**AS CUBA-U.S. RELATIONS THAW, THE THORNY MATTER OF PROPERTY DISPUTES HEATS UP**

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Tonito Ring Ring was a Latin-looking boy with a dial for a belly and a target on his head. In the 1950s, he was the cartoon mascot of the Cuban Telephone Company, then owned by American firm International Telephone & Telegraph. When the Revolution came in 1959, workers at company headquarters in Havana came looking for him. They tore Tonito down from the wall, thrust him into a coffin, walked him down Calle Aguila to the Malecon, and tossed him into the sea. The Communists, meanwhile, seized the entire Yanqui phone company and, in the ensuring three years, confiscated $1.6-billion worth of U.S property across the island.

Almost six decades later, the United States is intent on making the Cubans pay. Literally.

Now the property of the state-run phone monopoly ETECSA, the telephone company is just one of roughly 6,000 confiscated assets, estimated to be worth a total of more than $7-billion, to which American firms and citizens hold claims. If the Cubans want the United States to lift its gruelling economic embargo – now a possibility, after U.S. President Barack Obama announced the re-establishment of diplomatic relations in December – they’re going to have to address the thorny issue of compensation. With Mr. Obama’s presidency winding down, and Cuba’s economy suffering even more than usual thanks to the woes of petro patron Venezuela, pressure is beginning to build to tackle the elephant in the room.

Although Cubans have long considered the embargo a form of slow genocide, America clearly feels differently. In its eyes, Mr. Castro and his comrades took part in nothing less than illegal seizures of property, and should now pay for what they stole if they want to normalize trade. In fact, a two-decade-old American law dictates that there will be no normalization in trade until the claims are settled.

Compensation is a freighted emotional issue for these antagonists, whose mutual antipathy long precedes the revolution. It’s not just about land or assets, communism versus capitalism. It’s about the right to claim victimhood. “Cuba’s crime is not that it’s communist,” political scientist Rafael Hernandez told me as we sat down to talk in his Havana living room last month, the day before Assistant Secretary of State Roberta S. Jacobson made her historic visit to Cuba. “The two countries have a long way to develop a relationship that surpasses a century of mistrust.”

Mr. Obama’s announcement may bring an economic revolution to Cuba. Although the short-term aims include lifting travel and financial restrictions, and even moving toward an exchange of embassies, the long-term goal is to normalize trade.

But Ms. Jacobson has said that the two sides won’t broach the topic of compensation until much further down the road. For the payment issue, even the process is complicated. As previous Cold War-era attempts at land claims have proved, establishing a rate for repayment will be no small feat. For one thing, no one knows whether the United States, which represents all the claims, will seek to settle in one lump sum or want to address each case individually.

Following the provenance of some big U.S. claims involving Cuba is strictly for the org-chart nerds. The largest claim belongs to Staples, which, in a takeover, just inherited Office Max’s claim for $270-million. Office Max had inherited its claim from Boise Cascade Company, the pulp-and-paper concern, which in turned had owned the rights to Cuban Electric Company, the U.S.-owned utility that once supplied 90 per cent of the island with its power. ETECSA, meanwhile, formerly the home of little Tonito Ring Ring, is in the cross hairs of Starwood Hotels; the hospitality company bought ITT-Sheraton in 1998.

Located in central Havana, ETECSA’s headquarters boasts a lobby with bronzed floor engravings, a marbleized glow, and a touch of People’s Republic clunkiness: posters of Fidel and Raul Castro tacked to the walls. To the right as you enter is a dimly lit, one-room phone museum displaying some of the technology that once kept the relationship between Cuba and America ticking. As museum director Ian Chaviano walks me through the space, I spring the news on him and a much older employee, Fulgencio Hernandez, that this very building is part of a property dispute worth roughly $50-million.

Mr. Hernandez, who remembers Tonito’s funeral well, scoffs at the claim. “I don’t think the Americans are interested in all this,” he says with a dismissive flourish of his hand. “It’s all old junk.”

While the property and building must be worth a fair amount, Mr. Hernandez raises a pertinent point about the phone company’s technology. It’s not just dated. Much of it is probably worthless: On display is an old operator switchboard, a Morse-code machine, and a hand-crank telephone that the Democratic Republic of Germany sent to its socialist brother when the U.S. pulled up stakes.

Still, some of these things are priceless in their own way, rich narratives that speak to a familial kind of relationship that can be freighted with miscommunication, oversensitivity and obstinacy. In one display case is a section of an underwater cable, the size of a body builder’s arm, that linked Havana to Key West in the 1920s, when America played overprotective big brother to its rebellious and restive smaller sibling.

The headquarters of state-controlled telecom company ETECSA, located in central Havana, is the subject of one of almost 6,000 land claims between the U.S. and Cuba. (Deborah Baic/The Globe and Mail)

Obsessed with the cable, I went back to the hotel and searched for more history. After the two countries installed their first 200-kilometre submarine cable in 1900, the two sides did a test run. The man on the end of the U.S. line called his Cuban counterpart, but heard nothing. Following a long silence, Havana finally piped up. “Sorry,” said the voice on the other end. “I don’t understand you.”

**The issue of due diligence**

Guy Chartier is a Canadian real-estate developer in Havana, where he is spearheading the building of both a five-star hotel in the Cuban capital and a resort on the way from here to Varadero. The co-founder of Montreal-based company Dundee 360, he and one of his firm’s lawyers, Julio A. Gonzalez Dosil, are having coffee at the Saratoga, a state-owned, high-end hotel. American accents can be heard everywhere in the dining room and the hotel bar, where guests can watch CNN. The Saratoga is where the most recent U.S. senatorial delegation, led by Patrick Leahy, is rumoured to have stayed.

Mr. Chartier explains that the majority of property in Cuba before the revolution was foreign-owned. It’s an implicit reminder that, going back more than a century, Cuba has relied on patron states, whether Spain, the U.S., the U.S.S.R., or, most recently, Venezuela (at least until the oil market bottomed out). Any such property could be booby-trapped with a foreign claim. “If I have one message for anyone looking at property here, it’s ‘Do your homework,’” says Mr. Chartier. “The majority of projects we’ve looked at have claims on them.”

Immediately before the revolution, though, the U.S. held the lion’s share of private property in Cuba. In addition to their dominion over the phones, mining and, of course, sugar, American companies also controlled roughly 75 per cent of arable land.

Before going into any deal, Mr. Chartier explains, company lawyers must chase down the property’s prerevolutionary ownership. That, in fact, is the easy part: The Cubans are serious record-keepers, and such information will be almost certainly be housed in government buildings.

Then the tedious work will begin: The company will have to track down former title holders or their relatives to ensure there are no outstanding claims that could sneak up later. (For that kind of online sleuthing, Dundee 360 can use its DSL line which, by the way, costs the company around $1,500 a month.) The process could take years, but due diligence must be done. “We don’t want to be trafficking in confiscated property,” says Mr. Chartier. “Otherwise, we’re putting owners and shareholders at risk for compensation claims.”

When the Communists ousted Mr. Batista, the new government illegally expropriated much of the island’s foreign-owned property: refineries, factories and assets that belonged to international companies ranging from Shell to the Royal Bank of Canada. They also grabbed assets that belonged to such iconic American companies as Coca-Cola, Procter & Gamble, and Bacardi – what has been described as the largest uncompensated seizure of U.S. property by a foreign government in history.

In 1964, the U.S. Congress established the Cuban Claims Program, which authorized the Department of Justice, through the Foreign Claims Settlement Commission, to evaluate claims, put a price tag on them, and register them.

Over the decades, the Castro regime has settled with several countries that had outstanding claims, including Canada, Spain and Britain. Often, it was in lump sums for pennies on the dollar. In 1988, the Spanish received $40-million, a little more than a tenth of Spain’s original asking price. Eight years earlier, Canada had settled for $850,000. While its opening position has never been made public, one can assume it, too, received a fraction of what it wanted; Canada had been a major player in the island’s financial sector. In his 2013 biography of Pierre Trudeau, author Bob Plamondon wrote that, as part of its gambit, the Cuban government offered Canada tobacco leaves and sugar.

The U.S. government, on the other hand, has held fast to its position that settling is not in the best interests of American claimants. Almost 20 years ago, during the Clinton administration, Congress passed the Helms-Burton Act. Among its many legal prohibitions, the lifting of the trade embargo against Cuba was made conditional on the settlement of property claims.

“The big battle will be the lifting of the embargo,” Norway’s ambassador to Cuba, John Petter Opdahl, tells me, as we sit in his sleek, Scandi-cool office in Havana. Mr. Opdahl, who has a reputation as one of Havana’s more gimlet-eyed diplomats, likened the relationship to a bad divorce. Now the two sides will have to battle over assets.

Many Cubans criticize the claimants and the claims process. To them, those companies that weren’t present at the time of the revolution shouldn’t be demanding payment. Moreover, some Cubans don’t agree with how the valuation was done in the first place. Carlos Alzugaray Treto, a former diplomat and a professor at the University of Havana’s Center of Hemispheric and United States Studies, says it’s not right for the U.S. to base its valuations on the paper value of the companies at the time of the revolution. “We should base the compensation on tax returns,” he tells me, as we sit one afternoon on the bustling veranda of the Hotel Nacional de Cuba. “And they want us to pay cash, but we don’t have cash.”

Not to be outdone by the U.S. demands, the Cubans came up with their own big ask in 1999: $100-billion in damages for economic losses and hardships suffered under the U.S. embargo. “It is genocide, purely and simply,” the president of Cuba’s National Assembly, Ricardo Alarcon, said at the time. While the $100-billion may seem like an unrealistically large amount to critics of the Castro regime, the Cuban experts I spoke with say that their government expects the United States to take the demand as seriously as Cuba takes the Helms-Burton Act.

Former chair of the U.S. Foreign Claims Settlement Commission, Mauricio J. Tamargo, says that, in fact, the American claims are not based on paper values; rather, Washington arrived at its final tally by looking at a combination of real-estate property taxes, comparables in sales prices at the time of the revolution, and receipts of improvements at the time of expropriation.

Now a lawyer at law firm Poblete Tamargo in Washington, the Havana-born Tamargo adds that the list of claimants isn’t up-to-date: Many individual claimants have passed away, and their relatives have not given notice; some corporate claimants could have gone into bankruptcy or have new owners who are unaware of any claim. “The U.S. government,” he explains, “has been somewhat negligent in setting up a system for keeping the claims current.”

Regardless, he insists, what has happened to property since its seizure does not affect the value of a certified claim – that is a precept of international law.

With so many variables, permutations and counterclaims, getting to actual settlements will no doubt prove enormously difficult. Some experts suggest employing the same kind of streamlined process that was used in Eastern Europe to compensate claimants whose land was also seized by communists; in many cases, property was returned to the owners, or they received remuneration.

Given Cuba’s dire financial situation, corporate claimants likely will require flexibility on their positions: being open, for example to joint ventures; or being willing to take pennies on the dollar in exchange for equity. Maybe Starwood would take a chunk of ETECSA, say, and spin that equity off to an American telco. Or maybe there is a kind of barter to be had: “Coca-Cola doesn’t want its dilapidated old plant,” hypothesizes Michael J. Kelly, a Cuba expert and professor of international law at Nebraska’s Creighton University. “It wants distributions rights. And it definitely wants to get there before Pepsi.”

**Hopes, and fears, of change**

In fact, private and corporate claims may prove the easiest to settle.

On the other hand, how do you solve a problem like the Church of the Good Voyage? The five-century-old Iglesia del Santo Cristo del Buen Viaje in Old Havana takes its name from seasick and sea-weary sailors who used to find sanctuary here. Before the revolution, the Buen Viaje belonged to the Brothers of the Order of Hermits of St. Augustine. Most of the people who ran it were from the U.S., and afterward, most of them fled. The Augustinian brothers in America now want nearly $8-million in compensation for the church’s seizure and the confiscation of other properties.

Except for a few tourists, two abuelas and a man behind a bare table, the church is largely empty during my late-morning visit. I start up a conversation with Father Quirilio, the mild-mannered and blunt padre who oversees the place. We talk about the history of his religious order, which has since removed the world Hermits from its name, and the history of this particular church.

Did he realize, I ask him, that he is on expropriated property? Padre Quirilio’s expression suddenly clouds over with what seems to be either dismay or disbelief. “The land was never nationalized,” he says, in Spanish. “It still belongs to the church.” His eyes widen further. “We’re the same order, so how would we pay them back?”

Whether it is the church or the government that has to reimburse Father Quirilio’s brothers in the United States, the value of the land it sits on will likely skyrocket should American tourists begin hitting Cuba’s shores. Thanks in part to the modest privatization program set in motion by President Raul Castro in 2011, Old Havana is hopping with tourists buying things. The district is the cash machine for the tourist currency called the CUC, pronounced “kook.” As in, Old Havana is Kook Town. A café con leche here costs a couple of CUCs, the equivalent of two or three days’ wages for the average Cuban; Internet cafés charge about six CUCS an hour.

The Buen Viaje is steps away from the languorous bustle of Calle Obispo, the area’s burgeoning strip of private and state enterprises. Its random mix of low-end shops (with half-filled shelves) and high-concept stores give it the motley vibe of Moscow in the early nineties. State-run cafés make you feel as if you’re floating through a dusky, Buena Vista Social Club theme park; interspersed with those are whimsically designed private restaurants, such as O’Reilly 304 and El Chanchullero, serving stunningly delicious food.

Closer to the church, on Calle Bernaza, is a bar called El Patchanka. Its co-owner, Andrea Pignolo, who grew up listening to the Smiths, New Order and the Clash, plays classic alternative music and more local indie stuff, a break from the traditional tourist tunes. “There’s so much more to Cuban music than what you hear down the street,” says the Italian expat. Mr. Pignolo says he thinks real-estate prices are set to boom around here and the church. The plaza across from Buen Viaje is fenced off while being restored to its former glory. “This will be the most popular square in all of Old Havana,” he predicts.

**How normalization could help a Cuban restauranteur, a salon owner and a barkeep**

There are parts of Cuban life that Mr. Pignolo can do without: foraging for such basic needs as countertops; waiting in line for six hours to buy a sandwich grill, only to find out he needs a Cuban national to sign the required government documents. But he’s torn over the possible changes in Havana that may come from property swaps, rampant commercialization and waves of new tourism. Like many small-business owners here, he says Cuba is not prepared for the onslaught. It has neither the physical infrastructure nor the social safety net to absorb the people who would inevitably fall between the cracks of a more capitalistic society. He worries that Cuba could end up like Brazil: too rich and too poor at once.

On one wall of his bar, in huge letters, is a slogan from Joe Strummer, the late singer of the Clash. It says, “The Future is Unwritten.”

**Brothers at a crossroads**

A state-run restaurant and microbrewery is a rare sight in Cuba. Even more odd for a Communist tourist trap, it’s popular with tourists. Overlooking Havana’s harbour, this converted warehouse is teeming with visitors munching on barbecued pork, smoking cigars, and sipping on torres, or towers, of beer. Big screens play Jay Z videos. This place has the happy-hour glow of success.

The Castro government must look at this as a model of the future. No U.S. chain like TGI Fridays has put its grubby hands anywhere near it, at least not yet. Independent and bustling, it proves that small businesses can be capitalist and communist at the same time.

There are, however, a few kinks, beginning with the name of the place: The Cerveceria Antiguo Almacen de la Madera y El Tabaco, which translates as the Old Wood and Tobacco Warehouse Brewery, is a little lumbering. But there is a more profound issue lurking under the foundation: a land mine that 360 Dundee and its DSL line would have quickly sussed out. A U.S. shipping company has an $850,000 claim on this property and the entire kilometre or so of nearby waterfront.

I approach a burly, wizened-looking type with crossed arms who looks like he’s in charge. As it turns out, Noslen Camps is a security guard of some sort, but quicker to laugh than your typical bundle of muscles. We discuss the issue that people are speculating about in hotel lobbies, cabs and restaurants: what détente will bring to the island. Secretary of State Jacobson has just touched down in Havana, the highest-ranking U.S. diplomat to visit Cuba in 35 years, and everyone on the island, it seems, is uniformly positive about her arrival. For many, the hatred of America is old news: “I may not look it, but I’m too young to remember the conflict,” the 32-year-old Mr. Camps tells me. He is part of a Cuban generation that may know more about the most recent season finale of Homeland than about the Bay of Pigs mission.

In fact, despite a century of mutual suspicion, the two countries share a lot of the same DNA: an up-and-running 6 a.m. industriousness; a reverence of punctuality, leavened with a sly, rebellious streak; a love of beisbol – not soccer. And young adults in Cuba are obsessed with their paquetes, thumb drives with a pay-per-view range of the most recent U.S. television shows and movies, as well as books, magazines and video games.

But, as between any siblings, there is bound to be miscommunication. Both sides share another trait: stubbornness. Remember the ice-breaking handshake between presidents Castro and Obama at Nelson Mandela’s funeral over a year ago? As though strangers, the leaders introduced themselves to each other even though each knew perfectly well who the other man was. They were like long-estranged brothers who nonetheless need each other. And now, they have a battle over an estate to settle.

The conventional wisdom is that the two leaders have two years to ratify a deal, the finish line being the next U.S. election when, perhaps, a less-friendly president is sworn into power. With its flow of over 100,000 barrels of Venezuelan oil a day in jeopardy, Cuba needs a quick infusion of liquid capital from somewhere, and the faster it can normalize diplomatic relations with its estranged brother, the more CUC-spending Americans will arrive on its shores. Mr. Obama, meanwhile, needs a monumental foreign-policy victory.

Standing by the wharf in Havana, I try to imagine what the scene might look like on the eve of 2017. Except for the Cervezeria, the area appears blighted, the U.S. shipping company’s $850,000 claim generous. To my left is a rickety pier that gives up half-way into the water, where it slumps. To my right is an indoor art exhibition where the usual suspects are being sold: paintings, Santeria dolls, maracas, Che T-shirts. At the farthest end of the wharf is a massive blown-out warehouse that looks as if it would ably shelter an eye-patched Samuel L. Jackson in a dystopian film.

In three years, this could all be on its way to becoming one big waterfront mall, not unlike Baltimore’s Inner Harbor, or something more low-key, like San Francisco’s Fisherman’s Wharf. Or that pier may still be around, slouching into the deep.

After some more chatting about politics, I explain the claim situation to Mr. Camps. Would he have any philosophical or political objections if the U.S. shipping company – or any U.S. company – took control of the restaurant where he works? “As long as I’m making money,” he says, “I’ll work for either country.”

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