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Opportunities and Risks for U.S. Businesses at the Port of Mariel

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As diplomatic relations with Cuba continue to thaw, an increasing number of U.S. businesses are traveling to the country. When touring the island, one of their stops should be the Mariel port and container terminal, known in Spanish as Zona Especial de Desarollo Mariel, or ZEDM.

Mariel is located approximately 30 miles west of Havana and is surrounded by a Chinese-style special development zone, which offers competitive tax and customs regimes.

While Mariel is frequently associated with the 1980 mass boatlift of nearly 125,000 Cubans to Florida, the city has recently been in the spotlight because of its modern port facility. The port terminal was built largely by Brazilian companies with Brazilian government credit and is managed by the Port of Singapore Authority, which manages a number of other international ports.

The ZEDM has the ability to handle up to 824,000 TEUs, or 20-foot equivalent units of containers per year. It appears poised to become one of the major competitive hub ports in the Caribbean for post-Panamax ships. The terminal was constructed to attract foreign investment and to generate employment and long-term funding necessary for the development of the Cuban economy.

The ZEDM has generated a noticeable amount of international interest. Foreign companies will receive various tax incentives, including an exemption from taxes on profits for 10 years, no sales taxes for a year and no customs duties on imported materials.

Businesses will only be required to make a quarterly payment of one-half of a percent of gross revenue each quarter. Already, more than 100 industrial proposals have been made to develop everything from automotive and pharmaceutical factories to large-scale energy projects.

Approval of foreign projects reached $200 million last year and is expected to more than double that amount for this year.

Unilever is perhaps the best-known company to receive approval to operate in the area to date. This Dutch-British consumer products manufacturer recently agreed to partner with a Cuban company to build a $35 million soap, toothpaste and deodorant factory in Mariel, which is expected to be operational in 2018.

In February, the Obama administration approved a proposal to build the first U.S. factory in Cuba in more than 55 years. This tractor and heavy equipment plant owned by Cleber LLC is expected to begin manufacturing by the beginning of 2017. Cleber hopes its Mariel factory will give it not only access to the Cuban market, but also a pricing edge with respect to exports to Central and South America.

Risky Business

For many foreign investors, however, the future of the ZEDM remains clouded in risk. While the area is more developed than other parts of the island and the government has undertaken an ambitious program to upgrade its electricity generating capacity, Mariel still lacks basic hardscape and technological infrastructure.

Additionally, real estate ownership in Cuba is a conundrum; property rights as we know them do not exist in Cuba.

Cuban employees are protected from at-will employment and other free-market labor practices. Instead, Mariel investors must go through the Cuban government to hire employees. Foreign investors are required to pay contracted employees in convertible pesos (at a one-to-one exchange with the dollar) directly to the state, which then pays Cuban workers in nonconvertible pesos.

More important, the Cuban legal system is underdeveloped and lacks a competitive edge with respect to property rights and labor practices.

Further, the integrity and efficiency of the Cuban legal system are highly suspect, and there is no certainty that international arbitration will be available when the inevitable legal disputes arise.

Finally, while the Obama administration has supplied workarounds, the single biggest uncertainty facing prospective U.S. investors is that of the U.S. embargo, which can be lifted only by the U.S. Congress.