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Freeland to visit Havana as tensions rise over Venezuela, Trump's anti-Cuba talk

John Paul Tasker · CBC News



Minister of Foreign Affairs Chrystia Freeland delivers brief remarks at the opening session of the 10th ministerial meeting of the Lima Group in Ottawa. Freeland will travel to Havana to meet with Cuban leaders to discuss the deteriorating situation in Venezuela and U.S. trade action against Cuba. (Sean Kilpatrick/Canadian Press)

Foreign Affairs Minister Chrystia Freeland will travel to Cuba today to meet with Communist leaders in Havana as the situation in Venezuela worsens and U.S. President Donald Trump adopts a far more aggressive posture toward the Caribbean island nation.

In a press release sent to the parliamentary press gallery, Freeland's office said she will meet with her Cuban counterpart, Foreign Affairs Minister Bruno Eduardo Rodríguez Parrilla, to discuss Venezuela and the increasingly fraught U.S.-Cuba relationship.

President Trump has taken a markedly different stance on Cuba than his immediate predecessor, Barack Obama, who sought to improve relations with the country after decades of Cold War-era tensions.

Instead, Trump has enforced a long-dormant part of the U.S. trade embargo against that country, known as Title III of the Helms-Burton Act, which could seriously threaten foreign investment by Canadian and European companies in Cuba.

The action is designed to punish Cuba for its support for Venezuelan President Nicolas Maduro, called a "Cuban puppet" by Trump in February.

By enforcing Title III of the embargo, Cuban Americans and other U.S. citizens will be able to file lawsuits in U.S. federal court against businesses that operate on property the Cuban government appropriated after the 1959 revolution. Title III has never been fully enforced since the law was passed in 1996.

"Any person or company doing business in Cuba should heed this announcement," U.S. Secretary of State Mike Pompeo said in announcing the policy shift earlier this month.

"Implementing Title III in full means a chance at justice for Cuban Americans who have long sought relief from Fidel Castro and his lackeys seizing property without compensation."

This move could spell trouble for major Canadian companies that operate in Cuba, including the Montreal-based National Bank of Canada, which operates a branch in Havana focused on trade financing, and Toronto-based resource company Sherritt International.

Sherritt is thought to be particularly vulnerable to these U.S. changes since it is one of the largest foreign investors in Cuba through its ownership stake in nickel and cobalt mines, a power plant and oil and gas operations in that country.

The company's executives are already banned from travelling to the U.S., or doing any sort of business there, under existing provisions of the Helms-Burton Act, which is also known as the Cuba Liberty and Democratic Solidarity (LIBERTAD) Act.



Cuba's former President Raul Castro, center, listens to a translator as Ian Delaney, president of Canadian Sherrit International Corp., right, looks on during a visit to a gas processing plant in Boca de Jaruco, Cuba, Wednesday, June 6, 2007. Sherrit International has investments in power and metals mining projects in Cuba. Delaney has since retired from his position with the company. (Adalberto Roque/AP Photo)

Canada's airlines, which ferry tens of thousands of Canadians to Cuban resorts each year, also could face legal challenges, according to the U.S.-Cuba Trade and Economic Council Inc., a group that tracks investments in Cuba.

The U.S. law is designed to have a chilling effect on investment and business activities in Cuba in the hopes that such economic pressure will lead to regime change and a democratically elected government in Cuba. "It is of critical importance that our two countries meet to discuss the economic, political and humanitarian crisis in Venezuela and the work we can undertake together to address it," Freeland said in a statement.

"I also look forward to discussing how we can work together to defend Canadians conducting legitimate trade and investment in Cuba in light of the United States ending the suspension of Title III of the Helms-Burton Act."

Canada is part of the Lima Group of countries that opposes Maduro's presidency and has recognized opposition leader Juan Guaidó as the country's legitimate leader.

Houston Chronicle

Houston, Texas

3 May 2019

Exxon sues over Cuban assets seized by Castro in 1960s

James Osborne



Cars stand and refuel in Havana Cuba. Exxon Mobil has sued Cuba to gain compensation for the expropriation of a refinery and other assets after Fidel Castro took power some 60 years ago. Photo: Jens Kalaene, CTR / Jens Kalaene/picture-alliance/dpa/AP Images

WASHINGTON - Six decades ago, the Cuban revolutionary Fidel Castro ordered federal inspectors to raid Standard Oil offices there, seizing maps and geological records in what was to become the first step in an expropriation that would go on to include a refinery, ports and more than 100 gas stations.

Now Exxon Mobil, Standard's successor, is suing Cuba's national oil company and a state-owned industrial conglomerate for approximately \$280 million, filing a lawsuit in federal court in Washington Thursday seeking compensation for the value of the assets plus almost six decades of interest.

The legal action followed an announcement by the White House last month that President Donald Trump would allow companies and individuals to go ahead and sue in U.S. federal court for assets seized during the Cuban Revolution, breaking with more than two decades of diplomatic norms.

Exxon, the first publicly traded company to file a claim, declined to comment on the reason for the litigation Friday. But in the lawsuit, Exxon claimed the assets seized six decades ago, “are still in use today even though [Exxon] has never received any compensation for this property.”

The Cuban embassy did not respond to a request for comment.

Ranging from hotels to ports to communications systems, the assets seized by Cuban forces beginning in the late 1950s have been valued at approximately \$8 billion by the Justice Department’s Foreign Claims Settlement Commission. Congress passed a law allowing companies to sue for compensation in 1996, but European nations, concerned about how such a law might affect their trade relations with the Caribbean nation, threatened to file a claim against the United States at the World Trade Organization if the lawsuits went ahead.

The Maduro factor

Former presidents Bill Clinton, George W. Bush and Barack Obama all chose to suspend the provision of the law that allows companies to sue. But unhappy with Cuba’s decision to support Venezuelan President Nicolas Maduro amid growing international outrage over the regime’s human rights in Venezuela, Trump has decided to allow the litigation to move ahead.

“Havana continues to prop up Maduro and help him sustain the brutal suffering of the Venezuelan people,” National Security Advisor John Bolton said in a speech in Miami in April. “As President Trump has said, Maduro is quite simply a ‘Cuban puppet.’”

Under Trump’s order, companies were allowed to begin filing suit for Cuban claims as of midnight Thursday. So far, Exxon is the only publicly-traded company to do so, said John Kavulich, president of the U.S.-Cuba Trade and Economic Council, a business organization advocating for greater trade between the two nations.

“Exxon has said nothing. This is hugely surprising,” he said. “Exxon Mobil is going to be the accelerant for others to decide to sue. It gives a lot of companies political cover and commercial justification to move ahead on their claims.”

Other companies with claims against Cuba include the hotel group Marriot International, retail giant Office Depot and oil major Chevron, which has a claim on a refinery seized by Cuba valued at \$56.2 million. But it’s unclear whether they and other companies will follow Exxon Mobil.

Cuban companies do not recognize the jurisdiction of U.S. courts, making it difficult to recoup any damages assessed against them by U.S. courts, said Philip Brenner, a professor studying U.S.-Cuba relations at American University in Washington. He added that many U.S. companies have deals in place or plans to develop business in Cuba in the future and might be reluctant to anger politicians there through litigation.

Political decision

“The reality is Exxon Mobil has written this off long ago, as have other large companies,” Brenner said. “It looks wholly like a political decision to support the Trump administration.”

So far, only two other lawsuits have been filed seeking compensation for assets seized by Cuba, both by individuals against the Miami-based cruise line Carnival, Kavulich said. They claimed Carnival operates on docks and other port facilities seized from their family by the Cuban government.

Miami Herald
Miami, Florida
3 May 2019

Exxon-Mobil sues Cuba’s oil companies for their use of properties seized under Castro

By Nora Gámez Torres

The Miami-based cruising conglomerate was sued in federal court by Mickael Behn and Javier Garcia-Bengochea, both of whom hold claims certified by the federal government for assets confiscated shortly after the Cuban Revolution. By Pedro Portal

In an expanding legal battle, Exxon-Mobil has filed suit in U.S. federal court against Cuba's CIMEX and CUPET companies for their use of an oil refinery and other properties seized by the Fidel Castro government six decades ago.

Exxon-Mobil is the first U.S. company to file suit after President Donald Trump allowed Title III of the Helms-Burton Act to take effect, opening the way for demands against Cuban and foreign companies that benefit from properties seized by the communist government.

Title III had been suspended every six months by every U.S. president since the law was approved in 1996.

The Exxon-Mobil lawsuit, filed in federal court in Washington Thursday, followed two other complaints filed in U.S. court in Miami against Carnival Corp. for the use of port facilities in Havana and Santiago de Cuba, by descendants of the families that owned the docks and warehouses.

“This filing is immensely significant. The largest energy company in the United States, the fifth-largest energy company in the world (is) using Title III ... to sue a company owned by the government of Cuba,” said John Kavulich, president of the U.S.-Cuba Trade and Economic Council.

“This provides comfort for other large claimants to sue, will increase fear by companies in other countries from engagement with Cuba due to the reach of Exxon-Mobil and is consistent with Exxon-Mobil efforts to recover assets in Venezuela and defend themselves in other countries,” he added.

Exxon has filed suit against the Venezuelan government's PDVSA oil company for the nationalization of properties during the government of the late President Hugo Chavez.

Exxon-Mobil, a successor company to Standard Oil, argued in its lawsuit that CIMEX and CUPET (Cuba Petroleo) have long exploited a refinery in Havana, formerly called the Belot and now the Nico López refinery, as well as gasoline stations and other installations that were worth \$72 million when they were seized by the Castro regime without compensation in 1960

The Helms-Burton law allows companies to demand three times the original value of the seized properties, plus six percent per year and court costs.

The U.S. Department of Justice has certified nearly 6,000 claims by U.S. citizens and companies for properties expropriated after Castro seized power in 1959. Now Cubans who became U.S. citizens after their properties were seized will also be able to file lawsuits under Title III.

Cuban Foreign Minister Bruno Rodríguez said Thursday his government will protect the companies facing lawsuits under Title III, but offered no details.

“The Helms-Burton law is illegal, violates international law, cannot be applied and has no legal weight or impact,” he declared on Twitter. “Cuba will protect the Cuban and foreign entities operating in the country, and considers all demands based on that judicial monstrosity to be null.”

Kavulich warned of rough waters ahead for Havana.

“Regardless of the position of the government of Cuba, if enough certified claimants use Title III, there will be immense pressure upon Cuba by members of the EU, Canada, Japan, Russia and China to negotiate a settlement with the 5,913 certified claimants,” he said.

Founded by the Cuban Ministry of the Interior, CIMEX is on the list of restricted Cuban entities maintained by the U.S. Department of State. It is now part of GAESA, a conglomerate controlled by the Cuban military, and administers shops, restaurants and real estate agencies. With CUPET, it operates hundreds of gas stations on the island.

One CIMEX branch, Fincimex, has a contract with Western Union to deliver remittances to island residents, one of the principal sources of hard currencies for the country.

CUPET also co-managed a gasoline refinery in Cienfuegos with Venezuela’s PDVSA until 2017, when CUPET took over sole management of the facility.

In the past, a number of people have won lawsuits in U.S. courts against Cuba, but have been largely unable to collect on the damages awarded because the Cuban government no longer has properties or accounts in the United States that can be seized.

But that apparently did not dissuade Exxon-Mobil, which has a powerful legal team, from filing its lawsuit.

Kavulich said the oil giant could try to seize some part of the fees that Western Union or other clients pay to CIMEX for the remittances. Western Union itself has a certified claim against Cuba for more than \$1 million.

Exxon-Mobil has “the commercial, economic and political reach to locate assets and litigate for assets,” Kavulich said. “And, the Trump Administration will certainly assist in whatever way is viable.”

El Nuevo Herald

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Petrolera Exxon Mobil demanda a compañías cubanas bajo la ley Helms-Burton

por Nora Gámez Torres

Seis décadas después de que Fidel Castro confiscara miles de propiedades a cubanos y estadounidenses sin ofrecer compensación, dos estadounidenses presentaron demandas este jueves en la corte de Miami contra la compañía de cruceros Carnival. por Pedro Portal

Seis décadas después de que Fidel Castro confiscara miles de propiedades a cubanos y estadounidenses sin ofrecer compensación, dos estadounidenses presentaron demandas este jueves en la corte de Miami contra la compañía de cruceros Carnival. por Pedro Portal

En lo que parece ser una creciente batalla legal, la corporación estadounidense Exxon Mobil ha presentado una demanda contra las compañías cubanas CIMEX y CUPET por el uso de una refinería y otras instalaciones expropiadas hace seis décadas por el gobierno de Fidel Castro.

Exxon es la primera compañía estadounidense en presentar una demanda contra compañías del gobierno cubano, tras la entrada en vigor del derecho a presentar demandas judiciales —amparadas en el Título III de la Ley Helms-Burton o ley Libertad—, contra compañías cubanas y extranjeras que se han beneficiado del uso de bienes y propiedades que fueron nacionalizadas o confiscadas por el gobierno comunista. El presidente Donald Trump decidió por primera vez no suspender el controversial artículo, como había sucedido hasta ahora desde que la ley fue aprobada en 1996.

La demanda de Exxon, presentada en una corte federal del Distrito de Columbia el jueves, se suma a otras dos presentadas en Miami contra la compañía de cruceros Carnival, por el uso de los puertos de Santiago de Cuba y La Habana sin haber ofrecido compensación a quienes el gobierno de Estados Unidos reconoce como sus legítimos dueños.

“Esta demanda es inmensamente significativa”, opinó John Kavulich, presidente del U.S-Cuba Trade and Economic Council y quien ha seguido de cerca el tema de las reclamaciones. “La compañía de energía más grande de los Estados Unidos, la quinta empresa de energía más grande del mundo utiliza el Título III de la Ley de Libertad para demandar a una compañía propiedad del gobierno de Cuba”.

Kavulich cree que la acción de Exxon estimulará a otras compañías a presentar sus reclamaciones y sobre todo, aumentará el temor de las compañías extranjeras de hacer negocios en Cuba. Más sorprendente que las esperadas demandas contra las compañías de crucero, la acción, agregó el experto, “es consistente con los esfuerzos de la compañía para recuperar activos en Venezuela y defenderse en otros países”—Exxon demandó a PDVSA por activos nacionalizados por el gobierno del fallecido Hugo Chávez en Venezuela.

Exxon Mobile Corporation (anteriormente conocida como Standard Oil) argumenta en la demanda que la Corporación CIMEX S.A. y la Unión Cuba Petróleo (CUPET) han explotado durante años una refinería en el puerto de La Habana (la actual Nico López), instalaciones y gasolineras que pertenecían a subsidiarias de la compañía estadounidense con un valor original de casi \$72 millones. Según la demanda, la refinería conocida anteriormente como Belot fue nacionalizada en 1960 y la compañía no recibió compensación.

La ley Helms-Burton permite a las compañías demandar por daños equivalentes al triple del valor original, más un seis por ciento de interés anual, así como recobrar los gastos del litigio.

El Departamento de Justicia certificó casi 6,000 reclamaciones de ciudadanos y compañías estadounidenses cuyos bienes fueron expropiados a partir de la llegada al poder de Castro en enero de 1959. A eso se suman las posibles demandas que pudieran presentar los cubanoamericanos que luego obtuvieron la ciudadanía en Estados Unidos, según lo reconoce la ley Helms-Burton.

El canciller cubano, Bruno Rodríguez, declaró el jueves que su gobierno protegería a las compañías que fueran demandadas aunque no explicó cómo.

“La Ley Helms-Burton es ilícita, violatoria del Derecho Internacional, inaplicable y sin valor ni efecto jurídico”, dijo en Twitter. “Cuba protegerá a las entidades cubanas y extranjeras que operan en el país y considera nula toda reclamación amparada en este engendro jurídico”.

Pero, “independientemente de la posición del gobierno de Cuba, si suficientes reclamantes certificados usan el Título III, los miembros de la Unión Europea, Canadá, Japón, Rusia y China ejercerán una inmensa presión sobre Cuba para negociar un acuerdo con los 5,913 reclamantes certificados”, opinó Kavulich.

Fundada originalmente por el Ministerio del Interior cubano, CIMEX se encuentra en la lista de entidades cubanas restringidas mantenida por el Departamento de Estado. CIMEX forma parte de GAESA, el mayor conglomerado militar de empresas de Cuba, y realiza operaciones financieras

y de comercio exterior, gestiona tiendas, restaurantes e inmobiliarias y opera junto a CUPET cientos de gasolineras en el país.

Una de sus empresas de CIMEX, Fincimex, tiene un contrato con Western Union para gestionar el pago de las remesas en Cuba, una de las principales fuentes de divisas del país.

Por su parte, CUPET operó por algunos años en conjunto con PDVSA la refinería de Cienfuegos hasta que retomó todo el control en el 2017.

En el pasado, quienes han ganado demandas contra el gobierno cubano, no han podido cobrar la reparación acordada por la corte porque el gobierno cubano no posee ya propiedades o cuentas en Estados Unidos. Pero esto no parece haber sido suficiente para detener a Exxon, que cuenta con un poderoso equipo legal.

Como CIMEX gestiona los pagos de las remesas, Exxon Mobil podría solicitar una parte de las tarifas que Western Union o los clientes pagan a CIMEX, si ganan el caso, señaló Kavulich. Western Union también tiene reclamaciones certificadas por pérdidas en Cuba que superan el millón de dólares.

El gigante petrolero estadounidense “tiene el alcance comercial, económico y político para ubicar activos y litigar por activos”, dijo el experto. “Y, la Administración Trump sin duda ayudará de cualquier manera que sea viable”.

Thomson Reuters

London, United Kingdom

2 May 2019

Exxon Mobil sues Cuba over property expropriated in 1960

By Marc Frank

HAVANA (Reuters) - Exxon Mobil Corp on Friday sued Cuban state-owned Cuba-Petroleo and the CIMEX corporation in U.S. federal court over a refinery, gasoline stations and other assets seized in 1960 after Fidel Castro's revolution.



FILE PHOTO: An Exxon gas station is seen in Houston, Texas, U.S., April 30, 2019. REUTERS/Loren Elliott

The largest U.S. oil producer is the first corporation to sue Cuba since the Trump administration allowed a long dormant section of the 1996 Cuban Liberty and Democratic Solidarity Act, known as the Helms-Burton Act after its sponsors, to take effect on May 2.

The Trump administration has been ratcheting up pressure on Venezuela and Cuba. Previous presidents had waived Title III of the Act, under which anyone whose property was nationalized after the 1959 Cuban Revolution can sue any individual or company profiting from their former holdings.

On Thursday two Cuban-Americans sued Carnival Corporation for using Cuban ports nationalized from the family members who owned them.

Exxon Mobil accuses the Cuban defendants of “unlawful trafficking in Plaintiff’s confiscated property in violation of Title III of the ... Cuban Liberty and Democratic Solidarity Act of 1996,” according to the complaint filed in the U.S. District Court for the District of Columbia.

The Standard Oil refinery at Havana Bay, now operated by CUPET, was the first U.S. property taken over by Castro and his bearded revolutionaries after the company refused to process oil from the Soviet Union as tensions mounted with the United States.

CIMEX operates gasoline stations in Cuba with CUPET.

Standard Oil was broken up into several companies, one of which was Exxon, which merged with Mobil in a 1998 deal.

In the 1960s the United States certified 5,913 claims against Cuba valued at \$1,9 billion of which Standard Oil and Mobil each have a claim valued at a combined \$245 million according to the U.S.-Cuba Trade and Economic Council, a New York - based organization whose expertise includes U.S. claims.

“This filing is significant. This is the fifth-largest company in the world using Title III of the Libertad Act to sue a company owned by the government of Cuba,” said John Kavulich, president of the council.

“This provides comfort for other large claimants to sue, will increase fear by companies in other countries from engagement with Cuba due to the reach of Exxon Mobil and is consistent with Exxon Mobil efforts to recover assets in Venezuela and defend themselves in other countries,” he said.

Under a Cuban law passed in 1996 in response to the Helms-Burton Act, certified claimants who take advantage of the Act will be disqualified from future settlements.

CUPET and CIMEX were not immediately available for comment.

An Exxon Mobil spokesman said the company does not comment on pending litigation.

Cuba charges Title III violates international law because its nationalization of property was legal and also because Cuban-Americans were not U.S. citizens when their properties were taken.

All other nations settled their citizens’ property claims decades ago. Certified U.S. claims by American citizens at the time of expropriation were never settled.

Canada, the European Union and other countries charge the United States has no jurisdiction over their citizens’ activity in Cuba and they will take the issue to the World Trade Organization, among other actions.

International opposition, and the fear that thousands of suits brought by Cuban-Americans would clog U.S. courts, led previous U.S. presidents to waive implementation of Title III.

Title I and II of the Helm-Burton Act codify all previous sanctions into law and set conditions for the U.S. Congress to lift them.

Title IV bans executives and their families from the United States if they profit from expropriated properties.

The New York Times

New York, New York

2 May 2019

In Cuba, Carnival Cruise Ships Have Been Using Stolen Ports, Original Owners Say Revolutionaries confiscated the Havana Docks Company in 1960.



Revolutionaries confiscated the Havana Docks Company in 1960. Credit: Havana Docks Company

By Frances Robles

Mickael Behn grew up attending shareholder meetings of a port company that no longer existed, except on paper.

The Havana Docks Company used to run maritime operations in the busy harbor of Cuba's capital, until they were confiscated at gunpoint by revolutionaries in 1960. The company's officers, in the quixotic hope of one day getting their port business back, went on keeping the books, paying taxes and meeting annually in exile.

Now Mr. Behn, who succeeded his grandfather as president of Havana Docks, is trying to make that patience finally pay off. Taking advantage of a recent policy change by the Trump administration, he is suing the company that currently uses his family's lost property: Carnival Cruise Lines.

His action was one of at least two suits seeking compensation for "trafficked" properties that were filed on Thursday against Carnival in United States District Court in Miami. Experts say the suits could signal legal trouble for many companies around the world that do business in Cuba using assets confiscated after the revolution.

Not since Fidel Castro first rode into Havana on an open-topped Jeep have Americans been able to demand compensation in an American court from the current users of assets seized by his government. The administration said last month that it would begin allowing such suits, one of a series of measures to toughen Washington's stance against Cuba.

"The cruise lines just completely ignored us, and are using our port without any care that it was stolen from us," said Mr. Behn, a 43-year-old television production editor who shuttles between Miami and London. "They are profiting from people who lost their businesses," he said.

The Carnival Corporation's website advertises five-day cruises to Cuba from Miami and Fort Lauderdale for as little as \$299. The cruises began in 2016, after the Obama administration loosened restrictions on travel and trade with the island nation.

A company spokesman, Roger Frizzell, declined to comment on the lawsuits except to say, "We continue to operate our normal cruise schedule to Cuba."

Nearly 900,000 people cruised to Cuba last year aboard ships operated by 17 different companies, according to the Cuban government, and Carnival has announced plans to add more routes to the island from Florida, Virginia and New York.

For years, the legal quest to be compensated for confiscated properties in Cuba was futile.

After Cuban fighter jets shot down small private planes operated by a Miami volunteer group, Brothers to the Rescue, that sought to assist refugees fleeing the island and sometimes dropped leaflets from the air, Congress passed the Cuban Liberty and Democratic Solidarity Act in 1996. The legislation, more commonly known as the Helms-Burton law, tightened the American trade embargo and included a section known as Title III that authorized compensation claims against foreign companies over their use of seized assets.

However, the law allowed the president to temporarily waive Title III, and all four presidents since then have done so, until the Trump administration decided last month to finally let Title III take effect.



Capt. William Behn, once president of Havana Docks, and two Cuban revolutionary men on Nov. 21, 1960. Credit: Havana Docks Company

Lawyers who specialize in the issue say that the law and the new policy are ambiguous enough that the lawsuits will probably be vigorously contested in court.

“This is a very technical piece of legislation, which has never been litigated,” said Pedro A. Freyre, a Miami lawyer who represents companies doing business in Cuba. “It was enacted at a time when interaction between Cuba and the U.S. was very different than at present. There are a number of defenses and ambiguities which will undoubtedly be brought up.”

John S. Kavulich, head of the U.S.-Cuba Trade and Economic Council, said the key to the lawsuits will be proving that the Obama administration broke the law when it expanded the ways Americans would be allowed to travel to Cuba. He said a court could decide that sailing aboard a luxury cruise liner does not qualify for any of the categories permitted under the law, like educational travel.

“If it’s tourism, it wasn’t legal,” Mr. Kavulich said. “If it was legal, then the cruise companies are off the hook.”

Both of the lawsuits against Carnival were filed by Roberto Martínez, a former United States Attorney in Miami who has won enormous verdicts against the Cuban government in a variety of cases, including a \$188 million wrongful death suit over the four people who were killed when the Brothers to the Rescue planes were downed. Frozen Cuban assets in the United States were used to pay some of those awards.

Mr. Martínez said his clients had been preparing for years and were more than ready to file suit on the first day they could.

“Their family businesses were destroyed, stolen by the Castro government, and these American companies were put on notice for many years that they were using properties that were stolen, and they did nothing about it,” he said. “They miscalculated the decision that it was worth doing business and ignoring the pleas not to use stolen properties, and now they are basically going to court and having to deal with the consequences of that risk.”

He said the law stipulates that former property owners can seek triple the value of the property as compensation, and the property can be valued several different ways. The Havana Dock Co. has a claim certified by a United States commission saying that its property was worth \$9.1 million in

1960; under the law, it could be awarded three times that amount, plus interest, or three times the current fair market value.

The other plaintiff is Javier Garcia-Bengochea, a neurosurgeon in Jacksonville, Fla., whose family owned port facilities in Santiago de Cuba, in the eastern part of the island.

Dr. Garcia-Bengochea has spent years writing to Carnival, sending letters to the editors of newspapers and going public in any way he could about his family's claim, which he said was more about principle than money.

He was 15 months old when his family fled the island, he said, and has seen the confiscated property just once, when he traveled to Cuba in the late 1990s.

"You grow up raised under a certain shadow or cloud of the culture and a country that you left," Dr. Garcia-Bengochea said. "The enduring symbol of that, the physical symbol of that, is the property you lost."

Bloomberg

New York, New York

2 May 2019

As Trump Allows Cuba Lawsuits, Young Lawyer Sees Vindication

By Jonathan Levin

Companies prepare to defend operations on the communist island
Families want justice. Critics fear collateral damage to U.S.



A car sits parked below a painting of Che Guevara in Havana.
Photographer: Ty Wright/Bloomberg

Javier Lopez has spent hundreds of hours interviewing Cuban exiles and meticulously building cases for families who lost property after the 1959 revolution. He's pored over obscure legal papers, Spanish-language newspaper articles and, in one case, a century-old parchment deed. Then, he stashed the suits in his computer: No court would hear them, and he couldn't bill a cent. On Thursday, the cases can come out again.



Javier Lopez
Source: Javier Lopez

For the first time, the Trump administration will allow lawsuits in U.S. courts against firms operating on seized Cuban property, including multinational corporations based in Canada and Europe, which accounts for the island's biggest source of foreign investment. In many cases, the

companies entered the market decades after the land was expropriated, but they could be held accountable all the same.

Some Cuba watchers are projecting a flurry of legal activity, while foreign governments and corporations are preparing to defend billions in assets. The European Union and Canadian governments have jointly warned that suits could prompt them to complain to the World Trade Organisation. Among potential lawsuit targets are Swiss food company Nestle SA; Canadian miner Sherritt International Corp.; and Spanish hoteliers NH Hotel Group SA and Melia Hotels International SA, according to a list from the U.S.-Cuba Trade and Economic Council.

Lopez, 39, has been waiting for this day for the better part of the past decade.

“Vindicated is certainly one of the things that I feel,” he said from his Coral Gables, Florida, office, decorated with paintings depicting the Cuban diaspora experience, his collection of busts of the Cuban poet Jose Marti, and his cigar humidor. (He prefers Romeo y Julieta, a brand nationalized by Cuba but later replicated in exile.)

“It’s just intensely personal, having come from a Cuban family, political prisoners,” said Lopez, whose great uncle Mario Chanes de Armas was held about three decades in one of Castro’s prisons.

Unused Weapon

Indeed, thousands of families have stories of assets lost when they fled under Castro’s threats. The ability to sue might provide them a semblance of long-awaited justice. But there could be collateral damage to key U.S. relationships: The Helms-Burton Act of 1996 created the legal recourse. Yet until Trump, every president has delayed implementation of the lawsuit provision, due in large part to concerns that the cases would bedevil global corporations and leave the U.S. at odds with allies.



People and vehicles cross a street in Havana.
Photographer: Eliana Aponte/Bloomberg

The current administration appears to have decided it’s worth the risk. As some progressive Democrats embrace the term socialism, Trump has sought to make an example of Cuba during speeches in Florida, America’s biggest swing state and the seat of the island nation’s exile community.

The administration is blaming Cuba for backing Venezuela’s autocratic President Nicolas Maduro and thwarting opposition leader Juan Guaido’s efforts to unseat him. Trump suggests Cuba props up Maduro amid food and medicine shortages, rigged elections and growing discontent in the streets. He tweeted Tuesday that he may implement a "full and complete" embargo on Cuba, beyond what’s already in place, in retaliation for its military presence in Venezuela.

“Our view, which differs from that of some of our partners, is that a policy of engagement with this regime has failed miserably,” the State Department said in an emailed response Thursday to questions about the lawsuits’ impact on foreign relations.

Cuba’s government didn’t respond to a request for comment. But this month, Josefina Vidal -- Cuba’s ambassador to Canada and the negotiator who normalized relations with the U.S. during

the Obama years -- said America had exaggerated Cuban influence in Venezuela. She also said the Trump approach wouldn't do anything to remove the regime in Havana.

Expired Time

For years, there was an effort to settle many of the claims, and such a negotiated deal was seen as a necessary precursor to further rapprochement -- including an eventual lifting of the U.S. embargo.

The Obama administration dallied because it failed to anticipate Trump's defeat of Democrat Hillary Clinton, said John Kavulich, president of the New York-based Trade and Economic Council, which acts as a liaison for companies interested in doing business on the island. The group officially takes no political positions, but its web site displayed a countdown clock to the opening of the lawsuit window.

Kavulich said he was surprised that Trump, who trumpets his deal-making prowess, hadn't attempted a compromise.

"That one's a pretty easy one," he said. "It's a real-estate settlement. This has now left the political process and moved into the judicial process."

Lost Land

For Lopez, one of the first filings will be for the woman who appeared at his office not long ago and matter-of-factly produced from a plastic supermarket bag the 1903 parchment deed to a massive sugar plantation.



The 1903 parchment deed
Source: Javier Lopez via Bloomberg

But he acknowledges that many challenges lie ahead, including actually collecting any awards. He also questioned whether inherited property claims will be permitted to proceed.

"What happens if you inherit the claim when your father passes away and leaves you this deed, this proof of ownership, but he died in 2010?" Lopez said. "The purpose of the Helms-Burton Act is to help get a remedy for the people that had their property stolen. If you go by a strict interpretation, thousands and thousands of people will be out of luck because their parents died."

Under Trump, U.S. policy toward Cuba is undergoing a remarkable reversal. In 2015, America reopened its Havana embassy after decades of post-revolutionary diplomatic silence. The next year, Barack Obama became the first president to visit the city since Castro took power, promoting warming relations and heralding a potential rollback of the decades-old embargo.

U.S. economic policy had failed to achieve the goal of forcing Castro and his brother, Raul, from power, but many Cuban-Americans blasted the new approach as too soft on a brutal, anti-democratic regime.

Lopez said he hopes Trump keeps ratcheting up the pressure. "These are foreign companies that are going to be held accountable, but the Cuban government still hasn't," he said. "That shoe hasn't dropped yet, and that shoe needs to drop."

The Gleaner

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David Jessop | The troubling consequences of Washington's new Cuba policy



AP. In this May 2, 2016 file photo, Yaney Cajigal, left, holds out an American flag, and Dalwin Valdes holds a Cuban National flag, as they watch the arrival of Carnival's Adonia cruise ship from Miami, in Havana, Cuba. Relations between Cuba and the US have deteriorated under the Trump administration.

COLUMN: FOREIGN POLICY

Just before Easter, the Trump administration announced multiple new sanctions on Cuba.

In doing so, senior United States officials made clear that Washington was not just trying to break Havana's close economic and political ties with Venezuela but intended the measures to bring about fundamental political change.

It is a position that stands in stark contrast to that of the EU, Canada, Mexico and most other nations worldwide that believe the only way to encourage change in Cuba is through dialogue, calibrated support and the exploration of the potential that generational change offers.

Speaking on April 17 to Bay of Pigs veterans in Miami, the US National Security Adviser, John Bolton, could not have been clearer about US intentions. US policy in the Americas, he observed in a speech high on aggressive rhetoric against Cuba, now ends with the removal of communism and socialism from the hemisphere.

"We proudly proclaim for all to hear: the Monroe Doctrine is alive and well" he declared in remarks that anticipated "the coming of the first free hemisphere in human history," Bolton said.

The same day in significantly more measured terms, Mike Pompeo, the US Secretary of State, suggested that the sanctions were intended to advance "human rights and democracy on behalf of the Cuban people". The new measures allow as of May 2 US lawsuits against anyone including US companies 'trafficking' (that is, making use of) expropriated US property in Cuba, by ceasing to waive Title III of its 1996 Helms Burton legislation.

More potently, the State Department will now actively use Title IV of the bill to deny US visas to any foreign national who 'traffics' in confiscated property or who are corporate officers or shareholders of involved entities.

The Trump Administration also said that it will halt 'u-turn' financial transactions to Cuban entities made through US banks and will cap previously unlimited personal transfers to US\$1,000 per quarter, a measure expected to drastically reduce the US\$4 billion a year ordinary Cubans receive in remittances largely from the US.

In addition, Washington will impose new restrictions on non-family travel to Cuba in ways that are as yet unclear but likely to impair significantly all US travel to the island. It will also add additional Cuban enterprises and individuals to the State Department's restricted list.

Other measures are also planned. Speaking after Mr Pompeo, the US Assistant Secretary for the Western Hemisphere, Kim Brier, said that the US is exploring further options and that the measures announced were just the beginning of a new process.

Although the detail has yet to be spelt out, an “on background” interview with two senior-level Trump Administration officials conducted by the US-Cuba Trade and Economic Council Inc provides several clues.

The business group, which works with US and other investors in Cuba, quoted its interlocutors as saying that while they did not expect sanctions to result in immediate political change in Cuba, one intended outcome would be to alter the structure of the Cuban economy by removing the subsidised oil exports the country receives from Venezuela. “That means permitting more of a market-based economy. They won’t like it, but their ability to derail (sanctions) is pretty fast moving beyond their control”, the official was reported as saying.

The same individuals also said that that a unique confluence of events now offers the US the opportunity to bring about change in Cuba. “For President Trump, the stars have aligned, and Venezuela is the tool that we believe can provide change within two countries” one of the officials was quoted on the organisation’s website as saying.

How effective such an approach might be is unclear. Cuba has a fifty year plus history of resistance and no inclination to back down in the face of US pressure.

Moreover, there are already signs of a significant deepening in Havana’s economic and political relationship with Russia, which both sides now publicly refer to as being refer once again as being strategic.

Washington’s latest announcements however come at a difficult moment for the Cuban government. It is continuing to struggle to reform its over-centralised, bureaucratic and inefficient planned economy in the hope that decentralisation and individual responsibility might deliver a more modern, productive, socially oriented economy.

Speaking recently to Cuba’s National Assembly as First Secretary of the country’s Communist Party, Raúl Castro stated that its government was preparing for what may be an extended period of hardship.

He said that faced with the “increasingly threatening tone” of the US, equal importance was being placed on “preparing for the country’s defence and the national economy’s development”.

He warned legislators that while the country was not in danger of returning to the hardships that followed the collapse of the Soviet Union, Cuba could face additional economic challenges that could worsen in coming months. He also said that measures were under way to reinforce the combat capacity of the country’s armed forces in accordance with its strategic doctrine of a “war of all the people”.

What comes next is a period of uncertainty in relation to investment, trade and travel, and a growing international divide between Washington and its allies over Cuba.

In a joint letter to Mr Pompeo the EU High Representative, Federica Mogherini, and the EU Trade Commissioner, Cecelia Malmstrom, made clear that the US decision on Helms-Burton broke commitments made by Washington in 1997 and 1998, and should not be conflated with shared concerns about human rights and democracy in Cuba, or the need to urgently to find a solution to the crisis in Venezuela.

Subsequently the EU and Canada issued a joint statement expressing concern about the impact of US policy on legitimate EU and Canadian business activity in Cuba.

They also indicated they would work together to offset any extraterritorial effect by introducing countervailing sanctions against US entities and introduce actions at the World Trade Organization.

Recent statements make it hard to escape the conclusion that President Trump and his most senior advisers have embarked on a strategy intended to engineer change in Cuba through economic hardship and the creation of discontent.

If this is so, it is policy that has unpredictable political, social, economic and migratory consequences for the wider region, placing ideology above realpolitik and what is humane.

David Jessop is a consultant to the Caribbean Council.

Miami Herald

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American owners of confiscated property in Cuba prepare for potential lawsuits

By Nora Gámez Torres

Pompeo: We're 'holding the Cuban government accountable for seizing American assets'

The United States will allow lawsuits against foreign firms operating on properties Cuba seized from Americans after the 1959 revolution. Secretary of State Mike Pompeo spoke about the decision on April 17, 2019. By Department of State

A group of cruise lines, including some based in Miami, might become the first companies to face lawsuits under the Helms-Burton Act over the use of properties owned by Americans that were confiscated by the Fidel Castro government 60 years ago.

Beginning on May 2, the Trump administration will allow Title III of the Helms-Burton Act to go into effect, Secretary of State Mike Pompeo announced recently. The controversial provision allows U.S. citizens to seek compensation for the confiscated properties in federal courts.

Mickael Behn and Javier Bengochea, the holders of certified claims for properties confiscated in the ports of Havana and Santiago de Cuba, told el Nuevo Herald they have notified a number of cruise companies that they intend to file lawsuits against them, probably in Florida. The two men were guests at a recent luncheon in Miami where National Security Advisor John Bolton unveiled a series of measures to tighten the economic embargo against the Cuban government.

"I am going to sue all of them," said Bengochea, referring to cruise companies that use the docks in the eastern city of Santiago de Cuba. The main terminal and several warehouses in the port of Santiago were confiscated from his family in October 1960.

El Nuevo Herald reviewed a list of cruise companies that Behn said are using the installations of Havana Docks, a company managed by his grandfather that owned three docks and a number of buildings in the port of Havana. The facilities were confiscated in November 1961 and are currently part of the city's cruise ship terminal. The terminal has been administered by a Turkish company, Global Ports Holding, since 2018.

The list includes 10 U.S. companies, among them some based in Miami such as Carnival, Royal Caribbean and Norwegian. Carnival and Norwegian did not reply to requests for comment for this story. Royal Caribbean issued a statement saying it was "reviewing the recent statements to evaluate their impact on our guests and our company. For now, we are sailing our Cuba itineraries as scheduled and will keep our guests updated if anything changes."

The Foreign Claims Settlement Commission of the U.S. Department of Justice has certified through two programs 5,913 claims by U.S. citizens and companies for seized properties and losses valued at a total of \$1.9 billion — now valued at \$8.5 billion because of accumulated interests. The commission's final report showed that only 817 of the claims had an original value of more than \$50,000 — the minimum figure required for lawsuits filed under Title III of the Helms-Burton Act.

Title III also allows lawsuits by Cubans who became U.S. citizens after their properties were seized. One State Department estimate in 1996 reported that those lawsuits could climb to as many as 200,000, although the technical complexities and costs of pursuing those cases could limit their number significantly. Unlike holders of certified claims, Cuban Americans will have to provide judges with evidence that they owned the seized properties, said Pedro Freyre, an attorney with Akerman LLP, which represents clients that do business in Cuba.

Kimberly Breier, assistant Secretary of State for Western Hemisphere affairs, did not rule out the possibility of starting a new process to certify the claims by the Cuban Americans.

“They could still be [certified] if the window were [to] open,” she said in a telephone briefing for journalists.

Some experts said that allowing the implementation of Title III is not a genuine effort by the U.S. government to resolve the dispute over confiscations, in particular for those with certified claims on their hands.

“There has been outreach to the Trump administration by representatives of certified claimants; there has been no interest by senior-level officials to meet with them in an ongoing manner, meaning to construct a settlement process,” said John Kavulich, president of the U.S.-Cuba Trade and Economic Council.

Meanwhile, companies doing business in Cuba have been preparing for some time to deal with the risks they run. After the provision goes into effect on May 2, there is a statutory three-month waiting period before claimants can file lawsuits.

“Yes there’s a lot of concern,” among the companies involved in Cuba-related business, said Aymee Valdivia, a lawyer with Holland & Knight, which represents European and U.S. companies like Starwood — now part of Marriott — that administers the Four Points by Sheraton hotel in Havana.

The nearly 60 U.S. companies with presence in Cuba are doing so under authorizations issued by the Treasury’s Office of Foreign Assets Control, which handles a number of U.S. sanctions programs. But having an OFAC license may not be enough to protect the businesses from lawsuits, experts said.

Asked by el Nuevo Herald if the OFAC licenses for doing business in Cuba provide protection, Breier would only say: “There will not be any exemptions.”

“That’s right,” said Behn, the Havana Docks certified claimant. “The cruise companies have an authorization to go to Cuba, but they don’t necessarily have to use the port of Havana installations that were confiscated from my family.”



William Behn faces off across a desk with two armed revolutionaries when Havana Docks Corp. was nationalized by the Castro government on Nov. 21, 1960. His grandson, Mickael Behn, inherited the certified claim for the company. Courtesy Mickael Behn

Several experts and attorneys agreed that a significant part of the lawsuits filed under Title III will pivot on interpretations of the language in the law itself. U.S. cruise, airline and hotel companies are concerned about how federal courts will interpret “lawful travel.” That is because the prohibition on “trafficking” with confiscated properties excludes “transactions and uses of

property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel.”

Companies in the travel industry could argue their businesses in Cuba are covered under that exception in the law, Freyre said. But since most of the U.S. companies’ businesses in Cuba did not exist when the Helms-Burton Act was signed by President Bill Clinton in 1996, federal judges will have to assess the intention of the lawmakers at the time, Kavulich said.

Companies facing lawsuits could also reach out-of-court settlements to avoid trials, as some European companies with dealings in Cuba have done.

Behn’s certified claim for Havana Docks, for example, has an original value of nearly \$9.2 million, now about \$45 million because of the 6 percent annual interest approved by the U.S. claims commission. Title III allows compensation for up to three times the claim value, which Behn said would allow him to seek about \$125 million in damages.

Canada and many European countries already have said that they will oppose the application of U.S. laws to their companies for doing business in Cuba, calling it an extraterritorial reach. Some of those countries also adopted national laws protecting companies from Helms-Burton, which promises lengthy legal battles.



Fidel Castro’s guerrilla fighters on armored tanks parade in front of Havana Docks building in the port of Havana. The photo was probably taken on November 1960, when the property was nationalized, said Michael Behn, who is recognized by the U.S. government as his rightful owner. Courtesy

Valdivia said another possibility is that the companies facing Title III lawsuits will collectively pressure the Cuban government to agree to negotiate and settle the claims.

During the Obama administration, U.S. and Cuban representatives met several times to discuss the issue, but the talks went nowhere because Havana insisted in demanding compensation for the damages caused by the U.S. trade embargo on the island.

The Cuban government already said that it will not respond to any lawsuit filed under Helms-Burton and that it does not recognize the jurisdiction of U.S. Courts.

Izvestia

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**Санкции в Кубе: ЕС ответит на меры США против Гаваны
Вашингтону грозят иском в ВТО и встречными требованиями компенсации**

Наталья Портякова



Фото: Getty Images/Roberto Machado Noa

Добиваться демократических изменений на Кубе следует не рестрикциями, а развитием торгово-инвестиционного сотрудничества. Ответом Европы на экстерриториальные санкции США против Острова свободы, которые ударят и по интересам Евросоюза, станут встречные меры. Такую позицию объединения «Известиям» озвучил посол ЕС на Кубе Альберто Наварро, отреагировав на последнее решение США активировать Третий раздел закона Хелмса–Бертон. Он дает право американским гражданам подавать в суд на любые иностранные компании, распоряжающиеся на Острове Свободы имуществом, некогда принадлежавшим американскому бизнесу, но конфискованным 60 лет назад правительством Фиделя Кастро.

Суд да дело

Со 2 мая американские граждане смогут официально подавать в суды США иски против работающих на Кубе иностранных компаний, которые контролируют собственность, в прошлом принадлежавшую американцам, но конфискованную островными властями после победы кубинской революции в 1959 году.

Такое право было прописано и раньше. Еще в 1996 году конгресс США принял закон Хелмса–Бертон, дававший «зеленый свет» на подачу соответствующих исков. Но в 1998 году Вашингтон приостановил действие Третьего раздела этого закона, затрагивающего интересы европейских и канадских компаний, — дабы не испортить отношения с главными союзниками. В течение более чем 20 лет конгресс США каждые полгода подтверждал приостановку действия Третьего раздела. Но 17 апреля Дональд Трамп решил официально изменить этой традиции, что вызвало крайне болезненную реакцию в Европе.

— Европейский союз не будет молчать. Мы очень четко заявили, что это (решение США) противоречит международному праву, и мы готовы защищать наших граждан и инвесторов всеми доступными средствами, включая разбирательство в ВТО и блокирующий статус, — сказал «Известиям» Альберто Наварро.



Фото: REUTERS/Alexandre Meneghini/File Photo

Блокирующий статус признает недействительными на территории ЕС любые решения иностранных судов, вынесенные во исполнение санкций, и запрещает гражданам союза соблюдать ограничения США. Но главное — он позволяет европейским компаниям получать компенсацию за те убытки, которые они несут из-за экстерриториальных американских санкций.

В последний раз Европа воспользовалась этим ограничительным законом прошлым летом. В ответ на односторонний выход США из «ядерной сделки» с Ираном и введение вторичных санкций против всех, кто будет с ним сотрудничать, Брюссель объявил недействительными на своей территории санкции США в отношении Ирана. Той же дорогой ЕС пойдет и сейчас.

Как признал Альберто Наварро, встречные иски по обе стороны Атлантики будут проигрышными для обеих сторон, именно поэтому Брюссель так активно старался предотвратить это решение. 10 апреля глава европейской дипломатии Федерика Могерини и еврокомиссар по торговле Сесилия Мальмстрем написали письмо госсекретарю США Майку Помпео с призывом соблюдать соглашение США и ЕС от 1998 года, дающее европейским компаниям иммунитет от судебного

преследования в американских судах за деятельность на Кубе. И непрозрачно намекнули: подавляющее большинство из 50 крупнейших истцов США, на которых приходится свыше 70% стоимости требований о компенсации, имеют активы в ЕС. Но убедить своего заокеанского партнера Европе не удалось.

Цена вопроса

— Мы первый торговый партнер Кубы и, думаю, важнейший инвестор, поэтому для нас вопрос санкций США очень серьезен. На Евросоюз приходится около трети всей внешней торговли Кубы — около 33–34%, в прошлом году наш двусторонний товарооборот достиг €2,6 млрд. Вторым по значимости торговым партнером является Китай с долей примерно 27%, за ним идут Венесуэла, Мексика, Канада, на которые приходится по 5% кубинского объема внешней торговли, — пояснил Альберто Наварро.

Наиболее активны на Кубе испанские компании. В конце прошлого года побывавший на Острове свободы премьер Испании Педро Санчес сказал, что инвестиции Мадрида в разные секторы кубинской экономики достигают €370 млн. Особенно продуктивно идет сотрудничество по туристической линии: испанская гостиничная сеть Melia, к примеру, управляет 34 отелями по всему острову, еще три десятка отелей контролируется сетью Iberostar. Через дочерние компании на кубинском рынке присутствуют и крупные британские корпорации — Imperial Brands Plc, British-American Tobacco и Unilever. Французы представлены, в частности, производителем и дистрибутором алкогольных напитков Pernod Ricard.



Отель испанской гостиничной сети Melia в Гаване
Фото: REUTERS/Claudia Daut

Источник «Известий» в немецких дипломатических кругах сказал, что пока Берлин не предвидит каких-то конкретных последствий от решения США по Кубе примерно для 60 немецких компаний, ведущих бизнес на острове. Вместе с тем он подчеркнул: правительство Германии, как и ЕС, «отвергает экстерриториальные санкции как нарушающие международное право».

— В 1990-х годах, когда были созданы первые совместные предприятия, компании из ЕС были очень осторожны, чтобы не брать на себя ответственность, на которую распространялись претензии США. У компаний были специальные юристы, которые занимались вопросами недвижимости, — рассказал «Известиям» эксперт Школы глобальных исследований им. Фредерика Парди в Бостонском университете Пол Хэйр, бывший в 2001–2004 годах послом Великобритании на Кубе.

Венесуэльская ниточка

Диалог Вашингтона и Гаваны всегда был непростым, но прошлый глава Белого дома Барак Обама предпринял редкую попытку нормализовать его. И хотя Вашингтон не отменил торговое эмбарго против Острова свободы, он восстановил с Гаваной прерванные в 1961 году дипотношения и несколько смягчил политику США на кубинском направлении в сфере торговли, туризма, финансов. Дональд Трамп, прославившийся стремлением по максимуму перечеркнуть все достижения своего предшественника, отыграл назад и по части кубинской политики. Он вновь ввел ограничения на туристические поездки на остров для американцев и ужесточил экономическую политику. А вслед за событиями в Венесуэле, где США взяли четкий курс на отстранение всеми правдами и неправдами от власти правительство Николаса Мадуро, Белый дом открыто пообещал наказать Кубу (а также Никарагуа) еще и за поддержку «неудобного» венесуэльского президента.



Президент США Дональд Трамп
Фото: REUTERS/Kevin Lamarque/File Photo

— Страны ЕС обеспокоены тем, что политика США, похоже, нацелена преимущественно на смену режима на Кубе и в Венесуэле. Европейцы давно считают, что можно критиковать права человека и другие проблемы в этих странах, но участие и вовлечение в диалог — куда лучший способ содействия демократическим изменениям, — сказал бывший британский дипломат Пол Хэйр.

Ту же мысль высказал и Альберто Наварро: санкции и блокада — это не способ работы с Кубой. Европейский союз работает с республикой и всеми другими странами мира через вовлечение и диалог.

На закон истец бежит

Когда коммунистическое правительство Кубы во главе с молодым Фиделем Кастро начало кампанию по национализации иностранных активов, компании из Великобритании, Канады, Франции, Испании и Швейцарии получили компенсацию. А вот американцам — на фоне резко ухудшившихся двусторонних отношений и последовавшего эмбарго Кубы со стороны США — не выплатили ни цента.



Фото: REUTERS/Alexandre Meneghini/File Photo

Как рассказал «Известиям» Джон Кавулич, президент Торгово-экономического совета США–Куба (организации, отстаивающей интересы американского бизнеса на Острове свободы), в настоящее время в минюсте США зарегистрировано 5913 исков на получение компенсации от Кубы за экспроприированную когда-то собственность. Общая сумма претензий с учетом 6% годовых превышает \$8,5 млрд.

Однако общее количество тех, кто лишился собственности на Кубе в ходе национализации, достигает, по данным Госдепа США, 200 тыс. человек. На момент экспроприации они были гражданами Кубы, получив американский паспорт уже в последующие годы. По закону, правительство США может поддерживать только судебные иски тех граждан, которые были американцами на момент изъятий. Однако активизация Третьего раздела пресловутого закона Хелмса–Бертон подтвердит правомочность требований граждан Кубы, которые с тех пор имеют гражданство США, что увеличит число истцов в американских судах в десятки раз.

Куба официально не отвергает претензии американских граждан на компенсацию, но увязывает этот вопрос с возмещением самой Гаване того ущерба, который ей за многие десятилетия нанесли торговое эмбарго со стороны и другие «акты агрессии США». А его сумма варьируется, по разным оценкам, от \$121 млрд до \$300 млрд.

Havana squeeze

US to allow lawsuits over properties nationalised by Cuba

AIME WILLIAMS — WASHINGTON JOHN PAUL RATHBONE — NEW YORK

In a move designed to squeeze Havana for its support of the Maduro regime in Venezuela, the US has opened the door for citizens to sue companies deemed to be trafficking in Cuban properties nationalised after the 1959 revolution.

The decision, which changes two decades of US policy towards communist-ruled Cuba, could affect dozens of Canadian and European companies that do business on the island, and see lawsuits lodged against the likes of French drinks company Pernod Ricard, Spain's Meliá Hotel and Canadian miner Sherritt International.

“Any person or company doing business in Cuba should heed this announcement,” Mike Pompeo, US secretary of state, said. “Cuba's behaviour . . . undermines the security and stability of countries throughout the region, which directly threatens US national security interests.”

The move, which could undermine Havana's efforts to attract foreign investment, marks a further step by US President Donald Trump to roll back the historic opening to Cuba begun by his predecessor, Barack Obama.

It is also Mr Trump's latest measure to overturn what Washington calls the “Troika of Tyranny” — the loose tripartite alliance of Cuba, Venezuela and socialist Nicaragua.

“Allowing US citizens to sue regime for confiscated property in Cuba is the right thing to do,” tweeted Marco Rubio, a Republican senator for Florida, widely seen as close to the Trump administration on Latin American policy issues.

The decision activates the so-called Title III of the Helms-Burton Act, which has been waived by every US president over the past 23 years due to opposition from the international community and fears it would flood the US court system.

Kim Breier, assistant US secretary of western hemisphere at the state department, said the foreign claims settlement commission at the US justice department had certified almost 6,000 claims by US citizens for nationalised Cuban property, but knew of another 200,000 that could have a value of “tens of billions of dollars”.

The EU has signalled its disagreement with the US position and suggested it would challenge the Cuba measure at the World Trade Organization. The EU “is ready to protect European interests . . . and entities in their relations with Cuba,” Alexander Winterstein, European Commission spokesman, said.

The move adds to a growing number of disagreements between Washington and its allies in Brussels and Ottawa, and could undermine their joint efforts to bring democratic change to Venezuela.

The two largest current Cuba property claims, which stem from the post-revolution nationalisations of the Cuban Electric Co and International Telephone & Telegraph Co, are held by Office Depot and Marriott International.

“The US did not call any meetings with the current largest claimants or their lawyers prior to this move,” said John Kavulich, president of the US-Cuba Trade & Economic Council. “This is not a strategy to settle the claims, but rather one to maintain and expand them.”

Financial Times

London, United Kingdom

17 April 2019

US targets Nicolás Maduro with new measures against Cuba Venezuela’s central bank also sanctioned as Trump administration ramps up pressure



A US official estimated that billions of dollars of Cuban property could be affected by the Trump administration's move © AP Share

John Paul Rathbone in New York and Aime Williams in Washington DC

The Trump administration has placed new sanctions and other tough restrictions on Cuba and Venezuela in a series of measures designed to increase the pressure on Havana and try to force it to end its support for Nicolás Maduro, Venezuela’s de facto president.

Speaking in Miami to survivors of a Cuban exile group that once led the failed 1961 Bay of Pigs invasion, John Bolton, the US national security adviser, said that Washington was targeting Cuba’s military and intelligence services through these sanctions, and that it would also restrict travel and cap exile remittances to the island.

His speech followed an announcement earlier on Wednesday by Mike Pompeo, US secretary of state, that opened the door for US citizens to sue foreign companies deemed to be trafficking in Cuban properties nationalised after the island’s 1959 revolution.

Mr Pompeo’s legal move, which could lead to thousands of multimillion-dollar lawsuits against companies such as France’s Pernod Ricard and Canada’s Sherritt International, drew immediate criticism from Europe and Canada.

Federica Mogherini, the EU’s foreign policy chief, and Chrystia Freeland, Canada’s foreign minister, said in a statement that they would join forces to protect their companies and allow counterclaims against any US lawsuits. “This is the sharpest turning away yet of any US policy of engagement with Cuba,” said Pedro Freyre, a Cuban expert at the US law firm Akerman. “The overarching point is that the US policy is now in full-blown isolation mode.”

For Donald Trump, the US president, the moves are his latest attempt to try to end what Washington has called the region's "Troika of Tyranny" — the loose tripartite alliance of Cuba, Venezuela and socialist Nicaragua. "When Venezuela is free, and Cuba is free, and Nicaragua is free, this will become the first free hemisphere in all of human history," Mr Trump said in a statement. In Miami, Mr Bolton announced a range of fresh measures.

He sought to squeeze the estimated \$3bn that Cuban émigrés currently send to the island annually by limiting remittances to \$1,000 every three months per person. He warned that travel restrictions to the island by US citizens would be tightened, a move likely to hurt Cuba's fledgling private sector entrepreneurs who mostly work in tourism.

Mr Bolton also accused Cuba of providing security forces to prop up Mr Maduro, announced fresh sanctions against Venezuela's central bank and issued a warning to "all external actors, including Russia," against deploying military assets to support Venezuela's socialist leader. Cuba, which has endured a 60-year US embargo, appears unlikely to be swayed by the Trump administration's demands to drop Mr Maduro, a longtime Havana ally. "We will never change our attitude," Cuba's president, Miguel Díaz-Canel, wrote on Twitter. "We Cubans do not surrender."

Despite tough US oil sanctions, Mr Maduro has also shown little sign of losing the loyalty of the Venezuelan military, or the support of allies such as Russia or China. The US and most western countries recognise opposition leader Juan Guaidó as the country's legitimate president. Mr Pompeo's decision to greenlight legal claims will further complicate the situation as it gives US citizens the right to sue companies that operate out of Cuban properties nationalised after Fidel Castro took power in 1959, as well as Cubans who subsequently became US citizens. Recommended Americas politics & policy Venezuela's exodus continues as Maduro digs in The justice department has already certified 5,913 claims by US citizens for nationalised Cuban property, with a value of \$1.9bn.

However, Kim Breier, assistant US secretary of western hemisphere at the state department, said it knew of another 200,000 claims, which could have a value of "tens of billions of dollars". The two largest single claims, which stem from the post-revolution nationalisations of the Cuban Electric Co and International Telephone & Telegraph Co, are currently held by Office Depot and Marriott International.

Marriott told the Financial Times that it had not been canvassed by the US government ahead of the move.

"The US government did not call any meetings with the current largest claimants or their lawyers prior to this move," said John Kavulich, president of the US-Cuba Trade and Economic Council. "This is not a strategy to settle the claims, but rather one to maintain and expand them."

NPR
Washington, DC
17 April 2019

NATIONAL SECURITY

Trump Administration Announces Measures Aimed At Ending Maduro's Rule In Venezuela

LISTEN 3:383:38

Heard on All Things Considered



DAVID WELNA

White House National Security Adviser John Bolton spoke in Miami Wednesday about "security threats" posed by Cuba and Venezuela. The remarks came as the Pentagon plans to increase pressure on Venezuela.

<https://www.npr.org/2019/04/17/714413432/trump-administration-announces-measures-aimed-at-ending-maduros-rule-in-venezuel>

AILS CHANG, HOST: The Trump Administration announced new measures today aimed at both ending the rule of Venezuelan President Nicolas Maduro and finishing off Cuba's communist regime. The announcement came on the 58th anniversary of the Bay of Pigs invasion. That was the failed Cold War attempt at a counterrevolution that left 13,000 CIA-backed Cuban exiles either killed or captured. NPR's David Welna has the story.

DAVID WELNA, BYLINE: At a luncheon this afternoon put on by Bay of Pigs veterans in the Miami suburb of Coral Gables, the keynote speaker was White House national security adviser John Bolton. His message - that the end is near for the Maduro regime in Venezuela.

(SOUNDBITE OF ARCHIVED RECORDING)

JOHN BOLTON: The walls are closing in. There is no turning back. The people will prevail. And when they do, we know that Cuba will be next.

(APPLAUSE)

WELNA: Bolton announced new sanctions against Venezuela's Central Bank aimed at cutting off its access to dollars. But he also had a message for Russia, which recently sent a hundred members of its military and 35 tons of unknown cargo to Caracas - keep out.

(SOUNDBITE OF ARCHIVED RECORDING)

BOLTON: These steps against Venezuela's Central Bank should be a strong warning to all external actors, including Russia, against deploying military assets to Venezuela to prop up the Maduro regime.

WELNA: But most of the sanctions, Bolton unveiled, had to do with Cuba, including a provision of the 1996 Helms-Burton Act that no other president has enforced.

(SOUNDBITE OF ARCHIVED RECORDING)

BOLTON: Anyone who traffics in property stolen from Americans will not be issued a visa to the United States. They are not welcome here.

(CHEERING, APPLAUSE)

WELNA: And there was more - new prohibitions on direct financial transactions with Cuba's security services, new restrictions on non-family travel to Cuba and limiting how much money can be sent to Cuba to no more than \$4,000 a year. Meanwhile, this morning in Washington, Secretary of State Mike Pompeo made another announcement that the U.S. would allow American citizens, including those born in Cuba, to sue the Cuban government.

(SOUNDBITE OF ARCHIVED RECORDING)

MIKE POMPEO: For the first time, claimants were able to bring lawsuits against person's trafficking property that was confiscated by the Cuban regime.

WELNA: Any person or company doing business in Cuba, Pompeo added, should heed this announcement.

(SOUNDBITE OF ARCHIVED RECORDING)

POMPEO: Those doing business in Cuba should fully investigate whether they are connected to property stolen in service of a failed communist experiment.

WELNA: That will likely trigger an avalanche of lawsuits against the Cuban government according to Robert Muse, a Washington attorney who's an expert on Cuban expropriations.

ROBERT MUSE: It puts virtually every commercial enterprise on the island in question at this point and subject to a lawsuit.

WELNA: And it's also likely a big setback for settling the claims of some 6,000 Americans whose demands Cuba has recognized as legitimate by opening the door to hundreds of thousands of lawsuits seeking hundreds of billions of dollars from Cuba. John Kavulich advises on Cuban trade and investment. He says the Trump administration seems more interested in winning votes in South Florida than it is in settling those certified claims.

JOHN KAVULICH: You can get everyone in a conference room and negotiate a settlement in an afternoon, and they never made that effort. Therefore, it leaves one reason left. And that reason is the presidential election in 2020.

WELNA: Today's enthusiastic response in South Florida could indeed bode well for the president next year. David Welna, NPR News, Washington.

(SOUNDBITE OF FOXYGEN'S "STAR POWER I: OVERTURE") Transcript provided by NPR, Copyright NPR.

South Florida Business Journal

Miami, Florida

18 April 2019

Restrictions on travel to Cuba could hammer S. Fla. companies doing business there



By Emon Reiser
Digital Producer, South Florida Business Journal

South Florida companies, especially cruise lines, could face significant revenue losses and potential lawsuits for conducting business in Cuba, following the Trump administration's move to strengthen the embargo against the island nation.

On Wednesday, the White House announced it would limit non-family travel to Cuba and how much Cuban-Americans can send to relatives in the communist nation, among other restrictions. The new measures reverse broader policies implemented by former President Barack Obama's administration.

The changes are expected to impact airlines and Miami-based cruise lines now offering travel to Cuba, as well as other companies conducting or hoping to conduct business there. The additional repercussions for South Florida's hospitality industry could be substantial, as many of those traveling to Cuba stay at local hotels before or after traveling to the island.

"With [the Helms-Burton Act] being fully implemented and not knowing how far [the Office of Foreign Assets Control] will go, you potentially have an economic impact that's substantial," John Kavulich, the president of the U.S.-Cuba Trade and Economic Council, told the *Business Journal*. "These companies don't have any legal standing to take any action."

That's because the Trump administration's interpretation of the law when it comes to Cuba is that it's illegal for U.S. companies to do business there, Kavulich said. So, companies previously authorized to host cruises or regularly scheduled flights to the island should not be shocked if the administration eliminates or significantly reduces that activity, he added.

Cruise lines, however, were anticipating the current administration's stance against the communist country ahead of this week's announcement.

Miami-based Royal Caribbean International Ltd. (NYSE: RCL), which sails three ships to Cuba across its four brands, told investors in an annual report filed Feb. 22 to the U.S. Securities and Exchange Commission (SEC) that "a significant shift in U.S. policy towards Cuba, including the administration's possible taking action to limit the ability of companies like us to continue to conduct business in Cuba, and/or a significant deterioration in the Cuban economy could impact our Cuban itineraries and associated ticket and tour revenues."

In its Feb. 27 annual filing, Miami-based Norwegian Cruise Line Holdings Ltd. (NYSE: NCLH) stated that "any limitations on the availability of ports of call, including Cuba, or on the availability of shore excursions and other service providers at such ports could adversely affect our business, financial condition and results of operations." Eleven of its ships are scheduled for trips to Cuba.

"We are closely monitoring recent developments with respect to US-Cuba travel. At this time no new regulations have been issued and accordingly, the company's itineraries which include Cuba as a destination will continue as scheduled," a spokesperson for Norwegian said.

Doral-based Carnival Corp., the world's largest cruise company, told investors that it continued to increase the number of cruises to Cuba in a Jan. 28 filing to the SEC. In 2016, it was the first cruise company to host a commercial trip to the island in more than 40 years. Currently, six of its ships are scheduled for multiple sailings to the island with tickets ranging from \$289-\$999 a person.

Many of the cruise companies sail U.S.-Cuba itineraries from South Florida, which has some of the busiest ports in the world for cruise passengers. PortMiami annually hosts the most cruise passengers in the world, followed by Port Everglades in Fort Lauderdale.

Carnival and Royal Caribbean did not immediately respond to a request for comment. But the Cruise Lines International Association, an authority on the global industry, said it's working to "better assess the scale and timing" of how the new restrictions will affect U.S.-Cuba sailings.

"For now, currently scheduled cruises are continuing," said a spokesperson for CLIA in a statement to the *Business Journal*.

American Airlines (Nasdaq: AAL), which has a hub at Miami International Airport and hosts 10 regularly scheduled commercial flights to Cuba from Miami, said in a statement to the *Business Journal* that it will comply with federal law and work with the Trump administration to update its policies and procedures for travel to the country.

The Trump administration's announced restrictions against U.S. travel to Cuba followed news that the U.S. would allow exiles to sue for property seized by the Castro government.

AFP

Paris, France

17 April 2019

US Squeezes Cuba on Confiscated Property After 23 Years

Agence France-Presse

Ever since Congress passed the Helms-Burton Act in 1996, US presidents starting with Bill Clinton have used their power to suspend the key provision every six months, mindful of the international consequences. Those once-routine waivers are now over. A senior administration official said national security advisor John Bolton will formally unveil the shift Wednesday in a speech in Miami to expatriates from Cuba as well as Venezuela and Nicaragua, two other countries in Latin America with leftist governments opposed by Trump.

Bolton “will announce the enforcement of Title III of the Helms-Burton Act,” the official said. Under the 1996 law, Cuban exiles will be allowed to head to US courts to sue both private companies and the Havana government for profiting from properties nationalized after Fidel Castro’s 1959 communist revolution.

While US courts cannot directly enforce decisions inside Cuba, the Helms-Burton Act is meant to send a chilling message to foreign investors — including Americans — who may increasingly decide to exit or steer clear of the island. When it was initially passed, the law had been strongly opposed by the European Union, which worries about legal repercussions for its businesses in the United States.

We are going to keep applying pressure not only to ensure Cuba’s regime doesn’t get paid with oil for its continued military support of Maduro, but to impose a high cost on Cuba for its subversion of democracy in Venezuela. <https://t.co/hLha5RAUcG> — John Bolton (@AmbJohnBolton) [April 12, 2019](#)

A related provision restricts entry into the United States of anyone who is connected to an unresolved claim in Cuba over confiscated property.

Republican lawmakers who have long pushed for tough action on Cuba have rejoiced at the Trump administration’s signals since January that it was moving to fully enforce the Helms-Burton Act.

“Years of consecutive extensions may have lulled some into a false sense of impunity,” said Representative Mario Diaz-Balart, a Florida Republican of Cuban descent.

“Yet now companies which willingly entangle themselves in partnerships with the anti-American, illegitimate and oppressive regime in Cuba are on notice that they will be held responsible for their part in callously benefiting from the extensive losses suffered by victims of the regime,” he said in a recent statement.



Photo: Getty Images

The US-Cuba Trade and Economic Council, a New York-based group that supports commercial ties between the longtime adversaries, said that companies with combined revenues of \$678 billion could be targeted in Helms-Burton lawsuits.

According to the group, companies that have been mentioned for potential lawsuits include major international airlines, including US-based American, Delta and United, hotels chains such as Marriott and Accor and companies as diverse of French liquor maker Pernod Ricard and Chinese telecom giant Huawei. Trump’s move marks a drastic shift from his predecessor Barack Obama, who had normalized relations with Cuba, saying that a half-century of US efforts to topple the regime had failed.

Obama eased travel restrictions for Americans and himself visited Cuba, signaling to many US businesses that the time had come to return to the island.

Trump has also been pushing for the ouster of Venezuelan President Nicolas Maduro, a leftist firebrand who presides over a crumbling economy that has sparked a massive exodus.

It is the latest time that Trump has moved ahead with a policy long seen as too disruptive. In 2017, he moved the US embassy in Israel to bitterly divided Jerusalem, similarly ending years of waivers of a US law.

The Helms-Burton Law is named for far-right Republican senator Jesse Helms and Congressman Dan Burton. They drafted the law passed by Congress after Cuba shot down two aircraft flown by exiled activists, putting an end to tentative efforts by Clinton to try to repair relations.

CNN

Atlanta, Georgia

16 April 2019

Trump expected to become first President to target Cuba with this controversial policy

By Zachary Cohen and Jennifer Hansler, CNN

*Washington (CNN)*The Trump administration is expected to announce its plan to enforce a controversial provision of the decades-old trade embargo on Cuba Wednesday, a senior administration official tells CNN -- a decision that will break with the precedent set by every President since Bill Clinton.

US National Security Adviser John Bolton is set to outline President Donald Trump's plan to fully implement Title III of the Helms-Burton Act, a previously suspended section of the US trade embargo on the Communist-run country during a speech in Miami, the official said.

It is a move that is widely considered to be part of the administration's efforts to ramp up pressure on Havana over its support for Venezuelan President Nicolas Maduro -- who Trump criticized as a "Cuban puppet" in February. Cuban officials have decried the increased sanctions on the communist-run island and offered to enter into negotiations to repay US companies for seized property.

During a speech in Miami last year, Bolton promised the crowd a tough US approach to the "troika of tyranny," his term for Cuba, Venezuela and Nicaragua, saying they represented "the perils of poisonous ideologies left unchecked."



While the decision will likely impact Cuba's ability to attract foreign investment, it could also render US, European and Canadian companies vulnerable to legal action.

Specifically, Title III of the Helms-Burton Act, also known as the Libertad Act, will permit Cuban Americans and other US citizens to file lawsuits in US federal court against businesses that operate on property the Cuban government appropriated after the 1959 revolution.

Title III has never been fully enforced since the law was passed in 1996 as every President since Bill Clinton has waived the provision to avoid trapping companies from US-allied countries in years of complicated litigation, and, in turn, bringing on a wave of trade-related legal claims against the US.

Reuters was first to report Bolton's planned announcement.

In early March, Secretary of State Mike Pompeo chose to partially suspend Title III, allowing US nationals "the right to bring action against Cuban entities and Cuban sub-entities on the Cuba Restricted List" for 30 days, a senior State Department official said. Pompeo extended the suspension, with an exception, for two weeks in early April.



Pompeo slams Cuba and Russia over Venezuela crisis

Ahead of Pompeo's March decision, the US-Cuba Trade and Economic Council noted that some of the potential targets could include US companies like Delta, Jet Blue, and Marriott. It remains unclear whether the administration has a plan to mitigate the impact on American businesses.

The potential implementation of Title III has previously been met with international opposition, particularly from the European Union, which has several member countries with investments in Cuba. While the decision has not yet been announced, it is already making waves with European allies.

Last week, the European Union's Federica Mogherini and Cecilia Malmstrom sent a letter to Pompeo, copying Bolton and trade representative Robert Lighthizer, stating their opposition to the move.

"We are writing to respectfully call on the US to adhere to the terms of our agreement and to maintain a full waiver of Title III for EU companies and citizens," the letter, dated April 10 and obtained by CNN, says. "Failing this, the EU will be obliged to use all means at its disposal, including in cooperation with other international partners, to protect its interests."



Bolton praises Brazil's far-right leader, slams Latin America's 'troika of tyranny'

"The EU is considering a possible launch of the WTO {World Trade Organization} case," the letter states. "We believe that the issue of outstanding US claims should not be conflated with the cause of furthering democracy and human rights in Cuba, or by our shared desire urgently to find a peaceful and democratic solution to the crisis in Venezuela," the two EU officials write. "We are fully invested to promote both of these objectives, and are convinced that the emergence of protracted judicial proceedings between US claimants and bona fide EU companies will not further them."

Miami Herald

13 April 2019

Miami, Florida

Bolton coming to Miami to discuss U.S. action on Cuba, Venezuela and Nicaragua

By Nora Gámez Torres

“[I am] Pleased to announce that I will be joining the Bay of Pigs Veterans Association on April 17 in Miami to deliver remarks on the important steps being taken by the Administration to confront security threats related to Cuba, Venezuela, and the democratic crisis in Nicaragua,” Bolton tweeted on Friday.

Also on Friday, the Treasury Department announced more sanctions against nine vessels that have carried oil from Venezuela to Cuba. Bolton is expected to announce more sanctions related to Cuba during the speech, a source familiar with details of the trip told the Miami Herald.

According to John Kavulich, president of the U.S. Cuba Trade and Economic Council, the Trump administration has a wide range of options to increase pressure on the Cuban government, which the U.S. has accused of giving intelligence support to Venezuela’s Nicolás Maduro.

Among the policy options being floated are returning Cuba to the list of countries that sponsor terrorism, reinstating *per diem* spending rates for travelers to Cuba, sanctioning Cuban government officials who are supporting Maduro in Venezuela and requiring American companies with businesses on the island to pay salaries directly to their Cuban workers.

This last measure would have an immediate impact on the operations of airlines, cruise ships and companies like Marriott and Starwood that manage hotels on the island.

The State Department said Friday that the U.S. “will continue to do all we can to stand up against Cuba’s support for the former Maduro regime and its hostility to the Venezuelan people’s aspiration to a peaceful, prosperous, democratic future.” The Trump administration and more than 50 other nations no longer recognize Maduro as the legitimate president of Venezuela, recognizing instead interim President Juan Guaidó.

As it relates to Cuba, the administration must decide by next week whether to fully implement Title III of the Helms-Burton Act, which would allow Americans to file lawsuits to seek compensation for properties that were confiscated after Fidel Castro seized power in Cuba in 1959. The administration has already allowed lawsuits against Cuban companies that control some of these confiscated properties. But a full implementation would also pave the way for lawsuits against foreign and American companies that have businesses in Cuba on those same properties. The date chosen for Bolton’s speech in Miami carries a special symbolism for Cuban exiles, who mostly supported President Donald Trump in the 2016 elections. April 17 marks another anniversary of the 1961 failed Bay of Pigs invasion, an attempt by Cuban exiles — trained by the U.S. government — to defeat Castro and regain power on the island.

El Nuevo Herald

Miami, Florida

12 April 2019

Bolton viajará a Miami la semana que viene para discurso sobre Cuba y Venezuela

por Nora Gámez Torres

El asesor presidencial John Bolton anunció el viernes que viajará a Miami la semana que viene para ofrecer un discurso sobre las acciones que está tomando Estados Unidos en relación a la situación en Venezuela, Cuba y Nicaragua.

“Me complace anunciar que me uniré a la Asociación de Veteranos de Bahía de Cochinos el 17 de abril en Miami para hacer comentarios sobre los importantes pasos que está tomando la Administración para enfrentar las amenazas de seguridad relacionadas con Cuba, Venezuela y la crisis democrática en Nicaragua”, escribió Bolton en Twitter.

El Departamento del Tesoro anunció el viernes más sanciones a nueve buques que llevan petróleo de Venezuela a Cuba. Se espera que Bolton anuncie más sanciones relacionadas con Cuba durante el discurso, según dijo una fuente a el Nuevo Herald familiarizada con las discusiones.

Según John Kavulich, presidente del U.S. Cuba Trade and Economic Council, la administración tiene una amplia gama de opciones para aumentar la presión al gobierno cubano, al que EEUU ha culpado de dar apoyo de inteligencia al régimen de Nicolás Maduro. Entre las opciones se encuentran reincorporar a Cuba a la lista de países que patrocinan el terrorismo, disminuir los límites de gastos que pueden hacer los viajeros estadounidenses a la isla, sancionar a funcionarios del gobierno cubano que se encuentren dando apoyo a Maduro en Venezuela y establecer que las compañías estadounidenses que tienen negocios en la isla paguen directamente a sus trabajadores cubanas.

Es última medida, tendría un impacto inmediato en las operaciones de aerolíneas, cruceros y compañías como Marriot y Starwood que administran hoteles en la isla.

En un comunicado enviado el viernes, el Departamento de Estado declaró que EEUU “continuará haciendo todo lo posible para oponernos al apoyo de Cuba al antiguo régimen de Maduro y a su hostilidad hacia la aspiración del pueblo venezolano a un futuro pacífico, próspero y democrático”.

El miércoles 17 de abril, o en una fecha cercana, la administración también deberá decidir si permite la implementación completa del Título III de la Ley Helms-Burton, lo que permitiría que estadounidenses interpongan demandas para buscar compensación por propiedades que fueron confiscadas tras el triunfo de la revolución comandada por el ya fallecido Fidel Castro en 1959. La administración ya permitió demandas a compañías cubanas asociadas a los militares que controlan algunas de estas propiedades confiscadas. Pero una implementación total permitiría demandar también a compañías extranjeras y estadounidenses que tienen negocios en Cuba en esas propiedades.

La fecha del discurso de Bolton en Miami tiene un significado especial para los exiliados cubanos, quienes en su mayoría dieron su apoyo al presidente Donald Trump en las elecciones del 2016. El 17 de abril se conmemora otro aniversario del inicio de un intento de invasión de exiliados cubanos entrenados por el gobierno estadounidense para derrotar a Fidel Castro y recuperar el poder en la isla en 1961. El intento fue derrotado por las fuerzas de Castro.

Tampa Bay Times
St. Petersburg, Florida
5 March 2019

Go ahead and sue Cuba, Trump administration tells owners of some nationalized property

It is a decision people could take advantage of in the Tampa Bay area, home to the nation's third largest Cuban American population and to a number of people who had business interests on the island.



Burke Hedges and his mother Maritza Hedges Smith are part of a family with more than 20 properties valued at \$50 million that were nationalized in Cuba. Now, they hope to sue the Cuban government for compensation. [Times (2016)]

By Paul Guzzo

Six decades after the Cuban government nationalized U.S.-owned properties on the island, the Trump administration has taken steps that enable some Americans who incurred losses to seek compensation.

It is a decision people could take advantage of in the Tampa Bay area, home to the nation's third largest Cuban American population and to a number of people who before the Cuban revolution had business interests on the island.

To proceed, those interested need to find who owns their lost property — and quickly.

Under the Helms-Burton Act of 1996, which codified the 1960s-era Cuba embargo, a clause known as Title III allows Americans to file civil lawsuits in American courts against companies using their expropriated properties for profit.

But every president since then has suspended Title III. Until Monday. That's when the Trump administration announced that some lawsuits will be allowed to proceed as long as they're filed during a 30-day window from March 19 through April 17.

"If anybody was going to do this, we knew that Trump would," said Gary Rapoport, whose Mafioso grandfather Meyer Lansky lost his \$8 million Habana Riviera hotel and casino to nationalization.

Still, in enacting Title III, the administration left off foreign companies for now. That means Spain's Iberostar, owner of the former Lansky hotel, cannot be sued. But the State Department will revisit the provisions once the 30 days are up.

Currently, civil suits can only be brought against state-run entities with whom Americans already are forbidden from doing business — those with ties to the Cuban military.

Around 200 of these entities are on the Trump administration's list. Some observers want to see more, but John Kavulich, president of the U.S.-Cuba Trade and Economic Council, suggested they take a deeper look.

"Looking at the decision quickly and simply, one would view that little was done, that the Trump administration was weak," Kavulich said. "That could be a dangerous assumption."

The list is made up mostly of hotels, but it also includes two government ministries and five state-run holding companies that together control a large chunk of the Cuban economy.

One holding company alone, CIMEX, owns more than 80 companies and they may have a number of offices, warehouses or storefronts throughout the island, said Robert Muse, a Washington attorney who deals with Cuba issues. "This could create a logjam in the courts," Muse said.

What's more, Muse said, plaintiffs might argue that even if their nationalized property is not owned by an entity such as CIMEX, they can still sue provided the business on that land supports the holding company.

Much about this partial implementation of Title III remains unclear, said Jason Poblete, a Virginia-based attorney representing clients who had property nationalized. "I am trying to find out how far the web extends," Poblete said.

Still, he said, Americans will find it difficult learning whether they qualify for a lawsuit before the window to file one is shut.

Cuba is not going to share a list of properties linked to the holding companies and Poblete does not suggest that anyone "flies to Cuba to investigate. They are an adverse party and foreigners do not have access to property registries."

St. Petersburg's Burke Hedges will ask contacts in Cuba to do the research for him. His family has more than 20 properties valued at \$50 million, he said. "If I learn anyone from that list is there," Hedges said, "we'll get moving."

Another Tampa benefactor could be the Cuesta family, whose nationalized Havana cigar factory is used by England's Imperial Cigars.

Jim Davis, the Cuestas' attorney, said he has not yet discussed the matter with them but plans to, and "will be following this."

Still, even if an American wins a lawsuit, it will likely be a symbolic victory only. Cuba is already defaulting on nearly \$4 billion in civil judgments awarded to U.S. citizens whom courts have declared were victims of Cuban terror attacks.

Los Angeles Times

Los Angeles, California

4 March 2010

U.S. to allow first lawsuits against Cuba over seized property

By Tracy Wilkinson



This hotel, like many others, is controlled by the Cuban government. The Trump administration will allow lawsuits against some companies using properties confiscated after the 1959 revolution. (Associated Press)

To turn up pressure on Cuba's communist government, the Trump administration is reversing longstanding practice and allowing U.S. citizens to sue certain Cuban companies over property expropriated decades ago, officials said Monday.

U.S. officials said they intend to hold government and military leaders in Cuba accountable for homes, businesses and land seized after the late Fidel Castro rose to power in a 1959 revolution.

The administration, however, stopped short of including among the potential targets for legal action European, Canadian or other foreign-owned companies that have invested on the island.

The decision to shield them from lawsuits may have been a gesture to allies who have joined the United States in a campaign to oust the autocratic leader of Venezuela, Nicolas Maduro. Punishing companies from other countries would erode the international support that Trump's advisors have been keen to develop and maintain in the Venezuela campaign.

Even without the foreign companies, Monday's reversal of practice could badly disrupt U.S. trade with Cuba and have other consequences. The decision effectively tightens an economic embargo that Washington slapped on Havana nearly 60 years ago.

It addresses a long-dormant provision of the 1996 Libertad Act (also known as the Helms-Burton Act), a law that imposed numerous restrictions on Cuba and U.S. dealings with the island. The provision allowed American citizens to sue to regain expropriated property or to be compensated for it, but it was immediately waived out of fear of flooding U.S. courts with extremely complicated cases.

Each administration since has renewed the waiver every six months, as required by law, until now.

Secretary of State Michael R. Pompeo, in a statement, announced that the waiver was being partially lifted to allow limited lawsuits. He set a 30-day period to examine the impact and determine additional actions.

Despite more than half a century of Cold War-era tensions, restrictions on Cuba were relaxed under President Obama, who normalized diplomatic relations between Washington and Havana and allowed more travel to and from the island. But Trump, whose government calls Cuba part of a Troika of Terror, with Venezuela and Nicaragua, has slowly rolled back some of the changes.

Hundreds of thousands of Cubans fled the island after Castro took over, many forced to leave behind vast holdings of farmland, villas and businesses. The majority settled in southern Florida and continue to represent a conservative anti-Castro political base within the Republican Party.

Sen. Marco Rubio (R-Fla.), the son of Cuban exiles, welcomed the loosening of legal recourse and said Cuba should also be punished for its life-sustaining support of Maduro's Venezuela. "Justice is coming — and it is just getting started," Rubio said in a statement after the administration's announcement.

The companies that can be sued are on a list of entities controlled by the Cuban military, intelligence and security services.

A senior State Department official, briefing reporters on the condition of anonymity, called the decision "historic," and said: "It's finally giving claimants a measure of recourse and the opportunity to bring suits against these entities."

Future lawsuits could open the door to confiscation of Cuban products exported to the United States and elsewhere, including cigars and cement. Two of the biggest conglomerates that are likely to face legal actions are Cimex (Cuban Export-Import Corporation) and Gaesa (Armed Forces Business Enterprises Group), which is controlled by the military and represents hundreds of businesses and tens of thousands of jobs. Gaesa is said to control more than 50% of the Cuban economy, touching nearly every sector.

As complex as the legal process would be, thousands of people who fled Cuba may well take advantage of the opening.

Exiles "will no longer just be telling folk stories about what we once had in Cuba," but will be armed with a federal court judgment and award, said Robert Muse, a Washington attorney who tracks Cuban property cases. "This could be very disruptive for future trade," he added.

Trade between Cuba and the United States has expanded in recent years, enough that the change could be disruptive for producers in farm states, including Arkansas, which now exports chicken and other food products to the island nation.

Analysts who follow Cuba policy expect that the decision is a forerunner to a complete ending of the waivers, which would open the floodgates to suits targeting any business in Cuba.

While the administration delayed a final decision for at least another month, "potentially everyone can sue," said John Kavulich, president of the U.S.-Cuba Trade and Economic Council, a New York research group. "It's up to judges now ... which, I believe, is precisely the point."

Kavulich said there are an estimated 200,000 potential plaintiffs but only 5,913 certified claims, valued at nearly \$2 billion

NBC News

Washington DC

4 March 2019

Trump admin to let Americans sue some foreign firms doing business in Cuba

The Trump admin has long sought ways to toughen the U.S. economic embargo on Cuba and has rolled back some measures enacted by the Obama administration.



The Habana Libre Hotel, formerly the Havana Hilton, in Cuba on Feb. 28, 2019. President Donald Trump could activate sanctions under Title III of the Helms-Burton Act in Cuba in March. Yamil Lage / AFP - Getty Images

By Josh Lederman, Abigail Williams and Mary Murray

WASHINGTON — The Trump administration is expected to act as early as Monday to allow unprecedented lawsuits in American courts against some foreign companies doing business in Cuba, U.S. officials and others familiar with the move tell NBC News.

The move threatens to discourage more of the foreign investment in Cuba that provides the island's economy with a key lifeline. It could also play into the Trump administration's efforts to ostracize Venezuelan leader Nicolas Maduro, who is closely aligned with Cuba and whose country has been labeled by national security adviser John Bolton as part of a "Troika of Tyranny," alongside Cuba and Nicaragua. Ever since 1996, when a law known as the Helms-Burton Act or Libertad Act went into effect, every U.S. president has waived a key portion of it called Title III that allows U.S. citizens, including Cuban-Americans, to sue people or companies that do business in Cuba using property seized in the 1959 revolution. Waiving that section prevented it from going into effect and averted lawsuits targeting major hotel chains, airlines and even mining companies that operate in Cuba, often in joint partnerships with government entities.

Trump administration officials have discussed several possibilities for whether to allow the law to go into effect fully or only partially, with the final decision being left to the very end. But the administration is likely to sign a "partial waiver" that protects U.S. businesses and those from allied nations from litigation, but allows lawsuits against businesses from "unfriendly" nations such as Russia and China, according to U.S. officials, congressional aides from both parties and other individuals briefed on the Trump administration's deliberations.

According to research from the U.S. Cuba Trade & Economic Council, a nonprofit that promotes trade with Cuba, companies in 20 countries could face lawsuits from owners who have certified claims to confiscated property. The list includes numerous U.S. and European airlines and cruise lines, and major hotel chains such as Spain's NH Hotel Group and Melia Hotels International. There are also concerns that both the major port in Havana and the international airport are built at least partially on land owned before the revolution by Cubans who later emigrated to the U.S.

Exempting companies in the U.S. and allied countries could help prevent a backlash from companies like Marriott International, which has started expanding into Cuba since the two countries restored relations under former President Obama. It could also avert a new tension point with Europe, where countries are still bristling from the Trump administration's threats to sanction companies that maintain business in Iran.

Ambassador David O'Sullivan, the European Union's envoy to the U.S., warned last month against violating what he said was an understanding between the U.S. and Europe that the Helms-Burton law wouldn't be used to harm European interests in Cuba.



The U.S. Embassy in Havana, Cuba. Alexandre Meneghini / Reuters file

"We would find it deeply regrettable if this understanding were now to be breached and this will certainly be a new source of conflict between us we hope will not arise," O'Sullivan said.

Any move to allow even some lawsuits under Title III would unleash a torrent of litigation — not only lawsuits over confiscated property but also legal challenges over the validity of the Helms-Burton law itself and the way the Trump administration is applying it.

Angela Mariana Freyre, a former special adviser on Cuba in the White House National Security Council now at the law firm Squire Patton Boggs, said the statute on its face isn't clear about whether the administration can waive it for some countries but not others.

"Since Title III has been waived by every administration, both Republican and Democrat, since 1996, it has actually never been tested," said Freyre, who was born in Cuba. "We don't know what a court would do or how it would interpret a limited waiver or a partial waiver of the statute."



The Trump administration has long sought ways to toughen the U.S. economic embargo on Communist-run Cuba and has previously rolled back some of the measures enacted by the Obama administration to expand ties between the countries.

The first indication that the administration was considering Title III as the next step to pressure Cuba came in January when the waiver was last up for renewal. Rather than renewing it for the full six months, as had been done in the past, the administration waived it for only 45 days while announcing it would conduct a "careful review" of policy going forward. The administration cited U.S. national interests, human rights concerns in Cuba and efforts to "expedite a transition to democracy."

Sen. Marco Rubio, R-Fla., an advocate for harsher Cuba policies who has significant influence in the Trump administration, called the 45-day waiver "a strong indication of what comes next." He warned on Twitter at the time that "If you are trafficking in stolen property in #Cuba, now would be a good time to get out."

The 45-day waiver expires in mid-March. But Secretary of State Mike Pompeo is required to inform Congress of any intent to sign another waiver at least 15 days in advance.



A State Department spokesperson said no final decision has been made on whether to issue an additional waiver. Individuals briefed on the administration's deliberations said one possibility was that the U.S. would sign a partial waiver, exempting the U.S. and allies, but make it valid for only 45 days or another short-term period. The administration would then use that time to keep monitoring Cuba's behavior and decide whether to make it permanent.

But international business attorneys said that even a brief window would allow enough time for plaintiffs to file lawsuits before the administration could change its mind.

The Cuban Embassy in Washington didn't respond to requests for comment. But after the administration announced the review in January, Cuban Foreign Minister Bruno Rodriguez called it "political blackmail and irresponsible hostility" that he said amounted to a brutal attack against international law.

Past presidents have suspended the law out of concern over the effects it would have on the international court system, the World Trade Organization and U.S. relations with European countries, said John Kavulich of the U.S. Cuba Trade & Economic Council.

Today's waiver of Title III of Helms-Burton for only 45 days instead of the customary 180 days & the accompanying warning, is a strong indication of what comes next.

If you are trafficking in stolen property in #Cuba, now would be a good time to get out.
— Marco Rubio (@marcorubio) January 17, 2019

Collin Laverty, who runs the group Cuba Educational Travel, which promotes U.S. visits to the island, said major companies that have already invested heavily in Cuba are unlikely to pull out even if they're sued. But he predicted that other companies that have been considering business in Cuba are likely to hold off while other legal cases play out.

"You could see the impact scaring off foreign investment, where companies take a wait-and-see approach," Laverty said.

Another company that could be affected is Airbnb, whose operations in Cuba have been praised by Rubio as helping average Cubans to benefit from tourism without sending revenue to the Cuban government. The law exempts residential property used solely for residential purposes from legal action, but it's unclear how judges might apply that to those benefiting commercially from renting out their homes.



Venezuela's President Nicolas Maduro attends a military exercise in Caracas, Venezuela on February 1, 2019. Miraflores Palace / Reuters

Ever since recognizing Venezuelan opposition leader Juan Guaido in January as the country's legitimate leader, President Trump has been seeking further ways to pressure Maduro out of office, but is running out of options. The administration has hit Venezuela with oil sanctions and has slapped sanctions on top Venezuelan officials, but so far Maduro is refusing to leave power.

Ramping up economic and diplomatic pressure on Cuba serves as one way for the Trump administration to try to deplete support for Maduro. Cuba's government is one of the only remaining countries in Latin America still backing Maduro, and in recent days the Trump administration has increasingly taken aim at Cuba for allegedly propping him up.

"For years, Cuban security and intelligence thugs, invited into Venezuela by Maduro himself and those around him, have sustained this illegitimate rule," Pompeo told the U.N. Security Council in January. "Let's be crystal clear: The foreign power meddling in Venezuela today is Cuba."

Cuba has adamantly denied that claim, with Rodriguez, the foreign minister, challenging the United States to provide proof. He said the roughly 20,000 Cubans in Venezuela are all civilians.

"Our government categorically and energetically rejects this slander," Rodriguez told reporters in Havana. He said the crisis in Venezuela was a "failed imperialist coup" that had been concocted by the U.S.

Prensa Latina

Havana, Republic of Cuba

27 February 2019

Cuba Facing Threat to Activate Chapter III of Helms-Burton



Havana, Feb 27 (Prensa Latina) The U.S. decision, made public in January, whether or not to activate Chapter III of the Helms-Burton Act in 45 days has affected Cuba since the actual announcement, researcher Olga Rosa Gonzalez said Wednesday.

In an interview with Prensa Latina, the deputy director of the Center for Hemispheric and U.S. Studies (CEHSEU) explained that it can influence what is called the perception of risk on Cuba in companies or people from other countries with an interest in investing.

According to Chapter III of the Helms-Burton Act, which can become effective in March, Washington authorizes any U.S. citizen or company to file lawsuits in the U.S. courts to claim compensation for properties nationalized after the triumph of the Revolution on January 1, 1959.

According to the specialist, only this measure's announcement causes uncertainty and as a result those interested in investing in Cuba wait until Washington's final decision.

The United States-Cuba Trade and Economic Council reported on its website that the federal claims agency certified 5,913 cases out of more than 8,000 filed so far.

His calculations suggest the value is about 9 billion dollars, taking into account interest earned over the years, she said.

The largest claim this commission has recognized is that of the Cuban electricity company and the second that of AT&T, the former International Telephone and Telegraph Company; and so there are others, related to hotels, etcetera' she added.

Gonzalez assured the justification given is the losses they attribute as a result of the nationalization process occurred in Cuba in 1960.

The researcher pointed out that the Cuban authorities did it under international norms, but the White House did not have the political will to negotiate with the Cuba like other countries, including Canada and Spain, which received compensation.

For experts, triggering such a measure could slow the economic development of the Caribbean nation, already hit by the more than 55-year blockade imposed by the United States, as it would have a significant impact on the projected investment program until 2030.

She also recalled that since the entry into force of the Helms Burton Act in 1996, U.S. administrations did not dare to give light - suspending it for six months - to the application of Chapter III because of the damage its effectiveness could cause to other nations, including allies, and even to the U.S.

However, the current government headed by President Donald Trump decided to reduce the period of time for the analysis of its activation or not, which experts see as a measure to tighten the economic, commercial and financial blockade that Washington has imposed on Cuba for more than 55 years', she reiterated.

Cuban government has warned about the serious impact of the application of Chapter III on already damaged bilateral relations.

In that sense, Foreign Minister Bruno Rodriguez rejected the decision to reduce to 45 days - the U.S. presidents had been doing it for six months - describing it as irresponsible political blackmail and hostility to tighten the blockade on Cuba.

He also denounced the White House policy expressed in the law as an attack on international law and third countries.

National Journal

Washington DC

26 February 2019

White House Weighs Major U.S.-Cuba Policy Shift

The Trump administration is nearing a decision on allowing U.S. citizens to sue over properties nationalized in Cuba. It could increase tensions with key trading partners.

By Casey Wooten



In this May 2, 2016 photo, people waving Cuban flags greet passengers on Carnival's Adonia cruise ship as they arrive from Miami in Havana, Cuba.

The Trump administration is close to deciding whether U.S. citizens can sue over property confiscated during the Cuban revolution, a move allowed by a 1996 law but suspended by every president since.

At risk is the bottom line for a host of U.S. and foreign companies operating in the island nation, including airlines such as KLM and Delta, cruise lines Carnival and MSC Cruises, and manufacturers like Huawei Technologies. The White House's decision could also upend already tense relationships with allies like Canada and the European Union, strained by the administration's skepticism of multilateral trade agreements.

Title III of the 1996 Helms-Burton Act (<https://www.congress.gov/bill/104th-congress/housebill/927/actions>) would allow Cuban Americans to sue foreign companies that now profit from property seized by the Cuban government during the 1959 revolution. Amid uproar from U.S. trading partners, every president has suspended the provision, but in mid-January the Trump administration said (<https://www.state.gov/r/pa/prs/ps/2019/01/288482.htm>) it would suspend the statute for only 45 days to conduct a review. Analysts say it's likely the administration will allow some lawsuits to proceed.

"As of today, I would expect that the announcement would be that the United States is implementing Title III, with some restrictions," said John Kavulich, president of the U.S.-Cuba Trade and Economic Council.

Though the 45-day suspension would create a mid-March deadline, it's likely that an announcement will come sooner. Under the 1996 law, the White House must notify Congress of its decision 15 days before the effective date, meaning a decision could come as soon as this week.

When Congress passed the 1996 legislation, U.S. trading partners balked. The EU filed a complaint with the World Trade Organization, which led to the Clinton White House suspending the provision in 1998. The U.K., Mexico, and Canada have passed laws forbidding any company based in their jurisdictions from complying with a U.S. judgment.

“The European Union is already working on countermeasures; they’re already planning on what they are going to do,” said William LeoGrande, a professor at American University and a Cuba expert. “It wouldn’t surprise me if they refiled their complaint in the World Trade Organization.”

Analysts said the White House may issue a partial suspension of the statute, in which only some claimants are allowed to file a lawsuit, or a decision exempting U.S. companies profiting from Cuba assets from liability. But that could invite legal action against the administration from claimants who don’t get to sue, LeoGrande said.

Since the early 1960s, the Justice Department’s Foreign Claims Settlement Commission has accepted more than 5,000 claims filed by property owners, originally totaling (<https://www.justice.gov/fcsc/claims-against-cuba>) about \$1.9 billion. With inflation and a 6 percent interest rate allowed by Congress, that value is now closer to \$9 billion.

The expropriated Cuban property covers (<https://www.justice.gov/sites/default/files/fcsc/docs/final-report-cuba-1972.pdf>) a wide range: ranches, sugar mills, mines, bank deposits, and personal property owned by U.S. citizens or companies before the revolution.

Cruise-ship companies could be sued for using the Port of Santiago in southeastern Cuba. The *Miami Herald* reported (<https://www.miamiherald.com/news/nation-world/world/americas/cuba/article213916384.html>) in 2018 that the Parreño family of Florida claims majority ownership of the port despite the Castro government confiscating it in 1960. Cruise companies docking in Havana Harbor may see a lawsuit from Mickael Behn, a U.S. citizen residing in England who says his family owned the property before the revolution, the *Tampa Bay Times* reported last year.

Out of the 5,000 certified claims, only a few make up the total dollar amount. The largest, valued at \$267 million, is controlled by Boca Raton, Florida-based Office Depot, which, through decades of mergers and acquisitions, controls a claim from the expropriation of the Cuban Electric Company.

Another large claim is controlled by Bethesda, Maryland-based hotelier Marriott International. Again, through a series of acquisitions, Marriott controls a \$50 million claim for the seized Cuban assets of the International Telephone and Telegraph Corporation.

But not all 5,000-plus claimants may get a chance to sue, because the 1996 law restricts suits to claims over \$50,000. That limits the number of potential lawsuits to around 913, the U.S.-Cuba Trade and Economic Council said (<https://www.cubatrade.org/blog/2019/2/7/there-are-5913-certified-claims-but-only-913-of-15-may-be-eligible-to-file-a-lawsuit>).

The Trump administration has sought to reverse the Obama administration’s economic and political détente with Cuba. In 2017, Trump spoke (<https://www.whitehouse.gov/briefings-statements/remarks-president-trump-policy-united-states-towards-cuba/>) in Miami’s Little Havana, announcing that he would reimpose some travel restrictions and clamp down on businesses tied to Cuban military and intelligence services.

The decision to revisit Title III comes as hard-line foreign policy advisers occupy a greater role in the White House and amid a broader effort by the administration to make its mark on Latin America. President Trump’s appointment of John Bolton to national security adviser was key in

the administration's move to increase pressure on Cuba, especially as tensions with Nicolás Maduro's Venezuela—a top ally to Cuba—ramp up, analysts said. Last November, Bolton called Cuba, Venezuela, and Nicaragua the “Troika of Tyranny,” a play on the Bush administration's “Axis of Evil” label used to describe North Korea, Iran, and Saddam Hussein's Iraq.

Mauricio Claver-Carone, a D.C. attorney who served as executive director of the anti-Castro U.S.-Cuba Democracy PAC, became senior director of the National Security Council's Western Hemisphere division in late 2018. Claver-Carone was a member of Trump's transition team for the Treasury Department and has pushed for sanctions against Venezuelan officials.

So far, there has been little activity in Congress over the Trump administration's proposed move. In 2002, lawmakers introduced legislation (<https://www.congress.gov/bill/107th-congress/house-bill/5616/actions>) to sunset Title III of the 1996 bill, but it did not advance.

A key bipartisan group of lawmakers has backed previous Trump administration policy changes toward the Cuba, including Sen. Marco Rubio of Florida and Senate Foreign Relations Committee ranking member Bob Menendez, as well as Rep. Mario Diaz-Balart of Florida, who called the decision to review Title III “a firm step in the right direction.” In the House Foreign Affairs Committee, newly installed Western Hemisphere subcommittee chairman Albio Sires opposed (<https://sires.house.gov/media-center/pressreleases/congressman-sires-statement-on-the-change-of-cuba-policy>) Obama's relaxation of restriction on Cuba.

“So you have much different dynamic that now, politically, they're able to make these decisions where they weren't before,” Kavulich said.

Kavulich said that in December his group and others submitted a proposal to the White House and to Cubans to “lay out a script” for reopening negotiations over the certified claims, but geopolitics intervened.

“It was getting some traction in Congress and the White House and the Cubans —people looking at it, claimants—and then January moved along and, of course, Venezuela blew up,” Kavulich said.

Bloomberg Law

New York, New York

22 January 2019

U.S. companies could get caught in cross-fire if administration revives dormant statute Many unanswered questions remain after State Department announcement

By Rossella Brevetti

The business community is on edge after the Trump administration signaled it may activate a dormant statute to allow lawsuits in U.S. courts over property **Cuba** confiscated in the early days of the Castro government.

“Depending on who comes out of the woodwork to file a claim it, could significantly affect U.S. industry,” James Williams, president of Engage **Cuba**, told Bloomberg Law. Engage **Cuba**, which represents companies working to end restrictions against **Cuba**, strongly opposes the move that would tighten the embargo by making it harder to conduct business in **Cuba**.

U.S. companies doing legitimate business in **Cuba** would get caught in the cross-fire, Jake Colvin, vice president of global trade and innovation at the National Foreign Trade Council, said. Affected companies could include major U.S. hotel operators with a connection to Cuban property, he said. Reviving the statute

could unleash 200,000 new claims, potentially causing gridlock in the U.S. court system, according to the NFTC.

The move could allow lawsuits against persons and corporations doing business in **Cuba** that had no connection to the original expropriation of property, Williams said. Such lawsuits would likely revive a World Trade Organization dispute with the European Union, both industry insiders said. The EU set aside an early WTO complaint against the statute but, in doing so, it said that it reserves the right to resume the case or start new proceedings if action is taken against EU companies under the law.

“It’s not a done deal. Hopefully cooler heads will prevail,” Williams said. Any U.S. or foreign company that controls, manages, uses, or otherwise holds an interest in or benefits from confiscated property could be subject to a claim, according to the NFTC. Companies with a business foothold in **Cuba** include Marriott International.

“Anybody who has any business interest in **Cuba** is right now burning up the phone lines with their elected representatives,” Miami lawyer Pedro Freyre, chair of Akerman’s International Practice, told Bloomberg Law Jan. 18.

Title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 allows U.S. nationals to sue foreign corporations that made profits with property confiscated by the Castro government. The right of action established by the law has been suspended by Republican and Democratic administrations for six month stretches ever since its enactment in 1996.

But, in an unprecedented move, the State Department Jan. 16 **announced** a 45 day suspension of the law to “permit us to conduct a careful review of the right” to bring lawsuits on confiscated property. Secretary of State Mike Pompeo cited U.S. national interests and efforts to expedite a transition to democracy in **Cuba**.

The State Department estimates that Title III creates the potential for between 75,000 to 200,000 new claims worth tens of billions of dollars against American and foreign companies, according to the NFTC.

“We encourage any person doing business in **Cuba** to reconsider whether they are trafficking in confiscated property and abetting this dictatorship,” the State Department said. The extension runs to March 17, which is 45 days from Feb. 1 when the last six-month suspension will expire.

Cuba Reacts

Cuba’s Ministry of Foreign Affairs responded in a Jan. 17 statement that foreign individuals and entities with legitimate businesses in **Cuba** could face unfounded claims in U.S. courts. The action would dangerously tighten the blockade against **Cuba** and would be a direct attack on the sovereignty and interests of third countries, **Cuba**’s Ministry of Foreign Affairs said.

If the administration follows through, lawyers and their clients will be converging on federal district courts in areas with large Cuban American populations, including Miami, Florida, Newark, New Jersey, and Tampa, Fla., U.S.-**Cuba** Trade and Economic Council President John Kavulich said.

Kavulich said there are many unanswered questions about the action, including whether the administration would only allow lawsuits on claims certified by the United States Foreign Claims Settlement Commission. Mediation would be a much better way to resolve the certified claims, he said.

Opening up this topic again will do nothing to compensate U.S. persons for confiscated property since there is no enforcement mechanism, Peter **Quinter**, head of international law at GrayRobinson in Miami, told Bloomberg Law in an email. He said the proposal was a negative distraction from building positive relations with a country only 90 miles from Florida.

The Trump administration action shortening the duration of the suspension should serve as a sign for those who continue to violate U.S. law by trafficking in confiscated property, Rep. Mario Diaz-Balart (R-Fla.) tweeted.

According to Kavulich, there are 8,821 claims for confiscated property. Of these, 5,913 awards were certified by the United States Foreign Claims Settlement Commission.

The total amount of claims certified by the commission is \$1.8 billion. But this only represents the principal amount of private property at the time it was seized.

Thomson Reuters

London, United Kingdom

16 January 2019

United States signals it may toughen stance on Cuban lawsuits provision

WASHINGTON/HAVANA (Reuters) - The Trump administration on Wednesday shortened the U.S. government's customary waiver of legislation that would allow Cuban Americans to sue foreign companies in Cuba, indicating it could allow the 23-year-old law to take effect for the first time.

The legislation, which allows Cuban Americans to sue foreign companies in Cuba using properties seized from them by the Cuban government after the 1959 revolution, was suspended for just 45 days, instead of the customary six months.

The so-called Title III rule forms part of the Helms-Burton Act, which codified all U.S. sanctions against Cuba into law in 1996. It has been waived by various presidents ever since due to opposition from the international community and fears it could create chaos in the U.S. court system, analysts say.

If Title III went into effect, it could seriously dampen foreign investment that Cuba has been seeking to drum up to support its beleaguered state-dominated economy.

"This extension will permit us to conduct a careful review of the right to bring action under Title III in light of the national interests of the United States and efforts to expedite a transition to democracy in Cuba," the State Department said in a statement.

"We encourage any person doing business in Cuba to reconsider whether they are trafficking in confiscated property and abetting this dictatorship."

John Kavulich, president of the U.S.-Cuba Trade and Economic Council, said the decision presented "a likelihood of an ominous commercial, economic and political landscape for the Republic of Cuba, European Union-member countries, and members of the World Trade Organization."

"Once again, the Trump Administration has used weaponized potentiality to create uncertainty and, thus anxiety," he said.

El Nuevo Herald

Miami, Florida

16 January 2019

Decisión sobre permitir demandas por propiedades confiscadas en Cuba queda en suspenso

por Nora Gámez Torres

A la izquierda, una foto de 1941 de la terminal y almacenes del Puerto de Santiago de Cuba, operados por La Marítima Parreño. La propiedad fue confiscada por el gobierno cubano en 1960. A la derecha, una vista parcial de las mismas instalaciones en el 2016. Mimi Whitefield Cortesía de Javier García-Bengochea

En un gesto que indica que está considerando cambios significativos en la política hacia Cuba, el gobierno de Donald Trump aplazó la decisión de permitir o no demandas en cortes de Estados Unidos contra compañías que ahora se benefician de propiedades que fueron confiscadas por el gobierno cubano.

El Secretario de Estado, Mike Pompeo, aplazó por 45 días a partir del 1 de febrero la decisión de suspender o no el Título III de la ley Helms-Burton o Ley Libertad de 1996, una provisión que permite a estadounidenses y ciudadanos naturalizados que nacieron en Cuba demandar en cortes de EEUU a personas o compañías que se encuentren “traficando” con una propiedad confiscada por el gobierno cubano después de 1959.

“Esta extensión nos permitirá llevar a cabo una revisión cuidadosa del derecho a actuar en virtud del Título III a la luz de los intereses nacionales de los Estados Unidos y los esfuerzos para acelerar la transición a la democracia en Cuba e incluye factores como la brutal opresión por parte del gobierno cubano de los derechos humanos y las libertades fundamentales, y su apoyo indefendible a los regímenes cada vez más autoritarios y corruptos en Venezuela y Nicaragua”, escribió Pompeo en una notificación enviada al Congreso el miércoles.

“Pedimos a la comunidad internacional que intensifique los esfuerzos para responsabilizar al gobierno cubano por los 60 años de represión de su pueblo. Alentamos a cualquier persona que haga negocios en Cuba a que reconsidere si está traficando con propiedades confiscadas e incitando a esa dictadura”, añadió Pompeo.

La decisión llega después de una intensa deliberación en la que por primera vez desde que se aprobó la ley en 1996, se evaluó no suspenderla.

“Por primera vez, el Título III de la Ley de Libertad ha sido suspendido por menos de seis meses. El uso de cuarenta y cinco días presenta la posibilidad de un siniestro panorama comercial, económico y político para la República de Cuba, los países miembros de la Unión Europea y los miembros de la Organización Mundial del Comercio” opinó John Kavulich, presidente del U.S Cuba Trade and Economic Council.

Según Kavulich, la administración de Trump ha jugado políticamente con la incertidumbre para crear ansiedad. “Precisamente la intención”, añadió.

El Título III de la ley Helms-Burton o Ley Libertad de 1996 permite a estadounidenses y ciudadanos naturalizados que nacieron en Cuba demandar a personas o compañías que se encuentren “traficando”, con una propiedad confiscada por el gobierno cubano después de 1959. La definición de “traficar” es amplia e incluye desde tener acciones hasta administrar o beneficiarse comercialmente de actividades relacionadas con esa propiedad confiscada.

El Departamento de Justicia certificó 5,913 reclamaciones de ciudadanos y compañías estadounidenses pero un número indeterminado de cubanoamericanos que perdieron sus propiedades en Cuba podrían también presentar demandas en cortes de EEUU si se implementa el Título III.

El valor de las reclamaciones certificadas, con un seis por ciento de interés anual, es de alrededor de \$9 mil millones.

Hasta ahora, el Título III ha sido suspendido cada seis meses por todos los presidentes desde 1996, incluido Trump, en parte para evitar conflictos legales con aliados estratégicos, como Europa y Canadá, quienes criticaron el carácter “extraterritorial” de la ley.

John Bolton, el asesor del Consejo de Seguridad Nacional (NSC, por sus siglas en inglés), dijo a el Nuevo Herald en noviembre que la administración estaba “considerando seriamente” la propuesta de no suspender el Título III, realizada por varios miembros cubanoamericanos del Congreso.

Durante su más reciente intervención pública, a inicios de este mes, el exgobernante y actual primer secretario del Partido Comunista, Raúl Castro, criticó en su discurso por el 60 aniversario de la revolución cubana a “altos funcionarios de la actual administración” de EEUU, quienes “dicen estar dispuestos a desafiar el Derecho Internacional, contravenir las reglas del comercio y las relaciones económicas

internacionales y aplicar más agresivamente medidas y leyes de carácter extraterritorial contra la soberanía de otros Estados”.

El representante republicano por la Florida Mario Díaz-Balart dijo que la decisión “sin precedentes” del gobierno de Trump debe servir como una señal para aquellos que continúan violando la ley de los Estados Unidos mediante el tráfico de propiedades confiscadas... La decisión de hoy es un paso firme en la dirección correcta”.

Le ley Helms-Burton, que contiene medidas para fortalecer las sanciones a Cuba así como excepciones adicionales al embargo, fue firmada por el presidente Bill Clinton tras el derribo de dos avionetas civiles de la organización de exiliados cubanos en Miami Hermanos al Rescate por aviones militares cubanos. El hecho, ocurrido en aguas internacionales, causó la muerte a tres ciudadanos y un residente de EEUU.
Duration 9:45

El asesor de seguridad nacional de EEUU, John Bolton, habla con la redactora de el Nuevo Herald Nora Gámez Torres sobre la política hacia América Latina en la Freedom Tower en Miami el 1 de noviembre de 2018.

En las últimas semanas, miembros de la administración debatieron cómo podría implementarse el Título III. Algunos expertos adujeron que su implementación parcial para discriminar quiénes pueden demandar —una de las opciones estudiadas—, iba en contra de protecciones constitucionales o no tenía un fundamento en el lenguaje empleado en la ley Helms-Burton. Funcionarios en el Departamento de Estado también mostraron preocupación por las posibles consecuencias de la decisión: quejas de países europeos y otros aliados ante las Organización Internacional del Comercio, tensiones en las Naciones Unidas y conflictos bilaterales, comentaron fuentes familiarizadas con las discusiones.

Tras la aprobación de la ley Helms-Burton en 1996, Canadá, uno de los principales inversionistas en la isla a través de compañías como Sherrit, aprobó sus propias leyes para desconocer cualquier sentencia escudada en la ley Helms-Burton y permitir a sus nacionales que respondan con demandas en los tribunales canadienses.

Esta semana, el secretario de Estado Mike Pompeo revisó el tema, a petición del NSC. El Departamento de Estado ha tenido la autoridad para hacer esta determinación y suspender el Título III de la ley desde enero del 2013, cuando el entonces presidente Barack Obama delegó este asunto al secretario de Estado.

La implementación del Título III implicaría otros precedentes legales “interesantes”, dijo el abogado Jason Poblete, entre ellas el hecho de permitir que personas que no eran ciudadanas de EEUU en el momento de perder sus propiedades puedan demandar en las cortes del país. El Título III también establece que las cortes no pueden rehusarse a considerar las demandas.

Es difícil estimar cuántos cubanoamericanos sin reclamaciones certificadas estarían dispuestos a presentar demandas, un proceso largo y costoso.

“Es probable que solo haya docenas de juicios, porque los reclamantes deben poder demostrar su propiedad, que la adquirieron antes de 1996 a través de una transferencia con licencia o exenta; que hay un extranjero traficando con su propiedad, el cual debe además tener presencia económica en los EEUU”, dijo Nick Gutiérrez, presidente de la Asociación Nacional de Hacendados de Cuba en el exilio. Los demandantes deben cumplir requisitos adicionales: sus propiedades no pueden ser residencias, deben valer más de \$50,000 y no puede estar siendo empleadas actualmente por misiones diplomáticas. También deben poder pagar la alta tarifa para presentar la demanda y contratar a abogados calificados, agregó Gutiérrez.

Poblete, un abogado en Washington que representa a varios clientes que tienen en su poder reclamaciones certificadas, cree que la posibilidad de demandar en las cortes, si bien o es la solución ideal, sería otra opción para sus clientes.

“Litigar no es el objetivo del programa de reclamaciones, pero en este momento los titulares de reclamaciones tienen muy pocos recursos para defender sus derechos de propiedad”, dijo Poblete. “Si tenemos la opción de defender los derechos de propiedad de nuestros clientes con el Título III, sería otra opción que les ofreceríamos”.

“Por supuesto que presentaré una demanda”, si se implementa el Título III, dijo Javier Bengochea, un neurocirujano de Jacksonville, cuyos primos, la familia Parreño, eran propietarios de las principales instalaciones y terminales portuarias de Santiago de Cuba a través de su compañía La Marítima Parreño. La compañía fue confiscada sin compensación por Castro en 1960.

Bengochea es ahora titular de una reclamación certificada en relación con el puerto de Santiago, un sitio principal de actividades de las compañías de cruceros de Estados Unidos.

El Título III, agregó en un correo electrónico, “refleja fielmente si no la intención, el lenguaje real del derecho internacional con respecto a la compensación por propiedades expropiadas. Estos casos no pueden ser escuchados en un país como Cuba donde el poder judicial no es independiente”.

Haber perdido propiedades en Cuba, confiscadas por el gobierno cubano, no ha frenado los negocios de algunas compañías estadounidenses en la isla, sobre todo a partir del restablecimiento de las relaciones. Compañías como Colgate, Delta y Western Union tienen negocios o están presentes en Cuba.

Marriot International, poseedor de la segunda reclamación certificada de más valor (cerca de \$182 millones) obtuvo autorización de los gobiernos de EEUU y de Cuba para administrar un hotel en La Habana en el 2016, el Four Points by Sheraton. En ese momento, el acuerdo generó especulación sobre qué peso habría tenido la reclamación en poder de la compañía para lograr que el gobierno cubano cediera la administración del hotel.

La administración de Obama se reunió tres veces con representantes del gobierno cubano para discutir sobre el tema de las reclamaciones pero no hubo progreso pues el gobierno cubano exigió ser compensado por los daños causados por el embargo. Tras la llegada de Trump a la Casa Blanca, las relaciones se han enfriado, sobre todo a partir de los extraños incidentes que enfermaron a 26 funcionarios de EEUU en La Habana. Como resultado, la embajada de EEUU en La Habana quedó reducida al personal mínimo. Aún no se han identificado a los responsables y el gobierno cubano ha negado su participación.

“Si el Título III pudiera llevar a Cuba a la mesa de negociaciones [para resolver las reclamaciones], podría ser una buena idea”, dijo Poblete, “pero dudo que temas bilaterales pendientes puedan avanzar a menos que los cubanos lidien con el problema de la embajada y tomen medidas para asegurar la seguridad de los diplomáticos estadounidenses”.