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FEATURED Q&A

Will More Companies Soon Want to Do Business in Cuba?

Q U.S. President Barack Obama notified Congress last week that he intends to remove Cuba from the government's list of state sponsors of terrorism, which will occur after 45 days unless Congress blocks the move. The designation carries sanctions that include bans on U.S. foreign assistance and restrictions on some exports and financial transactions. What would Cuba's removal from the list mean for companies looking at doing business there? Assuming Congress does not block Cuba's removal, will U.S. banks and financial institutions then be interested in doing business in Cuba?

A Jonathan Epstein, partner at Holland & Knight: "The president is peeling back one layer of the statutory framework that mandates harsh sanctions on Cuba. Because other statutes remain, his actions have limited legal effect, but nevertheless remove some of the concerns for U.S. public companies. Cuba was designated a state sponsor of terrorism (SSOT) under three different statutes. Removal from the Export Administration Act designation will in theory allow a wider range of U.S. exports; however, other statutory restrictions still largely limit exports to items that support the Cuban people. Whether this might open the door for licensed exports of civil aircraft or aviation safety equipment to Cuba remains to be seen. Because of other legislation, removal from designations under the Foreign Assistance Act (prohibiting foreign aid) and the Arms Export Control Act (prohibiting military equipment exports) will have little or no immediate effect. The delisting removes one real concern public companies had with doing business in Cuba. The U.S. Securities and Exchange Commission has historically asserted that public companies disclose any business activity in SSOT countries, taking the position that any business was material to investors. In fact, a number of states have laws prohibiting their retirement and other

Continued on page 2

Venezuela to Receive $5 Billion From China: Maduro

Venezuela will receive $5 billion in financing from China, according to President Nicolás Maduro. Maduro said in a speech that the money would be used for "development," but he gave no additional details. See story on page 2.

Photo: Venezuelan Government.

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NEWS BRIEFS

Argentine Prosecutor Drops Allegations Against Fernández

Argentine prosecutor Javier De Luca on Monday dropped allegations that President Cristina Fernández de Kirchner helped protect Iranian officials allegedly behind the 1994 bombing of a Jewish center, telling the Court of Appeals that the late Alberto Nisman's investigation didn't include enough evidence to warrant a probe, the Associated Press reported. The case was previously dismissed by two other courts, and De Luca's decision not to move forward with it means it has reached the end of its road.

Chevron Urges Court to Uphold Ruling Against Lawyer

U.S.-based **Chevron** on Monday asked a U.S. appeals court to uphold a ruling that found that U.S. lawyer Steven Donziger used bribery and fraud to secure a $9.5 billion pollution judgment in Ecuador on behalf of his clients, a group of Ecuadorean villagers, Reuters reported. Chevron's lawyer asked the three-judge panel to uphold a ban on Donziger benefitting from the case and on the plaintiffs from enforcing the judgment in the United States, while Donziger's lawyer said allowing a company to launch an "impermissible collateral attack" on a foreign judgment could set a bad precedent.

Brazil Must Remain 'Vigilant' in Curbing Inflation: Levy

Brazil's central bank must stay "vigilant" in fighting above-target inflation, Finance Minister Joaquim Levy said Monday, Reuters reported. Inflation, which rose to higher than 8 percent in March, is having a large impact on businesses and the poor, said Levy.

Economic News

Venezuela's Maduro Announces $5 Billion in Financing From China

Venezuela will receive $5 billion in financing from China, according to President Nicolás Maduro, Agence France-Presse reported Monday. Maduro made the announcement in a television and radio address on Sunday, saying the money will be used for "development," but he gave no additional details. Maduro traveled to China in January and at the time said that the country had agreed to provide more than $20 billion in investments to the South American country. Maduro did not say whether the $5 billion in financing was part of that amount or in addition to it. Venezuela's economy has been hit hard by the falling price of oil, which accounts for 96 percent of the country's export revenues, BBC News reported. According to figures from the Andean nation's finance ministry, the price of Venezuela's oil has plummeted from $97 per barrel a year ago to $50 this month. Venezuela's rate of inflation topped 60 percent last year, and the country is grappling with shortages of basic staples including milk and flour. In 2014, loans by Chinese state-owned banks to Latin American countries rose by 71 percent, according to the China-Latin America Finance Database, a collaboration between the Inter-American Dialogue and the Global Economic Governance Initiative at Boston University.

Political News

Mexico's Government to Investigate Reports of Killings by Police

Mexico's government announced Monday that it would launch an investigation into reports that federal police officers killed 16 unarmed people in two incidents earlier this year, Reuters reported. Media reports of the Jan. 6 killings in Apatzingán, in Michoacán state, said that most of the people killed in the incidents were members of vigilante groups who had been protesting about their pay from the federal government, which made them members of a new rural police force. An account by the government said that several of the deaths may have been caused by stray bullets during a gunfight. Mexican Interior Minister Miguel Ángel Osorio Chong said he had

Featured Q&A

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funds from investing in companies that do business in SSOT countries. In general, neither the delisting nor the additional guidance recently issued by the Office of Foreign Assets Control likely gives sufficient comfort to major U.S. financial institutions, which remain risk-adverse given the huge penalties assessed for sanctions violations."

Pedro A. Freyre, international practice chair at Akerman LLP: "The removal of Cuba from the list has first and foremost a reputational implication. Upon being removed from the list, which at the moment would only leave Sudan, Syria and Iran as sanctioned countries, the perception of Cuba for the business community changes. It will no longer carry the stigma associated with being officially designated as a 'terrorist state'; no one wants to do business with countries in that classification. This in and of itself lowers the perceived risk and, on a practical level, removes a number of regulatory barriers related to export, reporting and compliance restrictions. Nevertheless, Cuba continues to be subject to the remaining statutory sanctions imposed under the web of legislation and regulation which is the U.S. embargo. My sense is that financial institutions will now reassess the cost-benefit analysis of potential Cuba-related business, whether it's providing banking services to the Cuban Interest Section in Washington and the Cuban Mission to

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requested that Mexico's attorney general's office and the federal police's internal affairs department investigate the deaths.

Company News

Argentina Sues Companies for Drilling in Falkland Islands

Argentina last Friday initiated legal proceedings against five companies for drilling for oil and gas in the disputed Falklands Islands, which Argentina claims as its own and calls the Malvinas, BBC News reported. Daniel Filmus, Argentina's minister for the islands, announced the legal proceedings in London, saying the companies are "performing illegal acts by entering Argentine territory" and that a judge in Rio Grande, Argentina had agreed to take the case. The companies involved are U.K.-based **Premier Oil**, **Falkland Oil and Gas** and **Rockhopper** as well as U.S.-based **Edison International** and **Noble Energy**. "I want to make it clear for the directors of these companies and for British public opinion that Argentina will use the full force of the law—both national and international law—to prevent these countries from taking the riches which belong to 40 million Argentine citizens," Filmus said, adding that those found guilty of illegal exploration would face sentences of five to 10 years in prison. In response, British Foreign Secretary Philip Hammond said Argentina is engaging in "an outrageous piece of bullying," Al-Jazeera reported. The government of the Falkland Islands said, "We have the right to develop our economy, including the hydrocarbons industry, and we are exercising that right." Analysts told BBC that Argentina is not likely to prevail in court. Earlier this month, the three British oil companies announced that they had found oil and gas in the first well drilled as part of a nine-month exploration plan.

Filmus

File Photo: Argentine Government.

Comings & Goings

Vale CEO Nominated as Petrobras Chairman

Brazil's government on April 10 nominated **Vale** CEO Murilo Ferreira as the next chairman of the board at state oil company **Petrobras**, *The Wall Street Journal* reported. Ferreira's nomination, which must be approved by shareholders at their next meeting on April 29, disappointed those who were hoping for a shake-up at the oil company, which is embroiled in a kickback and bribery scandal, according to the newspaper. Ferreira is a career employee of Vale, which was government-owned until 1997, and a trusted ally of President Dilma Rousseff. Other nominations for the board were little changed from the current one, Reuters reported. Petrobras' controlling shareholder, the government, proposed just one substitution. It nominated Ivan Monteiro, the former chief financial officer of state-run **Banco do Brasil** and Petrobras CFO as of February, to replace former planning minister Miriam Belchoir. State development bank BNDES chairman Luciano Coutinho has been named interim chairman until the shareholder meeting.

Janna Leaves Finance Ministry for Position at Ecopetrol

Colombian public credit director Michael Janna, who managed the country's sovereign debt sales, on April 7 left his post to become the financial vice president of **Cenit**, the oil logistics and transport unit of state oil company **Ecopetrol**, the finance ministry said in a statement. Janna, who holds a Ph.D in economics from Northwestern University, has worked as vice president and head of sovereign risk at **Goldman Sachs** and as a researcher for Latin America at **Citibank**. Former Finance Minister Juan Carlos Echeverry earlier this month took over as Ecopetrol's chief executive.

Mexico's National Water Commissioner Resigns Amid Scandal

David Korenfeld, the director of Mexico's National Water Commission (Conagua) and a close associate of President Enrique Peña Nieto, on April 9 resigned following criticism about his family's use of an agency helicopter for personal use on March 29, *The New York Times* reported. A neighbor of Korenfeld had posted photos of the family walking with suitcases to the helicopter on social media. In a news conference in which he apologized, Korenfeld said he would pay the price of the ride, and later in the day, said he paid 10,800 pesos ($736) for an eight-minute ride, the Associated Press reported. Mexico's anti-corruption body, the Public Administration Department, has begun an investigation into the incident, which was the latest in a string of scandals for the Peña Nieto government, including revelations that the president and his wife were living in a luxury home owned by a government contractor.

Twitter Gives Brazil Executives Regional Role, Looks to Expand in Latin America

Social media platform **Twitter** announced last week that some of the company's Brazil directors will take on regional roles in Latin America as the company looks to expand in the region, G1 reported. Twitter's director general in Brazil, Guilherme Ribenboim, has been named vice president for Latin America. Ribenboim has led Twitter's operation in Brazil, one of the network's five largest markets, since it launched its first office there in 2012. Ribenboim will continue to lead the company's businesses in Brazil as well as its Mexico and Colombia operations and will oversee additional markets that are handled by local partners, *Brazil Tech* reported. Matthew Drinkwater, who had been director for sales focused on small- and medium-sized business in Brazil, was named Latin America agency head.

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Featured Q&A

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the United Nations in New York, or opening a correspondent account in Cuba to facilitate authorized transactions."

Georges Hatcherian, analyst in the Financial Institutions Group at Moody's Investors Service: "The removal of Cuba from the U.S. government list of state sponsors of terrorism would not add much for the financial industry to the impact of the initiatives that have already been taken earlier this year, as long as the sanctions on the island remain. In January, U.S. banks were allowed to interact directly with Cuban financial institutions. U.S. banks can open correspondent accounts in Cuban banks, and authorized U.S. travelers will be able to use U.S. credit and debit cards in Cuba, if permitted by the issuer. These measures should improve the efficiency of transactions authorized by the U.S. government. Nevertheless, the U.S. embargo against Cuba remains, prohibiting most financial transactions between the United States, or persons subject to U.S. jurisdiction, and Cuba under the Cuban Assets Control Regulations. U.S. banks are likely to be reluctant to take full advantage of these changes until the embargo is formally lifted by the U.S. Congress, out of concern that they may run afoul of ongoing sanctions. Banks that choose to take advantage of new authorizations will need to develop mechanisms to ensure compliance with remaining sanctions. These mechanisms may prove to be too technically difficult and costly for some banks. Furthermore, Cuban banks will remain unattractive to many foreign banks because of rigid state control of the banking system and its lack of transparency. Banking regulations remain stringent, with policymakers controlling lending and deposit rates. Cuban banks largely cater to state companies, with only a small portion of private sector lending, chiefly microfinance."

> "U.S. banks are likely to be reluctant to take full advantage of these changes until the embargo is formally lifted by the U.S. Congress..."
>
> — *Georges Hatcherian*

The Advisor *welcomes reactions to the Q&A above. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org with comments.*

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