider it trafficking.

JGB

Sent from my iPad

On Apr 23, 2017, at 6:36 PM, Mickael Behn <mickaelbehn@gmail.com> wrote:

Interesting and agreed on the point that cruise do not need to dock to service a route. but of course docking on our ports makes it cheaper for them on fuel and getting 800 people on and off is a long process, so it becomes an advantage for them to dock. so the value is there. and that value is gained as a profit to the cruise lines on illegally taken American property.

My full name is Mickael Sosthenes Behn .so S middle initial.

Great news there is a path forward for your property. whats the angle on the Chinese using your property in the sense of recovery. I have had a bit a dealings in the media world and they are hard to deal with in general.

If we can get one Cruise line to negotiated, i think that would be enough of a threat to bring most to the table.

Mickael

On 23 Apr 2017, at 16:44, JGB Home <jgb@bellsouth.net> wrote:

Yes. I know the writer at the Herald who outed Carnival and I'm going to ask her to help get this published. I'm going to clean the piece up a bit. I'm hopefully that the timing makes it relevant. I think another piece I did is being published today in the Orlando Sentinel. It's less about our specific problem and more on the disinformation campaign of the Castro regime. #FakeNews Cuba

I'm speaking with the chief of staff of my Congressman tomorrow about getting in front of someone at State and the White House to discuss not waiving Title III and enforcing Title IV. He is very willing to help make this happen. We can't wait around for the Trump Admin to shape up, although I may have mentioned the Deputy Sec of Sec nominee is the son in law of a former Bacardi CEO (and Cuban exile).

On a related front, it appears that DC attorney Greg Craig may be interested in my situation with the Chinese on my property. Craig has been chief White House council and has represented former Presidents and other very high profile clients, including Elian Gonzalez' father. Evidently, he's known in DC as the "expert" in all things Cuba. Rodney got connected with him through an attorney friend at Skadden Arps, Craig's firm.

OFAC

Office of Foreign Assets Control

License Application

Reference Number: NCLH001

Generated on 7/14/2015

Application Information

Application Type: Transactional

Category: Transactional

Application Reason: New Application

Subcategory: Carrier Service Provider

Program(s): Cuba

Previous Case ID:

Description of Subject Matter:

Request authorization (1) to provide carrier services by vessel to, from, and within Cuba in connection with the travel or transportation between the United States and Cuba of persons, baggage, and cargo authorized pursuant to the Cuban Assets Control Regulations, and (2) to provide lodging aboard vessels to passengers and crew while the vessel is traveling to and from Cuba, docked at port or otherwise stationary) in Cuban waters, and while traveling from location to location within Cuba.

Contact Information

Applicant

Contact Category: Institution

Organization Name: Norwegian Cruise Line Holdings Ltd.

Point of Contact Name:

Address:

Line1: 7665 Corporate Center Drive

Line2:

Line3:

City: Miami

State: FL

Zip: 33126

Country: United States

Email Address:

Phone:

Office: 305-436-4000

Mobile:

Fax:

Principal Place of Business: Miami, FL

Place where Business is Incorporated: Bermuda

Correspondent

Contact Category: Institution

Organization Name: Paul, Weiss, Rifkind, Wharton & Garrison LLP

Point of Contact Name:

Address:

Line1: 2001 K Street, NW

Line2:

Line3:

City: Washington

State: DC

Zip: 20006-1047

Country: United States

Email Address: relliott@paulweiss.com

845

Phone: Office: 202-223-7324

Mobile:

Fax:

Principal Place of Business: New York, NY

Place where Business is Incorporated: not incorporated
(US law firm)

Attachments

Name	Document Type
letter of explanation	Supplemental Information
CEO letter of support	Supplemental Information
Application Summary	License Request

Certification

Signature: Richard S. Elliott

Date: 7/14/2015

Email Address: relliott@paulweiss.com

PAUL, WEISS, RIFKIND, WHARTON & GARRISON
LLP

2001 K STREET, NW
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TELEPHONE (202) 223-7300

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TELEPHONE (212) 373-3000

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CHAO YANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-6300

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
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2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
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500 DELAWARE AVENUE, SUITE 200
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847

WRITER'S DIRECT DIAL NUMBER
(202) 223-7324

WRITER'S DIRECT E-MAIL ADDRESS
(202) 204-7384

WRITER'S DIRECT FACSIMILE
relliott@paulweiss.com

Letter of Explanation NCLH001

July 14, 2015

Office of Foreign Assets Control
U.S. Department of the Treasury
Treasury Annex
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Attn: Licensing Division

Dear Licensing Officer:

On behalf of our client, Norwegian Cruise Line Holdings Ltd. ("NCLH"), I am providing this letter of explanation in connection with NCL's request for OFAC authorization (1) to provide carrier services by vessel to, from, and within Cuba in connection with the travel or transportation between the United States and Cuba of persons, baggage, and cargo authorized pursuant to the Cuban Assets Control Regulations ("CACR"), and (2) to provide lodging aboard vessels to passengers and crew while the vessel is traveling to and from Cuba, docked at port (or otherwise stationary) in Cuban waters, and while traveling from location to location within Cuba. As suggested by item 2 above, NCLH specifically seeks authorization to offer more than a simple back-and-forth ferry service between the United States and Cuba.

As noted in the license application, NCLH is a Bermuda company whose executive headquarters is located in Miami, Florida. NCLH's shares trade on Nasdaq, and the company has a market cap exceeding \$13 billion and annual revenues exceeding \$4 billion. NCLH is a leading global cruise operator, spanning market segments from contemporary to luxury, under three separate brands: (1) Norwegian Cruise Line; (2) Oceania Cruises ("Oceania"); and (3) Regent Seven Seas Cruises ("Regent"). NCLH seeks to cover all three of its cruise lines under the OFAC license it is requesting.

The vessel transportation services that NCLH seeks to offer to, from, and within Cuba will be limited to persons, baggage, and cargo authorized pursuant to the CACR. With an OFAC license, the precise services that NCLH will be able to offer will depend upon appropriate authorizations from other U.S. government agencies (including a vessel export license from the Commerce Department's Bureau of Industry and Security and appropriate port approvals by the Coast Guard) and from Cuban government agencies, as well as the ability to arrange appropriate port and onshore support services in Cuba. NCLH is optimistic that, with an OFAC license, the rest of these measures will fall into place.

Frank Del Rio, NCLH's President and CEO, is personally committed to this effort to enhance U.S.-Cuba people to people exchanges, and he brings to the effort not only his wealth of cruise line experience and his Cuban heritage, but also his excellent ties to both Cuba and the Cuban community in the United States. While the precise details need to be worked out as suggested above, NCLH will consider taking vessels to Cuba out of Miami, Tampa, Houston, and other U.S.

ports and, depending on the size of the NCLH vessel, could see stops at Havana, Santiago, Cienfuegos, and other Cuban ports.

NCLH envisions that the requisite onshore activities for authorized categories of travelers to Cuba could be handled in more than one way. For certain passengers, onshore activities may be organized by people to people, religious, or professional organizations that have booked a portion of the rooms on one of NCLH's vessels. For the majority of passengers, NCLH expects to organize the requisite onshore activities, using licensed local tour operators for support. In addition, NCLH envisions that portions of the people to people exchanges or other relevant activities could take place on board its vessels, whether in port or while moving between ports. This could include bringing on board the vessels Cuban artists, musicians, dancers, representatives of religious, civic, and professional organizations, and other appropriate Cuban persons.

NCLH envisions initially using its Oceania and Regent vessels to provide carrier services for passengers traveling to, from, and within Cuba. Oceania and Regent vessels offer their guests enriching, in-depth, destination-oriented experiences with a focus on off-the-beaten-path ports of call. The size of the vessels in the Oceania and Regent fleets are ideal for docking in ports with size and structural limitations, such as the ports of Havana, Santiago, and Cienfuegos. The typical Oceania or Regent guest is relatively affluent, over 65 years old, highly educated, well-travelled, and experienced in visiting exotic and sometimes underdeveloped locations. NCLH believes that its Oceania and Regent guests would be excellent ambassadors for the United States, as their motivations for travel typically go beyond the leisure activities commonly associated

with cruising and more towards discovery, exploration, and exciting new experiences.

In the attachment, NCLH has sought to respond in more detail to the list of questions that we understand OFAC would like answered in connection with these types of applications. Understandably, the business planning reflected in these responses is preliminary in nature, with actual activities under an OFAC license dependent upon a number of factors, including the level and nature of customer demand that materializes and requisite authorizations from government agencies in both the United States and Cuba.

NCLH is prepared to move forward on this effort as soon as it receives the requisite license from OFAC. If you have questions or need more information, please contact the undersigned.

Sincerely,

/s/ Richard S. Elliot

Richard S. Elliott

cc: Frank J. Del Rio
Norwegian Cruise Line Holdings Ltd.

Bill Delahunt
The Delahunt Group

John M. Scott
Paul, Weiss, Rifkind, Wharton & Garrison LLP

Attachment: NCLH Responses to OFAC Questions

Attachment

Note: The responses below reflect preliminary business planning, which is subject to modification based on the level and nature of demand that materializes, the authorizations that can be obtained from government agencies in the United States and Cuba, and the port and other logistics services that can be arranged.

- How do you plan to verify/document that passengers are traveling pursuant to an OFAC license?

Where people to people, religious, or professional organizations that organize travel to Cuba by authorized U.S. persons are booking all or a portion of the rooms on one of NCLH's vessels. NCLH will probably rely on the relevant organization to handle verification and documentation of the status of their guests (with appropriate certification to NCLH). Otherwise, NCLH expects that verification and documentation that passengers are authorized to travel to Cuba will be conducted via NCLH's current passenger booking process for each NCLH brand, which already includes verification of required travel documentation (passport, visas, etc.). The existing process will be expanded to include verification that each guest falls into an authorized category for travel to Cuba under the CACR.

- Do you have an estimated round trip ticket cost?

Ticket costs will depend on the length of the voyage, time of year, level of stateroom, and which NCLH brand is offering the voyage. Estimated costs per round trip ticket per person, based on double occupancy and excluding Government Taxes and Fees (GTF) are as follows:

Brand	# of nights	Starting	Average
Oceania	7	\$3,000	\$4,500
Oceania	10	\$4,250	\$6,500
Regent	7	\$5,000	\$7,000
Regent	10	\$7,000	\$10,000

- Which Cuban port(s) would be used, and on average, how long would the vessel be docked in Cuba? Would the crew members enter Cuba or remain on the vessel?

NCLH plans to offer 7 and 10 night itineraries. While most itineraries would include Havana as the main destination. NCLH expects vessels to be docked in the following ports:

- Havana
- Maria la Gorda
- Cienfuegos
- Santiago de Cuba
- Holguin
- Isle of Youth (Punta Frances)

NCLH does envision that its crew members will need to have the ability to leave the vessels. This could be for several reasons. First, where NCLH is organizing the onshore activities, it will need to have personnel leave the vessel for the purpose of supervising passenger activities onshore and addressing any logistical problems. Second, it is not unusual for reasons of security or ship-to-shore coordination for NCLH vessel personnel to accompany onshore passengers, even where a third party is organizing the onshore activities. Third, there can be vessel or passenger safety and port logistical issues that require NCLH vessel personnel to disembark from time to time.

- Do you intend to offer travel services/activities that would require the crew to leave the vessel?

Yes, as noted above.

- Do you intend to provide lodging to both passengers and crew aboard the ships?

Yes. NCLH intends for its vessels to provide lodging to both passengers and crew in Cuba. as is customary for its vessels at ports of call worldwide.

- Can you provide a photo or names/registration numbers of representative vessels that would be used?

See Appendix.

- What is the average passenger and cargo capacity for these vessels?

Passenger and crew capacity vary by the brand of NCLH vessel. Cargo capacity is limited to the consumables (food, fuel, etc.) required to maintain passengers and crew during the voyage. NCLH vessels do not engage in commercial cargo transportation. Representative passenger capacity for our Oceania and Regent vessels is as follows:

	Passenger Berths (Double occupancy)
Oceania Regatta, Insignia, Nautica, and Sirena	684
Regent Seven Seas Navigator	490

- Would this service be regularly scheduled/open to the public, or would it be on a private charter basis?

NCLH expects that service will be primarily regularly scheduled voyages. with occasional group or specialty charters. All regularly scheduled voyages will be open to the U.S. public, subject to verification that each passenger is authorized for travel to Cuba.

- If regularly scheduled, about how many journeys would the vessel(s) make per month/per year?

Sailings would be determined based on vessel availability and the level of demand. For any of the Oceania or Regent vessels referenced above, it might be possible to do 3-4 sailings per month to Cuba. depending on the length of the itinerary.

- Please provide a sample schedule(s) of the journey.
A sample 7-night voyage might look this this:

Day	Port of Call
1	Depart Miami
2	Havana
3	Havana
4	Maria la Gorda
5	Cienfuegos
6	Santiago de Cuba
7	At Sea
8	Debark Miami

A sample 10-night voyage might look like this:

Day	Port of Call
1	Depart Miami
2	Havana
3	Havana
4	Maria la Gorda
5	Isle of Youth
6	Cienfuegos
7	Santiago
8	Santiago
9	Holguin
10	At Sea
11	Debark Miami

Appendix

Vessel names, images, and statistics

OCEANIA REGATTA (and sister ships Insignia, Nautica, and Sirena)

Passenger Capacity	684
Crew Capacity	400
Gross tonnage	30,277
Year Built:	Regatta, Insignia: 1998 Sirena: 1990 Nautica: 2000



856

REGENT SEVEN SEAS NAVIGATOR

Passenger Capacity	490
Crew Capacity	345
Gross Tonnage	28,550
Year Built	1999



NORWEGIAN CRUISE LINE HOLDINGS LTD.

July 13, 2015

Office of Foreign Assets Control
U.S. Department of the Treasury
Treasury Annex
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Attn: Licensing Division

Dear Licensing Officer:

As CEO of Norwegian Cruise Line Holdings (NCLH), I am pleased to lend my personal support to NCLH's application for authorization to provide carrier services by vessel between the United States and Cuba pursuant to the Cuban Assets Control Regulations. My team and I look forward to working with OFAC, the State Department, and other US agencies as we move forward in this next important chapter in the relationship between the United States and Cuba.

As a proud American citizen who was born in Havana, Cuba, I welcome the opportunity to introduce NCLH's sophisticated and discerning cruise passengers to my country of birth and to demonstrate our support for the Cuban people. As the third largest cruise company in the world, NCLH has a strong interest in supporting educational and culturally enriching people-to-people programs and shores excursions. We believe Cuba's rich cultural history and natural treasures are a precious jewel that should be shared with those among our loyal passengers who qualify for travel to Cuba.

My team at NCLH and our advisors (The Delahunt Group and Paul, Weiss, Rifkind, Wharton & Garrison LLP) will work closely with OFAC, the Commerce

Department, the Coast Guard and other US agencies with regulatory oversight to ensure that we comply with all relevant requirements.

For me, this is a top priority both professionally and personally. I am committed to a positive outcome and will ensure that my team provides OFAC with whatever further information may be needed.

I thank you for your kind attention and look forward to OFAC's response.

Sincerely,

/s/ Frank J. Del Rio

Frank J. Del Rio

cc: Bill Delahunt
The Delahunt Group

Richard S. Elliot
Paul, Weiss, Rifkind, Wharton & Garrison LLP

John M. Scott
Paul, Weiss, Rifkind, Wharton & Garrison LLP

NORWEGIAN Cruise Line®

OCEANIA CRUISES®

REGENTCRUISE SEVEN SEAS CRUISES®

Frank J. Del Rio, President & Chief Executive Officer,
tel +1 305.436.4990 | 7665 Corporate Center Drive |
Miami, FL 33126 | nclhltd.com

OFAC

Office of Foreign Assets Control

Your application has been submitted successfully. It
is now safe to close your browser window.

Please keep your reference ID:

NCLH001

It is recommended that you save a copy of your
submission for your records.

Save as a PDF: Export to PDF

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Filed Under Seal

OFAC

Office of Foreign Assets Control

License Application

Reference Number:RCCL Cuba

Generated on 1/19/2017

APPLICATION INFORMATION

Application Type: Transactional
Application Reason: New Application
Program(s): Cuba
Category: Transactional
Subcategory: Commercial Transactions
Previous Case ID:

Description of Subject Matter:

We request specific authorization to provide Marine Services to one of the vessels operated under the Pullmantur cruise brand in relation to Cuba.

CONTACT INFORMATION

APPLICANT:

Contact Category: Institution
Organization Name: Royal Caribbean Cruises
Ltd

Point of Contact Name:

Address: Line1: 1050 Caribbean Way
Line2:

861

Line3:

City: Miami
Zip: 33132-2096
State: FL
Country: United States

Email Address:

Phone: Office:

Mobile:

Fax:

Principal Place of Business:

Place where Business is Incorporated:

CORRESPONDENT:

Contact Category: Person

First Name: Ronald

Middle Name:

Last Name: Meltzer

Address: Line1: 1875 Pennsylvania Avenue
NW

Line2:

Line3:

City: Washington

State: DC

Zip: 20006

Country: United States

Email Address: ronald.meltzer@wilmerhale.com

Phone: Office: (202) 663-6389

Mobile:

Fax:

Principal Place of Business:

Place where Business is Incorporated:

Attachments

Name

Application

Application Summary

Document Type

Supplemental Information

License Request

CERTIFICATION

Signature: Ronald Meltzer

Email Address: ronald.meltzer@wilmerhale.com

Date: 1/19/2017

PLF EXHIBIT

Stein 9

11/20/20 LWS

WILMERHALE

Ronald L Meltzer

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ronald.meltzer@wilmerhale.com

Confidential Treatment Requested

January 19, 2017

Mr. John Smith

Acting Director, Office of Foreign Assets Control
U.S. Department of the Treasury, Treasury Annex
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Re: License Request for Royal Caribbean Cruises Ltd.

Dear Mr. Smith:

On behalf of Royal Caribbean Cruises Ltd. (“Royal Caribbean”), we respectfully request specific authorization to provide Marine Services (as defined below) to one of the vessels operated under the Pullmantur cruise brand. The parent company of the Pullmantur brand is Pullmantur Holdings, S.L., an entity organized under the laws of Spain (“Pullmantur”). Through subsidiaries organized in the Republic of Malta, Pullmantur operates four (4) cruise vessels, all of which also carry the Maltese flag (each individually a “Pullmantur Vessel”). Each Pullmantur Vessel is owned by a wholly-owned subsidiary of Royal Caribbean and leased to the Pullmantur ship operating company through a bareboat charter arrangement. At this time, Pullmantur plans on offering weekly sailings commencing in the summer of 2018 and biweekly sailings commencing in the

winter of 2017/ 2018.¹ For these sailings, a Pullmantur Vessel would home port in the Dominican Republic, and would call on ports in the Caribbean, including Jamaica, Haiti, and Cuba. The Pullmantur Vessel would not enter U.S. territorial waters, nor call on any U.S. port as part of these sailings.

We respectfully submit that the issuance of specific authorization pursuant to this application would be consistent with U.S. foreign policy interests in facilitating greater contacts with the people of Cuba; in promoting access to information, developments, and ideas outside of Cuba; and in fostering the exchange of information through people-to-people contacts. It would also be consistent with previous OFAC general authorizations, such as for “[p]ersons subject to U.S. jurisdiction. . .to provide carrier services to, from, or within Cuba in connection with travel or transportation, directly or indirectly, between the United States and Cuba of persons, baggage, or cargo.” 31 C.F.R. §515.572(a)(2). The specific license requested here would be more limited than this general authorization, as Royal Caribbean would not be providing direct carrier services, and the voyages would be between a *third-country* and Cuba, an arguably less sensitive travel route from the standpoint of U.S. sanctions.

Scope of Requested Authorization

By way of background, Royal Caribbean is a company that was incorporated in the Republic of Liberia in 1985. Royal Caribbean has its principal

¹ While these are the anticipated time frames for these cruises, Pullmantur may adjust these dates and frequencies depending on when it receives the requisite approvals to proceed with the sailings

executive offices in Miami, Florida. It is the world's second largest cruise company operating with cruise ships that call on approximately 455 destinations on all seven continents. With regard to Pullmantur, a Luxemburg private equity fund within the corporate group of Springwater Capital LLC has a majority ownership interest of 51% in the Spanish-based company, and Royal Caribbean has a minority ownership interest of 49%. Royal Caribbean's shareholding rights do not provide for control over Pullmantur's day-to-day operations or major business decisions. Specifically, under the applicable Shareholders' Agreement, a vote of shareholders representing at least two-thirds of the share capital of Pullmantur is required for significant or extraordinary events, such as any changes in the structure of the company, capital increases or reductions, fundamental changes in the nature or scope of the company, or the appointment of the top management of the company. Otherwise, business decisions only require a majority vote of shareholders — and Royal Caribbean has not been granted any other special rights with respect to Pullmantur. Notably, two of the five directors of Pullmantur are U.S. persons, but they would be recused from any decision or deliberation concerning Cuba-related matters. Pursuant to the OFAC regulations, Pullmantur would not be considered "owned or controlled" by a U.S. person or otherwise a "person subject to U.S. jurisdiction" under 31 C.F.R §515.329.

By way of this application, Royal Caribbean requests specific authorization by OFAC to provide Marine Services to the Pullmantur cruise operations as set forth herein. The requested authorization includes the use of a Pullmantur Vessel owned by Royal Caribbean for the sailings that are on bareboat charter to Pullmantur. No Pullmantur Vessel would

pass through U.S. territorial waters either before or after the Cuba-related cruises and would not stay in Cuba for more than 14 consecutive days. No U.S. persons would be part of the crew on the vessel for the Cuba-related cruises, and almost all of the passengers are expected to be non-U.S. persons. To the extent that any U.S. persons were among such passengers, Pullmantur would ensure and document that their travel to Cuba falls under one of the twelve (12) categories of authorized travel.

Royal Caribbean's proposed marine and ship management services for Pullmantur would include the following: (1) marine management/port evaluation; (2) medical/public health services; (3) accommodation maintenance; (4) safety, security and environment; (5) fuel management; (6) contingency planning for emergency situations; (7) supply chain management for marine areas only; (8) IT management for marine areas only, and (9) risk management/insurance (the "Marine Services"). For safety and efficiency reasons, Royal Caribbean seeks to carry out some of the Marine Services covered by this license request from an established business presence in Cuba, as well as from the United States.

U.S. Foreign Policy Interests

We respectfully submit that such authorization would be consistent with U.S. foreign policy interests in facilitating greater contacts with the people of Cuba; in promoting access to information, developments, and ideas outside of Cuba; and in fostering the exchange of information through people-to-people contacts. In addition, we submit that the scope of requested authorization would be consistent with — and more limited than — existing OFAC authorizations. For example, OFAC has authorized

“[p]ersons subject to U.S. jurisdiction. . .to provide carrier services to, from, or within Cuba in connection with travel or transportation, directly or indirectly, between the United States and Cuba of persons, baggage, or cargo. . .” 31 C.F.R. §515.572(a)(2). This authorization eased sanctions in arguably the most sensitive area of commerce and travel (between the United States in Cuba). The authorization requested here is far more modest, as Royal Caribbean is requesting authorization to provide Marine Services (rather than direct carrier services) to cruises operated by a person not subject to U.S. jurisdiction (Pullmantur) between a third-country, the Dominican Republic, and Cuba.

Similarly, OFAC has authorized the establishment of a business presence in Cuba for “[p]roviders of travel and carrier services authorized by §515.572.” 31 C.F.R. §515.573. We respectfully submit that the establishment by Royal Caribbean of a business presence in Cuba to provide some of Marine Services in support for Pullmantur’s carrier services described in this application would be consistent with this general authorization as well.

* * *

The information provided in this application consists of proprietary and confidential information to Royal Caribbean, the disclosure of which would be harmful to its business. Royal Caribbean therefore requests confidential treatment of this information, and any further information disclosed in connection with this application, consistent with the Freedom of Information Act (5 U.S.C. § 552(b)(4)) and the Trade Secrets Act (18 U.S.C. § 1905). If OFAC is considering a decision to publicly release this information pursuant to a FOIA request, or for any other reason,

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despite this request for confidentiality, Royal Caribbean requests an opportunity to be heard on the matter prior to any such public release.

Thank you for your prompt consideration of this request. Please feel free to contact me at any time at 202-663-6389 or Ronald.Meltzer@wilmerhale.com.

Sincerely,

/s/ Ronald I. Meltzer

Ronald I. Meltzer

Counsel to Royal Caribbean

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Filed Under Seal

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ENF 51433

JUN 04 2019

Ronald I. Meltzer
WilmerHale
1875 Pennsylvania Avenue NW
Washington, DC 20006

Subject: Cautionary Letter to Royal Caribbean
Cruises Ltd.

Dear Mr. Meltzer:

Thank you for your correspondence on behalf of Royal Caribbean Cruises Ltd. dated October 26, 2018 and May 22, 2019, in response to an administrative subpoena issued by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) on July 3, 2018.

OFAC has decided to address this matter by issuing the enclosed Cautionary Letter to your client. Please ensure that your client receives this Cautionary Letter.

Should you have any questions, please contact me at (202) 622-2430 or Timothy.Smith@treasury.gov,

Sincerely,

/s/ Timothy Smith

Timothy Smith
Senior Enforcement Officer
Office of Foreign Assets Control

Enclosure

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220
CAUTIONARY LETTER

ENF 51433

Bradley Stein
General Counsel
Royal Caribbean Cruises Ltd.
1050 Caribbean Way
Miami, FL 33132

JUN 04 2019

Dear Mr, Stein:

This letter serves as notice that the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) has completed its review of Royal Caribbean Cruises Ltd.'s ("RCL") response to OFAC's Administrative Subpoena ("Subpoena") concerning RCL's provision of travel, carrier, and other transportation-related services in connection with travel-related transactions involving Cuba.¹

OFAC administers and enforces comprehensive economic sanctions against Cuba as set forth in the Cuban Assets Control Regulations, 31 C.F.R. part 515 (CACR), and Executive Orders, issued under the authority of the Trading With the Enemy Act, 50 U.S.C. §§ 4301-4341, and other statutes. The CACR applies to persons subject to the jurisdiction of the

¹ Section 515.572(b)(1) of the CACR requires persons subject to the jurisdiction of the United States that provide travel, carrier, other transportation-related services in connection with travel-related transactions involving Cuba, to retain for at least five years from the date of the transaction, a certification from each customer indicating the section of the CACR, or the number of the specific license, that authorizes the person to travel to Cuba.

United States.² In general, the CACR prohibits most direct or indirect transactions of any nature with Cuba or Cuban nationals or that occur within the United States, except as authorized by OFAC or exempted by statute. Beginning on January 15, 2015, OFAC announced certain changes to the CACR that authorized specific types of previously prohibited activities, including certain transactions by U.S.-owned or -controlled subsidiaries established and located outside of the United States. For more information, please see the CACR and OFAC's List of Specially Designated Nationals and Blocked Persons, as well as other information specific to each sanctions program, on our website at www.treasury.gov/ofac.

The CACR contain general licenses authorizing travel-related transactions involving Cuba related to twelve categories of specified activities. A general license authorizes a particular type of transaction for a class of persons without the need to obtain further authorization from OFAC. A specific license is an OFAC-issued authorization that is granted on a case-by-case basis permitting an individual or entity to engage in transactions that are otherwise prohibited, not exempt or do not fall within the scope of a general license authorization. Travel-related transactions involving Cuba are authorized by general license only

² Section 515.329 of the CACR defines "person subject to the jurisdiction of the United States" as the following: (a) any individual, wherever located, who is a citizen or resident of the United States; (b) any person within the United States as defined in § 515.330; (c) any corporation, partnership, association, or other organization organized under the laws of the United States or of any State, territory, possession, or district of the United States; and (d) any corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled by persons specified in paragraphs (a) or (c) above.

if the travel falls into one of the following categories (each of which is subject to specific criteria and conditions):

- 1) Family visits (see 31 C.F.R. § 515.561);
- 2) Official business of the U.S. government, foreign governments, and certain intergovernmental organizations (see 31 C.F.R. § 515.562);
- 3) Journalistic activities (see 31 C.F.R. § 515.563);
- 4) Professional research and professional meetings (see 31 C.F.R. § 515.564);
- 5) Educational activities (see 31 C.F.R. § 515.565);
- 6) Religious activities (see 31 C.F.R. § 515.566);
- 7) Public performances, clinics, workshops, athletic and other competitions, and exhibitions (see 31 C.F.R. § 515.567);
- 8) Support for the Cuban people (see 31 C.F.R. § 515.574);
- 9) Humanitarian projects (see 31 C.F.R. § 515.575);
- 10) Activities of private foundations or research or educational institutions (see 31 C.F.R. § 515.576);
- 11) Exportation, importation, or transmission of information or informational materials (see 31 C.F.R. § 515.545); and
- 12) Certain export transactions that may be considered for authorization under existing Department of Commerce regulations and guidelines with respect to Cuba or engaged in by U.S.-owned or -controlled foreign firms (see 31 C.F.R. §§ 515.533 and 515.559).

On June 16, 2017, the President announced certain changes to the Cuba sanctions program. OFAC implemented the Treasury-specific changes via amendments to the CACR on November 9, 2017. OFAC has published a list of Frequently Asked Questions related to Cuba, including questions about the scope and application of the travel general licenses, which are available on our website at https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_faqs_new.pdf.

Travel-related transactions to, from, or involving Cuba for any other purpose, or that do not meet the full criteria and conditions of one or more of the above-referenced categories of general licenses, including recordkeeping requirements, are prohibited.

OFAC's Economic Sanctions Enforcement Guidelines ("Enforcement Guidelines"), available in Appendix A to 31 C.F.R. part 501,³ provide a general framework for the enforcement of all economic sanctions programs administered by OFAC, and provide detailed descriptions and definitions of key terms, available enforcement responses, general factors that OFAC analyzes in determining the appropriate administrative action, and the enforcement and civil monetary penalty process. Types of enforcement responses range from no action to a cautionary letter, or a civil monetary penalty.

OFAC's review of certifications and other materials during its October 18, 2018 on-site visit, as well as the Subpoena response, revealed areas of concern related to RCL's compliance with its recordkeeping obligations. During the on-site visit, OFAC noted from a

³ The Enforcement Guidelines are available on OFAC's website at https://www.treasury.gov/resource-center/sanctions/Documents/fr74_57593.pdf.

sampling of certifications that approximately 12 paper certifications failed to either select a general travel license or provide a specific license number. In addition, OFAC observed there were approximately five certifications that had hand written comments indicating that the individual traveler did not intend to disembark in Cuba. This appears to contradict RCL policy that passengers could not embark on a voyage to Cuba without providing the general license number that authorized their travel.

Specifically, § 515.201 of the CACR broadly prohibits U.S. persons from engaging in any transactions or dealings in or related to Cuba, including transactions or dealings in or related to unauthorized travel to Cuba. Accordingly, RCL's dealings in possible unauthorized travel by U.S. persons to Cuba appears to have violated the CACR.

After considering all relevant information in its possession, as well as the General Factors Affecting Administrative Action set forth in the Economic Sanctions Enforcement Guidelines, OFAC has decided to address this matter by issuing this Cautionary Letter instead of pursuing a civil monetary penalty or taking other enforcement action.

This Cautionary Letter represents a final enforcement response to the apparent violations, but does not constitute a final agency determination as to whether violations have occurred. This letter does not preclude OFAC from taking future enforcement action should additional information warrant renewed attention. Under applicable law, each violation of the above refer-

enced regulations is subject to a statutory maximum civil monetary penalty of \$86,976.⁴

OFAC considers compliance with its sanctions programs to be a critical part of the effectiveness of U.S. economic sanctions, and trusts that RCL will act in accordance with all such regulations in the future. Please note that RCL's compliance history with regard to economic sanctions administered by OFAC will be considered if other apparent sanctions program violations come to OFAC's attention, which may result in the imposition of civil monetary penalties.

Should you have any questions, please contact Senior Enforcement Officer Timothy Smith at Timothy.Smith@treasury.gov or at (305) 715-7666.

Sincerely,

/s/ Rosie Wells

Rosie Wells

Enforcement Section Chief

Office of Foreign Assets Control

⁴ The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74 (FCPIA), requires OFAC to adjust its civil monetary penalty amounts on an annual basis in order to account for inflation. The current adjusted civil monetary penalty amount is applicable to civil monetary penalties assessed after August 1, 2016, whose associated violations occurred after November 2, 2015, the date of enactment of the FCPIA. Any violations occurring on or before November 2, 2015 are subject to OFAC's prior civil monetary penalty amounts.

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July 17, 2015

Via Electronic Portal

Office of Foreign Assets Control

U.S. Department of the Treasury

Treasury Annex

1500 Pennsylvania Avenue, NW

Washington, DC 20220

Attn: Licensing Division

Re: Letter in Support of Application to Conduct
U.S.-Cuba Carrier Service

Dear Sir/Madam:

Pursuant to guidance issued by the U.S. Department of the Treasury, Office of Foreign Assets Control ("OFAC"), dated May 5, 2015, regarding travel between the United States and Cuba,¹ on

¹ See U.S. DEPARTMENT OF THE TREASURY, GUIDANCE REGARDING TRAVEL BETWEEN THE UNITED STATES AND CUBA (2015) (*available* www.treasury.gov/resource-center/sanctions/Pro

behalf of our client, Royal Caribbean Cruises Ltd. (“RCL” or the “Company”), we submit this letter in support of a license application to authorize the conduct of carrier service between the United States and Cuba, pursuant to Section 572(c) of the Cuban Assets Control Regulations (“CACR”) (31 C.F.R. § 515.572(c)). As discussed below, there is policy support and precedent for granting this approval in an expeditious manner.

I. Background

Founded in 1968, RCL is the world’s second largest cruise company, headquartered in Miami, FL, RCL, which has been listed on the New York Stock Exchange since 1993, owns global brands Royal Caribbean International, Celebrity Cruises, and Azamara Club Cruises. It also owns brands Pullmantur (focused on the Spanish, Portuguese, and Latin American market), CDF Cruisières de France (focused on the French market), a 50 percent joint venture interest in TUI Cruises (focused on the German market), and a 3’ percent partnership interest in SkySea Cruises (focused on the Chinese market). Together, these seven brands operate a combined 44 vessels in the cruise service industry with an aggregate capacity of over 105,000 berths.

RCL’s vessels operate on a selection of worldwide itineraries that call on approximately 480 destinations on all seven continents. Currently, from the United States, RCL operates cruises to Mexico, the Caribbean, Central America, South America, Canada, Europe, Australia, and New Zealand. For additional information regarding RCL’s business,

grams/Documents/cuba_faq_ferry_05042015.pdf (accessed May 12, 2015)).

refer to the Company's 2014 Annual Report to Shareholders, attached as Exhibit A.

In addition to its commitment to its shareholders, RCL is also strongly committed to maintaining its position as an industry leader in terms of safety, security, environment, and health practices. The Company takes its stewardship responsibilities very seriously and believes these responsibilities are inextricably linked with RCL's continued success. For additional information, refer to the Company's 2013 Sustainability Report, attached as Exhibit

II. Overview of Proposed Transactions

RCL, through one or more of its existing cruise brands, plans to operate carrier service to Cuba as described below. The primary purpose of the offerings will be to foster and inspire cultural understanding and personal growth between Americans and Cubans around key themes of Cuban and American culture, the arts, history, architecture, entrepreneurship, agriculture, environmentalism, and sports.

A. Vessel Itinerary

RCL plans to offer direct sailings from the United States to Cuba, with no third country stops. RCL anticipates two primary types of voyages: sailings which feature multiple Cuban ports ((6-8 nights) and shorter voyages concentrated on Havana (3-4 nights), each initially round trip from Miami. We describe below a representative itinerary for each of the voyage types:

(i) Multi-port

The vessel will depart Miami on Saturday at approximately 5:00 PM and will spend Sunday at sea. It will arrive in Holguin at 7:00 AM on

Monday and will depart the port at 4:00 PM on the same day. Tuesday morning it will arrive in Santiago at 9:00 AM and depart at 5:00 PM to sail to Cienfuegos, arriving Wednesday at 2:30 PM. The vessel will leave Cienfuegos at 8:00 PM and will spend Thursday at sea, arriving in Havana on Friday at 8:00 AM. The vessel will remain in Havana until 3:00 PM the next day, at which time it will return to Miami, arriving at 7:00 AM on Sunday.

(ii) Havana-focused

The vessel will depart Miami on Friday at approximately 4:00 PM, arriving in Havana on Saturday at 8:00 AM. The vessel Will remain in Havana overnight until 5:00 PM Sunday, at which time it will return to Miami, arriving at 7:00 AM on Monday.

In the future, some of the sailings may originate from Port Everglades or Port Canaveral. RCL has very well developed capabilities and facilities in Miami, Port Everglades and Port Canaveral as it has embarked 367,000, 1,089,000, and 530,000 passengers, respectively, from each port in the last twelve months.

B. Vessel

RCL plans to offer the multi-port itinerary using one of its two R-Class vessels, being either the *Azamara Journey* or the *Azamara Quest*. For the Havana-focused itinerary, RCL plans to use the *Majesty of the Seas*. Additionally, RCL has the Horizon-Class and the Empress-Class vessels, which could be used to serve either the multi-port or Havana-focused voyages depending on vessel availa-

bility and demand. All of these are like-in-kind vessels.

For ease of review, information relating to these vessels is provided in Exhibit C. Each of these vessels is classified under ECCN 8A992.f., “vessels, marine systems or equipment, not controlled by 8A001 or 8A002 . . . vessels”, on MS’s Commerce Control List (“CCL”).

RCL maintains a robust 278-page security manual which establishes policies and procedural guidance relating to the safe and secure operation of its fleet. This manual also codifies policies addressing a variety of issues, including but not limited to the requirements of the Cruise Vessel Security and Safety Act (CVSSA), passenger and cargo screening, access control, and the proper response to allegations of crimes. In addition to the manual, which details standard operating procedures and policies, each vessel has a detailed security plan Which incorporates operational security requirements as set forth by numerous international laws and treaties, including but not limited to the International Ship and Port Facility Security (TSPS) and U.S. Maritime Administration (MARAD). The vessel security plans are independently reviewed and approved by Class (DNV, Lloyds) on behalf of the vessel’s flag state (either Bahamas or Malta). RCL will follow the procedures in the security plan as well as its other relevant procedures, including customer intake procedures, in conducting sailings to Cuba. this will include requiring passengers to provide, in advance, a certification that the passenger satisfies U.S. Government regulations regarding authorized travel to Cuba. RCL will document the receipt of such certification.

C. Permitted Travel

RCL, as an industry leader, delivers more land-based travel experiences than most dedicated travel service operators. For example, RCL provided more than 52 million land-based tours to passengers in 2014, including 2.5 million in the Caribbean. Handling that volume of passengers requires RCL to be a master of operational logistics. RCL's proven capacity to handle the specific itineraries — sailing and shoreside — gives RCL the confidence to assure OFAC that every passenger disembarking in Cuba will meet the requirements of the CACR.

As one of the largest travel companies in the world, RCL offers a wide range of travel experiences — from something similar to an all-inclusive resort vacation to very structured, highly educational, cultural immersion travel. RCL understands the difference between the two ends of the spectrum and the requirements of the CACR, and is fully prepared to offer travel opportunities that fit within the CACR requirements.

Two illustrative examples are RCL's programs in St. Petersburg, Russia and the Galapagos Islands. Both these destinations have been serviced very successfully by RCL over the years. In each, the requirements of the locations compel RCL to provide travel experiences that involve structured, full-time itineraries: in St. Petersburg because of Russian visa requirements, and in the Galapagos Islands because of Ecuadorian environmental restrictions on unchaperoned travel. In both, itineraries are set in advance, passengers are required to choose their travel experience options, guides meet the small groups onboard the vessel, and passengers are required to stay with the group throughout the day.

Another example is RCL's Azamara brand. One of Azamara's key strategies is to deliver immersive destination experiences through its Insider Access Program. This program offers experiences curated for cultural authenticity and genuine immersion in destinations, very much aligned with the people-to-people exchange concept. Some examples of the tours presently offered include: meeting with a local artist in Croatia to view her work and hear her talk about it in the context of Croatian history, brunching in a Tuscan villa with the Master of the villa Who tells stories of the family dating back to the 14th century; meeting with a lithography artist and touring his studio in Bulgaria; meeting a cheesemaker in Sorrento and hear him talk about the centuries-old traditions of making mozzarella; and learning about traditional medicine in Myanmar and meeting with a local practitioner.

As mentioned above, RCL is designing its Cuba program in order to offer travelers a comprehensive, end-to-end cultural immersion experience. The immersion will begin once the vessel leaves U.S. port, with onboard Cuban historical, architectural, cultural, religious, culinary, and musical activities, including performances by Cuban musical and dance groups, educational lectures, and demonstrations. Please *refer* to Exhibit D for a sample of the types of programs RCL intends to offer. RCL intends to reserve between 12 to 50 staterooms per sailing (depending on vessel size) as accommodations for these service providers. These onboard activities will continue while in ports in Cuba to provide additional context to the shoreside activities. Many of these onboard activities would meet the parameters of permitted travel activities, RCL also intends to record certain onboard programming so that pass-

engers who did not have the opportunity to attend can view the programming from the televisions in their staterooms.

The shoreside experience will be very similar to what is offered today by large multinational U.S. tour operators such as Abercrombie & Kent, Globus, and Tauck Tours. RCL will organize the programs by partnering with groups such as Marazul and Cuba Tours who are experienced operators focused on organizing Cuban cultural and educational exchanges from the United States. These organizations have demonstrated the ability to deliver quality content on a large scale.

Shoreside activities will be structured as full-time, six to eight hour themed programs that will provide the traveler with insights into the real Cuba, and the opportunity to meet and interact with the Cuban people. Additionally, where possible, evening programs on island will be offered to extend that full-time itinerary even further. RCL understands that such evening activities must be carefully developed to meet CACR requirements.

We provide, at Exhibit E, a sample itinerary as RCL currently envisions a typical passenger's Cuba experience.

In addition, we will seek to partner with global organizations that will enrich the vessel-to-shoreside experience. We will look to expand our relationship with the World Wildlife Fund, and develop program content in partnership with the Smithsonian Institute, National Geographic, and the World Music Institute, among others.

Royal Caribbean believes that its proposed offering, which effectively combines transportation, accom-

modation, access to content and opportunity for meaningful exchange and interaction within Cuba, is superior to other Cuba travel offerings currently available as it facilitates a level of immersion, education, and interaction that is not ordinarily available.

In operating carrier service to Cuba pursuant to this license application, RCL commits to ensuring that every passenger who embarks on a RCL Cuba journey will meet all requirements alone of the twelve categories of permitted travel authorized under the CACR, To this end, RCL will make sure that in addition to its regular controls and procedures, each aspect of the voyage process, from booking through to disembarkation, will include such additional controls as are necessary to comply with the requirements of law and the terms of any hit use granted by OFAC.

We summarize below certain of these additional controls:

1. Reservations

Similar to many of its other sailings, passengers will be able to book a Cuba voyage through one of three channels: direct booking through the applicable brand's website, direct booking through Royal Caribbean call centers, or booking through third-party travel partners.

Unlike standard cruise offerings, however, passengers sailing on one of the Cuba voyages will be required prior to embarkation to select, for each day that the vessel is docked in a Cuban port, One of the full-day travel programs offered by RCL and will only be permitted to leave the vessel as part of such travel program. In addition, each passenger

will be required to certify that he or she meets all requirements of one of the twelve categories of permitted travelers authorized under CACR, As these. requirements are not typical to the cruise experience, there will likely be a degree of education necessary both for passengers and for the employees and travel partners booking the voyages.

To address these needs, RCL plans to implement the following measures to educate the public and the trade as to Cuba requirements:

- Creation and training of a dedicated team of call center agents;
- Preparation and circulation of instructive written materials to travel agents;
- Comprehensive training of RCL's internal District Sales Managers who interact with travel agents for training to travel agents;
- Webinar training of travel agents; and
- Modification of online booking system to incorporate all applicable terms and conditions.

RCL has very effectively and efficiently used each of these tools on a number of occasions, including with regards to other unique offerings (*e.g.*, sailings in the Galapagos Islands) and for purpose of quickly communicating necessary information to the call centers and the travel agents (*e.g.*, when introducing a new promotion or product).

RCL will also make any modification to its internal booking engine that may be necessary so that, at all times, it can ensure that the number of passengers booked for the applicable sailing does

not exceed the available capacity of the shoreside offerings.

2. Required Selection of Shoreside Travel Program

At the time of booking, each passenger will be required to select from a menu of offerings one Of the full-day shoreside programs offered by RCL for each day that the vessel is visiting one Of the Cuban posts The programs will **be** available on a first-come, first-served basis. Subject to availability, passengers will have the opportunity to change their selected experience up through the date of final payment (generally 70 days prior to departure), 3.

3. Check-In

Ln addition to the standard check-in processes, at the pier and prior to boarding the vessel, each passenger will be required to certify in writing that he or she meets all requirements of 011C of the twelve categories of permitted travel authorized under the CACR. RCL will train the pier agents as to the additional documentation requirements. This is very common in dealing with differing visa and passport requirements around the world, and RCL has successfully managed these training processes for many years.

4. Passenger Movement Logistics

The shoreside programs will be structured so that each group has a designated location and time to meet its guide onboard the vessel. The guides will take attendance and ensure that all passengers are accounted for. Passengers will then be escorted off the **ship** by the guide and directed to the appropriate transportation. As an additional con-

trol, RCL is able to effectively control passenger movement on and off the vessels through its well established SeaPass system which monitors all entries and departures from the Vessel With photo matching technology. Upon return to the vessel, all passengers will be required to go through security screening, and will be escorted by the guide back on the vessel once their identity is confirmed through their SeaPass.

RCL can provide meaningful opportunities to its passengers to interact with the Cuban people in a fulfilling exchange and stay within the requirements of the CACR. .At this juncture. RCL is confident that it can meet the CACR requirements for permitted travel for all passengers on its largest proposed vessel in this application: However, given the time and resources it takes to ready the vessel, develop shoreside programs that meet the CACR requirements. and book passengers, RCL will allow only the number of passengers on a Cuba voyage that can be provided with meaningful cultural exchanges within the CACR permitted travel requirements, even if that means undertaking sailings at 50 percent capacity or less. This can be achieved, as RCL has in place a standard process to restrict vessel capacity depending on the circumstances of the cruise or itinerary. As RCL is able to get comfortable that it has the capacity to provide CACR-compliant shoreside programs, it will open up more passenger slots. An additional advantage of using a larger vessel is that there is inure space to conduct Cuba immersion activities onboard to add to the experience and to allow people-to-people interaction even en route from the United States to Cuba.

To reiterate, RCL is fully committed to ensuring that every passenger will be provided with a permitted travel program in Cuba.

If OFAC has concerns regarding the ability of RCL to meet the CACR requirements, RCL would be happy to meet with OFAC officials to outline its plans in more detail.

D. Crew

The number of crew accompanying each sailing will depend on the size of the vessel. (Please refer to Exhibit C which includes the approximate number of crew members for each vessel.) The crew members hail from more than 100 countries, with over 50 percent from the Philippines, India, Indonesia, and Jamaica. Most crew members will be on duty during the Cuba voyage and therefore will not have free time to disembark the vessel. No crew member, whether on leave or on duty, will be allowed to disembark in Cuba unless they meet one of the L2 permitted travel categories. RCL is able to also effectively control crew movement on and off the vessels through its SeaPass system which monitors all entries and departures from the vessel with photo matching technology.

E. Cargo

Generally, little or no passenger cargo is disembarked at port visits. Any cargo that RCL will transport will be authorized passenger baggage only.

BIS Authorization. In parallel with this application, RCL is submitting an application to the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") for temporary sojourn authorization to Cuba for the vessels proposed herein for carrier

service. We will provide a copy of the BIS application at the same time that it is filed with the BIS.

III. Related Transactions

Passengers will pay RCL via cash or electronic payment (credit cards). Payment will be made in U.S. dollars prior to the departure date.

RCL anticipates other related transactions, such as the procurement of supplies, equipment, and services, as well as insurance, ordinarily incident to the operation of the carrier service.

IV. Justification

Approval of this license request will serve U.S. foreign policy goals. U.S. Government policy support may be found in President Obama's announcement on December 17, 2014, that his administration is re-establishing U.S. diplomatic relations with Cuba,² and in the ongoing relaxation of sanctions against Cuba that has subsequently ensued, including the lifting of certain decades-long travel restrictions.³

Based on press reports and statements by individual companies, it appears that the U.S. Government has provided prior authorization to allow passenger service between the United States and Cuba.

² See Press Release, The White House Office of the Press Secretary, Statement by the President on Cuba Policy Changes (Dec, 17 2014) (*available at*: <https://www.whitehouse.gov/the-press-office/2014/12/17/statement-presidnet-cuba-policy-changes> (accessed July 10, 2015)).

³ See Press Release, Fact Sheet: U.S. Department of Commerce and U.S. Department of the Treasury Announcement. of Regulatory Amendments to the Cuba Sanctions (Jan, 15, 2015) (*available at*: <https://www.commerce.gov/news/fact-sheets/2015/01/fact-sheet-us-department-commerce-and-us-department-treasury-announcement> (accessed July 10, 2015)).

For instance, it appears that recently at least seven passenger service companies, including United Caribbean Lines, Havana Ferry Partners LLC, America Cruise Ferries Inc., Airline Brokers Company, Balearia Caribbean, Ltd., Superfast Ferries LLC, and Baja. Ferries USA LLC, have received authorization to conduct passenger service between the United States and Cuba.⁴

We also note that certain U.S. persons have been licensed in the past to provide authorized travel services via vessel within Cuba. For example, Adventure Smith Explorations states that they hold a valid OFAC license (#CT-2014-309395-1) for their eight-day cruise from Havana to Cienfuegos (<http://www.adventuresmithexplorations.com/cuba-people-to-people-cruise#itinerary>).

Additionally, we note that Carnival Corp. has apparently received OFAC approval for carrier service to Cuba on a vessel that is a sister-ship to the R-Class vessels described herein. While Carnival's press reports indicate that it has taken additional steps to separate its Cuba itinerary from its other cruises, RCL does not see these additional steps as required under the CACR. A separate brand, a separate subsidiary, the form of incorporation; only one size of vessel, may be valid internal organizational steps for Carnival, but do not appear to be required by the CACR or RCL's understanding of OFAC policy. However, to the extent that OFAC sees any of these internal structuring matters as material to licensing

⁴ Mimi Whitefield, Ferry service to *Cuba may return to the Florida Straits*, Miami Herald, May 5, 2015, available at: <https://www.miamiherald.com/news/local/community/miami-dade/article20296911.html> (accessed July 10, 2015).

(approval, RCL is happy to discuss and make amendments to its Cuba business model.

Given the cited precedent — passenger service, within-Cuba cruises. and Carnival's license — the only attribute of RCL's license application that is different is a potentially larger number of passengers on any individual voyage. However, given RCL's proven ability to provide 5.2 million land-based tours in the last year, RCL's commitment to stay within the CACR permitted travel requirements, and the fact that travel service providers no longer require a Specific License to provide shoreside Cuban travel experiences, RCL believes that its Cuba voyage plan and this license application tall within OFAC's guidelines and are supportive of US policy toward Cuba.

Therefore, allowing RCL, a company with a well-established reputation in the maritime transportation industry, to conduct carrier service as proposed above between the United States and Cuba, would further help achieve the U.S. Government's goal of re-connecting the United States and Cuba after a decades-long separation.

V. Scope of Authorization Requested

We request that,

1. Royal Caribbean Cruises Ltd. be authorized pursuant to 31 C.F.R. § 515.572(c) to provide carrier service through its brands between the United States and Cuba to persons authorized by the U.S. Government.
2. Any transaction ordinarily incident to the provision of carrier service as per Section I above be authorized, including without limit-

ation the sale of such services, as well as the procurement of supplies, equipment, and services, payment and receipt of monies, and insurance for such services.

3. To the extent necessary, U.S. financial institutions, including but not limited to JP Morgan Chase Bank N.A. and Bank of America N.A., be authorized to process transactions in Sections 1 and 2 above.

VI. Information Re: Parties/Cargo/Vessel

Although much of this information is described above, for ease of review, we provide the following:

Applicant:

The applicant is Royal Caribbean Cruises Ltd., with its principal place of business at:

1050 Caribbean Way
Miami, FL 33132

Phone: (305) 539-6000

Website: www.royalcaribbean.com

Principal Contact Information:

Name: Bradley H. Stein

Title: SVP, General Counsel

Phone: 305-539-6631

Email: bstein@rccl.com

Ultimate End Users:

RCL will provide carrier service as described above to passengers authorized by the U.S. Government to travel and transport authorized items between the United States and Cuba.

Cargo:

The cargo that RCL will transport under its carrier service will be limited to authorized passenger baggage.

Vessels:

RCL plans to use the *Majesty of the Seas* for its Havana-focused itinerary and the *Azamara Journey* or the *Azamara Quest* for its multi-port itinerary. RCL may use the *Empress*, *Horizon* or *Zenith* as alternatives for either itinerary. All vessels are controlled under ECCN 8A992.f and comply with all applicable U.S. regulations and U.S. Coast Guard requirements, for the service. Exhibit C contains a brief description, as well as photographs and additional information, regarding the proposed vessels as named above.

Financial Institutions:

RCL will use U.S. financial institutions including JP Morgan Chase Bank N.A. and Bank of America N.A. to make, receive, and process payments related to the service.

VII. Other information

RCL will maintain records of all transactions it conducts under the license, including a certification from each customer indicating the sections of the CACR, or the specific license, that authorizes the person to travel to Cuba. Such records will be maintained for at least five (5) years from the date of the transaction.

Additionally, RCL will furnish and make available for inspection any relevant information, records and reports made in relationship to the matters discussed above, requested by the Secretary of the Treasury or

any duly authorized officer or agency of the Secretary.

This letter contains confidential and proprietary information and, pursuant to 5 U.S.C. § 552(b)(4), this information should not be released to the public.

RCL has authorized the law firm of Holland & Knight LLP to liaise with OFAC with regard to this license application. if you have any questions or require any additional information, please contact Ron Oleynik, Esq., at (202) 457-7183, or via email at ron.oleynik@hklaw.com. In the alternative, you may contact Gozie Onyema, Esq., at (202) 469-5233, or via email at gozie.onyema@hklaw.com.

Sincerely yours,

HOLLAND & KNIGHT LLP

/s/ Ronald A. Oleynik

Ronald A. Oleynik

Gozie C. Onyema

Counsel for Royal Caribbean Cruises Ltd.

Attachments:

EXHIBIT A	RCL 2014 Annual Report
EXHIBIT B	2013 Sustainability Report
EXHIBIT C	RCL Vessel Descriptions, Photographs, and Additional Information
EXHIBIT D	Sample Onboard Programming
EXHIBIT E	Sample Passenger Voyage Itinerary

Sample Onboard Programming

Lectures:

- **Cuban history through the local Havana lens:** Gain a profound understanding of Havana and how the radical transformations in Cuban history can be understood at the local level, through the stories of Havana's diverse neighborhoods and their residents.
- **Globalization in Cuba:** Lecture on the political history of globalization in Cuba; political, economic, and cultural influences of Cuba's main trading partners; the impact of Cuban domestic and international policy at home and abroad; immigration; and social and economic change in contemporary Cuban society.
- **History and culture through music:** Be taken on a journey telling Cuba's stories through music, with the history and cultural context provided before witnessing the performance of each piece of music.
- **Educational seminar on Santeria:** After centuries of underground existence, Santeria is becoming an open practice, with participation coming from all levels of society. Representing a shared identity, Santeria is a cultural inheritance, a dynamic form of worship and a uniquely Cuban religion. Learn about how Santeria offers an outlet through which modern Cubans can fuse together a ruptured past. Learn about Orishas, semi-divine beings, each expressing a specific aspect of human existence, and watch a typical ceremonial dance in honor of the Orishas.

- **Cuban history and culture through film:** Lecture providing an overview of Cuban history through the lens of movies created either within Cuba or about Cuba, showing brief illustrative clips.
- **Cuban Art, Architecture and History:** Learn about the Spanish influence on early colonial art, the development of formal academic art training and the changes to art instruction and the form and content of art created since the Revolution in Cuba.

Interactive workshops/classes:

- **Intercultural communication:** This workshop will help passengers develop skills, knowledge, and understanding that will help them communicate and engage more appropriately and effectively with the Cuban people as well as in other intercultural contexts.
- **Afro-Cuban dance classes:** This class offers a rich taste of authentic AfroCuban culture and provides an amazing full body workout! You will learn songs, rhythms, and dances and stories of the Traditional Afro-Cuban Folklore.
- **Orishas dance classes:** This class is designed to learn the basics steps of Orishas Dances such as Elegguá, Oggún, Oshosi, Yemayá y Oshún. Develops coordination, rhythm, spatial awareness and enriches the knowledge of Yoruba's Culture.
- **Cuban mass:** Attend a traditional Cuban Roman Catholic mass.
- **Introduction to Cuban food and cooking**
- **Learn How to Play Dominoes**

Cultural Displays:

- **Dance exhibitions:** Demonstrations of Salsa, Rumba, Afro-Cuban dance, Orishas, and more!
- **Live music:** throughout the ship reflective of Cuban traditions

Self-serve learning opportunities:

- **Cuban cinema channel:** A channel that 24/7 streams films that reflect Cuban history and culture.
- **Cuban literature library:** The library onboard the ship would be modified to have a wide selection of Cuba-related books, including both non-fiction historical accounts as well as literature that is rooted in the Cuban culture.

Food: The dinner menu each night includes traditional Cuban specialties.

Sample Passenger Voyage Itinerary

Note: The following example is illustrative of how one guest might experience the Cuban Immersion Cruise. The purpose of this is to demonstrate the spirit of what we intend to do with the license. Actual onboard and shore experiences may differ, as they are subject to operational constraints.

Friday

4:00 PM – Depart from Miami, Florida

4:30 PM – Muster Drill (safety drill)

5:00 PM – Go to a presentation on the history of Cuban Boleros (Rhumba), watch a presentation and learn the basic steps in the Boleros lounge

6:30 PM – Go to the main theatre for the evening program: A lecture on Cuban History and Culture, conducted in an engaging manner with theatrical reenactments of key historical events.

8:00 PM – Second Dinner Seating: Menu showcases typical Cuban specialties; table topic cards on each table designed to inspire dinner conversation about the day ahead

9:30 PM – Listen to Afro-Cuban jazz in the Centrum lounge

Saturday

7:45 AM – Go to the main theatre to meet with your group for the day. An immersion experience staff member will ensure that all of your group members are present and together. Then, a brief video will be shown to everyone providing some highlights and guidelines for the visit.

8:00 AM – Ship Arrives in Havana

8:15 AM – Your guide for the day will meet you onboard and escort you and your group off the ship.

8:30 AM – Your day begins with a walking tour through Old Havana –a UNESCO World Heritage Site - with **a local architect**; sites include the Plaza de la Catedral and Plaza Vieja, two of Havana’s most historic squares, as well as the Plaza de Armas

11:00 AM – Interactive cooking experience at a local **paladar** – family-owned restaurant; learn how these establishments—newly emerging “private” restaurants—are transforming the previously government-run dining experience in Cuba

1:30 PM – Visit **Finca La Vigia**, Ernest Hemingway’s former home, where *The Old Man and the Sea* and *For Whom the Bell Tolls* were written

3:30 PM – Visit the **Domino Federation** where you’ll engage in games of dominos with the local players after they provide an overview of the rules and techniques for playing.

4:30 PM – Your guide will escort you back to and onto the ship.

6:30 PM – Go to the main theatre for the evening program: A variety of local artists are brought onboard the ship to provide a variety-show style showcase. A member of the shipboard staff serves the role of MC and facilitator, providing some history and cultural context before each showcase, and interviewing / facilitating Q&A with the artist after the performance.

8:00 PM – Second Dinner Seating: Menu showcases typical Cuban specialties; table topic cards on each table provide questions to encourage thoughtful discussion and debrief of the day’s activities.

Sunday

7:45 AM – Go to the main theatre to meet with your group for the day. An immersion experience staff member. will ensure that all of your group members are present and together.

8:00 AM – Your guide for the day will meet you onboard and escort you and your group off the ship.

8:15 AM – Visit the **Las Terrazas community**, just 45 minutes outside of Havana. At this pioneering eco-village — a UNESCO Biosphere Reserve — interact with resident specialists, learning about its rare, endemic biodiversity and life amid the self-sustaining enclave

12:00 PM – A box lunch will be provided for the drive back to Havana

1:00 PM – Enjoy a private concert of Buena Vista Social Club-style music, sponsored by the **Cuban Institute of Music**. Then, engage in a post-performance discussion with musicians — a great opportunity to learn about the impact music has had on Cuban culture and the ways in which it has influenced music in the United States and beyond

3:30 PM – Your guide will escort you back to and onto the ship.

5:00 PM – Ship leaves Havana to begin sailing back to Miami

6:30 PM – Go to the main theatre for the evening program: The expert lecturer from the first night will provide a debrief talk, providing additional context and history specific to the tours and activities that you and your fellow travelers participated in, with a background reel of photos and videos submitted by you and your fellow travelers, and answering Q&A.

901

8:00 PM – Second Dinner Seating: Menu showcases typical Cuban specialties.

Monday

7:00 AM – Ship arrives in Miami, travelers disembark.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 19-23590-CIV-BLOOM

HAVANA DOCKS CORPORATION,

Plaintiff,

vs.

ROYAL CARIBBEAN CRUISES LTD.,

Defendant.

DECLARATION OF MARGARITA LEVAY

I, Margarita Levay, under penalty of perjury, declare as follows:

1. I am over eighteen years old.
2. I have personal knowledge of the facts stated in this declaration.
3. I am employed by Royal Caribbean Cruises Ltd.
4. I hold the position of Associate Vice President, Guest Port Services, for Royal Caribbean Cruises Ltd.
5. During the period of 2016 through 2019, I was Director, Guest Port Services, for Royal Caribbean Cruises Ltd.
6. My department – Guest Port Services – provides services and support for the Royal Caribbean International, Celebrity Cruises, and Azamara brands, and did so in connection with the Royal Caribbean International and Azamara cruises to Cuba.

7. Royal Caribbean Cruises Ltd.'s Guest Port Services department has never provided services or support to Silversea Cruises.

8. Royal Caribbean Cruises Ltd.'s Guest Port Services department wrote a standard operating procedure regarding compliance with, and training for, the OFAC passenger certification requirements relating to cruises to Cuba. A copy of the document is attached as Exhibit A.

9. Royal Caribbean International's and Azamara's Internet websites provided the public and prospective passengers with information regarding compliance with the government regulations and requirements for cruising to Cuba. Exhibit B.

10. Once someone booked a Royal Caribbean International or Azamara cruise to Cuba, he or she would be sent an electronic communication containing a link to his/her cruise documents and other Cuba-related documents.

11. Accessible through that link were the certifications that the passengers were required to complete in full in order to board the ship. Copies of the certifications were also made available in the cruise terminal for passengers who, for whatever reason, did not bring the form with them. A copy of the Royal Caribbean International and Azamara certifications are attached as Exhibits C and D. The guests were required to complete two copies of the certification. One copy was for the guest to keep, and the other was kept by Royal Caribbean Cruises Ltd., and Royal Caribbean Cruises Ltd. has retained the guests' certifications.

12. Passengers were also given written instructions regarding the certifications. A copy of the Royal

Caribbean International and Azamara instructions are attached as Exhibits E and F. Just like with the certifications, the instructions were available through the link that was sent to passengers and also were available in the cruise terminal.

13. The link that was sent to passengers also included documents such as FAQs and checklists informing passengers of the necessity of complying with U.S. government regulations and requirements regarding traveling to Cuba. Examples of these documents are attached as Exhibit G.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 17th, 2021.

/s/ Margarita Levay
Margarita Levay

GUEST INSTRUCTIONS

*ROYAL CARIBBEAN INTERNATIONAL
GUEST CERTIFICATION FOR AUTHORIZED
U.S. TRAVEL TO CUBA*

Ali Royal Caribbean guests are required to complete the Guest Certification prior to boarding the vessel. These Guest instructions provide guidance to assist you in completing the Guest Certification.

PART A. Please review and check one of the five (5) boxes depending on your authorized U.S. travel to Cuba.

Box 1. Full Day-Royal Caribbean Program. if, during your visit to Cuba, you intend to participate in a program with a full-time schedule of group educational exchange activities (31 C.F.R. § 515.565(b)) that you have purchased through Royal Caribbean, you should select Box 1 in Part A. By checking Box 1, you understand that (1) the activities offered by Royal Caribbean are intended, among other things, to enhance your contact with the Cuban people and result in meaningful interaction between you and individuals in Cuba; and (2) you may not participate in activities while in Cuba that are inconsistent with a full-time schedule of such authorized group educational exchange activities.

Box 2. Full Day-Third Party Program (Not sponsored by Royal Caribbean). If, during your visit to Cuba, you intend to participate in a program with a full-time schedule of group educational exchange activities (31 CFR. § 515.565(b)) that you have purchased through a U.S. sponsoring organization (not Royal Caribbean), you should select Box 2 in Part A. By checking Box 2,

you certify that: (I) the activities offered by the U.S. sponsoring organization are intended to, among other things, enhance your contact with the Cuban people and result in meaningful interaction between you and individuals in Cuba; and (2) you may not participate in activities while in Cuba that are inconsistent with a full-time schedule of such authorized group educational exchange activities.

Box 3. Self-guided People-to-People Program (ONLY PERMITTED FOR PASSENGER BOOKINGS MADE BEFORE JUNE 16, 2017). If you are visiting Cuba for a self-guided program of people-to-people educational exchange activities, you should select Box 3 in Part A. By checking this box, you will be certifying that: (1) your travel in Cuba is for the purpose of engaging in a full-time schedule of activities intended to, among other things, enhance your contact with the Cuban people and result in meaningful interaction between you and individuals in Cuba; (2) you will not take part in activities while in Cuba that are inconsistent with a full-time schedule of such authorized educational exchange activities; (3) the predominant portion of the activities that you engage in will not be with individuals or entities acting for or on behalf of a prohibited member of the Government of Cuba or the Cuban Communist Party (as those terms are defined in the Cuban Assets Control Regulations), 31 CFR. Part 515, administered by the Office of Foreign Assets Control of the U.S. Department of Treasury ("OFAC"); and (4) you are responsible for collecting and retaining for five (5) years sufficient supporting documentation and evidence to validate your

authorized individual educational exchanges in the event of an OFAC inquiry.

Box 4. Other general license categories. If you are visiting Cuba under any of the other categories of authorized U.S. travel listed under Box 4 of the Guest Certification (and summarized on the next page for your reference), you should select Box 4 in Part A. Please note that you are responsible for collecting and retaining for five (5) years sufficient supporting documentation and evidence to validate your activities while in Cuba in the event of an OFAC inquiry.

Box 5. Specific License. Guests who have obtained a specific license from OFAC authorizing travel to Cuba should select Box 5, and provide the license number and a copy of the license,

PART B. All guests must complete Part B with the requested guest information, and if applicable, travel agency information.

PART C. All guests must sign the Guest Certification, and if a minor, the parent or legal guardian must sign on behalf of the minor, as set forth in Part C.

Summary of General License
Authorizations for U.S. Travel to Cuba

- Family visits. I am a person subject. to U.S. jurisdiction, or a person traveling with the person subject jurisdiction who shares a common dwelling with that person as family, and I intend to visit a close relative in Cuba, which may include a close relative who is a Cuban national or a person ordinarily resident in Cuba, or to visit a close relative who is located in, or traveling to, Cuba pursuant to the authorizations in 31 C.F.R. § 515.562 (Official government business); 515.563 (Journalistic activity); 31 C.F.R. § 515.564 (Professional research); 31 C.F.R. § 515.565(1.) through (4) and (6) (Educational activities); 31 C.F.R. § 515.566 (Religious activities); 31 C.F.R. § 515.575 (Humanitarian project); or 31 C.F.R. § 515.576 (Activities of private foundations or research by educational institutes). The term “close relative” means any individual related to a person by blood, marriage or adoption who is no more than three (3) generations removed from that person, or from a common ancestor with that person (31 C.F.R. § 515.561).

- Official business of the U.S. government foreign governments, and certain intergovernmental organizations. I am traveling to Cuba. to engage in activities, in my official capacity as an employee, contractor, or grantee of the U.S. Government, any foreign government, or any intergovernmental organization of which the U.S. is a member or holds observer status, and I am traveling on the official business of these government or intergovernmental organizations, and will engage in as full-time schedule of activities for such purpose (31 C.F.R. § 515.562).

- Journalistic activity. I am regularly employed as a journalist by a news reporting organization; OR I am

regularly employed as supporting broadcast or technical personnel; OR I am a freelance journalist with a record of previous journalistic experience working on a freelance journalistic project; OR I am broadcast or technical personnel with a record of previous broadcast or technical experience; who is supporting a freelance journalist working on as freelance journalistic project; AND my schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule (31 C.F.R. § 515.563).

- Professional research and professional meetings. I am traveling to Cuba for research that directly relates to my profession, professional background, or area of expertise, and my schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule of professional research; OR I am traveling to Cuba to attend, or organize a professional meeting or conference, and the purpose of the meeting or conference directly relates to my profession, professional background, or area of expertise; OR I am a traveler organizing a professional meeting or conference on behalf of an entity, and my profession is related to the organization of the professional meetings or conferences; OR I am an employee or contractor of an entity that is organizing a professional meeting or conference; AND my schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule of attendance (31 C.F.R. § 515.564).

- Educational activities. (a) I am a person subject to U.S. jurisdiction, which may include faculty, staff, and students of U.S. academic institutions, and I am engaged in one of the following activities: (1) I am participating in a structured educational program in Cuba as part of a course offered for credit by a U.S.

graduate or undergraduate degree-granting academic institution that is sponsoring the program; (2) I am conducting non-commercial academic research in Cuba specifically related to Cuba and for the purpose of obtaining my undergraduate or graduate degree; (3) I am participating in a formal course of study at a Cuban academic institution and my formal course of study in Cuba will be accepted for credit toward my graduate or undergraduate degree; (4) I am teaching at a Cuban academic institution related to an academic program at the Cuban institution, and I am regularly employed by a U.S. or other non-Cuban academic institution; (5) I am sponsoring a Cuban scholar to teach or engage in other scholarly activity at the sponsoring U.S. academic institution; (6) I am participating in an educational exchange sponsored by Cuban or U.S. secondary schools that involves my secondary schools' participation in a formal course of study or in a structured educational program offered by a secondary school or other academic institution and led by a teacher or other secondary school official; (7) I am participating in as sponsorship or co-sponsorship of non-commercial academic seminar, conference, symposia, or workshop related to Cuba or global issues involving Cuba and I am attending as faculty, staff, or a student of a participating U.S. academic institution; (8) I am engaging in the establishment of an academic exchange or joint non-commercial academic research projects with universities or academic institutions in Cuba; (9) I am engaging in the provisioning of standardized testing services, which may include professional certificate examinations, university entrance examinations, and language examinations, and related preparatory services for such exams, to Cuban nationals, wherever located; (10) I am engaging in the provisioning of internet-based courses, including

distance learning and Massive Open Online. Courses, to Cuban nationals, wherever located, provided that the course content is at the undergraduate level or below; (11) I am an employee or contractor of the sponsoring organization that is involved with the organization of and preparation for, activities described in paragraphs (1) through (10); or (12) I am a member of an organization that is a person subject to U.S. jurisdiction that engages in the facilitation of licensed educational activities in Cuba on behalf of U.S. academic institutions or secondary schools and the organization is directly affiliated with one or more U.S. academic institutions or secondary schools, and the organization facilitates educational activities that meet the requirements of one or more of the general licenses set forth in §515.565(a)(1), (2), (3), and (6). (b) I am a person subject to U.S. jurisdiction traveling to Cuba to engage in a full-time schedule of group educational exchange activities sponsored by an organization subject to U.S. jurisdiction that will provide an employee, paid consultant, representative, or agent to accompany me and other members of the group on authorized educational exchanges in Cuba. These activities will promote meaningful interactions with individuals in Cuba and are intended to enhance contact with the Cuban people, support civil society in Cuba and promote the Cuban people's independence from Cuban authorities. I agree that the predominant portion of the activities will not be with prohibited Cuban Government officials or Communist Party members – and will not involve direct financial transactions with parties named on the State Department's List of Restricted Entities and Subentities Associated with Cuba (31 C.F.R. § 515.565(b)).

- Religious activities. I am a person subject to U.S. jurisdiction, which includes religious organizations

located in the U.S. and members and staff of such organizations, who is engaging in religious activities in Cuba, and my travel-related transactions are for the purpose of engaging, while in Cuba, in a full-time schedule of religious activities (31 C.F.R. § 515.566).

- Public performances. clinics, workshops athletic and other competitions. and exhibitions. I am participating in an athletic competition in Cuba involving amateur or semi-professional athletes or athletic teams, or an organization of such competitions; the athletic competition in Cuba is held under the auspices of the international sports federation for the relevant sport; I have been selected by the U.S. federation for the relevant sport; AND the competition is open for attendance, and in relevant situations, participation, by the Cuban public. I will engage in a full-time schedule of activities for such purpose (31 C.F.R. § 515.567).

- Support for the Cuban people. I am traveling to Cuba to engage with recognized human rights organizations, independent organizations designed to promote a rapid, peaceful transition to democracy, or individuals and non-governmental organizations that promote independent activity intended to strengthen civil society in Cuba; AND my schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule (31 C.F.R. § 515.574).

- Humanitarian projects. I am engaging in humanitarian projects that are in or related to Cuba and are designed to directly benefit the Cuban people; AND my schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule. Humanitarian projects include medical and health-related projects; construction projects intended to benefit legitimately independent

civil society groups; disaster preparedness, relief, and response; historical preservation; environmental projects; projects involving formal or non-formal educational training, within Cuba or off-island, on the topics of entrepreneurship and business, civil education, journalism, advocacy and organizing, adult literacy, or vocational skills; community-based grassroots projects; projects suitable to the development of small-scale private enterprise; projects that are related to agricultural and rural development that promote independent activity; microfinancing projects, except for loans, extensions of credit, or other financing prohibited by §515.208; and projects to meet basic human needs (31 C.F.R. § 515.575),

- Activities of private foundations or research or educational institutes. I am traveling to Cuba to engage in activities with private foundations or research or educational institutes with an established interest in international relations to collect information related to Cuba for noncommercial purposes; AND my schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule (31 C.F.R. § 515.576).

- Exportation, importation, or transmission of information or informational materials. I am traveling to engage in the creation, dissemination, artistic or other substantive alteration, or enhancement of informational materials, which includes employment of Cuban nationals AND my schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule; OR I am traveling to engage in the exportation, importation, or transmission of professional media or artistic productions of information or informational materials, including the filming or production of media programs (such as

movies and television programs), the recording of music, and the creation of artworks in Cuba; AND I am regularly employed in, or have demonstrated professional experience in a field relevant to such professional media or artistic productions; AND my schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule (31 C.F.R. § 515.545).

- Certain export transactions that may be considered for authorization under existing U.S. Department of commerce regulations and guidelines with respect to Cuba, or engaged in by U.S.-owned or -controlled foreign firms. I am engaging in travel ordinarily incident to the exportation of items from the US., or the re-exportation of items from a third country, to a person within Cuba, AND (1) The exportation or re-exportation is licensed or otherwise authorized by the U.S. Department of Commerce; (2) the transaction is not a transaction between a U.S.-owned or -controlled firm in a third country and Cuba for the exportation to Cuba of commodities produced in a country other than the U.S. or Cuba; (3) the transaction is not financed from any blocked account; AND (4) in the case of certain agricultural commodities, the transaction complies with certain financing and payment terms; OR I am engaging in travel ordinarily incident to the importation into the U.S. or a third country of items previously exported from the U.S. to Cuba or exported or re-exported from a third country to Cuba, and the servicing and repair of such items, AND: (1) the items previously were exported or re-exported to Cuba and (2) the items are being imported into the U.S. or a third country either in order to service or repair the items before they are exported or re-exported back to Cuba, or to return them to the U.S. or a third country; OR I am engaging in travel directly incident to marketing

research, commercial marketing, sales or contract negotiation, accompanied delivery, installation, leasing, servicing, or repair in Cuba of items consistent with the export or re-export licensing policy of the U.S. Department of Commerce, AND my schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule. I am engaging in travel directly incident to the facilitation of the temporary sojourn of aircraft and vessels or pursuant to another authorization by the U.S. Department of Commerce for authorized travel between the U.S. and Cuba, including travel-related transactions by persons subject to U.S. jurisdiction who are required for normal operation and service aboard a vessel or aircraft, as well as persons subject to U.S. jurisdiction who are required to provide services to a vessel in port or aircraft on the ground, and such travel-related transactions are limited to the duration and scope of their duties in relation to the particular authorized temporary sojourn, and the aircraft or vessel must be transporting individuals whose travel between the U.S. and Cuba is authorized (31 C.F.R. § 515.533 and § 515.559).

CUBA

FREQUENTLY ASKED QUESTIONS

CUBA TRAVEL REQUIREMENTS

1. What sort of documents are required to cruise to Cuba? For U.S. citizens who were not born in Cuba, the documents are pretty straightforward. You will need:
 - Every guest cruising to Cuba is required to have a passport book (NO passport cards or other forms of I.D. will be accepted) valid for at least 6 months after the sail date. This includes minors and those who do not plan to disembark the ship in Cuba.
 - A Cuba tourist visa, sometimes called a visitor card or entry card. Royal Caribbean will automatically process this for you for a fee of \$75. You will be given the tourist visa the day you embark.
 - A Travel Certification document. This is a U.S. government document that you will use to certify the reason for your travel to Cuba, under one of the authorized categories of travel. Please download it and bring two printed, completed copies per traveler to the pier on embarkation day. Keep reading for more specific FAQs about these documents. Non-U.S. citizens or Cubanborn visitors may have special requirements that are also outlined in more detailed FAQs that follow.
2. Who is permitted to travel to Cuba? Currently there are 12 authorized categories of travel to Cuba that are permitted under a general license. These categories are the following:

- Family visits
- Official business of the U.S. government, foreign governments, and certain intergovernmental organizations
- Journalistic activity
- Professional research and professional meetings
- Educational activities
- Religious activities
- Public performances, clinics, workshops, athletic and other competitions and exhibitions
- Support for the Cuban people
- Humanitarian projects
- Activities of private foundations or research or educational institutes
- Exportation, importation, or transmission of information or informational materials and certain authorized export transactions

Also, a person subject to U.S. jurisdiction may travel to Cuba with a specific license issued by the U.S. Office of Foreign Assets Control (OFAC) or Cuban nationals in certain instances. Please refer to the OFAC website for additional information regarding the regulatory requirements

3. Are guests required to have a visa to enter Cuba?

Yes, every guest with plans to go ashore in Cuba must have a tourist visa. You may also hear this referred to as a visitor card or entry card. Royal Caribbean can facilitate this at a cost of \$75 per person, which will be automatically added to your onboard account on Day 1

of the cruise. At embarkation, you will receive your visa and you will be responsible for presenting it to Cuban authorities upon arrival in Cuba. Should you lose your visa, a new visa can be purchased onboard at an additional cost of \$75. If you intend to remain onboard the ship while in Cuba, no visa is required.

4. Can international guests sail to Cuba with Royal Caribbean?

Yes. All guests— regardless of country of residence— are required to meet one of the 12 categories of authoring travel while onshore in Cuba and to carry the appropriate visa if applicable.

Citizens of the following countries must obtain an additional, different type of visa, called an A-1 visa, to visit Cuba. Royal Caribbean cannot facilitate an A-1 visa: citizens of these countries: will need to take the appropriate steps to obtain an A-1 visa prior to their embarkation

Cameroon | Eritrea | Ethiopia | Ghana | Guinea |
Kenya | Nigeria | Sierra Leone | Somalia |
Afghanistan | Bangladesh | Philippines | India |
Nepal | Sri Lanka | Pakistan | Iraq | Yemen

Citizens of the following countries are NOT required to obtain a visa for short-term visits, to Cuba. However, guests should confirm for themselves that this information is current and applies to their own visa status in regard to Cuba.

Benin | Bosnia and Herzegovina | Macedonia |
Malaysia | Montenegro | Serbia | Grenada |
St. Vincent and the Grenadines | Antigua and
Barbuda | Belarus | Mongolia | Russia | St. Kitts
and Nevis | St. Lucia | Singapore | Barbados |
Dominica | Namibia

There are several companies that offer visa processing services. Below are some suggested companies.

ABC CHARTERS INC. | travel@abc-charters.com
877-817-1160 | www.abc-charters.com

AIRLINE BROKERS COMPANY INC. | yt@airline
brokers.net | 305-642-5002 www.airlinebrokers.net

VA CUBA INC. | info@vacuba.com | 305-649-3491 |
www.vacuba.com

5. What documentation is required by U.S. Customs and Border patrol for international guests?

A passport is required for all guests sailing to Cuba with Royal Caribbean. Guest passports must be valid for at least six months after their travel date to Cuba. Citizens of the 18 countries listed above also require an A-1 visa to visit Cuba.

6. Can guests travel with a driver's license and /or birth certificate?

No. Per U.S. Customs and Border Protection regulations, all guests traveling to Cuba, including children, are required to have a passport. Additionally, passports must be valid for at least six months after travel to Cuba.

7. How will guests certify that they are traveling to Cuba under one of the 12 general licenses?

In accordance with U.S. law, all guests (including children) traveling to Cuba must complete a Travel Certification document identifying the category of travel under which they are visiting. This must be completed prior to boarding the ship. Guests should present two printed, completed copies per traveler at the pier during the boarding process. The "Part A. Authorized Cuba Travel Categories" are organized

into 5 segments with convenient check boxes for selecting your type of Travel Certification.

Box 1 — Fill Day Royal Caribbean Program. Sign up for Royal Caribbean shore excursions and plan your full day schedule of group educational exchange activities. This is the simplest way to obtain your Travel Certification.

Box 2 — Full Day-Third Party Program (Tours Not Sponsored by Royal Caribbean). Check Box 2 if you are arranging a full day schedule of group educational exchange activities with a U.S. sponsoring organization (other than Royal Caribbean).

Box 3 — Self-Guided People-to-People Program (ONLY PERMITTED FOR GUEST BOOKINGS MADE BEFORE JUNE 06, 2017). Check Box 3 if you are visiting Cuba for a self-guided program of people-to-people educational exchange activities.

Box 4 — Other general license categories. Check Box 4 if you are visiting Cuba under any of the categories of U.S. authorized travel listed beneath this section.

Box 5 — Specific License. check Box if you have obtained a specific license Nom OFAC authorizing travel to Cuba and provide the license number and a copy of the license.

8. What is people-to-people travel?

People-to-people travel tours are education-based trips designed to promote interactions between travelers and the Cuban people.

9. How do recent changes in Cuba regulations affect my travel plans?

The recently amended regulations do not affect any of our sailings to Cuba. However, “self-guided people-to-people” travel is no longer allowed for any guest that booked on June 16, 2017 or after. This means that guests will need to choose a group “people-to-people” tour that complies with the new regulations, unless they qualify for other categories of authorized travel or held a specific license issued by OFAC. All Royal Caribbean tours are designed to comply with the regulations. In addition to the “self-guided people-to-people” travel amendment, OPAL prohibits direct financial transactions with a published list of hotels, stores and other entities. For more information, see the MC Cuba Restricted List.

10. When do the new regulations go into effect?

The new regulations went into effect November 9, 2017.

11. Do I have to purchase a tour to disembark the ship in Cuba?

To travel to Cuba with Royal Caribbean, guests must qualify for one of the 12 categories of authorized travel or hold a specific license issued by OFAC. One of the 12 categories, Educational Activities, allows “people-to-people” activities, which can be satisfied by purchasing a full day tour with Royal Caribbean or a third-party program offered by a U.S. sponsoring organization,

12. What if I booked before June 16, 2017?

If you booked before June 16, 2017, you are exempt from the new regulations for your booked sailing and

may choose to select Self-Guided Program, which is Box #3 of the Travel Certification.

13. What if I do not want to disembark the ship? What box should select in the Travel Certification?

All guests must certify by indicating which category of authorized travel they will be traveling under, regardless of whether they intend to disembark in Cuba. Page 4 of

14. If I booked a shore excursion with Royal Caribbean or a third-party U.S. sponsoring organization, am allowed to walk in Havana before and/or after the tour?

Yes, you can enjoy Havana before or after your tour, as long as you are engaged in a full-day schedule of educational exchange activities as set forth by OFAC regulations.

15. If my cruise overnights in Havana, will I have to purchase a tour for each day?

The new regulations require a full-day schedule of educational exchange activities when traveling in Cuba. If you will be in Cuba for two full days, then you should be participating in a tour for each day.

16. If my cruise overnights in Havana, what are the requirements for how spend my evening hours?

You can enjoy Havana in the evening after your tour, as long as you engage in a full-day schedule of educational exchange activities as set forth by OFAC regulations, such as a Royal Caribbean shore excursion or a tour with a compliant third-party organization

17. Can I purchase a tour through a third-party company?

You may purchase a tour with a thirdparty company. It is the responsibility of the guest to ensure that the purchased tour compiles with U.S. regulations, is sponsored by a U.S. organization, and offers a full-day schedule of educational exchange activities.

18. I am an international guest, do the new regulations apply to me?

Yes, the new regulations apply to all guests— regardless of nationality or country of residence— boarding a vessel in a U.S. port. This portion of the regulations are not new and have always been applicable to international guests.

19. booked a shore excursion with Royal Caribbean. Does this qualify as a group “people-to-people” tour, per the new regulations?

All of our Royal Caribbean Cuba shore excursions are designed to meet the necessary qualifications for authorized group “people-to-people” travel.

20. Will additional documentation be required to go on a Royal Caribbean tour?

At this time, requirements to travel to Cuba include a valid passport, acquiring the appropriate visa, and the completion of the Travel Certification document identifying which of the 12 general licenses you are traveling under. Each guest must bring two printed, completed copies of the Travel Certification document to the pier on embarkation day.

21. What are some frequently visited places I should know about that are now prohibited?

In November 2017, new regulations went into effect that prohibit guests from engaging in “direct financial transactions” with certain entities in Cuba. There are approximately 178 places listed as prohibited entities. Some popular locations frequently visited by guests, which are included in the list of prohibited places, are:

- Gran Hotel Manzana (Kempinsky)
- Hotel Ambos Mundos (Habaguanex)
- Hotel Raquel (Habaguanex)
- Casa del Abanico (Habaguanex)
- Colección Habana (Habaguanex)
- Floreria jardin Wagner (Habaguanex)
- Joyería Coral Negro (CIMEX) - Additional locations throughout Cuba
- La Casa del Regalo (Habaguanex)
- Ban Ignacio 015 Habeguanex)
- Soldadito de Plomo (Habaguanex)
- Tienda El Navegante (Habaguanex)
- Tienda Munecos de Leyenda (Habaguanex)
- Tienda Russo El Reloj Cuervo y Sobrinos (Habaguanex)
- Villa Gaviota Santiago (Gaviota)

22. Do I need to fill out the Travel Certification document?

Yes, in order to board the ship, guests, including children and international guests, must fill out and submit the Travel Certification document to Royal

Caribbean. Please download and complete the document Before arriving. Each guest must bring two printed, completed copies of the Travel Certification document to the pier on embarkation day. All guests should keep a copy of the Travel Certification document for your records for at least five years.

23. Have the new regulations impacted visa requirements?

No, the new regulations have not impacted visa requirements. and all guests are still required to acquire the appropriate visa to enter Cuba.

24. Are Cuban-Americans allowed to travel to Cuba with Royal Caribbean?

Yes. Cuban-American persons born in Cuba are permitted to arrive in Cuba by vessel. if you are a Cuban-born traveler, you will need additional documentation. Cuban-born citizens who came to the U.S. on or after January 1, 1971, must enter Cuba using their Cuban passports; however, such persons must use their U.S. passports to enter and depart the United States. They do not need a visa. They do however need a Passport Habilitation. Please refer to the U.S. Embassy in Cuba website (<https://cu.usembassy.gov/u-s-citizen-services/>) for more information. Those who left Cuba prior to January 1, 1971, must travel to Cuba with their U.S. passports. But unlike U.S. born Americans, they will need a special type of visa called an HE-11 visa, which they need to apply for prior to travel. The visa application process can take up to 90 days. In addition, there are several companies that offer visa/passport processing services to assist in obtaining a visa and/or a Cuban passport including:

ABC CHARTERS INC. | traveling@abc-charters.com
| 877-817-1160 | www.abc-charters.com

AIRLINE BROKERS COMPANY INC. | yt@airline
brokers.net | 305-642-5002 www.airlinebrokers.net

VA CUBA INC. | info@vacuba.com | 305-649-8491 |
www.vacuba.com

25. Are there restrictions on what I can bring into Cuba?

There are both U.S. and Cuba import regulations that travelers must comply with When traveling and bringing items into Cuba. For information on U.S. import regulations, please review the U.S. Department of Commerce Bureau of industry and Security's Export Administration Regulations. For information on Cuba import regulations, please review the General Customs of the Republic of Cuba.

26. What are U.S. guests allowed to bring back from Cuba?

Guests are generally authorized to bring into the U.S. merchandise acquired in Cuba for personal use as accompanied baggage.

27. Should a guest opt to sail on back-to-back Cuba cruises, what are the visa requirements?

Guests sailing on back-to-back Cuba sailings will require separate visas for each leg of their cruise.

28. Will I need more than one visa during my visit to Cuba?

One visa serves for the entire sailing to Cuba. Even if your sailing involves an overnight stay in Havana, or if your ship's itinerary calls at more than one port in Cuba, as long as no other country is visited in between Cuban ports you will travel under the same visa. Note that Royal Caribbean sailings do not visit other countries between Cuban ports.

29. Can a guest remain onboard the ship should they prefer not to disembark while in Cuba?

If so, is the purchase of a visa required? Guests do have the option to remain onboard the ship while in port, and it is at each guest's discretion whether to disembark while in Cuba. Guests who choose to remain onboard the ship do not need a visa. You will not have to complete the visa forms at the pier and will not have to pay for visa processing. However, all guests are required to complete the Travel Certification document prior to boarding the vessel, even those that choose to remain onboard in Cuba. You must bring two printed, completed copies of the document, for each guest, to the pier on embarkation day.

MEDICAL COVERAGE

30. Does my medical insurance cover me while I am in Cuba?

While travelling in Cuba it is unlikely that you will be covered by your U.S. health plan. You will need to check with your insurance provider regarding your medical insurance coverage in Cuba. However, you should note that your cruise fare includes mandatory insurance required by the Cuban government during your visit.

31. Will guests be required to purchase separate medical or traveler's insurance to go to Cuba?

Your cruise fare includes mandatory coverage required by the Cuban government during your visit to Cuba.

32. Are any vaccines required or recommended for travel to Cuba for adults and children?

You do not need any inoculations before visiting Cuba.

33. What should I know about the Zika Virus before sailing?

Royal Caribbean is committed to the safety and health of our guests and crew. We are closely monitoring the Zika virus situation and are aware that the center for Disease Control has issued a travel alert for certain countries (including Cuba) where Zika virus transmission is ongoing. Royal Caribbean will assist any pregnant women who do not feel comfortable sailing to countries affected with the Zika virus by providing alternative itinerary options. This may include providing guests with a future cruise credit valid for two years so that they may re-schedule their voyage for a later date, with no penalty. Guests seeking additional information on the Zika virus are encouraged to contact their primary care physician or visit the CDC website.

34. Can I bring my prescription medications to Cuba?

As some prescription drugs may be illegal in Cuba, we recommend guests check with the Cuban Embassy to verify that all prescription(s) are legal to bring into Cuba. Guests should bring all medicines (including over-the-counter medicines) they might need while in Cuba. The U.S. embassy website also recommends bringing a copy of the prescription and a letter from the prescribing physician explaining the need for prescription drugs. CDC recommends guests should also carry a card that identifies, in the local language, their blood type, chronic conditions or serious allergies, and the generic names of any medications you take.

ADA

35. Is Cuba accessible for wheelchair users

Accessibility in Cuba is limited due to lack of curb cuts, ramps and accessible vehicles. While accessible facilities (such as hotels) may exist, these facilities may not be comparable to accessible facilities found in the U.S. and other parts of the world. For example, wider doors and grab bars may not be available, and wheelchair users may be limited to ground floor facilities as there are often no elevators to access upper levels.

SHOPPING IN CUBA

36. Can I purchase Cuban-origin cigars and/or Cuban-origin rum or other alcohol while traveling in Cuba?

Guests sailing with us to Cuba may purchase alcohol and tobacco products in Cuba for personal consumption, from authorized retailers.

BANKING IN CUBA

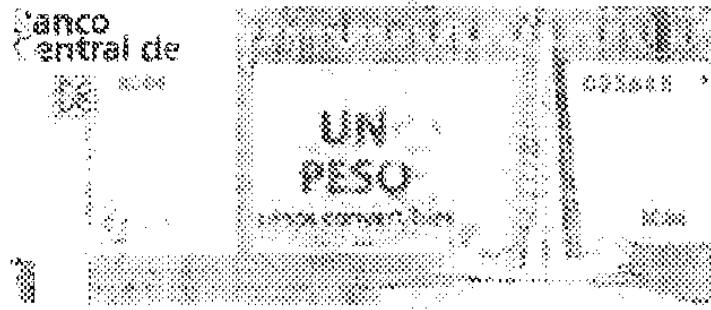
37. How can I pay for items in Cuba?

Credit cards are not likely to be accepted. Guests should anticipate paying for items in local currency.

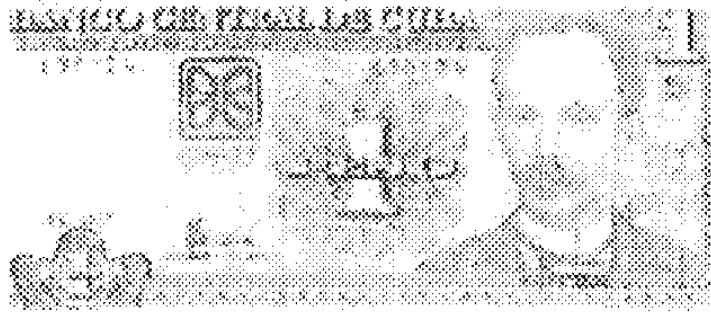
38. What types of currencies are accepted in Cuba and what is the exchange rate?

There are two types of currencies in Cuba – CUC (Cuban Convertible Peso) and CUP (Cuban Peso). The CUC is the currency used by tourists while the CUP is used by locals.

\$0.87 CUC = \$1US



\$25 CUP = \$1US



39. Where can I exchange U.S. dollars for CUCs?

Cuban CUCs (Cuban Currency) can only be legally transacted at an official CADECA (Currency Exchange houses) and hotels. You'll find these official exchange stations conveniently located at the cruise terminal, at every hotel lobby in the country, and in multiple locations in Old Havana. Please note that we will not be able to convert any Cuban Currency back into U.S. dollars onboard.

40. Are authorized travelers in Cuba permitted to use credit or debit cards issued by a U.S. financial institution?

For further information regarding credit card use and/or transactions in Cuba, please visit: <https://travel.state.gov/content/passports/en/country/cuba.html>

41. Can my bank refuse to allow me to use my credit or debit card in Cuba?

Regulations do not require financial institutions or credit card companies to accept, maintain, or facilitate authorized financial relationships or transactions.

SAFETY AND SECURITY TIPS

42. Safety Tips

Visitors to Cuba, like visitors to all countries in today's world, need to be mindful of their personal safety. We recommend guests consider the following guidance:

- Leave valuables and irreplaceable items inside your stateroom safe
- Avoid wearing expensive jewelry
- Carry only the cash that you will need on each outing
- Use discretion when handling cash publicly
- Keep your belongings secure and out of sight

43. What is illegal in Cuba that guests may not be aware of?

It is illegal to buy cigars on the street, they must be purchased from authorized retailers. Currency exchanges for Cuban CUCs (Cuban Currency) can only be legally transacted at an official CADECA (Currency Exchange Houses) and hotels.

44. What additional tips should I have before traveling in Cuba?

- Drink only bottled water
- Wear loose fitting, airy clothes, comfortable shoes and a hat for the tropical climate
- Only a few places are air conditioned, bring a fan and/or mister
- Purchase items only from authorized sellers
- Exchange money only at official CADECAS (Currency Exchange houses) or hotels
- Carry extra tissues for use as toilet paper, which may be limited or sporadically available

45. What should I carry onshore while in Cuba?

- Passport
- Visa
- SeaPass card (cruise card)
- Cash
- Tissues

46. Is Cuba included in the Royal Caribbean Travel Protection Program (RCTPP)?

Guests sailing to Cuba can purchase RCTPP just like with any Royal Caribbean cruise. The insurance will not be able to cover you while in Cuba, but we will reimburse you upon return, if acquired prior to sailing.

47. What should I wear in Cuba?

We recommend casual dress for a tropical climate. Cotton shirts and chinos/khakis are appropriate for restaurants and hotels. Ladies are free to wear shorts

and tank tops and do not need to worry about covering up.

48. What type of conditions can I expect in Cuba?

Depending on where you are coming from, you might find there is less infrastructure in Cuba than you are used to. It's unlikely that you will be able to pay with credit cards, your cellular service may not have coverage, and internet is largely unavailable. Walking surfaces may be uneven. The weather is tropical and air conditioning is very rare. But with proper planning and packing, all of these conditions are manageable and add to the unique experience that is visiting Cuba.

CONNECTIVITY

49. Will my cell phone work in Cuba?

You will need to check with your phone provider regarding international coverage in Cuba.

50. Will I be able to access internet on this cruise?

High speed Wi-Fi is available onboard both our ships sailing to Cuba. You will very likely not have access to the internet while ashore in Cuba.

CUBA CHECKLIST

Interested in visiting Cuba? On Royal Caribbean®, getting there is easier than you think. Whether you're just thinking of booking that bucket list trip or getting ready to set sail for your Cuba adventure, here are a few things to remember before you go:

- ☐ Pack your Passport – You'll need your actual passport book, valid for at least six months after your trip. Passport cards, birth certificates and driver's licenses are not acceptable forms of identification for travel to Cuba.
- ☐ Be Aware of the Cuba Tourist Visa – You'll also need a Cuban visa. Royal Caribbean can facilitate your Cuban tourist visa at the embarkation terminal for a cost of \$75 per person, which will be charged to your onboard account on Day 1 of the cruise. If you are a non-U.S. citizen or were born in Cuba, check out our detailed FAQs.
- ☐ Complete a Travel Certification Document – You'll have to fill out a Travel Certification document before sailing to Cuba. Each traveler should bring two printed, completed copies to the port – you'll need them during the embarkation process.
- ☐ Review the General License Requirements – There are 12 authorized categories of travel to Cuba that are allowed under a general license. Booking a Shore Excursion meets one of them. Make sure you comply with at least one of the categories.
- ☐ Select Shore Excursions – All daytime tours offered by Royal Caribbean are designed to meet the requirements of permitted travel authorized by the U.S. government. Shore excursions have limited

availability and must be reserved up to 48 hours prior to sailing through Cruise Planner at [www.RoyalCaribbean.com/Cruise Planner](http://www.RoyalCaribbean.com/CruisePlanner). Note: you can also purchase excursions from third party tour operators, as long as those vendors comply with U.S. requirements.

- ☐ Pack for Climate – Cuba’s climate is warm and tropical. Stick to lightweight clothing options and comfortable walking shoes. And be sure to bring a hat and plenty of sunscreen.
- ☐ Prepare for Banking Restrictions – Most credit cards won’t work in Cuba and most business transactions are cash-only. There are two local currencies – the Cuban Convertible Peso (CUC) and the Cuban Peso (CUP). The CUC is the currency designated for tourists. You can exchange small U.S. bills at the cruise terminal, in banks, and exchange offices (called CADECAs), and in hotels.
- ☐ Keep the Essentials on Hand – Whenever ashore in Cuba you should always carry your Passport, Cuban visa, SeaPass cruise card and cash. Also, keep in mind that not all restrooms have toilet paper, so bring your own tissues just in case.
- ☐ Contact Your Mobile Phone Company – Chec with your mobile carrier about coverage in Cuba. Internet most likely won’t be available once you’re ashore, but both our ships offer high-speed internet access, even while docked.

You’re now ready to set your sights on the journey ahead! Still have questions about traveling to Cuba? You can find all sorts of helpful tips for making the most out of your adventure here.

PLAN A CRUISE

THE EXPERIENCE

DISCOVER CRUISING

ALREADY BOOKED

LOG IN

YOUR CUBA ADVENTURE

WHAT TO KNOW BEFORE YOU GO

Wondering just how hard it is to cruise to Cuba? Turns out, not so hard at all. Here are all the basics you need to know to experience Cuba with Royal Caribbean.

<https://www.royalcaribbean.com/cruise-destinations/a-quick-guide-to-crusing-to-cuba>

It's time to start planning that bucket list trip. Because Royal Caribbean can now take you to three one-of-a kind destinations in Cuba: Havana, Cienfuegos and Santiago de Cuba. No other "mainstream" cruise line takes you this deep into Cuba's culture, breathtaking natural landscape, and compelling history. And you can sail from Miami, Tampa and Fort Lauderdale onboard fleet favorites Majesty of the Seas and Empress of the Seas.

With its grand avenues, quaint squares, centuries-old fortresses, and color-splashed beauty everywhere you look, it won't take you long to realize that Cuba is an island unlike any other. Sure, there's a couple additional travel requirements required to get there,

but not to worry, Royal Caribbean has made the process pretty simple, so you can look forward to a stress-free visit. Here are a few things to consider when planning your Cuba adventure:

CUBA IS A UNIQUE ISLAND WITH UNIQUE TRAVEL REQUIREMENTS

U.S. citizens can travel to Cuba, as long as you fulfill on one of the allowed reasons for visiting. There are several ways you can do this, but the most common reason cruise guests use is participation in educational activities, specifically “people-to-people” programs. An easy way to meet this educational requirement is by purchasing a Shore Excursion through Royal Caribbean, although you can also get your tour from a third-party group that complies with U.S. requirements.

For a full list of eligible travel categories, visit our FAQ section. Before your cruise, you’ll receive a Travel Certification document, which will ask you to select one of these categories. Bring it with you to the pier (*two printed, completed copies per person*) and we’ll take care of processing it.

BRING YOUR PASSPORT

You’ll need your actual passport book if you’re traveling to Cuba — passport cards won’t cut it, and neither will birth certificates and driver’s licenses. This is true for every guest, even minors. Make sure you check the expiration date on your passport, too. It needs to be valid for six months after your sail date.

YOU’LL NEED A VISA TOO, BUT WE’LL HANDLE THE HEAVY LIFTING

Anybody going ashore in Cuba needs a Cuban visa. You might also hear this called *tarieta juristica* (“tourist card”) visitor card or entry card. Royal

Caribbean can process the Cuban visa for you at the pier for \$75 per person — easy as that. But you're free to get your own too. Just be sure you have it ahead of your sailing. If you aren't a U.S. citizen, or you were born in Cuba, we recommend checking out the FAQs as you may have other specific requirements.

WHAT ARE THESE PEOPLE-TO-PEOPLE PROGRAMS YOU MENTIONED?

This is one of the permitted educational categories for visiting Cuba, defined as a full schedule of activities that create educational interactions between visitors and the Cuban people. All Royal Caribbean Cuba Shore Excursions fulfill on this requirement, so if you tour with us, you're all set. If your Cuba cruise stays overnight, you'll want to make sure you have a tour booked for both days you're in port.

IS IT SAFE TO TRAVEL TO CUBA?

Cuba is generally regarded as a safe place, with a very low crime rate. That being said you should still follow the same common sense safety measures you would when traveling to any new place, Don't wear flashy jewelry, keep track of your belongings, and bring only as much cash as you think you'll need for the day.

WHAT ABOUT MEDICAL FACILITIES, INSURANCE AND WHEELCHAIR ACCESSIBILITY?

If you need any medical attention while you're onshore, you're in good hands. Cuba's health care system is respected around the world, and your cruise fare includes a local health insurance fee, so you're covered while on the island.

Wheelchair users should note that accessibility is limited in Cuba. There is a lack of curb cuts, ramps,

accessible vehicles and elevators. Doors may not be as wide and grab bars unavailable.

IS THERE INTERNET IN CUBA? WILL MY CELL PHONE WORK?

You'll have to check with your mobile carrier about coverage in Cuba. Internet most likely won't be available once you're onshore, but rest assured — both our ships sailing to Cuba have high speed internet, so you can start posting your adventure as soon as you're back onboard the ship.

HOW DO PAY FOR THINGS?

In Cuba, the main currencies are the Cuban Peso (used by locals) and the Cuban Convertible Peso (used mostly by tourists). You can exchange small U.S. bills at the cruise terminal, in banks and exchange offices (ask for a "CADECA"), and in hotels. Know that most credit cards will not work in Cuba and most businesses are cash only. For more information on using money in Cuba, visit our FAQ section.

CAN I BUY SOUVENIRS IN CUBA?

Yes! There are a few specific entities you won't be able to do direct business with, but for the most part you're free to purchase goods to bring back and enjoy in the U.S. even the world-renowned cigars and rum. Just make sure you only buy from authorized retailers — don't buy cigars in the street.

WHEN IS THE BEST TIME TO VISIT CUBA?

Cuba has a tropical climate, so expect warm weather year-round. From December to May, the island gets plenty of sunshine and blue skies. Cuba's wet season generally starts around June and lasts through the end of November.

WHAT SHOULD I BRING AND WEAR ONSHORE?

Make sure you have your passport, your visa, and your SeaPass cruise card on you at all times. Not all restrooms have toilet paper, so bring your own tissues just in case. And because most buildings don't have air conditioning, it doesn't hurt to have a fan or mister handy.

Comfortable walking shoes and light clothing are musts. Remember to bring plenty of sunscreen, too. Due to the weather and aforementioned lack of A/C, you'll want to stay hydrated — stick only to bottled beverages while exploring the island.

STILL HAVE QUESTIONS? WE HAVE ANSWERS**SEE ALL FAQ'S****Certified Vacation Planner**

Call our Royal Vacation Planners today (24 hours 7 days a week)

Locate a Travel Agent

As you go through the site, it's possible that you may have questions or just feel like talking directly to a travel agent.

FAQs: New Cuba Regulations
Updated: March 8, 2018

What are the new Cuba regulations?

The new regulations do not affect any of our sailings to Cuba. However, self-guided “people-to-people” travel will no longer be allowed. This means that in order to enjoy Cuba, guests will need to participate in a group “people-to-people” tour that complies with the new regulations if they do not qualify for the other categories of authorized travel or hold a specific license issued by OFAC. All Azamara Club Cruises tours have been designed to comply with the regulations.

In addition, OFAC published a list of prohibited entities where direct financial transactions are not permitted. The list can be found on the U.S. Department of State website: <https://www.state.gov/e/eb/tfs/spi/cuba/cubarestrictedlist/275331.htm>

When do the new regulations go into effect?

The new regulations went into effect November 9, 2017.

Do I have to purchase a tour to disembark the ship in Cuba?

To enjoy Cuba, guests must qualify for one of the 12 categories of authorized travel or hold a specific license issued by OFAC. One of the 12 categories, Educational Activities, allows “people-to-people” activities, which can be satisfied by purchasing a tour with Azamara or a third-party program offered by a U.S. sponsoring organization.

What if I booked before June 16, 2017?

If you booked before June 16, 2017, you are exempt from the new regulations for your booked sailing and may choose to select Self-Guided Program, which is box #3 of the Travel Certification.

What if I do not want to disembark the ship? What box should I select in the Travel Certification (Affidavit)?

All guests must self-certify by indicating which category of authorized travel they will be traveling under. Should you wish to remain onboard, you may select either box #1 or box #2 in the Travel Certification. Travel Certificates can be found on embarkation day or by clicking on the following link: <http://bit.ly/azatravelcertification>. For information on how to complete this document, visit the following link: <http://bit.ly/azatravelinformation>

If I booked a shore excursion with Azamara or a third-party U.S. sponsoring organization, am I allowed to roam Havana before and/or after the tour?

Yes, you can enjoy Havana before or after your tour, as long as you are engaged in a full-day schedule of educational exchange activities as set forth by the new regulations.

Does the AzAmazing Evening qualify as full-day tour?

No, the AzAmazing Evening does not meet the full-day tour requirements set forth by the U.S. Government. Guests who are interested in attending the AzAmazing Evening, will also need to participate in a U.S. sponsored tour during the day.

If my cruise overnights in Havana, will I have to purchase a tour for each day?

The new regulations require a full-day schedule of educational exchange activities when traveling in Cuba. If you will be in Cuba for two full days, then you should be participating in a tour for each day.

Can I purchase a tour through a third-party company?

You may purchase a tour with a third-party company. However, it is the responsibility of the guest to ensure the purchased tour complies with the new US regulations, is sponsored by a U.S. organization, and offers a full-day schedule of educational exchange activities.

I am an international guest, do the new regulations apply to me?

The new regulations apply to all guests— regardless of nationality or country of residence — boarding a vessel in a U.S. port. This portion of the regulations are not new and have always been applicable to International guests.

I booked a shore excursion with Azamara. Does this qualify as a group “people-to-people” tour, per the new regulations?

All of our Azamara shore excursions are designed to meet the necessary qualifications for authorized group “people-to-people” travel.

Will additional documentation be required to go on an Azamara tour?

At this time, requirements to travel to Cuba include a valid passport, acquiring the appropriate Visa, and the completion of the Guest Certification for Authorized Travel to Cuba identifying which of the 12 general

licenses you are traveling under. Visas will be provided onboard for a cost of \$75 per person.

Where can I find the most updated information regarding travel to Cuba?

Please visit our website <https://www.azamara.com/destinations/cuba/faq> for the most up to date information.

What are some frequently visited places I should know about that are now prohibited?

- There are approximately 178 places listed as prohibited entities. Under the new regulations, guests are not permitted to engage in “direct financial transactions” with these entities. Some popular locations frequently visited by guests, which are included in the list of prohibited places, are:
 - o Gran Hotel Manzana (Kempinsky)
 - o Hotel Ambos Mundos (Habaguanex)
 - o Hotel Raquel (Habaguanex)
 - o Casa del Abanico (Habaguanex)
 - o Colección Habana (Habaguanex)
 - o Florería Jardín Wagner (Habaguanex)
 - o Joyería Coral Negro (CIMEX) — Additional locations throughout Cuba
 - o La Casa del Regalo (Habaguanex)
 - o San Ignacio 415 (Habaguanex)
 - o Soldadito de Plomo (Habaguanex)
 - o Tienda El Navegante (Habaguanex)
 - o Tienda Munecos de Leyenda (Habaguanex)

- o Tienda Museo El Reloj Cuervo y Sobrinos (Habaguanex)

For the full list, please visit the link provided on question #1.

Do I need to fill out the Travel Certification?

Yes, in order to board the ship, all guests must fill out and submit the Travel Certification to Azamara Club Cruises. All guests should keep a copy of the certification for your records for at least up to five years. The certificate can be found on the following link: <http://bit.ly/azatravelcertification>

Are sanctions on Cuba still in place following the June 16, issuance of the National Security Presidential Memorandum (NSPM) on Strengthening the Policy of the United States Toward Cuba?

Yes, the Cuba embargo remains in place. Most transactions between the United States, or persons subject to U.S. jurisdiction, and Cuba continue to be prohibited, and OFAC continues to enforce the prohibitions of the CACR. OFAC is issuing regulatory amendments to implement the changes to the Cuba sanctions program outlined in the NSPM. Specifically, OFAC is issuing changes to: restrict persons subject to U.S. jurisdiction from engaging in direct financial transactions with entities and subentities identified on the State Department's List of Restricted Entities and Subentities Associated with Cuba ("Cuba Restricted List"), with certain exceptions; add requirements to certain categories of educational travel; remove the authorization for individual people-to-people educational travel; add requirements to the travel authorization Support for the Cuban People; and amend the definition of "Prohibited officials of the Government of Cuba."

Is travel to Cuba for tourist activities permitted?

No. Consistent with the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA), travel-related transactions involving Cuba are only permitted for the 12 categories of activities identified in the CACR. Travel-related transactions for other purposes remain prohibited.

AZAMARA
CLUB CRUISES®

November 20, 2017

Dear Azamara Quest Guest,

As you are aware, the U. S. government issued new regulations for travel to Cuba from the United States. The new regulations were issued on November 8th, 2017 - effective on November 9th, 2017 and apply to all guests regardless of nationality - since all guests are boarding the vessel in a U.S. port.

We are pleased to inform you that there is no impact to any of our cruises to Cuba. One change that does impact travelers is that self-guided "People-to-People" travel will no longer be allowed. This means that in order to enjoy Cuba, you must be participating in a group tour sponsored by Azamara Club Cruises or a U.S. sponsoring organization, qualify for one of the other categories of authorized travel, or have a specific license issued by OFAC.

However, guests who booked their cruise before June 16th, 2017 will be exempt from these new regulations for their booked sailing and will be able to select the self-guided "People-to-People" option in their Certification, if they choose to do so.

All of our Azamara Club Cruises shore excursions are designed to meet the necessary qualifications for authorized group "People-to-People" travel. We offer a wide variety of tours to select from. If you have not yet booked your shore excursions, please do so at <https://www.azamarclubcruises.com/book-shore-excursions> or call us at 1-855-AZAMARA.

As a follow-up to some of the questions we've received, we are pleased to inform that guests are permitted to

walk around Havana, eat meals, and shop in the ordinary course provided they complete a full-time tour with us or another U.S. sponsoring organization, meet one of the other 12 categories of authorized travel, or have a specific OFAC license. Guests are not required to return immediately to the vessel after the tours are over.

If you have booked your own private shore excursions, not with Azamara Club Cruises, you should confirm that this tour complies with the requirements for a full-time schedule of educational exchange activities by a United States sponsoring organization. You are responsible for confirming that any private shore excursions not with Azamara Club Cruises comply with the U.S. regulatory requirements.

The U.S. government has issued a list of hotels where persons subject to U.S. jurisdiction are prohibited from engaging in direct financial transactions with—and we can provide you a copy of the complete list upon your request. Please note that a few popular destinations are now on the list, and these are included below:

- Gran Hotel Manzana (Kempinsky)
- Hotel Ambos Mundos (Habaguanex)
- Hotel Raquel (Habaguanex)

As a reminder, please note that these regulations, including the list of venues above, apply to all guests regardless of whether you are a U.S. citizen or international citizen. International guests must also adhere to the regulations since they will be boarding the vessel in a U.S. port.

In accordance with U.S. law, all guests travelling to Cuba are required to complete a Travel Certification identifying which category of authorized travel they

are visiting under. The certificate can be found on the following link:[//bit.ly/azatravelcertification](http://bit.ly/azatravelcertification). For additional information about our Cuba voyages, please [click here](#) to visit our Frequently Asked Questions forum.

We look forward to welcoming you onboard.

Sincerely,

Azamara Club Cruises