

# Client Alert

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June 10, 2015

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## U.S. Rescinds Cuba's Designation as a State Sponsor of Terrorism

On May 29, 2015, the Secretary of State **rescinded** Cuba's designation as a State Sponsor of Terrorism. This development **unfolds** in the wake of President Obama's December 2014 announcement to improve relations with Cuba, when the President first directed the Secretary of State to review Cuba's designation as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (EAA), Public Law 96-72, as amended (50 U.S.C. App. 2405). In April 2015, the Secretary of State concluded that Cuba should be removed from the list of State Sponsors of Terrorism, and the President submitted the required report to Congress. Congress had 45 days to act and, because it did not, Cuba's designation as a State Sponsor of Terrorism under section 6(j) of the EAA has now been rescinded. Notably, while the rescission of Cuba's designation as State Sponsor of Terrorism represents an important symbolic and diplomatic move, **it has not yet resulted in practical changes to the current regulations restricting U.S. trade with Cuba.**

Cuba was first designated in 1982 when, according to a **senior administration official**, it endeavored "to promote revolution around the Hemisphere." The Official noted that things have since changed, and that the Administration "felt that it was time to make this recommendation based on the particular criteria of the law and the assurances that we have gotten from the Cuban Government." The decision to revoke Cuba's designation reflects the **State Department's** "assessment that Cuba meets the statutory criteria for rescission." The State Department noted that "[w]hile the United States has significant concerns and disagreements with a wide range of Cuba's policies and actions, these fall outside the criteria relevant to the rescission of a State Sponsor of Terrorism designation."

U.S. Government agencies with jurisdiction over Cuba trade have confirmed that this new development has minimal impact on the current U.S. trade with Cuba. For instance, the U.S. Department of Commerce's Bureau of Industry and Security (BIS), the agency that administers U.S. export controls on dual-use items, posted on its **website** as a response to a Frequently Asked Question that the Export Administration Regulations (EAR), 15 C.F.R. parts 734-770, remain unchanged, and that the rescission "does not suspend or terminate any of the license requirements or other controls in... [the EAR] pertaining to Cuba."

With the statutory trade embargo still in effect, opportunities for increased trade-related engagement with Cuba continue to be governed by the existing regulations administered by BIS and the Treasury Department's Office of Foreign Assets Control (OFAC). Thus, prohibitions governing exports and reexports to Cuba, as well as travel and travel-related transactions, remain in effect. This means that such activities must be conducted within the framework established by the general licenses and license exceptions implemented by OFAC and BIS, or be conducted pursuant to a specific license. This regulatory framework, however, may be subject to change, particularly because of recent **attempts by Congress** to scale back the newly-relaxed **travel** provisions by, for example, adding to and preserving in a pending transportation bill certain Cuba-related travel restrictions.

For information regarding the current regulatory framework, please see King & Spalding's **January 2015 Client Alert**, as well as OFAC's **Frequently Asked Questions** and **travel guidance** regarding Cuba, and BIS's **Frequently Asked Questions** regarding transactions with Cuba.

King & Spalding will continue to monitor developments in U.S. trade restrictions and opportunities in Cuba. Please contact us if you have any questions.

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