

United States Senate

WASHINGTON, DC 20510

December 16, 2015

President Barack Obama
The White House
Washington, D.C. 20500

Dear Mr. President,

A great deal has been accomplished in reforming U.S. policy toward Cuba since December 17, 2014. Embassies have been opened, our diplomats are in touch with a wider range of Cubans all across the island, and a road map has been drawn for talks on issues of importance to both sides. Collectively, these efforts are beginning to bear fruit. Americans are connecting with Cubans as never before. Visits to the island by U.S. citizens are reportedly up 62 percent over last year. Cuban-Americans continue to support their families through remittances and investments in private businesses.

U.S. public opinion surveys show consistent and growing approval of the new engagement policies. The coming year represents a critical opportunity for meaningful advancement of these objectives. Removing statutory limits on travel and trade will require Congressional action. However, within the finite time remaining, continued progress in the regulatory arena represents the best strategy for resilient changes in the U.S. and Cuba as well as increasing the prospects that Congress will act. Toward that goal, we highlight the following key areas:

Leading the Multi-agency Effort

The intricate nature of reforms to U.S. policy have led to a plethora of federal entities being involved, including the National Security Council, Department of State, Department of Justice, Department of the Treasury, Department of Commerce, and Department of Homeland Security. As with any sprawling regulatory effort, success is facilitated by clearly defined leadership. We encourage you to designate a senior official to coordinate and ensure progress in the various federal agencies.

Completing a Bilateral Air Services Agreement

We understand that significant progress continues to be made on a bilateral air services agreement between the U.S. and Cuba. The completion of such an agreement would likely represent a defining moment in the resumption of relations. We encourage you to continue working toward a final agreement and its implementation as expeditiously as possible.

Streamlining People-to-People Travel

We support efforts to ease restrictions on U.S. citizens traveling to Cuba and appreciate the steps that have been taken to do that. However, as we indicated in our letter of October 7, 2015, people-to-people travel and education travel not specifically related to academic study continue to require sponsorship by a travel service provider. We encourage you to permit Americans to engage in people-to-people travel on an individual basis as they can to every other country in the world.

Advancing the Exports of U.S. Goods

The new exports authorized by U.S. regulations – tools and equipment for private farm producers, goods for the private sector, and private home construction materials – have yet to reach significant levels. Unfortunately, one culprit is U.S. regulations, which require that goods be sold directly to individual Cuban buyers. This direct-to-consumer arrangement is impractical given the Cuban public's low access to the Internet, difficulties in making payments, and potentially onerous and impracticable end-user verification. We encourage you to explore practical alternatives that would allow U.S. exporters to use existing commercial channels that now give Cubans access to goods from other permissible U.S.

exports such as agricultural products. In addition, we encourage a continued review of the range of consumer products that are available for permissible export to the island.

Expanding Exportation of U.S. Services

The Cuban government has been forced by circumstance to open the island's economy to a burgeoning class of Cuban entrepreneurs. These entrepreneurs will be critical players in establishing and reinforcing a civil society in Cuba that has genuine economic power that can compel freedom from and accountability of their government. We encourage you to allow those in the U.S. to engage in transactions linked to providing critical services that can benefit these fledgling private enterprises, such as legal, financial, management, and planning services.

Facilitating Financial Transactions

U.S. financial institutions are reportedly shying away from the small, incipient market in Cuba due to perceived compliance risks. Current U.S. regulations complicate permissible transactions involving Americans and block the movement of Cuba's own financial assets in transactions that have no connection to the United States except the clearance of payments through a U.S. bank. Among other impacts, the result is an increase in the cost of doing business by U.S. interests and the narrowing of U.S. financial institutions willing to do business in Cuba. For this reason, in spite of the regulatory changes, there has been almost no progress in banking relations and credit card payments and there is a continued financial environment that stymies progress toward engagement. We encourage you to move swiftly to remove unnecessary and unproductive financial regulations that appear incompatible with expanded travel and the development of commercial relations.

Working to Settle Claims

We are pleased that negotiations between the U.S. and Cuba have begun on certified claims. It is likely that the resolution to the claims issue will require creative solutions. For example, the administration has the authority to license transactions by Americans in the context of the resolution of their claims and could indicate a favorable disposition to market-based solutions for claimants interested in pursuing them. There is also the potential for making the bilateral negotiation easier by reducing the number of U.S. claimants by revoking the prohibition on the sale of claims to third-parties. We encourage you to explore all options for facilitating a successful resolution to certified claims.

The development of expansive travel and trade relations between the U.S. and Cuba has the potential to create circumstances in both countries that will make changes to U.S. policy irreversible, improve the lives of the Cuban people, and provide genuine opportunities to address human rights issues. Under current conditions, doing so will necessarily require overcoming 50 years of regulatory inertia. We look forward to working with you at the earliest opportunity to do just that.

Sincerely,


JEFF FLAKE
United States Senator


PATRICK LEAHY
United States Senator

cc:

The Honorable John Kerry, Secretary, Department of State
The Honorable Susan Rice, National Security Advisor
The Honorable Jack Lew, Secretary, Department of the Treasury
The Honorable Penny Pritzker, Secretary, Department of Commerce
The Honorable Anthony Foxx, Secretary, Department of Transportation