

RESEARCH ARTICLE

Open Access

# LEGAL REFORM TARGETING THE CUBAN ECONOMY LED BY MIGUEL DÍAZ-CANEL: CRITICAL ASSESSMENT OF THE PRIVATE ECONOMIC SECTOR AND FOREIGN DIRECT INVESTMENT POLICY REFORMS

Le Lan Anh

Vietnam Institute of Americas Studies, Vietnam Academy of Social Sciences, Hanoi, Vietnam  
ORCHID ID: - <https://orcid.org/0000-0002-6178-9768>

Nguyen Khac Chinh

Doctor of Economic Law, Faculty of International Law, University of Law, Vietnam National University, Hanoi (VNU), Vietnam  
ORCHID ID: - <https://orcid.org/0000-0002-6178-9768>

## Abstract

Since becoming the president of Cuba, Miguel Díaz-Canel has carried out many reforms to revive the Cuban economy, which has suffered from illness for many years. Díaz-Canel's management measures and constitutional reforms aim to rebuild the economy, strengthen internal resources to recover and develop key economic sectors, and increase the export value of goods. This is evident in Cuba's current financial landscape. The article's objective is to review the Cuban economy before Miguel Díaz-Canel presidency, analyze changes in legal policies for the private economic sector, and Policy reforms on foreign direct investment and international cooperation. Therefore, the article indicates the reforms aim to eliminate obstacles to economic progress, foster international economic collaboration, and attract foreign investments under Miguel Diaz-Canel's leadership.

**Keywords** Cuban economy, economic reform, policy adjustment.

## INTRODUCTION

When Miguel Díaz-Canel became the president of Cuba, uncertainties surrounded the economy, especially the private sector. Market reforms by Raúl Castro led to a surge in innovative entrepreneurs, from 157,000 in 2010 to 567,000 by early 2017 . This group, comprising 12% of Cuba's 5.1 million workers, expands to 32% when considering unlicensed businesses, part-time

entrepreneurs, private farm workers, cooperative members, and joint venture employees. Entrepreneurship offers more Cubans autonomy and economic independence. With Díaz-Canel's anticipated reelection in 2023, a continuation of current policies is expected under his leadership in the 'Partido Comunista de Cuba.' Despite upcoming challenges like currency shortages, declining living

standards, slow economic growth, and high inflation, there may be hurdles in implementing planned market-oriented strategies. However, a positive outlook on significant economic reforms in Cuba's near future is evident.

### **1. The Cuban economy Issues before Miguel Diaz-Canel's term**

Miguel Diaz-Canel becomes the new President of the Council of State and Council of Ministers of Cuba, taking over from Raul Castro for 2018-2023. The Cuban economy has seen minor changes under President Raul, with a few significant improvements. The delays in important reform programs have prevented a significant economic boost. Cuba faced economic challenges like liquidity shortages, especially in export output. Despite past investment plans, the fuel supply remained a concern. The nation heavily relied on food and energy imports, with agricultural production stagnant for years. This has led to Cuba importing a large percentage of its food. The country's aging population was a significant issue, with more retirees and fewer working-age individuals potentially causing a labor shortage.

External pressure grew as Cuba sought 2.5 billion USD yearly for progress amidst policy challenges, with just 1/3 of the target reached due to US policy shifts. Consistent US foreign policy was crucial after President Trump reversed the efforts to improve US-Cuba relations. The National Assembly and new leadership must act to address these challenges with suitable policies.

On April 19, 2018, Miguel Díaz-Canel Bermudez, the new President of the Council of State and Council of Ministers of Cuba, delivered his debut address to the 9th Cuban National Assembly. He assured the Cuban people of his commitment to their trust, honoring Fidel Castro's legacy and emulating Raul Castro. Díaz-Canel also vowed to modernize Cuba's social and economic structure by eliminating dual currencies, enhancing internet

quality, and preserving the socialist system.

### **2. Important reforms build a more dynamic economy**

#### **2.1. Reforming the economy begins with amendments to the Constitution**

In July 2018, the Cuban National Assembly voted to replace Cuba's 1976 Constitution with a new document drafted in 2014. President Miguel Díaz-Canel carefully analyzed the impact of changes on the constitutional order when amending the Constitution. The analysis drew from Cuba's socialist construction, global constitutional processes, historical aspects, and Cuban traditions. His reformist ideas align with Raúl Castro Ruz's vision expressed in 2012, emphasizing the importance of shedding old mindsets and embracing a forward-looking approach rooted in Martí's legacy and Marxism-Leninism.

The new Magna Carta introduces 87 new provisions, acknowledging different ownership types and the importance of foreign investment in the economy. It supports socialist ownership, essential planning, market functions, and private sector properties. The Cuban Model combines socialist principles with economic development strategies, incorporating feedback from different societal sectors. State-owned enterprises have a vital role with a focus on autonomy. The constitution highlights the significance of foreign investment and guarantees essential protections for economic progress.

Policy adjustments expected to create a favorable environment for the private economic sector to develop and attract foreign investment are likely to breathe new life into the Cuban economy.

#### **2.2. Changes in legal policies for the private economic sector**

The Cuban government has approved updated

legal regulations to grant legal status to small and medium-sized enterprises, eliminating uncertainties. Significant policy changes for Cuba's private economy were introduced in August 2021, with new regulations promoting national economic development through MSMEs, non-agricultural cooperatives, and self-employed individuals. Came into effect on September 20, 2021, the regulatory package formalized these businesses (Cuentapropismo) and enacted operational modifications for cooperatives, communes, and freelancers.

MSMEs are a new factor in the Cuban economic landscape. They can be publicly, privately, or mixed-owned, which will help decentralize some economic activities that have hitherto remained under the exclusive tutelage of the state. By creating a private sector that is supposed to operate according to free market rules, Cuba aims to attract resources currently unavailable to the island.

### **2.3. Policy adjustments to financial markets**

In January 2021, Cuba implemented a market-driven reform due to food shortages and the pandemic. It unified the Cuban currency system, replacing two currencies with a peso and convertible peso at 24 pesos: 1 USD. This ended the long-standing dual-currency system. Despite this change, inflation surged, leading to unrest in July 2021. A new exchange rate was introduced for the private sector to align with the market in mid-2022. The black market rate soared, reaching five times the official rate by 2023, reinstating currency dualism. Continuous devaluation is crucial to rectify economic imbalances caused by undervaluation. However, immediate devaluation may bring short-term challenges like high inflation. Governments may hesitate to eliminate dualism again due to potential unrest. Yet, further devaluation is essential to relieve pressure on reserves and liquidity.

One of the recent economic policy updates in September 2021 permits the Central Bank of Cuba (BCC) to approve foreign currency loans for non-agricultural cooperatives and MSMEs. This initiative led to the establishment of a new entity named Financiera de Créditos SA by BCC in November 2021.

Until now, these economic actors could only access bank loans denominated in Cuban pesos. Foreign currencies are considered freely convertible currencies accepted by BCC, including the US dollar, Canadian dollar, euro, and new Mexican peso.

BCC offers more flexibility in using bank accounts with convertible currencies for trading and services. It allows natural persons, non-state entities, MSMEs, and foreign companies to open bank accounts. An important initiative is the customs duty exemption until Dec 31, 2021, for entities importing materials for non-state management. Per Resolution 321, this exemption also applies to units importing materials for non-state-controlled entities, aiming to boost private sector production and services.

### **3. Policy reforms on foreign direct investment and international cooperation**

One of Cuba's key goals in updating its socio-economic model is to enhance its resources by inviting foreign direct investment. This goal has seen progress through projects like the Castellanos zinc-lead mine. Cuba's mining sector operates under the Mining Law (Law No. 76 of 1994) and is overseen by the Ministry of Energy and Mines (Decree-Law No. 301). The Foreign Investment Law (Law No. 118 of 2014) provides the legal framework for foreign investments. The state-owned Cuba-Petróleo Alliance (CUPET) manages the petroleum industry. The Castellanos project, initiated in October 2017, seeks to attract foreign investors and revitalize the mining sector. With a total investment of 278 million USD, the project is

a joint effort between Cuba's Geominera Corporation and the Swiss Trafigura Mining Group.

Despite limited access to traditional international financial institutions like the IMF and WB, Cuba receives support for economic integration in Central America from organizations such as the Latin American Development Bank and the World Bank. Cuba has focused on enhancing workforce skills to tackle public debt issues. In 2016, the London Institute of Finance and Banking, the Central Bank of Cuba, and the British consulate in Havana jointly organized a financial and banking capacity development program for Cuban executives and senior managers funded by the UK government. Furthermore, in May 2018, Cuba hosted the ECLAC meeting to promote intergovernmental collaboration for investment attraction and economic growth.

#### **4. Impact assessment of legal and policy reforms on the current Cuban economy**

The reforms aim to eliminate obstacles to economic progress, foster international economic collaboration, and attract foreign investments under Miguel Diaz-Canel's leadership.

For private enterprises

The positive points in reforming legal regulations and policies for this subject have opened up new opportunities for private businesses in Cuba. People are allowed to open enterprises at home instead of being dominated by a centralized economic model controlled by the State. Changing the regulations to lift the government's suspension of new business licenses is more desirable than a constitutional reform.

Most licenses primarily cover services, including casas particulares (private rentals), taxis, and restaurants catering to tourists. Over 900 small and medium enterprises emerged since September 2021. They engage in the state's wholesale system, collaborate with state entities, handle imports and

exports, set prices, secure loans, and attract foreign investments, all within a tightly regulated state-centric business landscape. Moreover, new ventures can now conduct business in foreign currency, access credit, and operate online. This policy benefits Cuba's industry by enhancing their capacity to thrive and expand their businesses.

For the financial system

The fusion of the peso and the convertible peso consolidates the currency system, modernizing the economic model to enhance foreign investment accessibility and improve conditions for the country.

Furthermore, the Central Bank of Cuba has supported non-agricultural business owners by accepting various freely convertible foreign currencies like the US dollar, Canadian dollar, euro, and new Mexican peso. This move assists enterprises and cooperatives in overcoming challenges related to importing essential inputs in foreign currency or purchasing them from local wholesale markets that operate in foreign currency.

Service providers can temporarily import input and raw materials tax-free under Resolution 321 to boost private sector production and service provision.

To attract FDI and international cooperation

Cuba has begun implementing "open" policies to attract FDI actively. The Castellanos project is considered one of Cuba's efforts to attract foreign investment, revive the mining industry, and promote economic growth. The project will create jobs for about 1,000 local workers directly and indirectly, with an average income of about 130 USD/month. After completing this project, Emincar will undertake a similar Santa Lucía mine project in the neighboring area, with proven reserves sufficient for ten years of exploitation.

Cuba has concentrated on Nickel and Cobalt mines

in the Eastern region for about twenty years. Yet, the focus might shift with numerous mining projects now part of priority foreign investments. This shift supports Cuba's aim to attract 2.5 billion USD annually for steady growth.

### **CONCLUSION**

Miguel Diaz-Canel, the new Cuban leader from 2018 to 2022 and re-elected in 2023, introduced crucial economic reforms in response to pandemic challenges and increased US sanctions, addressing severe shortages of essentials like food and medicine.

Economic policy reforms in Cuba signal the start of a new era despite existing gaps and challenges. These measures aim to boost incomes and living standards, reflecting substantial progress desired by businessmen and economists supporting reform.

### **REFERENCES**

1. Ministry of Justice (2021). Gaceta Oficial No. 83 Extraordinaria de 29 de septiembre de 2021.  
<https://www.gacetaoficial.gob.cu/sites/default/files/goc-2021-ex83.pdf>
2. Cuba Business Report (2017). Cas tellanos Mining Project Moves into Fast Gear, <https://www.cubabusinessreport.com/castellanos-mining-project-moves-into-fast-gear/>
3. Cuba Debate (2018). Conozca los aspectos principales del Anteproyecto de nueva Constitución, <http://www.cubadebate.cu/especiales/2018/07/14/conozca-los-aspectos-principales-del-anteproyecto-de-nueva-constitucion/#.W05C4y2ZM8a>
4. Gaceta Oficial de la República de Cuba, 2014, Gaceta Oficial de la República de Cuba— Ministerio de Justicia [Official Gazette of the Republic of Cuba— Ministry of Justice]: Havana, Cuba, Gaceta Oficial de la Republica de Cuba, 240p .
5. Jolyn Debuysscher (2023). Cuba: Re-election of President Diaz-Canel means policy continuity is expected but will be challenging amid an ailing economy, <https://credendo.com/en/knowledge-hub/cuba-re-election-president-diaz-canel-means-policy-continuity-expected-will-be>
6. EFE (2019). Cuba regulates sale of food and toiletries, <https://oncubanews.com/en/cuba/cuba-regulates-sale-of-food-and-toiletries/>
7. Marc Frank And Mario Fuentes (2021). Cuba's economic reform allows small entrepreneurs to dream big, <https://www.reuters.com/world/americas/cubas-economic-reforms-allow-small-entrepreneurs-dream-big-2021-12-07/>
8. Foreign information (2018) . Cuba attracts foreign investment to develop the mining industry, <https://ttdn.vn/nhin-ra-the-gioi/cuba-thu-hut-von-dau-tu-nuoc-ngoai-phat-trien-nganh-khai-mo-15566>.
9. Yaima Puig Meneses (2017). Por la ruta de la actualización, <https://www.granma.cu/cuba/2017-08-01/por-la-ruta-de-la-actualizacion-01-08-2017-00-08-07>