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June/July 2016

Cuba: The land of opportunity?

By Alison Lacy



Cuba is undergoing a historic change. The tension between the United States and Cuba is easing, with President Obama being the first U.S. President to visit the country in 88 years and commercial air traffic between the two countries scheduled to start soon. It is a country with well-defined mineral resources and a highly-educated workforce. It has a relatively new foreign investment law, an established mining law and is open for business to all. The gathering tide of economic liberalization in Cuba, however, will not come without its challenges.

With its aging revolutionary leadership and recognition of the need for economic reform, many would agree that Cuba has already shown signs of its desire to transition into a post-Castro era. For example, term limits for the Cuban presidential position are to be implemented, which Raul Castro is expected to honour by stepping down from office in 2018. Additionally, the country has a relatively new foreign investment law (Law 118) that offers improved tax treatment and a more transparent approval process, with the goal of substantially boosting foreign direct investment.

The country has ample mining opportunities. It is currently the world's sixth largest producer of nickel and provides about eight per cent of the world's supply of cobalt. Cuba is also believed to hold significant deposits of gold, copper, silver, iron ore and other base metals. Along with being rich in resources, Cuba offers preferential tax treatment to foreign companies doing business in the country through Law 118. Under the law, profits from mining are now taxed at 22.5 per cent – down from 45 per cent – and deferrable for eight years. Law 76, the Mining Code, was established in 1994 and works in conjunction with Law 118 with respect to any foreign investment in mining.

Despite the progressive changes brought by Law 118, foreign companies are still required to partner with the Cuban government on investments in mining. Such a partnership requires entering into an international economic association contract with the government that later converts into a joint venture, at which point it becomes a producing mining company. This structure has its risks and challenges, including Cuba's onerous regulatory requirements and the foreign company's assumption of 100 per cent of the financial risk throughout the reconnaissance, exploration and prospection phases of mineral exploration. Accordingly, geologists must have a high level of confidence that selected mining sites are worth the financial investment. In this regard, Cuba's rich supply of geological data becomes particularly valuable to the prospective mining investor. Cuba's proprietary geological data is comprised of information dating back to the pre-Soviet era, as well as an abundance of data from the Soviet era and data collected in the mid-



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1990s by Canadian junior joint venture partnerships.

In addition to the challenges of Cuba's regulatory and partnership model, the Cuban Liberty and Democratic Solidarity (Libertad) Act, an American federal law otherwise known as the Helms-Burton Act, continues to impede mineral exploration and development. Non-American foreign companies can still be caught by Title III of the Act, which gives U.S. nationals the right to claim money damages from persons "trafficking" (which is broadly defined and includes any "profiting" from confiscated property) in U.S. property confiscated by the Cuban government. For example, "trafficking" could be interpreted as broadly as someone profiting from the sales of cleaning supplies for a kitchen at a mine site located on lands confiscated from a U.S. entity. Although Title III has been suspended, there is still a risk to foreign companies "trafficking" in confiscated property, either directly or indirectly. In addition, and relevant for U.S. mining companies or U.S. entities wishing to supply or service mining companies, the U.S. trade embargo, which was strengthened by the Act, imposes additional restrictions on Americans from doing business in or with Cuba.

Expectations for Cuba in the near future

The Cuban leadership understands the country needs to adopt a more progressive economic model in order to advance its economy. A liberalizing trend is therefore expected to continue, characterized by more privatization of state-owned companies and efforts to normalize relations with the U.S. The road towards reconciliation with the U.S. will involve addressing decades of claims by Americans whose property was nationalized by the Cuban government and counterclaims by Cubans for damages caused by the U.S. trade embargo, including about US\$1.9 billion in U.S. claims against Cuba (not including interest).

Despite the hopes of foreigners, Cuba is unlikely to begin hurtling towards capitalism. In the coming years, any changes will likely take place at a conservative pace and on Cuba's own terms.

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Cuba: The land of opportunity



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The graphic features the text 'Maximize Your Exposure' in a bold, sans-serif font, enclosed in a thin orange rectangular border. Below this, there are three overlapping images: a print magazine cover on the left, a desktop computer monitor in the center displaying the magazine's website, and a smartphone on the right also showing the website. Underneath the images, the text 'In Print | Online' is followed by 'Convention Opportunities' and 'Event Publications' on separate lines. At the bottom of the graphic is the 'CIM MAGAZINE' logo, with 'CIM' in large, bold, white letters inside an orange square, and 'MAGAZINE' in smaller, white, all-caps letters below it.

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