



Advantages of investing in Cuba

With the passing of Law No. 118 and its complementary norms, a favorable business climate has been set up in Cuba. Other advantages are added to tax incentives and these invite foreign investors to choose Cuba as investment territory. Among these advantages:

- ▶ Formulation of sectorial policies for identifying investment opportunities with foreign capital that permits access to the Cuban market and its consumers.
- ▶ Secure and transparent legal framework.
- ▶ Political, social and legal stability.
- ▶ Geographical location in the center of an expanding market.
- ▶ Climate of safety for foreign personnel.
- ▶ High indicators for education, social security and health of the population.
- ▶ Highly qualified workforce.
- ▶ International agreements signed by Cuba with the Latin American Integration Association (ALADI, by its acronyms in Spanish), the Caribbean Community (CARICOM, by its acronyms in Spanish), the Bolivarian Alliance for the Peoples of Our America (ALBA, by its acronyms in Spanish), the Common Market of the South (MERCOSUR, by its acronyms in Spanish), the European Union (EU), the World Trade Organization (WTO, by its acronyms in Spanish).
- ▶ Governmental policy that prioritizes research and technological innovation.
- ▶ Institutions at the service of investors with highly qualified personnel.
- ▶ Basic infrastructure throughout the country: communications networks; over 20 airports; ports admitting deep-draft vessels; over 95% of national territory with electrical power; rail and highway communication.

Legal Regime for Foreign Investment

Law No. 118/2014: "Law of Foreign Investment".

Decree No. 325/2014: "Regulations of the Law of Foreign Investment" of the Council of Ministers

Resolution No. 46/2014 and No. 47/2014 of the Banco Central de Cuba

Resolution No. 128/2014 and No. 129/2014 of the Ministry of Foreign Commerce and Investment

Resolution No. 16/2014 and No. 42/2014 of the Ministry of Labor and Social Security

Resolution No. 535/2014 of the Ministry of Finance and Prices

Resolution No. 920/2014 of the Ministry of the Economy and Planning

Agreement No. 7567 of the Council of Ministers.

International Agreements dealing with Foreign Investment

Cuba has signed agreements to prevent double taxing with Spain, Barbados, Italy, Russia, Portugal, Qatar, Lebanon, China, Vietnam, Austria, Ukraine and Venezuela and it has signed 63 agreements for Promotion and Reciprocal Protection of Investments (BITs in its English-language acronym).

Foreign Investment in Cuba

Law No. 118 establishes the types of business that can be adopted within the foreign investment concept:

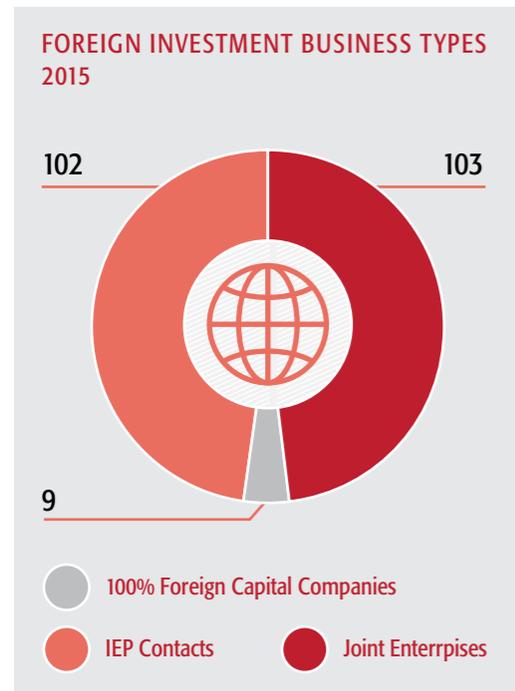
- ▶ Joint enterprise.
- ▶ International economic partnership agreements including, among others, contracts for hotel management, production or services, contracts to provide professional services, risk contracts to explore non renewable natural resources, for construction and agricultural production.

▶ Enterprises with 100% foreign capital; foreign investors can set up on national territory as:

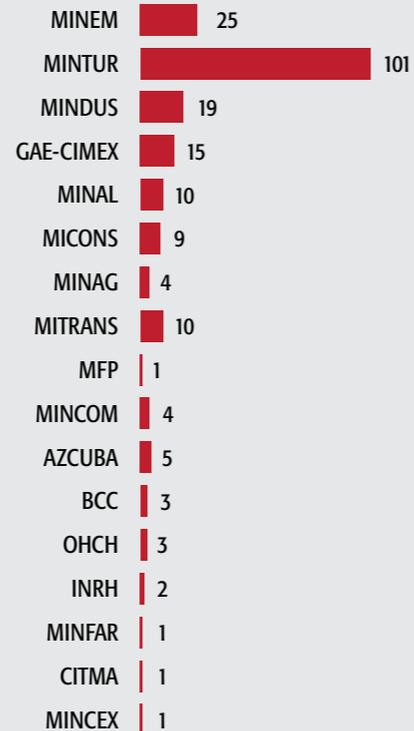
- a. Natural persons acting on their own behalf;
- b. Juridical persons constituting a Cuban affiliate of the foreign entity which they own; or
- c. Juridical persons setting up a branch of a foreign entity.

Foreign Investment Figures

At the close of 2015, joint enterprises and international economic partnership agreements were the preferred types, while hotel management contracts were very important. According to the foregoing, the most attractive sector for foreign capital has been in the tourism sector, followed by mining and activities in energy and the industrial field.



FOREIGN INVESTMENT BUSINESSES 2015. THE MOST ATTRACTIVE SECTORS



Results at the close of the 2015 business year show that international economic partnerships reported sales of \$ 4 billion CUC, representing 51 % of total exports.

PRINCIPAL IEP INDICATORS IN 2015 (BILLIONS CUC)

TOTAL SALES (MEASURE & TIME UNIT)	4.5
DOMESTIC MARKET	2.2
EXPORTS	2.3
IMPORTS	1.9
TRADE BALANCE AMOUNT	0.3

General Foreign Investment Policy Principles

1. To conceive of foreign investment as a source for the country's short, mid and long-range economic development. Access to state-of-the-art technologies, securing managerial methods, diversifying and broadening export markets, replacing imports, access to foreign financing, creating new job sources and securing greater incomes on the basis of production linkage with the domestic economy are objectives that should be proposed in order to attract foreign investment.
2. To secure new managerial methods that contribute to achieving better market positions, increased productivity and profitability, efficiency of complex investment processes and their assimilation by the rest of the economy.
3. To immediately prioritize foreign investment directed to replacing food imports.
4. To promote the development of comprehensive projects generating production linkage in the search for collective efficiency. These projects may be executed with one investor or with several having the same interest.
5. Corresponding to the country's demographic dynamics, foreign investment must allow access to state-of-the-art technologies which increase productivity and permit efficient use of the workforce.
6. To contribute to changing the country's energy matrix by taking advantage of renewable energy sources, using solar and wind power and power from agro-industrial waste such as sugarcane, forestry and scrub (marabú) biomass, generation of water and biogas power.
7. To consider the participation of foreign capital as complements for national scientific and technological development projects, preserving intellectual property over the results obtained, especially brand names and patents created by the Cuban Party.
8. To consider foreign investment in certain economic sectors and activities as an active and fundamental element for growth.
9. To consider the agricultural and food industry production as prioritized sectors along with tourism, including health, the development of energy sources especially renewable energy, the exploration and exploitation of hydrocarbons and mining resources and construction or improvement of industrial infrastructures.
10. To guide the greater part of foreign investment towards export sectors. Moreover, to direct it towards eliminating bottlenecks in the production chain, encouraging modernization, infrastructure and changing the technological model in the economy as well as efficiently meeting the country's needs with the aim of replacing imports.
11. To encourage foreign investment on the basis of a broad-based and diverse Portfolio of Projects. To focus promotion by stages and potential sectors/activities and to promote diversification in the participation of

the business sector from different countries. To prioritize massive promotion for the Special Economic Development Zones starting with the work by the Special Economic Development Zone of Mariel.

12. To consider prioritized activities implicating transfer of technology, production linkage, carried out in areas having lesser economic development or contributing to increasing the efficiency of the production chain.
13. In the extraction of natural resources, providing public services, developing biotechnology, wholesale commerce and tourism; Cuban participation will always constitute the majority share.
14. Among the requirements for approval of foreign investment businesses, introducing criteria planning a balance of payments over time; this element will be considered to be among the decisive indicators for approval.
15. In foreign investment businesses there shall be no free contracting of the workforce other than in exceptions foreseen by law. The employer-entity will be maintained as a business organization and its aim will be to supply and control the workforce.

Salaries will fit the work contributed, efficiency and the added value generated by the enterprise. Payment for the workforce services is negotiated between the employer-entity and the enterprise having foreign capital on the basis of what has been established by the Ministry of Labor and Social Security.

To eliminate concepts of salary scales and establish a minimum wage. Contracted employees will earn a salary higher than the minimum wage established.

16. Foreign investment may be directed selectively towards development of non-state ownership forms with juridical personality, prioritizing the cooperative sector.

17. Ownership of State goods will not be transferred other than in exceptional cases where they will be destined for purposes of the country's development and when they do not adversely affect the political, social and economic foundations of the State.

18. Exclusivity rights on the Cuban market are not granted; the foreign partner is on equal terms with third parties and may be supplier and client of the business.

19. In projects aiming at exporting goods or services, the foreign Party shall guarantee the market.

20. The country's shortage in construction capacity cannot stop the development of the process of foreign capital investments. Alternatives required to prevent it may be assessed even contracting foreign labor force.

21. Bidding for design and construction services between foreign and Cuban enterprises whenever the complexity of project so requires, in accordance with regulations in legislation in force about the country's investment process.

22. To authorize establishing enterprises having 100% foreign capital for executing investment projects having the complexity and important that requires it especially for the development of industrial infrastructure through special turnkey contracts such as: Engineering, Procurement and Construction Contracts (IPC); Engineering, Procurement and Construction Management Contracts (IPCM); Building, Ownership, Operation and Transfer Contracts (BOOT), Building, Transfer and Operation Contracts (BTO).

23. In principle the setting up of bank accounts abroad will not be authorized nor the acceptance of external guarantees compromising the retaining of Cuban flows in banks abroad.

24. The economic information requested for foreign investment will be made compatible with international indicators used to measure the results. To publish statistics that will be determined.

25. Any increase to the investment budget will be assumed by the International Economic Partnership.

26. Investments in infrastructures, directly and indirectly induced, may be executed under foreign investment types with long term funding. Those associated with the development of tourism will be prioritized.

Foreign Investment with the partnership of agricultural cooperatives

1. In no case will land ownership be transferred to joint enterprises. In international economic partnerships the contribution of the Cuban Party will include the real right of usufruct or surface rights.
2. Agricultural cooperative partnership in foreign investment may be direct or indirect.

Indirect partnership occurs by:

- a. Contractual relations between agricultural cooperatives and the types of foreign investment; or
- b. Contractual relations between agricultural cooperatives and State entities; the latter will occur with foreign investment types.

These contractual relations may include the supplying of goods and the providing of services by agricultural cooperatives, funding their products, providing technical assistance, supplying technological packages, and others, so that agricultural cooperatives may attain the necessary yields and quality.

Direct partnership occurs when Agricultural cooperatives participate in foreign investment types according to the following:

- a. Forming part of an international economic partnership (international economic partnership agreement or joint enterprise) which in turn is made up of agricultural cooperatives, mercantile company with 100 % Cuban capital and the foreign investor; or

- b. Prior creation of a new 100 % Cuban mercantile company between the agricultural cooperative and a State Enterprise, which will be a partner with the foreign investor in order to constitute the foreign investment type.

To create the 100 % Cuban mercantile company between State enterprises and agricultural cooperatives, contributions will be monetary.

Cuban State enterprises producing goods, supplying industrial or marketing services, linked in the production to be carried out, may be shareholders in the 100% Cuban mercantile companies constituted for these purposes.

This mercantile company's period of validity of shall correspond to that of the international economic partnership in which it will be participating.

3. In an international economic partnership in which an agricultural cooperative is participating directly, the contributions for surface rights for cases of agro-industrial activities, the construction of facilities or usufruct on land for agricultural and/or forestry activities shall be conditioned by the form of the agricultural cooperative and the land ownership; for this purpose the following must be kept in mind:

In the case of agricultural production cooperatives owning the land:

- a. If the partnership described in Paragraph 1.2 section a) is established, the agricul-

tural production cooperative will contribute the land as right of usufruct surface rights to the international economic partnership in which it participates; with prior exceptional authorization by the Ministry of Agriculture.

- b. If the partnership described in Paragraph 1.2 section b) of this document is established, the agricultural production cooperative will contribute land ownership to the new company created with exceptional authorization by the Ministry of Agriculture. This authorization will specify the procedure by which land ownership will be returned to the agricultural production cooperative after the term of validity of said mercantile company has expired. The mercantile company will not contribute land ownership to the business.

In the case of basic units of cooperative production, agricultural production cooperatives and loan and services cooperatives which have land in usufruct:

- a. If the partnership described in Paragraph 1.2 section a) is established, the right of usufruct on land shall totally or partially be extinguished to the cooperative and the Council of Ministers shall grant it a right of usufruct so that it may be contributed to the international economic partnership.
- b. If the partnership described in Paragraph 1.2 section b) is established, the right of usufruct granted to the cooperative shall be partially extinguished and the Council of Ministers shall authorize the trans-

fer of this right on the land to the 100% Cuban capital mercantile company so that it should be its contribution to the business.

4. In order to participate in business with foreign investment, agricultural cooperatives must function in a stable manner and have positive economic and production conditions. Nevertheless, according to the type of project and its territorial location, the indirect partnership of the entire production base that could be taxed because of being within their zone of influence shall be evaluated.
5. In international economic partnerships, the power to carry out foreign trade activities shall be granted to the 100% Cuban capital mercantile company which is the partner.
6. Bodies considered to be national bodies or entities sponsoring businesses shall be those attending to the 100% Cuban capital mercantile company which is the partner.
7. While the scenarios of double currency and exchange rates are maintained, agricultural cooperatives that are parties to business with foreign capital shall receive approval to have the bank accounts suitable for their functioning.
8. Once the business with foreign investment has been concluded, it is established that the agricultural cooperative property shall be returned, as well as the right of usufruct, to the agricultural production cooperative, cooperative production basic unit or loan and services cooperative that duly contributed said property.

Furthermore, a general principle to grant new tax incentives for joint enterprises and parties in international economic association contracts was approved; the Special Taxation Regime* has been established in the new regulatory framework for foreign investment, as follows:

TAXES	LAW NO. 118 FOREIGN INVESTMENT	SPECIAL ECONOMIC DEVELOPMENT ZONE OF MARIEL	LAW 113 TAXATION SYSTEM
ABOUT PROFITS	0% during 8 years and as an exception for a longer period. Subsequently 15%. 0% on reinvested profits. It may be increased to 50% for exploitation of natural resources.	0% during 10 years and as an exception for a longer period. Subsequently 12%. (Concessionary and users) Application of Law No. 118 for profits reinvestment.	35% May increase to 50% for exploitation of natural resources.
FOR USING LABOR FORCE	Exempt	Exempt	Progressive reduction from 20% (2012) to 5% (2016).
CONTRIBUTIONS TO LOCAL DEVELOPMENT	0% during investment recovery	Exempt	Is being established gradually in the Budget Law.
ABOUT SALES OR SERVICES	0% during first year of operations, subsequently 50% discount on wholesale sales and on services.	0% during first year of operations, subsequently 1%	2% on wholesale sales and 10% on services. New taxable items shall be gradually incorporated.
ABOUT PERSONAL INCOMES TO PARTNERS OR PARTIES	Exempt	Law No. 118 applies	15%
FOR USING OR EXPLOITING NATURAL RESOURCES AND PRESERVING THE ENVIRONMENT (5 TAXES)	50% discounts during investment recovery	Law No. 118 applies	For the use of beaches, waste disposal into hydrographic basins and terrestrial waters: defined in the annual Budget Law. Use of bays and forestry resources according to taxable items in Law 113
CUSTOMS	Exempt during the investment process	Exemptions for importation of means, equipment and goods	Taxable items are established in the Customs Duties

* Joint enterprises and international economic associations are governed by what has been established in legislation in force (Law No. 113 of the Taxation System), with the adjustments of this special regime. Enterprises with 100% foreign capital pay taxes according to legislation in force. In the case of International Economic Association Contracts for Production, Services and Professional Services Management, this is governed by what has been established in legislation in force (Law No. 113 of the Taxation System) with the adjustments of this special regime, especially the tax on profits in the gross incomes type, 4%.



TAXES APPLICABLE TO ENTERPRISES WITH 100% FOREIGN CAPITAL

PROFIT TAX	35% that may go up to 50% for exploitation of natural resources, or up to 50% of the 35% that is the tax type established.
WORKFORCE TAX	It is gradually reduced until 5% in 2016.
SALES TAX	5% on wholesale sales, 10% on retail sales. Gradual application until 2016.
SERVICES TAX	10% gradual application until 2016.
SPECIAL PRODUCTS AND SERVICES TAX	No tax is paid on sales, especially for products and on services for: (1) goods constituting raw material for industrial production and for goods and (2) services destined for exportation
ENVIRONMENTAL TAX	For the use or exploitation of beaches, for approved waste disposal in hydrographic basins, for the use and exploitation of bays, for the use and exploitation of forestry resources and wildlife and for the right to use terrestrial waters: gradual application of these taxes and the majority of their taxable types shall be established in the Annual Budget Law
TERRITORIAL CONTRIBUTION	Gradually established in the Budget Law.
CUSTOMS TAX	To be set in the Customs Tariffs.

Furthermore, Article 47 of Law 118 establishes: "The Ministry of Finances and Prices, having heard the opinion of the Ministry of Foreign Commerce and Investment, taking into account the benefits and the amount of the investment, capital recovery, indications provided by the Council of Ministers for prioritized sectors of the economy, as well as the benefits it may bring to the national economy, may grant total or partial exemptions, on a temporary or permanent basis, or grant other tax benefits according to what has been established in taxation legislation in force, for any of the types of foreign investment recognized in this Law".

