FOREIGN INVESTMENT IN CUBA'S "UPDATING" OF ITS ECONOMIC MODEL

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Since Raúl Castro assumed Cuba's top leadership position—on a temporary basis in 2006 and permanently in 2008—Cuba has experienced numerous economic policy changes aimed at ending stagnation and putting the island's economy on a sustainable growth path. Particularly since 2010, Raúl Castro's government has implemented reforms across many different areas of the economy.[2] The economic and social policy reform blueprint being followed (euphemistically called "updating" of the socio-economic development model, as the word "reform" is associated with capitalism and is taboo on the island) was formalized in April 2011 by the Cuban Communist Party (PCC) when it adopted a comprehensive set of policy guidelines called *Lineamientos de la Política Económica y Social del Partido y la Revolución.*[3]

One of policy initiatives to spur economic growth being actively pursued by Cuba's authorities is the attraction of foreign investment. The purpose of this paper is to examine the role of foreign investment in Cuba's current reform process and assesses the likelihood that the expectations of enhanced foreign investment flows will be realized. It starts with a discussion of Cuba's imperative to boost investment and the key role assigned to foreign investment in such effort. It then examines the changing role of foreign investment in Cuba's development strategy since the 1980s and policies adopted to support such changes and a brief discussion of the efforts Cuba has made to date to attract investment. The paper closes with some tentative conclusions about the likelihood of success of current policies using as reference policies toward foreign investment followed by China and Vietnam in their reform efforts.

CUBA'S INVESTMENT NEEDS

As Pavel Vidal has pointed out,[4] one of the principal reasons for the slow-down in Cuban economic growth in recent years has been the failure of investment plans to meet anticipated targets. Vidal examined the period 2009–2013 and concluded that realized investment levels were approximately 20% below planned for each year. The underperformance of investment meant that a group of investment projects on which Cuba was banking for current and future growth—refineries and petrochemical plants, offshore oil prospecting, luxury real estate develop-

1. An earlier version was presented at the conference "Reforming Communism: Cuba in Comparative Perspective," Center for Latin American Studies, University of Pittsburgh, November 6–8, 2014.

2. For a review and assessment of reforms through the end of 2012 see Carmelo Mesa-Lago and Jorge Pérez-López, *Cuba Under Raúl Castro: Assessing the Reforms* (Boulder: Lynne Rienner Publishers, 2013). This paper borrows generously from this work.

3. Partido Comunista de Cuba, VI Congreso, *Lineamientos de la Política Económica y Social del Partido y la Revolución* (April 2011), http://www.cubadebate.cu/wp-content/uploads/2011/05/folleto-lineamientos-vi-cong.pdf

4. Pavel Vidal, *Foreign Investment Law and GDP Growth in Cuba*, Economic Trend Report, Cuba Standard (2014).

ments with golf courses, expansion of productive capacity in nickel and light manufacturing, infrastructure projects—either failed to materialize altogether or to keep pace with plans.

The investment policy guidelines approved by VI Congress of the CCP[5] recognized the flaws in the investment process and proclaimed a series of measures to systematize and stream line it.[6] For example, the guidelines highlight the priority of conducting more rigorous and in-depth feasibility studies prior to carrying out investment projects, the need to require and to enforce binding contracts among enterprises involved in investment projects, and the imperative to take into consideration the rate of return of projects. Needless to say, the fact that the guidelines call for the creation of very basic investment planning tools is indicative of the weaknesses in the investment process. The guidelines prioritized investment projects (1) in the productive sphere of the economy (e.g., manufacturing, agriculture, mining) as opposed to the non-productive sphere (e.g., education, health, social services); and (2) that would realize short-term returns. Finally, the guidelines recognized the importance of focusing not only on new investments, but also on maintaining and upgrading existing capital equipment and structures.

Beyond the failure to carry out investment plans, for at least the last decade Cuba has not allocated sufficient levels of resources to investment. In the System of National Accounts, an economy's aggregate demand for a given time period (typically a calendar year) is the familiar:

$$AD = C + I + G + (X\text{-}M) \qquad (1)$$

where AD is aggregate demand, C is consumption of goods and services by households, I is gross private domestic investment or capital formation (for example in buildings, machinery, equipment); G is government expenditures on consumption of goods and services, and (X-M) is the country's net exports. Consumption is income used up by households during the current period. Income not spent or consumed is saved; income saved is typically used to acquire machinery and equipment (capital goods or investment goods) and build productive capacity that will increase output in the current and future time periods. Thus, investment influences national income in the current period and also has a critical impact on national income in future periods.

Table 1 shows Cuban aggregate demand and its main components for the period 2008–2013, as reported by Cuba's official statistical office, Oficina Nacional de Estadísticas e Información (ONEI).[7] The data are expressed at constant prices of 1997. Given the socialist nature of Cuba's economy, gross capital formation refers almost exclusively to capital formation by the state sector, as the private business sector is minute.

As can be seen in Table 1, current consumption—by households and by the government—accounts for the bulk of aggregate demand, with gross capital formation a relatively small and declining share. Thus, gross capital formation fell from about 7.3 billion pesos in 2008 to about 5.9 billion pesos in 2009, or by over 19%, and remained basically unchanged in 2010; investment recovered in 2011 (to about 6.4 billion pesos), 2012 (to about 6.8 billion pesos) and 2013 (to about 7.4 billion pesos), returning in the latter year to the 2008 level.

Economists often use the gross capital formation to GDP ratio as an indicator of future growth of an economy. The higher this ratio, all things being the same, the stronger—economists posit—will be the future growth performance of an economy in the future. Cuba's gross capital formation to GDP ratio (in percentage terms) for the period 2008–2013 is also

5. The relevant policy guidelines are numbered 116–128.

6. For a thorough discussion of problems in the life cycle of Cuban investment projects see Lidia Villar López and Víctor Rodríguez García, "El proceso inversionista y la financiación de inversiones en Cuba: deficiencias, limitaciones y retos," *Economía y Desarrollo*, vol. 148, no. 2 (Julio-Diciembre 2012).

7. As of the time of this writing, Cuba has not published the national accounts section of the statistical yearbook for 2014.

Table 1. Cuban Aggregate Demand (million pesos at constant prices of 1997)

	2008	2009	2010	2011	2012	2013
Aggregate demand	54,209	53,598	57,291	58,722	59,983	61,957
Household consumption	23,030	23,234	25,061	25,412	26,239	27,320
Gross capital formation	7,283	5,899	5,856	6,356	6,812	7,360
Government consumption	12,475	12,691	12,975	12,824	12,742	12,839
Net exports of goods and services	11,418	11,744	13,399	14,129	14,191	14,438
Memo: gross capital formation as a % of gross domestic product	15.9	12.7	12.3	13.0	13.6	14.3

Source: Oficina Nacional de Estadísticas e Información, *Anuario Estadístico de Cuba 2013*, Table 5.3.

Table 2. Latin America and the Caribbean: Gross Fixed Capital Formation[a] (Percentages of GDP)

	2005	2006	2007	2008	2009	2010	2011	2012	2013[b]
Argentina	19.1	20.8	22.4	23.1	17.5	22.2	23.7	20.9	20.8
Bahamas	25.3	30.1	28.9	26.8	25.3	25.1	26.8	27.9	27.2
Belize	20.9	18.5	18.7	24.2	18.0	11.1	15.1	13.8	NA
Bolivia	14.3	13.6	13.7	16.7	16.8	17.3	20.3	18.4	20.0
Brazil	16.2	16.7	18.2	19.6	18.4	20.8	21.1	20.1	21.7
Chile	22.8	23.2	24.2	27.9	21.5	26.3	28.1	28.7	27.7
Colombia	20.2	22.6	23.9	25.2	23.7	24.5	27.4	27.5	27.6
Costa Rica	24.3	25.5	23.3	27.3	18.0	22.9	24.7	25.0	25.4
Cuba	10.8	12.1	11.6	13.5	10.8	10.5	10.9	11.5	NA
Dominican Republic	16.4	17.9	18.6	19.3	15.9	17.3	16.2	16.2	15.1
Ecuador	21.6	22.3	22.8	26.2	24.2	15.8	26.9	26.8	27.4
El Salvador	16.1	17.3	17.1	16.0	13.3	13.5	15.0	14.5	15.6
Guatemala	19.7	20.8	21.1	16.4	13.4	14.0	15.6	15.5	14.9
Haiti	27.4	27.4	27.3	27.9	28.0	27.7	28.7	29.7	30.2
Honduras	27.8	27.6	32.6	34.1	19.5	21.0	25.1	25.0	22.2
Mexico	22.3	23.6	23.7	24.9	22.6	22.5	22.8	23.1	22.3
Nicaragua	25.9	24.8	28.4	29.6	21.6	19.6	22.5	23.0	20.8
Panama	16.8	18.1	22.7	25.9	23.4	24.3	25.4	26.3	NA
Paraguay	16.6	16.5	17.6	19.5	18.9	20.3	21.6	20.2	20.3
Peru	17.3	21.6	25.7	30.8	24.3	30.6	31.7	33.4	35.2
Trinidad & Tobago[c]	30.2	15.8							
Uruguay	16.5	18.1	18.6	20.7	19.3	20.3	20.0	23.0	23.4
Venezuela	20.3	23.9	27.6	26.9	25.4	24.2	24.2	28.3	26.8
Latin America & the Caribbean	18.5	19.5	20.6	21.8	20.1	21.0	21.9	21.9	21.7

Source: ECLAC, *Economic Survey of Latin America and the Caribbean, 2014*, Table A.6, based on statistics reported by each country.

a. Based on official figures expressed in 2005 dollars.
b. Preliminary.
c. Reported as 0.0 for 2007–2013. Left blank in this table as gross fixed capital formation to GDP ratios of 0.0 are not plausible.

given in Table 1. This ratio, which was 15.9% in 2008 (quite a low rate, as will be discussed below), fell sharply in 2009 to 12.7% (by over 20%) and to 12.3% in 2010. It recovered somewhat in 2011–2013, with the ratio in 2013 lower than the corresponding 2008 ratio by 10%.

Table 2 reports gross fixed capital formation to GDP ratios for Latin American and Caribbean nations annually for 2005 through 2013 based on information supplied by national governments to the Economic Commission for Latin America and the Caribbean (ECLAC). Over the entire 9-year period, the regional average ranged from 18.5% in 2005 to 21.9% in 2011 and 2012. With the exception of 2005–2006, the region's average gross fixed capital formation to GDP ratio was above 20%. Three of the fastest-growing economies in Latin America—Chile, Colombia and Peru—had gross fixed capital formation to GDP ratios exceeding 25% every year since 2010, with this ratio peaking in Chile at 28.7% in 2012, Colombia at 27.6% in 2013, and Peru at 35.2% in 2013. By comparison, Cuba's gross fixed capital formation to GDP ratio, as reported by ECLAC, peaked at 13.5% in 2008 and flattened out at about 10.5% to 11.5% in 2009–2012. Cuba's gross fixed capital formation to GDP ratio was below the worst-performing Caribbean and Central American nations—Dominican Republic, El Salvador and Guatemala—and significantly below Costa Rica, Honduras, Nicaragua and Panama.

The gross capital formation to GDP ratios for Cuba reported by ECLAC in Table 2 differ (are about 2 percentage points lower) than those reported by ONEI (Table 1). Although ECLAC states that it receives information directly from the statistical offices of the reporting countries, disparities in statistics for Cuba from the two agencies are quite common. Some of the sources of the disparities might be differences in definition of gross capital formation and adjustments to Cuban data by ECLAC to make it reportable in constant dollars of 2005. Irrespective of which of the two series is used, the conclusion is the same: Cuba's gross capital formation to GDP ratio in recent years has been very low and certainly much lower than required to promote vigorous economic growth.

To expand the comparisons, Table 3 shows the gross capital formation to GDP ratio for 2000 and 2012 for the so-called BRICS countries—Brazil, Russia, India, China and South Africa—plus Vietnam. The BRICS countries are large, fast-growing emerging economies that are seeking to play a larger role in the global economy and world affairs. We have added Vietnam—not one of the BRICS—because it is a socialist economy undergoing a reform process. In 2012, only two of the BRICS had gross capital formation to GDP ratios below 20%—Brazil and South Africa, at 18% and 19%, respectively—while Russia had a ratio of 24% and India and China had ratios of 35% and 49%, respectively. Vietnam's ratio was 27%.

Table 3. Gross Capital Formation to GDP Ratio for Selected Countries (Percentages of GDP)

	2000	2012
Brazil	18	18
China	35	49
India	24	35
Russia	19	24
South Africa	16	19
Vietnam	27	27

Source: World Bank, *World Development Indicators 2014*, database.

Cuba's Minister of Foreign Trade and Foreign Investment Rodrigo Malmierca stated in early 2014 that Cuba needs to attract between $2 billion and $2.5 billion in foreign investment annually in order for the economy to grow at the 7% per annum rate planners have set as target for the next few years. "If the economy does not grow at levels around 7%," said Malmierca, "we are not going to be able to develop."[8] Likewise, Vice President of the Council of Ministers Marino Murillo told the National Assembly in March 2014, in the lead up to consideration by that body of the new foreign investment law, that Cuba required around $2.5 billion per annum in foreign investment in order to "stimulate development that would result in prosperity and sustainability of Cuba's socialist socio-economic model."[9] Murillo went on to say that "it was essential to *seduce* foreign capital in order the raise the rate of growth, which has averaged 1.8% during the last decade, nearly half of the average rate of growth of Latin America."[10]

Writing in 2006, Cuban economist Omar Everleny Pérez Villanueva observed that robust economic growth capable of supporting economic recovery in Cuba would require achieving capital accumulation rates of about 25% of GDP, roughly the ratio recorded between 1975 and 1989.[11] Former Minister of the Economy and Planning José Luis Rodríguez similarly

8. Cited by Daniel Trotta, "Cuba approves law aimed at attracting foreign investment," Reuters (29 March 2014).
9. Rafael Arzuaga, "Asamblea Nacional de Cuba aprueba nueva Ley de Inversión Extranjera," *Cubadebate* (March 29, 2014).
10. Ibid. Emphasis added.

observed that gross capital formation fell from 26.9% of GDP in 1989 to 5.2% in 1994—1994 was probably the trough of the economic crisis that ensued from the breakdown of relations with the Soviet Union and the socialist bloc—and recovered only to about 8% in 2013.[12]

Referring to the current situation, Cuban economist Juan Triana has posited that the island needs $3 billion in foreign investment annually "in order to reach an adequate productive phase."[13] Elsewhere, Triana has argued that Cuba needs to increase its gross capital formation by about 15 percentage points—from about 7–8% to 22–23%—in order to be able to generate a growth rate of about 4% per annum.[14]

FOREIGN INVESTMENT IN CUBA PRIOR TO RAÚL'S REFORMS

After nationalizing all foreign property in the early 1960s and shunning foreign investment during the 1960s and 1970s, in 1982 Cuba cracked open the door to foreign investment by allowing the formation of joint ventures between Cuban enterprises and foreign investors. In the mid-1990s, Cuba created a more robust legal framework for foreign investment supplemented by a host of bilateral investment treaties (BITs) intended to offer guarantees to foreign investors and create a more welcoming environment toward foreign investment.

The 1982 Joint Venture Law[15]

In February 1982, Cuba's Council of State approved Law-Decree No. 50, a statute that authorized the creation of joint ventures in the island between Cuban entities and foreign interests for the specific purpose of engaging in profit-making activities promoting Cuba's economic development.[16] Some of the features and limitations of Law-Decree No. 50 were:

- The Cuban state "guaranteed" foreign partners the unrestricted ability to remit abroad, in hard currency, profits or dividends of joint ventures or proceeds from liquidation of a joint venture.
- The statute also offered incentives to joint ventures in the form of duty exemptions for imports of raw materials and machinery and equipment, and reductions in taxes and levies.
- Foreign partners were limited to 49% ownership of the value of assets of the joint venture.
- Joint ventures established pursuant to Law-Decree No. 50 were required to employ only Cuban citizens, except for managerial and some technical positions both partners agreed could only be filled by foreign citizens.
- Moreover, joint ventures were not permitted to employ workers directly; an entity of the Cuban government hired workers for joint ventures and the entity, in turn, contracted with joint ventures to supply manpower for a monthly fee, in hard currency, that covered workers' wages and benefits. Joint venture workers were paid by the enti-

11. Omar Everleny Pérez Villanueva, "La situación actual de la economía cubana y sus retos," in Pérez Villanueva, compiler, *Reflexiones sobre economía cubana* (La Habana: Editorial de Ciencias Sociales, 2006), p. 15. See also José Antonio Alonso and Juan Triana Cordoví, "Nuevas bases para el crecimiento," in José Antonio Alonso and Pavel Vidal, editors, *¿Quo Vadis, Cuba? La incierta senda de las reformas* (Madrid: Libros de la Catarata, 2013), p. 53.

12. José Luis Rodríguez, "Cuba, la necesidad de nuevas inversiones y el capital extranjero," *Cuba Contemporanea* (March 18, 2014), http://cubacontemporanea.com/noticias/cuba-la-necesidad-de-nuevas-inversiones-y-el-capital-extranjero.

13. Cited by Carlos Batista, "Cuba se abre a la inversión extranjera con megapuerto de Mariel," *El Nuevo Herald* (January 25, 2014). Roughly speaking, an increase in investment of $3 billion would have brought Cuba's gross capital formation ratio in 2012 to about 20% of GDP.

14. "Inversión extranjera y desarrollo social," Catalejo, *El Blog de Temas* (March 26, 2014). Panel discussion moderated by Rafael Hernández with the participation of several experts, including Elvira Castro, Richard Feinberg, Roberto Pérez, Saira Pons, Fabio Grobart, and Juan Triana.

15. This section draws from Jorge F. Pérez-López, "Islands of Capitalism in an Ocean of Socialism: Joint Ventures in Cuba's Development Strategy," in Pérez-López, editor, *Cuba at a Crossroads: Politics and Economics After the Fourth Party Congress* (Gainesville: University Press of Florida, 1994).

16. "Decreto-Ley No. 50—Sobre asociaciones económicas entre entidades cubanas y extranjeras," *Gaceta Oficial* (February 15, 1982).

ty in local currency in accordance with national wage scales established by the appropriate government agency.

The requirement that joint ventures employed and paid workers through a government entity created for this purpose, and the further requirement that joint ventures paid the entity for the workers in hard currency (U.S. dollars), while the workers drew their salary in Cuban pesos, created significant distortions, principal among them that it resulted in the Cuban state confiscating over 95% of workers' pay.[17] This confiscatory scheme, first incorporated in the 1982 joint venture law, has remained in place with respect to subsequent foreign investment legislation, including the 2014 Foreign Investment Law (although as is discussed below, it has been relaxed somewhat with respect to workers in the Mariel Special Economic Zone).

In July 1982, shortly after the enactment of Law-Decree No. 50, Cuba's National Assembly of People's Power passed three amendments to the Constitution recognizing private property aimed at providing assurances to foreign investors that they could invest safely in the island: (1) addition of a new article stating that the State recognized the ownership of property by joint ventures and other corporations established pursuant to domestic law; (2) clarification that exclusive socialist ownership of the means of production was limited to "fundamental" means of production; and (3) creation of a Constitutional basis for the transfer of state property to the private sector.

The reaction of foreign investors to the February 1982 joint venture law was initially lukewarm. Beginning around 1987, however, investor interest picked up. At least a dozen joint ventures were created between Cuban state enterprise Cubanacán and hospitality companies from Spain, Finland, Jamaica and Switzerland, among others, mostly aimed at the construction of tourism hotels and other facilities. In 1994, Cuba's Compañía General del Níquel and Canada's Sherritt International created a joint venture to exploit nickel ore deposits at Moa, in Western Cuba. Cuba does not publish statistics on foreign investment flows (or stocks) and therefore it is not possible to assess the success of the joint venture law in attracting investment, but several Cuban officials estimated that incoming foreign investment ranged from \$1.2 to \$1.5 million through 1994, although these figures might be more reflective of intended foreign investment rather than of realized investment.[18]

The 1995 Foreign Investment Law

Although symbolically important as opening to foreign investment, the 1982 joint venture law had very limited success in generating investment flows. Further changes to the legal framework for foreign investment were instituted in 1995 with the adoption by Cuba's National Assembly of a comprehensive foreign investment law, Law No. 77.[19] It bears recalling that the foreign investment law was adopted as part of a suite of economic emergency measures implemented by Cuba in the midst of a very severe economic crisis, the "special period in time of peace," triggered by the dissolution of the socialist camp and the loss of preferential trade and financial arrangements with these countries.

Pursuant to Law No. 77, as modified by Agreement 5290/2004 of the Council of Ministers of November 11, 2004, foreign investments in the island could take three forms: (1) joint ventures (*empresas mixtas*), formed between one or more Cuban entities and one or more foreign partners; (2) international economic association contracts (*contratos de asociación económica internacional*), concluded between Cuban entities and foreign partners, typically for a specified purpose, principally (a) cooperated production contracts

17. With the exchange rate between the Cuban peso (CUP)/the convertible peso (CUC)/and the U.S. dollar being approximately 25CUP=1CUC=US\$1, for any given CUC or dollar salary, the Cuban worker receives1/25 or about 4% of the amount. Thus the Cuban state retains (confiscates) about 95% of the salary.

18. For a review of these figures and an assessment of their interpretation see Jorge F. Pérez-López, "Foreign Investment in Socialist Cuba: Significance and Prospects," *Studies in Comparative International Development*, Winter 1996/97.

19. "Ley No. 77—Ley de las inversiones extranjeras," *Gaceta Oficial* (6 September 1995).

(*contratos de producción cooperada*), for the production either of goods or of services; and (b) management contracts (*contratos de administración productiva o de servicios*), whereby a domestic entity contracts with a foreign company to manage one or more production lines or an entire facility in Cuba; and (3) wholly foreign-owned companies (*empresas de capital totalmente extranjero*).

In addition to codifying *de jure* and *de facto* changes that had been made to the 1982 joint venture law, the foreign investment law broke new ground in certain areas. The 1995 law:

- Allowed for the possibility of investments that are 100%-owned by foreigners.
- Provided legal protections against expropriation and established rules for compensation in instances of expropriation for reasons of public utility or social interest.
- Simplified the administrative approval process for foreign investments.
- Expanded the scope of economic sectors open to foreign investment, exempting health and education services and national defense, but now including some forms of real estate.
- Created incentives for investments in duty-free zones and industrial parks to be created by decision of the Executive Committee of the Council of Ministers.
- Gave joint ventures or wholly foreign-owned enterprises the right, consistent with domestic legislation, to export and import directly to meet their needs.

The requirement that Cuban government entities act as the employer of all employees of foreign-invested companies promulgated for joint ventures by the 1982 joint venture law conveyed to foreign-invested companies pursuant to Law No. 77.

Cuban Bilateral Investment Treaties

Bilateral Investment Treaties (BITs) are instruments aimed specifically at the promotion and protection of private investment of nationals of one country in another. Historically, they are the successors to the Friendship, Commerce and Navigation (FCN) agreements that were negotiated as early as the 18th century to formalize diplomatic and commercial relations between countries. The first BIT was negotiated between Germany and Pakistan in 1959 and since then, BITs have proliferated. According to the database maintained by the United Nations Conference on Trade and Development (UNCTAD), over 2,900 BITs had been negotiated as of mid-2015, of which nearly 2,300 were in force.[20]

Cuba signed its first BIT, with Italy, in May 1993 and a second BIT, with the Russian Federation, in July 1993. Particularly in the second half of the 1990s, Cuba entered into a host of BITs with developing and developed countries (Table 4). According to the UNCTAD BIT data base, as of mid-October 2014, Cuba had entered into 59 BITs, of which 40 were in force.[21]

A study of Cuba's BITs conducted in the late 1990s based on the texts of six agreements that were available publicly at that time released by Cuba's partner countries, concluded that the Cuban BITs were quite similar to each other and to model BITs developed by international organizations with respect to structure and substantive provisions, addressing basic areas related to investment promotion and protection such as:

- national treatment and most-favored-nation treatment for foreign investors;
- guarantees of free transfers, in convertible currency, of investments and their returns;
- limitation that expropriation of investment of the parties would be exclusively for reasons of

20. The UNCTAD BIT database is at investmentpolicyhub.unctad.org/IIA.

21. One of the BITs reported in Table 4, the BIT with Ecuador, was reportedly terminated in 1998 and therefore the number of agreements is 59. In mid-September 2014, the Cuban press carried an article reporting that Cuba had in place 61 BITs. See Susana Gómes Bugallo, "Destacan firma por Cuba de 61 tratados para la protección de la inversión extranjera," *Juventud Rebelde* (September 19, 2014). More recently, a document dated mid-2015 released by the Ministry of Foreign Trade and Foreign Investment titled *Cartera de Oportunidades de Inversión Extranjera*, states that Cuba has entered into 63 BITs, of with 39 are in force.

Table 4. Cuban Bilateral Investment Treaties (BITs)

Year	Month	Country	Year	Month	Country
1993	May	Italy	1998	April	Belize
	July	Russian Federation		May	Belgium-Luxembourg[a]
1994	May	Spain		July	Portugal
	July	Colombia[a]		December	Bulgaria
1995	January	United Kingdom	1999	January	Suriname[a]
	April	China		January	Panama
	May	Ukraine		March	Mongolia
	May	Bolivia		May	Trinidad and Tobago
	October	Vietnam		August	Guatemala
	October	Lebanon		September	Algeria[a]
	November	Argentina		October	Hungary
	December	South Africa		October	Guyana[a]
1996	January	Chile		November	The Netherlands
	January	Romania		November	Ghana[a]
	February	Barbados		November	Dominican Republic[a]
	May	Germany	2000	January	Zambia[a]
	June	Switzerland		May	Austria
	June	Greece		June	Belarus
	December	Venezuela		October	Peru
1997	March	Slovakia		November	Paraguay
	April	France	2001	February	Croatia[a]
	April	Laos		February	Denmark[a]
	May	Ecuador[b]		May	Mexico
	May	Cape Verde		August	Honduras[a]
	June	Jamaica[a]		September	Cambodia[a]
	June	Brazil[a]		October	Mozambique
	June	Namibia[a]		November	Qatar[a]
	September	Indonesia		December	Finland[a]
	September	Malaysia	2002	January	San Marino[a]
	December	Turkey		January	Uganda[a]

Source: UNCTAD BIT Database.

a. Not in force.
b. According to the UNCTAD BIT data base, a bit with Ecuador was signed in 1995, entered into force in 1997, and was terminated in 1998.

public utility, in accord with domestic law, on a non-discriminatory basis, and pursuant to compensation;

- preference for settlement of state-to-state disputes through diplomacy and, where this is not possible, through arbitration following a mechanism set out in the BITs;
- preference for settlement of investor-state disputes through consultations, with the possibility of either party referring the dispute for resolution to the United Nations Commission on International Trade Law (UNCITRAL) or the International Chamber of Commerce (ICC).[22]

Cuba has signed BITs with most of its significant trade/investment partners—China, Venezuela, United Kingdom, Spain, France, Netherlands, Russian Federation—but has not done so with Canada. Moreover, the BIT with Brazil, a potential important future investor, is not in force as of the time of this writing even though it was signed in June 1997.

Foreign Investment Flows and Stocks

As mentioned above, official information on Cuban foreign investment flows and stocks are very scarce. For 1993–2001 only, Cuba published partial official statistics on the balance of payments. These data

22. Jorge F. Pérez-López and Matías F. Travieso-Díaz, "The Contribution of BITs to Cuba's Foreign Investment Program," *Cuba in Transition—Volume 10* (Washington: Association for the Study of the Cuban Economy, 2000). The six BITs examined were those with Italy, Spain, Colombia, Chile, the United Kingdom, and Portugal.

show that annual foreign investment flows fluctuated significantly, from $563 million in 1994 to under $5 million in 1995. Over the time span 1993–2001, cumulative foreign investment was $2.018 billion, or an average flow of $224 million per annum (Table 5). Focusing on 1996–2001, a time period after the passage of the 1995 foreign investment law, the average incoming foreign investment was $233 million per annum.

The economic recovery that began in the second half of the 1990s, coupled with improved economic relations with Venezuela and China, emboldened the Cuban regime to backtrack on the emergency reforms implemented in 1993–1996, including the opening to FDI. Through a combination of more selective criteria for investors, bureaucratic delays in acting on applications, heavier regulation, and failure to deliver on anticipated further economic liberalization, the Cuban government slowed down private foreign investment flows to a trickle. A Western journalist described the environment for private foreign investment in Cuba in mid-2005 as follows: "Western companies welcomed in Cuba as heroes a decade ago for bucking the U.S. embargo are packing and leaving as the Communist government rolls back market reforms and squeezes intermediaries. Embittered by the change in attitude, small and medium-sized businesses complained … that they no longer feel welcome and worried they would not recover money owed them by Cuban partners. President Fidel Castro's government, bolstered by growing economic ties to Venezuela and China, is cutting back the autonomy granted to state-run companies to do business in the 1990s and restoring central control over trade and finance."[23]

Thus, foreign investment since 2004 has been dominated by projects with Venezuela and to a lesser extent China; investments from other countries have been discrete and focused on natural resources or oligopolistic sectors.[24] In a press interview in 2007, the then-Minister of Foreign Investment reported that investment (presumably investment flows) reached a "record high" level of $981 million in 2006, 22% higher than the year before (meaning that investment in 2005 was of the order of $765 million).[25] No other information on the magnitude of investment flows is available.

Table 5. Foreign Investment Flows, 1993–2001 (million dollars)

Year	Amount of Investment	Cumulative (Stock)
1993	54.0	54.0
1994	563.4	617.4
1995	4.7	622.1
1996	82.1	704.2
1997	442.0	1146.2
1998	206.6	1352.8
1999	178.2	1531.0
2000	448.1	1979.1
2001	38.9	2018.0
Average 1993–2001	224.2	
Average 1996–2001	232.7	

Source: Oficina Nacional de Estadísticas, *Anuario Estadístico de Cuba 2002*, and earlier issues.

Former Minister of the Economy and Planning José Luis Rodríguez has stated that foreign investment *commitments* amounted to $5.2 billion between 1995 and 2002, as the creation of a multitude of foreign-invested enterprises was announced; however, the number of foreign-invested enterprises subsequently declined probably as a result of expiration of their term of operation, economic results that fell short of expectations, or failure on the part of the foreign partner to meet obligations. As of 2010, Rodríguez stated, committed foreign investment had declined to $4.2 billion.[26] Meanwhile, economist Pérez Villanueva has estimated that cumulative committed foreign investment through 2012 amounted to $5 billion.[27]

23. Marc Frank, "Western businessmen bitter as Cuba closes doors," Reuters (May 31, 2005).

24. See Jorge F. Pérez-López, "The Rise and Fall of Private Foreign Investment in Cuba," *Cuban Affairs*, 3:1 (2008). Investments from market-oriented countries during this period included a cement factory with Spanish capital, the expansion of a nickel production plant with Canadian capital, and the announced modernization of a container port facility with capital from the United Arab Emirates (this latter project did not go forward).

25. "Cuba: inversión reorganizada y con récord de ingresos," AP, La Habana (June 27, 2007).

FOREIGN INVESTMENT AND RAÚL'S REFORMS: OLD WINE IN NEW BOTTLES

In one of his early pronouncements on policies to revitalize the Cuban economy delivered on July 27, 2007, then-interim President Raúl Castro spoke about the need to reconsider the role of foreign investment in the Cuban economy. He stated:

> … we are currently studying the possibility of securing more foreign investment of the kind that can provide us with capital, technology or markets, to avail ourselves of its contribution to the country's development, careful not to repeat the mistakes of the past, the result of naivety or our ignorance about those partnerships, of using the positive experiences we've had to work with serious entrepreneurs, upon well-defined legal bases which preserve the role of the State and the predominance of socialist property.[28]

Raul's expressed interest in promoting foreign investment was not accompanied by tangible actions. In fact, actions by the Cuban government during the financial crunch of 2008–2009 that delayed or stopped payments to foreign companies trading with Cuba and froze the accounts of joint ventures had a negative impact on the investment climate. No doubt also adversely affecting the investment climate was the Cuban government probe in 2010 of the foreign-invested enterprise Alimentos Rio Zaza, a joint venture between the Cuban government and Chilean businessman Max Marambio. The case ultimately led to Marambio being sentenced *in absentia* by a Cuban court to a prison term of 20 years and his pursuing—and winning—an expropriation claim against the Cuban government before the International Chamber of Commerce's Court of Arbitration.[29] More recently, the Cuban government pursued corruption cases against executives of two other foreign-invested firms, British-invested Coral Capital Group[30] and Canadian-invested trading company Tokmakjian Group.[31]

The Guidelines and Foreign Investment

The chapter on foreign investment of the *Lineamientos* consists of 12 guidelines.[32] There is little in the guidelines that is new or innovative: they continue to put forth the Cuban government's view that the role of foreign investment is to complement domestic investment and that the aim of foreign investment is fulfill the economic needs of the country's short, medium and long-term economic and social development plans.

Several of the guidelines called for orthodox, common sense actions, that have been part of Cuba's approach to foreign investment since the 1980s:

- diversifying the country of origin of investors;

26. José Luis Rodríguez, "Cuba: una revaloración indispensable de la inversión extranjera directa (I)," *Cuba Contemporánea* (February 3, 2014), http://www.cubacontemporanea.com/noticias/cuba-una-revaloracion-indispensable-de-la-inversion-extranjera-directa-i

27. Omar Everleny Pérez Villanueva, "La inversión extranjera directa en Cuba: necesidad de su relanzamiento," Centro de Estudios de la Economía Cubana (2014).

28. http://www.granma.cubaweb.cu/2007/07/27/nacional.artic01.html

29. "Max Marambio gana arbitraje a Cuba en conflicto por la empresa Río Zaza," *Cubaencuentro* (July 28. 2012). http://www.cubaencuentro.com/cuba/noticias/max-marambio-gana-arbitraje-a-cuba-en-conflicto-por-la-empresa-rio-zaza-278823. The ICC Arbitration Court's ruled in favor of Marambio's Ingelco and against Coralsa, S.A., an enterprise controlled by Cuba's food processing industry, awarding Ingelco $17.5 million in damages. In April 2015, however, the Paris Appeals Court accepted Coralsa's argument the Arbitration Court lacked jurisdiction and nullified the earlier ruling and the damages against Coralsa. See "Exonerada Corporación Alimentaria cubana de la demanda arbitral interpuesta por la empresa chilena Ingelco," *Cubadebate* (28 April 2015); Nora Gámez, "Empresario chileno pierde demanda contra corporación de Cuba," *El Nuevo Herald* (28 April 2015).

30. Coral Capital Group's top officials Steven Purvis and Amado Fakhre were arrested in 2012 on unspecified charges and tried secretly in early 2013; they were released and allowed to leave the island in mid-2013. See Colin Freeman, "Cuba frees two British businessmen from jail after secret 'corruption' trial," *The Telegraph* (May 21, 2013).

31. Tokmakjian Group's CEO Cy Tokmakjian, arrested in September 2011, was sentenced by a Cuban court to 15 years in jail for bribery in September 2014; he was released in mid-Febuary 2015 and allowed to return to Canada. See Daniel Trotta, "Cuba frees Canadian businessman Tokmakjian after three years in jail, Reuters (February 21, 2015).

32. The relevant policy guidelines are numbered 96–107.

- increasing efforts to identify and advertise investment opportunities for foreign investors in order to facilitate their entry into the Cuban economy;
- prioritizing investments that promote import substitution and attracting high-technology projects that promote local development and create jobs;
- attracting investment into industries that produce non-exportable goods demanded by other sectors of the Cuban economy or promote import substitution; and
- promoting value-added investment projects that increase linkages—through the purchase of goods and services—with domestic enterprises.

The guidelines also called for streamlining the foreign investment approval process, while setting stringent requirements for new investments to satisfy objectives such as access to advanced technologies, modern management techniques, diversification of export markets, import substitution, sufficiency of capital investment, and employment generation.

Finally, consistent with the emphasis on increasing economic discipline, the guidelines called for more concreteness in commitments made by foreign investors and more "rigorous" enforcement of such commitments as well as of regulations. The guidelines also called for establishing time limits for an approved investment to commence operations and for a procedure to terminate projects that fail to meet such time limits.

ZED Mariel[33]

One of the guidelines called for the creation of special development zones (*zonas especiales de desarrollo*, ZED) "to increase exports, import substitution, high technology projects and local development and to contribute new forms of employment." The first such zone, the Zona Especial de Desarrollo Mariel (ZED Mariel or ZEDM), was created in the port of Mariel by Law-Decree No. 313 of September 2013. Glossed over in the barrage of Cuban government promotional materials and statements playing up the ZEDM's investment opportunities were previous unsuccessful efforts to establish export processing zones and industrial parks in the island in the late 1990s.[34]

The ZEDM offers an array of incentives to investors:[35]

- 50-year contracts for investments, compared with the then-current 25 years for foreign investments, with the possibility of extension;
- 10-year exemption (holiday) on taxes on profits, with the possibility of extension based on national interest determination; profit tax capped at 12% for the life of the investment;
- exemption from employment (labor force) tax; however, subject to social security contribution capped at 14% of wages;
- exemption from sales or services taxes for local transactions for the first year; subsequently capped at 1%; and
- exemption from territorial contribution taxes, although subject to 0.5% tax on income earmarked for a zone maintenance and development (infrastructure) fund.

Law-Decree No. 313 also created a special labor regime for the ZEDM. As in the case of other forms of foreign investments in Cuba, enterprises established in the ZEDM cannot employ Cuban workers directly and instead have to rely on a state employment entity as intermediary. The operational aspects of the labor regime for the ZEDM differ from those set out

33. This section draws from Jorge F. Pérez-López, "Investment Incentives of the ZED Mariel: Will Foreign Investors Take the Bait?" *Cuba in Transition—Volume 24* (Washington: Association for the Study of the Cuban Economy, 2014).

34. The export processing zones that were later phased out were established in the vicinity of La Habana (Wajay and Berroa) and at the port of Mariel.

35. The incentives below are specific to investments in the ZEDM and are over and above those applicable to all other investments pursuant to the foreign investment law. See "Aprueban un reglamento para las empresas que operarán en el puerto del Mariel," *Diario de Cuba* (2 April 2013); Marc Frank, "Cuba bids to lure foreign investment with new port and trade zone," Reuters (23 September 2013); and Arch Ritter, "The Tax Regimen for the Mariel Export Processing Zone: More Tax Discrimination of Micro-enterprises and Citizens?" (26 September 2013), The Cuban Economy/La Economia Cubana blog, http://thecubaneconomy.com/articles/2013/09/3802/

in the joint venture law and the 1995 foreign investment law:

- The investor and the designated Cuban entity are required to enter into a labor supply agreement that specifies, among other things, the number and skill set of workers to be employed, the pay workers will earn, and length of time of employment.
- The pay that the Cuban entity receives for the services of workers is agreed between the designated Cuban entity and the investor; the amount is established in CUP or U.S. dollars. However, the designated Cuban entity pays local employees in Cuban pesos.
- Special rules apply for the separation of workers, either by decision of the operator or by the worker's choice. The investor may "return" (*devolver*) a Cuban worker to the designated Cuban entity if the investor deems that the worker's performance does not meet job "exigencies."

In the first half of May 2014, the Cuban government defined certain of the key parameters to establish the compensation of ZEDM workers:[36]

- the Ministry of Finance and Prices set the personal tax rate for workers in the ZEDM at 5%;[37]
- the ZEDM decided that workers would receive 80% of the payment negotiated between the operator and the Cuban hiring entity;[38] and
- the Ministry of Labor and Social Security set the coefficient for adjusting the salary of Cuban workers at "10," meaning that the rate of exchange between the Cuban peso (CUP) and the Convertible Cuban Peso (CUC) to determine the amount paid to workers would be 10:1.[39]

The Cuban press has given the following example of how ZEDM workers' wages are calculated.[40] Assume that the investor and the Cuban hiring entity have agreed that a certain job would be remunerated at the rate of $1,000 or 1000 CUC per month. Applying the 80%-20% split between the worker and the hiring entity, the worker would receive $800 or 800 CUC and the hiring entity $200 or 200 CUC. With a coefficient (exchange rate) of 10, this would mean that the Cuban worker would realize 8,000 CUC per month; the personal tax on an income of 8,000 CUP (5%) would be 400 CUP, for a net salary of 7,600 CUP. That is, out of the amount paid by the investor ($1000 or 1000 CUC, equivalent to 24,000 CUP at the current CUP/CUC exchange rate) the worker would receive 7,600 CUP or about 32%. Compared to the previous arrangements, ZEDM workers will realize a considerably higher percentage of the amount paid for their services by foreign companies, but the degree of state confiscation of worker salary is still very high at about 68%.[41]

The 2014 Foreign Investment Law

Adoption by the Cuban National Assembly of a new foreign investment law in late March 2014[42] was a much awaited "non-event." Since Raúl Castro's statement in mid-2007 (above) announcing that there would be a role for foreign investment in the Cuban economy going forward, there was a high level of expectation—and speculation—about when Raúl's views would be codified into law and what exactly would be the contents of a new statute. Many

36. "Queda definido impuesto para personal de Zona Especial Mariel," *Cuba Debate* (May 8, 2014).

37. Ministerio de Finanzas y Precios, Resolución No. 139/2014, *Gaceta Oficial* (May 7, 2014).

38. "Régimen de contratación en Zona Especial de Mariel beneficia a trabajadores," *Cuba Debate* (14 April 2014).

39. "Régimen de contratación en Zona Especial de Mariel"; "Cuba anuncia reglas salariales para empleados de la Zona Franca del Mariel," *El Nuevo Herald* (10 May 2014); and Ministerio de Trabajo y Seguridad Social, Resolución No. 14/2014, *Gaceta Oficial* (7 May 2014).

40. René Tamayo, "Definen impuesto sobre ingresos personales para trabajadores contratados," *Juventud Rebelde* (7 May 2014).

41. Pérez posits that this is probably one the highest personal income tax rates in the world. See Lorenzo L. Pérez, "Cuba: Assessment of the New Tax Law of 2012," *Cuba in Transition—Volume 24* (Washington: Association for the Study of the Cuban Economy, 2014), p. 395.

42. "Ley de la Inversión Extranjera, Ley No. 118/2014," *Gaceta Oficial* (April 16, 2014).

observers were confident that Cuba would reduce red tape regarding investment projects and liberalize their establishment, do away with restrictions on investment in certain sectors of the economy, end the discriminatory treatment of Cuban workers implicit in the labor rules of Law No. 77, and explicitly allow Cuban-Americans (or Cubans living in any other third country) to invest in the island.

The resulting statute, Law No. 118, was a disappointment to those who were expecting a bold move forward by the Cuban government. As an astute observer of Cuba's legal framework titled an article on the topic in his blog, the foreign investment law is "'new' indeed, but barely."[43] He goes on to say:

> If you put a copy of Law 77/95, the old foreign investment law, which this new one supersedes, alongside Law 118/2014, you'll probably think they are twins. The language is almost the same in a huge percentage of the provisions contained in both laws, which are essentially, well, the same. And there is a very good reason for these similarities: the 'old' law was not a bad law at all, in terms of the protection it afforded … Of course, that protection can only be effective to the extent the attitude of those enforcing the law leads them to do so enthusiastically and fairly, without arbitrariness of any kind. Whether that will be the case with the implementation of this new foreign investment law in Cuba, only time will tell. But I do sense that there is a generalized conviction among decision makers in Cuba that they do NEED the tool foreign investment could be in terms of helping the Cuban economy grow and develop, and they need it NOW, and I believe that conviction should prod their enthusiasm.[44]

Law No. 118 goes beyond its predecessor law in some respects, for example, by offering more generous incentives to investors (e.g., exemption from taxes on dividends; no income tax for the first eight years of operation and 15% tax rate thereafter; permitting foreign investment in all areas of the economy except for health, education, and the armed forces; and allowing investments in real estate). However, Law No. 118 continues to require approval of investment projects on a case-by-case basis; prohibits foreign investors from association with Cuban entities unless they are approved by the Cuban government; and maintains the requirement that all employees of foreign-invested companies be employed by a Cuban hiring entity.

The Hunt for Foreign Investment

The Cuban government has launched an aggressive campaign to attract foreign investors, extolling the benefits embodied in the legislation creating the ZED Mariel and the new foreign investment law. Cuban officials have traveled to Latin America, Europe and Asia to promote the ZED Mariel and have hosted numerous delegations of businessmen interested in exploring investment opportunities. The webpage of the ZED Mariel, www.zedmariel.com, lists dozens of missions abroad and visits for foreign delegations but does not list a single investment that has materialized.

Ana Teresa Igarza, Director General of the ZED Mariel, told the press in early April 2015 that some 300 investment applications, from more than 30 countries, were under consideration.[45] In late May she stated that 6 investments, 5 of them 100% foreign owned, had been approved, but did not specify the names and country of origin of investors, amount of investment, or any other characteristic of the investments.[46] Elsewhere she stated that the 5 foreign investments are in the areas of food processing, light industry, electronics, chemicals, and transportation. Through the end of July 2015, information had been published—in the press of the investor country and reproduced in Cuban publications—on three investments:

- Hotelsa Foodservice, a Spanish company already active in the Cuban market supplying a range of

43. José M. Pallí, "Cuba's Foreign Investment Law: 'new' indeed, but barely," Cubargie Joe blog, March 18, 2014, http://cubargie-joe.com/cubas-foreign-investment-law-new-indeed-but-barely/

44. Ibid.

45. "El Gobierno recibe mas de 300 solicitudes de inversión para el Mariel," *Diario de Cuba* (2 April 2015).

46. "Cuba welcomes foreign investment in Port of Mariel," *Port Finance* (26 May 2015).

products for the tourism industry, was the first company to be approved to invest in ZED Mariel. The investment, 100% foreign-invested, will provide a range of processed foods and beverages and will also produce, assemble, and install food vending machines.[47]

- Richmeat and DEVOX General Paint, both from Mexico. Richmeat will establish a meat processing and packing plant, while DEVOX will produce a range of household and anticorrosive paints for industrial use. Both plants are 100% foreign owned.[48]

Press reports also indicate that there are two additional 100% foreign-owned investments from Belgium, but the investors have requested that their names be kept confidential.[49]

In early November 2014, at the 2014 Havana International Fair (Fihav 2014), Cuba's Minister of Foreign Trade and Foreign Investment Malmierca made public a lengthy document titled *Cartera de Oportunidades de Inversión Extranjera*, which contained a wish list of projects for which the Cuban government seeks foreign participation.[50] In all, 246 investment projects were listed, for a total investment value of $8.7 billion, distributed across economic sectors and between the ZED Mariel and the rest of the country as shown in Table 6. Only about 10% of the investment opportunities (25 out of 246) are specific to the ZED Mariel, with 90% located in the rest of the island and therefore subject to the provisions of the foreign investment law. Other than the investment activity mentioned above in the context of ZED Mariel, as of the time of this writing, there is no information to indicate that investors are settling in the island in response to the new legal regimes created.

Table 6. Investment Opportunities Proposed by the Cuban Government

	Location		
Sector	**ZED Mariel**	**Rest of Country**	**Total**
Processed foods	5	32	37
Sugar industry		4	4
Wholesale commerce		1	1
Biotechnology/ medicines	13		13
Construction		6	6
Renewable energy	1	13	14
Industry	6	10	16
Mining		10	10
Oil		86	86
Transportation		3	3
Tourism		56	56
Total	25	221	246

Source: Ministerio del Comercio Exterior y la Inversión Extranjera, *Cuba: Cartera de Oportunidades de Inversión Extranjera* (2014).

ECONOMIC REFORM AND FOREIGN INVESTMENT: CHINA, VIETNAM, CUBA

In analyzing the role of foreign investment in Cuba's reforms, a logical point of reference is the role such

47. "Hotelsa Alimentación construirá moderna planta en el Mariel," *Cuba Debate* (21 April 2015).

48. "Cuba autoriza inversión en el Mariel a segunda empresa Mexicana," *Cuba Debate* (18 June 2015).

49. Vivian Núñez, "Mariel, laboratorio capitalista en Cuba," *El Financiero* (Mexico) (July 17, 2015).

50. "Presentó Cuba su cartera de negocios para la inversión extranjera," *Cuba Debate* (3 November 2014). The portfolio of investment opportunities had been approved by the Council of Ministers at a meeting presided by Raúl Castro held at the end of October. See "Inversión extranjera, envejecimiento poblacional y otros temas en reunión del Consejo de Ministros," *Cuba Debate* (26 October 2014).

investment played in the reform processes of two other avowed socialist countries at the time they launched their reforms, namely China and Vietnam.[51] China's economic reforms, called "Socialism with Chinese Characteristics," began in 1978 under the leadership of Deng Xiaoping.[52] Foremost among the reforms was the de-collectivization of agriculture through the so-called "household responsibility system," which divided communal agricultural land and allowed private farmers to work the land and sell its output freely after paying a share to the state. China also created Town and Village Enterprises (TVE), which operated very much like private businesses, outside of the plan. Finally, China opened its economy to foreign trade and it did the same in 1979 with respect to foreign investment.

Initially, China's policy vis-a-vis foreign investment was limited to a readiness to welcome Sino-foreign joint ventures, with an emphasis on factories established by overseas Chinese and foreign citizens of Chinese origin.[53] A very significant development in the implementation of the opening to foreign investment was the decision by the Chinese government in 1980 to establish four Special Economic Zones (SEZ) in Shezhen, Zhuhai, Shantou and Xiamen, in Guangdong and Fujian provinces.[54] The objective of the SEZs was to: (1) attract foreign capital; (2) introduce advanced technology and management expertise; and (3) pilot market-oriented reforms in preparation for implementing the reforms and opening up the program nationwide. The four geographic areas were chosen as laboratories for China's foreign economic opening because of their proximity to Hong Kong, Macao, Taiwan and Southeast Asia and their

51. There is an extensive literature on the Chinese and Vietnamese reform models and the possible application of such experiences to the Cuban case. Selected contributions include Pérez-López, "Coveting Beijing, but Following Moscow: Cuba's Reforms in Comparative Perspective," *Cuba in Transition—Volume 5* (Washington: Association for the Study of the Cuban Economy, 1995); John Weeks, "A Tale of Two Transitions: Cuba and Vietnam," in Claes Brundenius and John Weeks, editors, *Globalization and Third World Socialism* (Houndmills, England: Palgrave, 2001); David O. Dapice, "Vietnam and Cuba: Ying and Yang," in Shahid Javed Burki and Daniel P. Erikson, editors, *Transforming Socialist Economies: Lessons for Cuba and Beyond* (Houndsmill, England: Palgrave, 2005); Konako Yamaoka, *The Feasibility of Cuban Market Economy: A Comparison with Vietnam*, IDE Discussion Paper 189 (Tokyo: Institute of Development Economies, 2009); Julio A. Díaz Vázquez, "¿Es aplicable el modelo chino o vietnamita en Cuba?," *Temas* (March 2011); Omar Everleny Pérez Villanueva, "Foreign Direct Investment in China, Vietnam and Cuba: Pertinent Experiences for Cuba," in Jorge I. Domíngez, et al., editors, *Cuban Economic and Social Development* (Cambridge, Massachusetts: David Rockefeller Center for International Studies, Harvard University, 2012); Pavel Vidal Alejandro, *Monetary and Exchange Rate Reform in Cuba: Lessons from Vietnam*, IDE Discussion Paper 473 (Tokyo: Institute of Development Economies, February 2012); Díaz Vázquez, "Actualizar el modelo económico en Cuba: ¿patrón chino o vietnamita?," *Economía y Desarrollo*, 149 (January-June 2013); Pérez Villanueva, "Foreign Direct Investment in Vietnam and Cuba," in Claes Brundenius and Ricardo Torres Pérez, editors, *No More Free Lunch* (Switzerland: Springer International Publishers, 2013); Karina Gálvez Chiú, "La economía cubana: ¿Hacia el modelo chino?," *Convivencia*, September-October 2014.

52. This discussion draws from "China Economic Reform Timeline," Center for Strategic and International Studies, Washington, D.C., http://csis.org/blog/china-economic-reform-timeline; and Gregory C. Chow, *China's Economic Transformation*, 2nd Edition (Malden, Massachusetts: Blackwell Publishing, 2007).

53. Organization for Economic Cooperation and Development (OECD), *OECD Investment Policy Review: China 2003: Progress and Reform Challenges* (Paris: OECD, 2003), p. 30.

54. *Major Investment Areas in China*, a report compiled by the Department of Special Zones of the State Council Office for Economic Restructuring, P.R.C. (Beijing: China Intercontinental Press, 1999), p. 6.

anticipated ability to serve as a channel to attract overseas Chinese capital into China.

Based on the success of the original SEZs, in 1984 China opened 14 coastal port cities to foreign investment and established economic and technical development zones (ETDZ) to draw foreign industrial investment. The following year, the Chinese government designated the Yangtze River Delta, the Pearl River Delta and the Xiamen-Zhangzhou-Quanzhou Delta as costal zones (CZ) open to foreign investment. This decision signaled that China was ready to accept foreign investment in regions of the country rather than individual cities. China has progressively reduced barriers to foreign investment essentially opening the entire nation and all sectors of the economy to foreign investment. By the late 1980s-early 1990s, China was by far the largest destination of foreign investment flows among developing countries.[55]

Vietnam's economic reforms, called *Doi Moi* (renovation), were launched by the Vietnamese Communist Party in 1986 with the objective of creating a "socialist-oriented market economy."[56] The reform processes accelerated after 1989. The principal reform measures included the introduction of an output contract system and creation of free markets to stimulate individual initiative in agriculture; restructuring of state enterprises and creation of bankruptcy procedures; and liberalization of foreign trade and foreign investment.

Like China, Vietnam initially also used industrial zones as a mechanism to provide infrastructure to investors. By early 2002, Vietnam had established 67 industrial zones all over the country and had attracted some $48.6 billion in over 3,200 projects. A government official assessed in 2002 that foreign direct investment (FDI) "has constructively and positively contributed to the development of Vietnam in many ways: attracting foreign capital, technology transfer, improving the balance of international payment, increasing export and access to international markets, etc.... The amended Constitution of Vietnam from 2001 has confirmed that FDI is an integral part of the national economy and attracting FDI should be a long term and consistent policy in Vietnam."[57]

China and Vietnam, two socialist countries well at the bottom of the economic and social development scale at the time they started their reform processes, adopted similar frameworks for policy development and implementation: (1) de-collectivizing agriculture and giving farmers more freedom of choice about how they used their land, increasing productivity and releasing excess agricultural workers to work in other, more productive, sectors of the economy; (2) legalizing the creation and expansion of a private sector, which absorbed a good portion of the surplus agricultural labor; (3) liberalizing foreign trade and actively promoting incoming foreign investment; and (4) reforming the state-owned sector, leveling the playing field with private business, and contemplat-

55. See statistics in United Nations Conference on Trade and Development (UNCTAD), *World Investment Report 1993* (Geneva, UNCTAD, 1993).

56. This discussion draws from Keith Griffin, "Restructuring and Economic Reforms," in Griffin, editor, *Economic Reform in Vietnam* (London: Macmillan, 1998), especially pp. 12–17.

57. Le Dang Doanh, Advisor to the Minister, Ministry of Planning and Investment, "Foreign Direct Investment in Viet Nam: Results, Achievements, Challenges and Prospect," paper presented at IMF Conference on Foreign Direct Investment, Hanoi, August 16–17, 2002.

ing the possibility of shutting down loss-making enterprises. The reforms propelled those two countries to the top among the fastest growing developing countries: the average annual GDP growth rate was 7% for Vietnam between 1986 and 2012, while it exceeded 9.5% for China between 1978 and 2012.[58]

The start of Cuba's current reform process—*actualización* (updating)—can be traced to 2007–2008, roughly the time period when Raúl Castro consolidated his role as Cuba's leader. A fairly robust set of reforms was undertaken during the early 1990s, when Cuba was immersed in a deep economic crisis associated with the break-up of the Socialist community and dissolution of the former Soviet Union called the "special period in time of peace."[59] Measures adopted included (more or less in chronological order beginning in mid-1993): (1) legalization of the holding and use of foreign currency; (2) legalization of self-employment; (3) break up of state farms and creation of quasi-cooperatives; (4) modification of the tax code; (5) creation of agricultural markets; (6) reforms to the banking system; and (7) passage of a comprehensive foreign investment law. The combination of macroeconomic stabilization actions and implementation of the aforementioned measures resulted in the return of positive economic growth but also strengthened the hand of opponents of further reforms and liberalization. From the late 1990s onward, Cuba's reform process was paralyzed and reversed in several respects, as Cuba pursued the ideologically-laden "Battle of Ideas."

While China and Vietnam did not waver in their pursuit of reforms, Cuba's counter-reform of the late 1990s-early 2000s meant that Raúl's era found the island at a stage comparable to pre-reform China or Vietnam. Raúl has spearheaded a multitude of reforms in Cuba; Carmelo Mesa-Lago and I have categorized reforms through 2012 into three types, administrative, non-structural and structural (Table 7), depending on whether they work within the socialist system (administrative, non-structural) or introduce some sort of systemic economic change. Since then, additional reforms include the privatization of petty state enterprises in retail commerce (beauty parlors, cafeterias, appliance repair shops) by converting them into cooperatives, limited decentralization of management of state enterprises, and the aforementioned new foreign investment law. In terms of impact, the structural reform that Cuba has been most significant is the distribution of state-owned idle land to individuals to work in usufruct for a specified period of time; however, this reform does not have the breadth or depth of the agricultural sector changes that were key elements of Chinese and Vietnamese reforms. To date, Cuba has not tackled the creation of a private industrial sector—another key element of the reforms in those countries. The reforms regarding foreign investment are quite modest in comparison with those of the reference countries. Moreover, the Cuban government continues to hold a monopoly over foreign trade. Despite much discussion, and numerous hints about an aggressive time line, Cuba has not began in earnest the elimination of monetary duality, a pernicious problem that creates distortions throughout the economy. Cuba's average annual GDP growth rate averaged 2.5% in 2009–2013.[60]

Pérez Villanueva, in a study of foreign investment policies and performance in China and Vietnam, makes two important points regarding the interplay between reforms and attraction of foreign investment that are quite relevant to Cuba's current efforts:

1. Foreign investment began to flow in significant amounts into China and Vietnam after domestic

58. Vi Minh Khuong, "Vietnam plays catch-up with China's successful reforms," *East Asia Forum* (December 13, 2013).

59. Between 1989 and 1993, Cuba's GDP contracted by nearly 35%, gross domestic investment fell from 26.7% to an abysmally low 5.4% of GDP, the fiscal deficit grew from 7.3% to 33.5% of GDP, merchandise exports and imports declined by 78.9% and 75.6%, respectively, and the hard currency external debt grew by nearly 42%. See Pérez-López, "The Cuban Economy in an Unending Special Period," *Cuba in Transition—Volume 12* (Washington: Association for the Study of the Cuban Economy, 2002).

60. Carmelo Mesa-Lago, *Institutional Changes of Cuba's Economic Social Reforms: State and Market Roles, Progress, Hurdles, Comparisons, Monitoring and Effects* (Washington: Brookings Institution, August 2014), p. 18.

Table 7. Raúl's Reforms, 2006–2012

Administrative	Non-structural	Structural
Reorganization of state entities	Access to hotels and restaurants	End of rationing system[a]
Perfeccionamiento empresarial	Payment of arrears to farmers, increase in *acopio* prices, sale of inputs	Elimination of monetary duality*
Campaigns against labor indiscipline and corruption	Authorization for private transportation	Distribution of land in usufruct
Openness to criticism	Salary increases	Dismissal of state workers and creation on private sector jobs
	Pension reform	Sale of homes
	Reduction of gratuities and cost of social services	Sale of automobiles
		Migration flexibility
		Tax reform

Source: Mesa-Lago and Pérez-López, *Cuba Under Raúl Castro*, op. cit., pp. 221–222.

a. Full implementation not completed.

investment had developed. That is, foreign investors were willing to take the risks associated with coming into the two countries only after domestic growth had taken off. The attraction of foreign investment was part of a gradual reform strategy, which began with reforms in the agriculture and industrial sectors and eventually enveloped the economy as a whole.

2. The experiences of China and Vietnam show that all of the country's institutions must be aligned with the objective of attracting foreign investment, facilitating—rather than obstructin—the flow of such resources. To the extent that some institutions or ministries do not buy into the imperative of attracting investment, sub-optimal results will obtain. Particularly in the case of infrastructure projects, which have very long capital investment recovery periods, certainty of the planning horizon and stability are critical. It is essential that there be a national consensus on the wisdom of the policies.[61]

CONCLUSION

Cuban leaders and academic economists coincide on the magnitude and seriousness of the investment gap Cuba is facing and the potential role that foreign investment could play in filling this gap. Precise estimates of the amount of investment needed to support the desired level of economic growth range from $2 to about $4 billion per annum, a very large amount in comparison with the puny levels of foreign investment Cuba has attracted in previous years.

A recent study by former Costa Rican Trade Minister Alberto Trejos about economic growth and restructuring experiences associated with his country's trade and foreign investment policies potentially relevant to Cuba is quite instructive.[62] Trejos describes Costa Rica's economic successes and the role played by trade and investment policies as follows:

> Over the last 30 years, Costa Rica has implemented, in a fairly consistent manner, significant reform in its trade, foreign investment and other related policy areas. This yielded some valuable results in terms of the volume and composition of its exports, the sectorial composition of its economy, and the volume and nature of the foreign direct investment (FDI) it attracts. Overall, the nation has made some progress over the years; for example, it ranks second in Latin America in terms of cumulative output growth (PPP) in the three decades after 1980, and first in the proportional fall of its extreme poverty rates. Costa Rican progress can be largely attributed to this trade and investment performance.[63]

While making the general point that Costa Rica's policy experiences might be applicable to Cuba, Trejos makes several cautionary points:

1. In the Costa Rican case, he argues, foreign investors were important, but the leading actors were home-grown exporting companies and Costa Rican entrepreneurs; he wonders whether—after more than five decades of socialism and state control—Cuban entrepreneurs are equipped to

61. Pérez Villanueva, "Foreign Direct Investment in China, Vietnam and Cuba," op. cit., p.224.

62. Alberto Trejos, *Economic Growth and Restructuring Through Trade and FDI: Costa Rican Experiences of Interest to Cuba* (Washington: Brookings Institution, October 2013).

63. Ibid, p. 1.

play this role or if state institutions and entities can play this role in their stead;

2. He wonders about the timing of Cuba's opening, and whether it might come too late to bring about success. He recalls that the global economy is very different today from the 1980s, when Costa Rica and other Central American countries abandoned import substitution industrialization policies and opened their economies, adopting export promotion strategies. The differences between today and the 1980s, he argues, are many, among them the willingness then on the part of developed countries to grant developing countries preferential access to their markets in contrast to the more strict rules of the current world trading system; and
3. He wonders if the global macroeconomic climate, combined with Cuban challenges in macroeconomic management, might not pose serious limitations in terms of exchange rate policies, currency convertibility and so on that would adversely affect foreign investment.

It is much too early to assess whether Cuba's current policies are beginning to be/will be successful in attracting sizable amounts of foreign investment. It is important to keep in mind that one of the key determinants of foreign investment location is the investment climate, "the set of location-specific factors shaping the opportunities and incentives for firms to invest productively, create jobs, and expand."[64] The investment climate is shaped by numerous variables: rule of law, transparency, quality of government policymaking, macroeconomic stability, openness to international trade, stability, perception of investment risks.[65] Cuba's investment climate is far from being propitious toward foreign investment.[66]

Finally, although Cuban officials have been outspoken about the imperative to attract significant levels of incoming investment, Raúl Castro's caveats regarding foreign investment—that it complement domestic investment, that it be targeted to address the needs of the country, and that it be consistent with socialism—suggest a tepidness toward foreign investment and a lack of commitment at the highest levels to embark on an opening to foreign investment along the lines of China and Vietnam.

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64. Warrick Smith and Mary Hallward-Driemeier, "Understanding the Investment Climate," *Finance and Development* (March 2005), p. 40

65. Cuba consistently ranks near the bottom in international measures of property rights, ease of doing business, transparency, rule of law, quality of governance and so on, and similarly it is considered a high credit risk environment. For example, Cuba was ranked 177 (out of 178 countries) in the 2014 Heritage Foundation-Wall Street Journal Index of Economic Freedom, based on four dimensions: (1) rule of law; (2) limited government; (3) regulatory efficacy; and (3) open markets. www.heritage.org/index/. In April 2014, Moody's Investor Services downgraded Cuba's credit rating to Caa2 (poor quality and very high credit risk); see https://www.moodys.com/research/Moodys-Downgrades-Cubas-Rating-to-Caa2-Outlook-Stable—PR_297308. Meanwhile, the French credit risk and investment company CoFace assigns to Cuba its lowest rate, D, in both credit risk assessment and business climate. http://www.coface.com/Economic-Studies-and-Country-Risks/Cuba

66. A very small convenience sample survey of 15 commercial officers of EU embassies in Cuba conducted by Cuban researchers revealed the following positive and negative factors regarding investment in the island (scale is 1 to 3, with 3 being most significant and 1 least significant): Positive factors—personal security (2.7); potential for expansion (1.7); quality of the workforce (1.5); political stability (1.5) and low level of competition from other firms (1.0). Negative factors—labor regulations (1.9); financial system (1.5); macro stability (1.1); bureaucratic approval system for new enterprises (1.1); costs of establishment (1.0); legal framework (1.0); property rights guarantees (0.8); requirement of association with the state (0.8); import restrictions (0.7); and internal distribution system (0.7). See Pavel Vidal Alejandro, Omar Everleny Pérez Villanueva and Saira Pons Pérez, *La inversión extranjera y de la Unión Europea en Cuba*. Centro de Estudios de la Economía Cubana y Unión Europea, March 16, 2012.