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Challenges Posed by Cuba's Labyrinthian System of Imports

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INTRODUCTION

The international market allows countries with limited internal markets, such as Cuba, to take advantage of economies of scale. That means there is a need to harmonize increases in exports with the substitution of imports. As a result, it is important how leading export items in international trade are supported, while at the same time maintaining the necessary flow to guarantee the import of inputs for that balance.

Cuba's foreign trade sector, which currently maintains trade relations with more than three thousand foreign companies, possesses the characteristics of an open economy. It is thus greatly relevant that trade policy be designed to contribute to a necessary improvement in productivity and to increase economic efficiency. To that end, it is essential that the methods applied match the goals of economic policy.

The international environment, the national economic structure and the regulatory framework are factors with notable impact on the performance of foreign trade. In particular, the role of institutions is especially important to the effectiveness of regulations in this sector of the economy. In the Cuban economy, it should be noted, the only entities that import products into the country belong to the state, despite the stated intent of Cuban authorities of having the non-state sector occupy a larger portion of the economy.

In Cuba, new Resolutions issued by the General Customs of the Republic (Aduana General de la República or AGR) that took effect on September 1st, 2014 have raised a number of concerns among the Cuban people. The following is a brief overview of this controversial issue.

ENTITIES ENGAGED IN FOREIGN TRADE

To date in Cuba there continues to be a monopoly on the part of the state in the exercise of foreign trade, something that must change in the not-too-distant future. The regulatory duties of that activity fall to the Ministry of Foreign Commerce and Foreign Investment (Ministerio del Comercio Exterior y la Inversión Extranjera or MINCEX). Nonetheless, there are other entities that are either directly or indirectly involved that can be grouped according to their functions, either regulatory, control, or support.

Regulatory entities include the MINCEX as well as the Ministry of the Economy and Planning (Ministerio de Economía y Planificación or MEP), the Ministry of Foreign Affairs (Ministerio de Relaciones Exteriores or MINREX), the Ministry of Finance and Prices (Ministerio de Finanzas y Precios or MFP), the Central Bank (Banco Central or BCC), and related sub-agencies. Control responsibilities lie with the Cuban Industrial Property Office (Oficina Cubana para la Propiedad Industrial or OCPI), the National Standardization Office (Oficina Nacional de Normalización or ONN), the Comptroller General (Contraloría General) and the AGR. Entities that provide support to foreign trade include the Court of Arbitration (Corte de Arbitraje), the Chamber of Commerce (Cámara de Comercio), the Insurance corporation, and the Center for Foreign Trade Promotion (Centro para la Promoción del Comercio Exterior or CEPEC).

The General Customs of the Republic (Aduana General de la República or AGR) is the body responsible for border control and domestic activities related to foreign trade. Customs guarantees the security and protection of society and the national economy, as well as tax revenue collection, and statistics on foreign trade through compliance with state customs policies on the movement of international travelers, merchandise and mediums of transportation.

The Cubacontrol S.A. corporation, part of Cuba's Foreign Trade system, is involved in customs related administrative processes. The company provides specialized services in supervision and inspection of merchandise, quality assurance and consulting, laboratory analysis, customs process transactions, certification of fault adjustments, among others.

The corresponding bureaucratic runaround in the entire country flows through Cubacontrol, territorially and in the name of legal entities, foreign or domestic. Given the volume of operations and as requested expressly by their clients, this corporation has offices in Venezuela and Russia, and has permanent supervisors in Mexico, Argentina, Brazil, Panama, China and Vietnam.

In order to trade with national entities, foreign companies do not need an office or prior registry in Cuba. All products that enter the country must be declared at customs and are subject to inspection. For the purpose of guaranteeing the quality of imported or exported products, foreign trade companies include the inspection of their merchandise in their contracts at either the point of origin or point of delivery, as a function of technical parameters and other requirements.

All entities with the capacity for exporting and/or importing (by decree of the MINCEX) can carry out transactions related to foreign trade for the categories of products conforming to their social goals, excluding those related to banned categories for exports and/or imports as designated by the MINCEX, absent specific permission by the authority.

Companies with a license to import are registered at the Chamber of Commerce of the Republic of Cuba, and can be importers and/or exporters (many belonging to industrial groups); mixed capital companies authorized to import or export inputs and products directly; and manufacturing companies and those engaged in services in partnership with foreign capital. Branch offices of foreign entities established in Cuba can facilitate contracts but not execute them.

It is possible to directly contact companies authorized to import in order to present an offer, accompanied by catalogs or other types of samples, or to obtain the services of authorized consulting entities. A foreign business person does not need authorization from the government to conduct trade directly with these companies, because they are already accredited to participate in that activity.

Entities granted authorization to import and export goods are obligated to comply with the principles and basic norms established by the General Rule on the Activity of Importing and Exporting (MINCEX Resolution 50/2014). Commercial operations in the national territory are conducted through a Cuban import company or a commercial agent.

Companies that participate in foreign trade activities have an established Process for Requesting an Inspection, based on the elements of quality, quantity, weight, conditions of the merchandise, conditions of the container, and labeling, among others. The inspection is requested through internationally known Inspection Agencies, which verify compliance with the contracts as agreed to, independent of the certification or declaration of compliance issued by the producers.

In terms of banking transactions, the Cuban system is ruled by the Central Bank (Banco Central de Cuba). It is in charge of supervising financial institutions as part of its duties, as well as representative offices authorized to operate in the country.

Invoicing and payments to and from Cuban companies should be conducted in leading currencies, such as the Euro, the Canadian Dollar, the British Pound, with the exception of the US Dollar. No invoicing or payment, regardless of the currency agreed to, can move through American banks within or outside the United States or through banks from other countries with a commercial presence in the United States.

ELEMENTS OF TRADE POLICY

The Trade Tariff of the Republic of Cuba (Decree-Law No.124 of 1990) is based on the Nomenclature of the Harmonized System of Classification of Products (Nomenclatura del Sistema Armonizado de Clasificación de Productos or SACLAP). Until November of 2012 the SA-08 was in effect, but as of December of 2012 the SA-2012 took effect, containing the 5th Amendment of the Harmonized System.

The Cuban tariff regime has two preferential systems. On the one hand, merchandise from countries that are members of the Global System of Trade Preferences (GSTP or SGPC in Spanish) is granted lower tariff duties than merchandise originating from Most-Favored-Nation WTO countries.

On the other hand, products negotiated under trade agreements with member nations of the Latin American Integration Association (Asociación Latinoamericana de Integración or ALADI) receive free access or lower tariffs than those corresponding to Most-Favored-Nation products.

There is a set of regulations, such as those related to the preservation of National and Cultural Heritage and prohibitions against drugs and narcotics, health and others related to environmental protection, the protection of endangered species, and the movement of waste or other hazardous materials across borders, for which exports and/or imports require additional authorizations by the relevant authorities.

Those imports can only take place in limited quantities. Furthermore, the following are subject to plant safety regulations:

- Plant species and their living parts;
- Seeds from endangered crops or plants;
- Nutritional products in their natural state or semi-processed products such as grains, fruits, vegetables, legumes, spices, flours, cakes, oats;
- Feed and forage;
- Forest products;
- Containers and packages of any type that can carry plagues;
- Dirt or soil and organic fertilizers, monoliths and soil samples for research;
- Processed products or raw materials for the production of industrial goods, such as cotton fibers, linen;
- Raw tobacco;
- Medicinal plants or herbs and botanized material;
- Organisms or micro-organisms that are harmful or helpful to agriculture;
- Everything that can carry plagues.

Imports should be accompanied by plant safety import permits and an international certificate of plant safety, as issued by an official plant safety or vegetable quarantine authority from the country of origin, in compliance with the FAO International Plant Protection Convention (IPPC). The lack of or inadequate compliance with any of the established prerequisites for imports could lead to a denial of authorization to bring them into the country. That will be determined by the vegetable quarantine inspection service of the State System on Vegetable Health at border entries.

Importing merchandise for consignment is regulated under Resolution 263 of 2007 and Resolution 190 of 2001. The annex to Resolution 263 from year 2007 compiles the guidelines on the commercial and internal control aspects related to consignment contracts and to commissions on the sales of merchandise imported under consignment.

In the case of natural persons, in determining the value of items and products that may be imported, in order to pay corresponding customs duties, it is up to the determination of Customs whether to accept the purchase invoice, the customs declaration, or the valuation of imported goods that are not of a commercial nature. The valuation will be utilized when a passenger's declaration or a purchase invoice are not accepted as the basis for the collection of customs duties. For products that don't have a predetermined value, the highest price of a similar product or the component of the highest price will be used as the basis.

Every passenger can import the following, exempt from paying customs duties:

- Personal items such as clothing, shoes, toiletries, portable digital multimedia players, mobile phones, portable televisions, portable personal computers, photo cameras, items for transporting, entertaining, feeding and caring for children, corresponding to their age;
- Items subject to customs duties when their value is lesser than 50.99 pesos;
- 10 kilograms of medicine, so long as they are transported in separate and distinct baggage from other items and in their original containers;

- Scientific, technical, art and literary books, sheet music, compact discs, cassette tapes, photographic slides and motion pictures for teaching purposes;
- Wheelchairs for the handicapped, a prosthesis when they take the place of or substitute an organ or part of the body, and equipment, books or materials for the blind;
- Medals, decorations and awards granted abroad, products that Cubans may receive as gifts or prizes in their capacities as scientists, athletes, artists or others, so long as they can prove their origin with corresponding documentation, as well as products that are imported temporarily by foreigners in their capacities as artists, athletes, specialists, scientists, journalists and filmmakers, passengers in transit, persons who arrive in the country under special circumstances, and those granted that benefit under international agreements.

Natural persons may only import items that are not intended for commercial purposes. The total value of the items in passengers' baggage, subject to the payment of customs duties and that are not personal items, cannot exceed one thousand pesos. The first $50.99 pesos of said value are exempt from payment.

Notwithstanding, the current tariff establishes that, between 51.99 and 500.99 pesos, the customs duty of 100% of the value shall be paid; and between 501.00 and 1,000.00 pesos, 200% of the value shall be paid. This is one of the restrictions generating the most concern. In addition to establishing a limit of 1,000 pesos for the importation of goods that don't fall under the category of personal items, the cost of importing goods valued between 60 and 1000 pesos is raised significantly, having to pay as much as twice the amount originally paid for the item.

Natural persons cannot import automobiles. Likewise, it is not permitted to import explosives, firearms and munitions (absent a direct authorization from the relevant body); drugs, narcotics, psychotropic substances, raw materials and related substances, without medical certification or permission from the authority granted by the Ministry of Public Health; blood products; any other product or medical material that can constitute a risk to human health; obscene or pornographic items, objects and literature, or those that threaten the general interests, good habits and morals of the nation; protected species under the Convention on the International Trade of Endangered Species of Flora and Fauna, unless approved with a direct permit from the relevant authority.

The payment of tariff duties for shipments that are not commercial in nature and sent via air, sea, or postal service that are received by natural persons in the national territory will be paid in convertible pesos (CUC). Shipments directed at natural persons should always be of a non-commercial nature; cannot exceed a value of 200 pesos per shipment; items must be declared; no identical item may be received in commercial quantities; and sets or bulk items for different recipients that are sent to a single person will not be admitted.

Items in a shipment up to a value of 30 pesos, or their equivalent up to 1.5 kilograms, will be exempt from payment of customs duties. Natural persons that receive articles that exceed the 30 pesos and up to a value of 200 pesos will pay a tariff of 100% of the value as customs duties.

Importing and exporting currency that is freely convertible is free, both in cash as well as in checks or other forms of payment used in international banking practices; but for more than 5,000 US Dollars or their equivalent in other currencies that are freely convertible in cash, they must be declared before customs authorities. The exporting of any convertible peso currency is not allowed, in any denomination, nor is the export of Cuban pesos through shipments that are not commercial in nature.

The new regulations have generated widespread controversy among Cuban citizens. There are those who agree with the importance of protecting the domestic market and stimulating domestic production. However, they believe that state enterprises tend to import low quality goods that are then sold through the network of stores that sell in CUC at prices that are relatively high for the consumer.

A frequent question is whether customs has the control mechanisms in place to identify those who import items repeatedly for commercial purposes, and why the restrictions affect those who aren't dedicated to that activity. Generally, opinions tend to suggest that regulations are necessary, but that restrictions shouldn't be increased, and that it would be fruitful to evaluate what is gained and what is lost under these new regulations.

From another perspective, it would be useful to review the extent to which these new regulations take into account the absence of a wholesale market for the private sector, one that would provide sufficient and stable inputs at prices corresponding to the activities of that sector. Similarly, a perspective that is gaining ground in the formulation of policies is to evaluate the ways in which the private sector can possibly participate in import and export operations, and in partnerships with state enterprises that are experienced in those areas.

The Cuban government itself makes it challenging for cooperatives and those in the private sector to increase their participation in the national income. That factor must change in the not-too-distant future, given that the absence of formal markets for the distribution of a supply chain for inputs that meets the needs of these activities in turn creates the framework for the growth of parallel provisioning networks, many of which have their origins abroad. That's due as much to the absence of certain assortments of products in the domestic market as to the slowness of contract mechanisms when it comes to dealing with state entities, and the restrictions on the non-state sector for partnering with global and experienced partners.

Although there is rhetoric about the need to grow the non-state sector in the economy, it is not yet organically integrated through a strategy for structural change that is then laid out continuously. For example, it has been stated that there is an urgent need to substantially increase the volume of exports for the nation, but at the same time a significant and hard to dismiss portion of the population that could be playing a role in that export strategy is being excluded.

Should the government's rigidity on the participation of these entities in the foreign trade sector continue, the message the Cuban authorities are sending is that the role of the private sector and cooperatives will continue to be very low. The only announcement has been that the 17 ornithological cooperatives will be the only ones to conduct foreign trade activity, particularly in purchasing inputs such as feed for animals and allowing them to sell exotic birds, among others.

CONCLUSIONS

The weakness that currently persists in Cuba's productivity, such as obsolete technology, insufficient quality, and logistical problems; combined with complexities in the international arena, highlight the urgency to act on domestic conditions and on improving adaptability to external conditions.

It is imperative that the new dynamics of the international context and their impact on the country's economic and social performance be considered in the gradual changes made to the Cuban economic model.

The development of trade regulations should not lose sight of the significance of achieving the greatest possible consistency between what is required and what the priorities are for the economy, generally, but for the citizens in particular.

The state itself has made it evident that there is a set of activities that should not be administered by the state, but rather in a cooperative way or through the private sector, and it has created the mechanisms to develop it, though in a restricted manner. Thus the question that could be asked of the state is, if these non-state entities create wealth for everyone, why can't they gain access to inputs through imports that are so necessary for their productivity or services? No doubt the answers they'll be able to raise are about the lack of foreign currency loans to carry out said imports. Another question could be, why not allow those imports to enter the country with natural persons, and then use the tax system to collect revenue once those services or goods have been provided?

These contradictions should lead to reflection on the part of those who formulate policy. In an economy like the Cuban economy, it is vital to increase imports so that they facilitate the creation and growth of national wealth, independent of the type of property involved. That, in turn, will lead to an improvement in everyone's well-being.

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