

U.S.-Cuba Trade and Economic Council, Inc.

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The Trump Administration on 2 May 2019 made operational Title III of the Cuban Liberty and Democratic Solidarity Act of 1996 (known as “*Libertad Act*”).

Title III authorizes lawsuits in United States District Courts against companies and individuals who are using a certified claim or non-certified claim where the owner of the certified claim or non-certified claim has not received compensation from the Republic of Cuba or from a third-party who is using (“trafficking”) the asset.

25 Lawsuits Filed (9 Certified Claimants & 16 Non-Certified Claimants)

US\$163,700.00 Court Filing Fees

49 Law Firms (140 Listed Attorneys)

5,900+ Filed Court Documents

US\$4+ Million Law Firm Billable Hours (estimated 85% by defendants)

115 Companies/Individuals, excluding attorneys, are lawsuit parties

11 Countries Impacted

79 Plaintiffs

4 Class Action status requests

75 Defendants (including corporate parent, subsidiaries; some sued in multiple lawsuits)

19 United States Defendants

5 Republic of Cuba Defendants

14 Non-United States Defendants

7 European Union-Based Defendants

5 Companies notified they will be added as defendants unless prompt settlement

Lawsuits filed in United States District Courts in Southern Florida (19), Washington DC (1), Western Washington State (1), Nevada (1), Southern District New York (1), and Delaware (2). Some cases have been transferred and consolidated.

The 49 Law firms retained by plaintiffs/defendants: Ainsworth & Clancy; Astigarraga Davis Mullins & Grossman; Akerman; Andrews & Springer; Arent Fox; Aronovitz Law; Baker & McKenzie; Ballard Spahr; Bird & Bird; Boies Schiller Flexner; Bracewell; Carlton Fields; Coffey Burlington; Colson Hicks Eidson; Cueto Law Group; Ewusiak Law; Hirzel Dreyfuss and Dempsey; Hogan Lovells; Holland & Knight; Jones Day; Jones Walker; Kantrowitz, Goldhamer, & Graifman; Kozyak Tropin & Throckmorton; Law Office of Andre G. Raikhelson; Law Office of Alexander Villarreal; Law Offices of Paul Sack; Law Offices of Robert L. Muse; Manuel Vazquez PA; MoloLamken; Margol & Margol; Mayer Brown; Morgan, Lewis & Bockius; Morris Nichols Arshat & Tunnell; Pacifica Law Group; Potter Anderson & Corroon; Rabinowitz, Boudin, Standard, Krinsky & Lieberman; Reed Smith; Reid Collins & Tsai; Rice Reuther Sullivan & Carroll; Rivero Mestre; Roig & Villarreal; Rosenthal, Monhait & Goddess; Scott Douglass & McConnico; Sidley Austin; Steptoe & Johnson; Venable; Wicker Smith O’Hara McCoy & Ford; Young, Conaway, Stargatt & Taylor; Zumpano Patricios.

Countries impacted: Canada, Chile, France, Germany, Netherlands, Republic of Cuba, Spain, Switzerland, Thailand, United Kingdom, United States.

In the third quarter of 2019, the twenty-seven (27) member Brussels, Belgium-based European Union (EU) confirmed its intention to issue a Request For Proposal (RFP) to law firms in the United States. The law firm(s) would be retained to file “*amicus curiae*” (friend-of-the-court) motions and other motions on behalf of each Libertad Act Title III lawsuit defendant who is domiciled in the EU.

Since 2 May 2019, some filings have been appealed, consolidated, dismissed, refiled, reversed, and transferred within districts and from district to district. The following is a list of the initial filings:

	Entity	Listed As Plaintiff	Defendant (X); Identified By Plaintiff As Potential Defendant Unless Settlement Forthcoming (P)
1	Accor S.A.		p
2	Air Europa		p
3	Amazon.com, Inc.		x
4	American Airlines, Inc.		xx
5	Bank of Nova Scotia, Miami Agency		x
6	BBVA, USA (Banco Bilbao Vizcaya Argentaria, S.A.)		x
7	Banco Nunez	xxxx	
8	Barcelo Group		p
9	Blue Diamond Resorts		p
10	Booking.com B.V.		xxxx
11	Booking Holdings, Inc.		xx
12	Carnival Corporation		xx
13	Class Action Requested- 4 (Mario Echevarria, Esther Sanchez, Consuelo Cuevas, Carmen Florido)	x	
14	Class Action Requested- 3 (Mario Del Valle, Enrique Falla, Mario Echevarria)	x	
15	Class Action Requested- 39 (Maricela Mata, Bibiana Hernandez, Mario Echevarria, Esther Sanchez, Consuelo Cuevas, Carmen Florido, Margarita Perkins, Ana M. Perez Perkins, Elena Susy Perez Perkins, Maria Del Carmen Perkins, Ricardo Perkins, Paul Perkins, Bill Perkins, Esther Perkins, Luis A. Perez Perkins, Patricia A. Perez Perkins, Silvia Milian, Santiago D. Milian, Patricia A. Milian, Edward G. Milian, Susan M. Blackmon, Cristina M. Ganz, Rosa Maria Fernandez Milian, Ingrid Fernandez Milian, Jaime Fernandez Milian, Alex Fernandez Milian, Vivian Viurrun Farrell, Bertha Eugenia Bustamante, Raoul G. Cantero, Anuka G. Cantero, Mario G. Cantero, Eugenio Cantero, Adriana Cantero, Maria De Lourdes Cantero, Jose Ramon López Regueiro, Evelio Angulo Ramos, Silvia Angulo Ramos, Yoan Arturo Angulo Ledon, Martha L. Garcia Angulo)	x	
16	Class Action Requested- 4 (Mario Echevarria, Esther Sanchez, Consuelo Cuevas, Carmen Florido)	x	
17	Corporacion Cimex		x
18	Corporacion de Comercio Y Turismo Internacional Cubanacan S.A.		xxxx
19	Daniel A. Gonzalez	x	
20	Diego Trinidad	x	
21	Expedia, Inc.		xx
22	Expedia Group, Inc.		xx
23	Exxon Mobil Corporation	x	
24	Grupo De Turismo Gaviota S.A.		xxxx
25	Grupo Hotelero Gran Caribe		xxxx
26	Havana Docks Corporation	xxxx	
27	Herederos De Roberto Gomez Cabrera, LLC	x	
28	Hotels.com GP, LLC		xx
29	Hotels.com L.P.		xx
30	Iberia Airlines S.A.		p
31	Javier Garcia-Bengochea	xxx	

32	Iberostar Hoteles y Apartamentos S.L.		xp
33	Jolly Hotels U.S.A., Inc.		x
34	John S. Shepard Family Trust	x	
35	Jose Ramon Lopez Regueiro	x	
36	Kayak Software Corporation		x
37	LATAM Airlines Group, S.A.		x
38	Marlene Cueto Iglesias And Mariam Iglesias Alvarez	x	
39	Mariela Doe		xxxx
40	Marlene Cueto Iglesias	x	
41	Mastercard Incorporated		x
42	Mastercard International Incorporated		x
43	Melia Hotels International S.A.		x
44	Melia Hotels USA, LLC		x
45	MSC Cruises SA Co.		x
46	MSC Cruises (USA) Inc.		x
47	National Bank Of Canada Financial Group, Inc. (National Bank of Canada)		x
48	NH Hotel Group, S.A.		x
49	NH Hotels USA, Inc.		x
50	Norwegian Cruise Line Holdings, Ltd.		xx
51	Orbitz, LLC		xx
52	Pernod Ricard		x
53	Raul Doe		xxxx
54	Robert M. Glen	xxxx	
55	Royal Caribbean Cruises, LTD.		xx
56	Scotia Holdings (US) Inc.		x
57	SG Americas, Inc. (Societe Generale, S.A.)		x
58	Sucesores De Don Carlos Nunez Y Dona Pura Galvez, Inc., BDA Banco Nunez	x	
58	Susshi International, Inc. (Fogo Charcoal)		x
60	Sunwing Travel Group		p
61	Teck Resources Limited		x
62	Travelocity.com, LP		x
63	Travelscape LLC (DBA Travelocity)		x
64	Tripadvisor, Inc.		x
65	Tripadvisor LLC		x
66	Trip Network, Inc. (DBA Cheaptickets)		x
67	Trivago GmbH		xxxx
68	Union Cuba-Petroleo		x
69	Visa, Inc.		x
70	Visa U.S.A., Inc.		x
71	Visa International Service Association		x

JOHN S. SHEPARD FAMILY TRUST, THROUGH JOHN S. SHEPARD AND LAWRENCE JAFFE, AS CO-TRUSTEES, V. NH HOTELS USA, INC., NH HOTEL GROUP, S.A., AND JOLLY HOTELS U.S.A., INC. [1-19-cv-09026; Southern District New York]. Case dismissed by plaintiff without prejudice on 26 February 2020.

Aronovitz Law (plaintiff)
Kantrowitz, Goldhamer, & Graifman (plaintiff)
Bracewell (defendant)
Bird & Bird (defendant)
Law Offices of Robert L. Muse (defendant)

SUCESORES DE DON CARLOS NUNEZ Y DONA PURA GALVEZ, INC., BDA BANO NUNEZ V. SOCIÉTÉ GÉNÉRALE, S.A., D/B/A SG AMERICAS, INC.; THE BANK OF NOVA SCOTIA,

D/B/A SCOTIA HOLDINGS (US) INC., A/K/A THE BANK OF NOVA SCOTIA, MIAMI AGENCY; THE NATIONAL BANK OF CANADA, D/B/A NATIONAL BANK OF CANADA FINANCIAL GROUP, INC.; AND BANCO BILBAO VIZCAYA ARGENTARIA, S.A., D/B/A BBVA, USA., [1:19-cv-22842; Southern Florida District]. NOTE: Case transferred to New York Southern District On 2 February 2020 [1:20-cv-00851]

Kozyak Tropin & Throckmorton, LLP (plaintiff)
Law Offices Of Paul Sack A. Law, P.A. (plaintiff)
MoloLamken LLC (plaintiff)
Mayer Brown LLP (defendant)
ReedSmith LLP (defendant)
Astigarraga Davis Mullins & Grossman (defendant)

DIEGO TRINIDAD v. EXPEDIA, INC. [1:19-cv-22629; Southern Florida District]

Rivero Mestre (plaintiff)
Manuel Vazquez (plaintiff)
Akerman (defendant)

MARICELA MATA, ET. AL., V. MELIA HOTELS INTERNATIONAL, S.A., ET AL. [1:19-cv-22529; Southern Florida District]. NOTE: On 2 January 2020, thirty-five plaintiffs were dismissed, and eight defendants were dismissed without prejudice Melia Hotels International, S.A.; Melia Hotels USA LLC, Trivago GMBH, Grupo Hotelero Gran Caribe, Corporacion de Comercio y Turismo Internacional Cubanacan S.A.; Grupo de Turismo Gaviota S.A.; Raul Doe 1-5, and Mariela Roe 1-5. The case is now known as Maricela Mata, et al. v. Expedia, Inc., et. al.

Rivero Mestre LLP (plaintiff)
Manuel Vazquez, P.A. (plaintiff)
Arent Fox (defendant- Melia Hotels)
Coffey Burlington, P.P. (defendant- Melia Hotels)
Akerman LLP (defendant) for Expedia, Inc.; Hotels.com L.P.; Hotels.com GP, LLC; Orbitz, LLC; and Travelocity.com, LP
Scott Douglass & McConnico LLP (defendant) for Expedia, Inc.; Hotels.com L.P.; Hotels.com GP, LLC; Orbitz, LLC; and Travelocity.com, LP
Baker & McKenzie LLP (defendant) for Booking Holdings Inc. and Booking.com B.V.

HAVANA DOCKS CORPORATION V. NORWEGIAN CRUISE LINE HOLDINGS, LTD. [1:19-cv-23591; Southern Florida District]

Colson Hicks Eidson, P.A. (plaintiff)
Margol & Margol, P.A. (plaintiff)
Hogan Lovells US LLP (defendant)

HAVANA DOCKS CORPORATION VS. ROYAL CARIBBEAN CRUISES, LTD. [1:19-cv-23590; Southern Florida District]

Colson Hicks Eidson, P.A. (plaintiff)
Margol & Margol, P.A. (plaintiff)
Holland & Knight (defendant)

HAVANA DOCKS CORPORATION V. MSC CRUISES SA CO, AND MSC CRUISES (USA) INC. [1:19-cv-23588; Southern Florida District]

Colson Hicks Eidson, P.A. (plaintiff)
Margol & Margol, P.A. (plaintiff)
Venable (defendant)

HAVANA DOCKS CORPORATION VS. CARNIVAL CORPORATION D/B/A/ CARNIVAL CRUISE LINES [1:19-cv-21724; Southern Florida District]

Colson Hicks Eidson, P.A. (plaintiff)
Margol & Margol, P.A. (plaintiff)
Jones Walker (defendant)
Boies Schiller Flexner LLP (defendant)
Akerman (defendant)

JAVIER GARCIA-BENGOCHEA V. NORWEGIAN CRUISE LINE HOLDINGS, LTD. [1:19-cv-23593; Southern Florida District]

Colson Hicks Eidson, P.A. (plaintiff)
Margol & Margol, P.A. (plaintiff)
Hogan Lovells US LLP (defendant)

JAVIER GARCIA-BENGOCHEA V. CARNIVAL CORPORATION D/B/A/ CARNIVAL CRUISE LINE, A FOREIGN CORPORATION [1:19-cv-21725; Southern Florida District]

Colson Hicks Eidson, P.A. (plaintiff)
Margol & Margol, P.A. (plaintiff)
Jones Walker (defendant)
Boies Schiller Flexner LLP (defendant)
Akerman (defendant)

JAVIER GARCIA-BENGOCHEA VS. ROYAL CARIBBEAN CRUISES, LTD. [1:19-cv-23592; Southern Florida District]

Colson Hicks Eidson, P.A. (plaintiff)
Margol & Margol, P.A. (plaintiff)
Holland & Knight (defendant)

ROBERT M. GLEN V. TRIP ADVISOR LLC, TRIP ADVISOR, INC., ORBITZ, LLC, TRIP NETWORK, INC. D/B/ A CHEAPTICKETS, KAYAK SOFTWARE CORPORATION, AND BOOKING HOLDINGS, INC., [1:19-cv-01809; Delaware District]

Reid Collins & Tsai (plaintiff)
Rosenthal, Monhait & Goddess, P.A. (plaintiff; law firm since closed; replaced by Andrews & Springer)
Ewusiak Law, P.A. (plaintiff)
Andrews & Springer (plaintiff)
Morris, Nichols, Arshat & Tunnell (defendant- Booking Holdings & Kayak Software Corporation)
Baker & McKenzie (defendant- Booking Holdings & Kayak Software Corporation)
Scott Douglass & McConnico (defendant- Expedia, Inc.; Expedia Group, Inc.; Hotels.com, L.P.; Hotels.com GP, LLC; Travelscape LLC d/b/a/ Travelocity; Orbitz, LLC; Trip Network, Inc. d/b/a/ Cheap Tickets)
Potter Anderson & Corroon (defendant- TripAdvisor)
Ballard Spahr LLP (defendant- Expedia, Inc.; Expedia Group, Inc.; Hotels.com, L.P.; Hotels.com GP, LLC; Travelscape LLC d/b/a/ Travelocity; Orbitz, LLC; Trip Network, Inc. d/b/a/ Cheap Tickets)

ROBERT M. GLEN V. AMERICAN AIRLINES, INC., [1:19-cv-23994; Southern Florida District]

Reid Collins & Tsai (plaintiff)
Ewusiak Law, P.A. (plaintiff)

ROBERT M. GLEN VS. TRAVELSCAPE LLC D/B/A/ TRAVELOCITY [2:19-cv-01683; Nevada District] On 16 December 2019, plaintiff requested dismissal without prejudice, which was granted; action consolidated with 1:19-cv-01809 in Delaware District

Rice Reuther Sullivan & Carroll, LLC (plaintiff)
Reid Collins & Tsai LLP (plaintiff)

ROBERT M. GLEN V. EXPEDIA, INC.; EXPEDIA GROUP, INC.; HOTELS.COM, L.P.; AND HOTELS.COM GP, LLC [2:19-cv-01538; Washington Western District]

Pacifica Law Group LLP (plaintiff)
Reid Collins & Tsai LLP (plaintiff)

ROBERT M. GLEN V. VISA, INC., VISA U.S.A., INC., VISA INTERNATIONAL SERVICE ASSOCIATION, MASTERCARD INCORPORATED, MASTERCARD INTERNATIONAL INCORPORATED [1:19-cv-01870; Delaware District]

Reid Collins & Tsai LLP (plaintiff)
Andrews & Springer LLC (plaintiff)
Sidley Austin LLP (defendant- Mastercard)
Akerman (defendant- Visa)
Ballard Shahr LLP (defendant- Visa)
Young, Conaway, Stargatt & Taylor (defendant- Mastercard)

HEREDEROS DE ROBERTO GOMEZ CABRERA, LLC v. TECK RESOURCES LIMITED [1:20-cv-21630; Southern Florida District]

Hirzel Dreyfuss & Dempsey, PLLC (plaintiff)
Roig & Villarreal, P.A. (plaintiff)
Law Office of David A. Villarreal, P.A. (plaintiff)

EXXON MOBIL CORPORATION V. CORPORACION CIMEX, S.A., AND UNION CUBA-PETROLEO [1:19-cv-01277; Washington DC]

Steptoe & Johnson (plaintiff)
Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. (defendant)

DANIEL A. GONZALEZ VS. AMAZON.COM, INC., AND SUSSHI INTERNATIONAL, INC., D/B/A/ FOGO CHARCOAL [1:19-cv-23988; Southern Florida District]

Cueto Law Group, P.L. (plaintiff)
Wicker Smith O'Hara McCoy & Ford (defendant- Susshi International)
Morgan, Lewis & Bockius (defendant- Amazon)

MARIO ECHEVARRIA, ESTHER SANCHEZ, CONSUELO CUEVAS, AND CARMEN FLORIDO V. TRIVAGO GMBLJ, A GERMAN LIMITED LIABILITY COMPANY, BOOKING.COM B.V., A DUTCH LIMITED LIABILITY COMPANY, GRUPO HOTELERO GRAN CARIBE, CORPORACION DE COMERCIO Y TURISMO INTERNACIONAL CUBANACAN S.A., GRUPO DE TURISMO GAVIOTA S.A., RAUL DOE 1-5, AND MARIELA ROE 1-5, [1:19-cv-22620; Southern Florida District]

Rivero Mestre LLP (plaintiff)
Manuel Vazquez, P.A. (plaintiff)

MARIO ECHEVARRIA, ESTHER SANCHEZ, CONSUELO CUEVAS, AND CARMEN FLORIDO V. TRIVAGO GMBH, A GERMAN LIMITED LIABILITY COMPANY, BOOKING.COM 8.V., A DUTCH LIMITED LIABILITY COMPANY, GRUPO HOTELERO GRAN CARIBE, CORPORACION DE COMERCIO Y TURISMO INTERNACIONAL CUBANACAN S.A., GRUPO DE TURISMO GAVIOTA S.A., RAUL DOE I-5, AND MARIELA ROE 1-5, [1:19-cv-22621; Southern Florida District]

Rivero Mestre LLP (plaintiff)
Manuel Vazquez, P.A. (plaintiff)

MARIO DEL VALLE, ENRIQUE FALLA, MARIO ECHEVARRIA V. TRIVAGO GMBH, A GERMAN LIMITED LIABILITY COMPANY, BOOKING.COM 8.V., A DUTCH LIMITED

LIABILITY COMPANY, GRUPO HOTELERO GRAN CARIBE, CORPORACION DE COMERCIO Y TURISMO INTERNACIONAL CUBANACAN S.A., GRUPO DE TURISMO GAVIOTA S.A., RAUL DOE I-5, AND MARIELA ROE 1-5, [1:19-cv-22619; Southern Florida District]

Rivero Mestre LLP (plaintiff)
Manuel Vazquez, P.A. (plaintiff)
Scott Douglass & McConnico (defendant)
Akerman (defendant)

JOSE RAMON LOPEZ REGUEIRO V. AMERICAN AIRLINES INC. AND LATAM AIRLINES GROUP, S.A. [1:19-cv-23965; Southern Florida District]

Rivero Mestre LLP (plaintiff)
Manuel Vazquez, P.A. (plaintiff)
Jones Day (defendant)
Akerman (defendant)

MARIA DOLORES CANTO MARTI, AS PERSONAL REPRESENTATIVE OF THE ESTATES OF DOLORES MARTI MERCADE AND FERNANDO CANTO BORY V. IBEROSTAR HOTELES Y APARTAMENTOS SL [1:20-cv-20078; Southern Florida District]

Zumpano Patricios P.A. (plaintiff)
Bird & Bird (defendant)
Holland & Knight (defendant)

MARLENE CUETO IGLESIAS AND MARIAM IGLESIAS ALVAREZ V. PERNOD RICARD [1:20-cv-20157; Southern Florida District]

Law Offices of Andre G. Raikhelson LLC (plaintiff)
Ainsworth & Clancy PLLC (plaintiff)
Carlton Fields P.A. (defendant)

Libertad Act

The Trump Administration has made operational Title III and further implemented Title IV of the Cuban Liberty and Democratic Solidarity Act of 1996 (known as “*Libertad Act*”).

Title III authorizes lawsuits in United States District Courts against companies and individuals who are using a certified claim or non-certified claim where the owner of the certified claim or non-certified claim has not received compensation from the Republic of Cuba or from a third-party who is using (“trafficking”) the asset.

Title IV restricts entry into the United States by individuals who have connectivity to unresolved certified claims or non-certified claims. One Canada-based company is currently subject to this provision based upon a certified claim.

Suspension History

Title III has been suspended every six months since the Libertad Act was enacted in 1996- by President William J. Clinton, President George W. Bush, President Barack H. Obama and President Donald J. Trump.

On 16 January 2019, The Honorable Mike Pompeo, United States Secretary of State, reported a suspension for forty-five (45) days.

On 4 March 2019, Secretary Pompeo reported a suspension for thirty (30) days.

On 3 April 2019, Secretary Pompeo reported a further suspension for fourteen (14) days through 1 May 2019.

On 17 April 2019, the Trump Administration reported that it would no longer suspend Title III.

On 2 May 2019 certified claimants and non-certified claimants were permitted to file lawsuits in United States courts.

Certified Claims Background

There are 8,821 claims of which **5,913** awards valued at **US\$1,902,202,284.95** were certified by the USFCSC and have not been resolved for nearing sixty years (some assets were officially confiscated in the 1960's, some in the 1970's and some in the 1990's. The USFCSC permitted simple interest (not compound interest) of 6% per annum (approximately US\$114,132,137.10); with the approximate current value of the 5,913 certified claims **US\$8,521,866,236.75**.

The first asset to be expropriated by the Republic of Cuba was an oil refinery in 1960 owned by White Plains, New York-based **Texaco, Inc.**, now a subsidiary of San Ramon, California-based Chevron Corporation (USFCSC: CU-1331/CU-1332/CU-1333 valued at **US\$56,196,422.73**).

The largest certified claim (*Cuban Electric Company*) valued at US\$267,568,413.62 is controlled by Boca Raton, Florida-based **Office Depot, Inc.** The second-largest certified claim (*International Telephone and Telegraph Co, ITT as Trustee, Starwood Hotels & Resorts Worldwide, Inc.*) valued at US\$181,808,794.14 is controlled by Bethesda, Maryland-based **Marriott International**; the certified claim also includes land adjacent to the Jose Marti International Airport in Havana, Republic of Cuba. The smallest certified claim is by *Sara W. Fishman* in the amount of US\$1.00 with reference to the Cuban-Venezuelan Oil Voting Trust.

The two (2) largest certified claims total US\$449,377,207.76, representing **24%** of the total value of the certified claims. Thirty (30) certified claimants hold **56%** of the total value of the certified claims. This concentration of value creates an efficient pathway towards a settlement.

Title III of the Cuban Liberty and Democratic Solidarity (**Libertad**) Act of 1996 requires that an asset had a value of US\$50,000.00 when expropriated by the Republic of Cuba without compensation to the original owner. Of the 5,913 certified claims, 913, or **15%**, are valued at US\$50,000.00 or more. Adjusted for inflation, US\$50,000.00 (3.70% per annum) in 1960 has a 2019 value of approximately US\$427,267.01. The USFCSC authorized 6% per annum, meaning the 2019 value of US\$50,000.00 is approximately US\$1,649,384.54.

The ITT Corporation Agreement

In July 1997, then-New York City, New York-based ITT Corporation and then-Amsterdam, the Netherlands-based STET International Netherlands N.V. signed an agreement whereby STET International Netherlands N.V. would pay approximately US\$25 million to ITT Corporation for a ten-year right (after which the agreement could be renewed and was renewed) to use assets (telephone facilities and telephone equipment) within the Republic of Cuba upon which ITT Corporation has a certified claim valued at approximately US\$130.8 million. *ETECSA*, which is now wholly-owned by the government of the Republic of Cuba, was a joint venture controlled by the Ministry of Information and Communications of the Republic of Cuba within which Amsterdam, the Netherlands-based Telecom Italia International N.V. (formerly Stet International Netherlands N.V.), a subsidiary of Rome, Italy-based Telecom Italia S.p.A. was a shareholder. Telecom Italia S.p.A., was at one time a subsidiary of Ivrea, Italy-based Olivetti S.p.A. The second-largest certified claim (*International Telephone and Telegraph Co, ITT as Trustee, Starwood Hotels & Resorts Worldwide, Inc.*) valued at US\$181,808,794.14 is controlled by Bethesda, Maryland-based Marriott International.

What Is “Trafficking” According To Libertad Act?

(13) Traffics.--(A) As used in title III, and except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally-- (i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property, (ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or (iii) causes,

directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person, without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include-- (i) the delivery of international telecommunication signals to Cuba; (ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national; (iii) 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; or (iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

“DETERMINATION OF OWNERSHIP OF CLAIMS REFERRED BY DISTRICT COURTS OF THE UNITED STATES

"Sec. 514. Notwithstanding any other provision of this Act and only for purposes of section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, a United State district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States national (as defined in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996), resulting from the confiscation of property by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a national of the United States (as defined in section 502(1)) at the time of the action by the Government of Cuba."

TITLE III--SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES NATIONALS.

(a) Civil Remedy.-- (1) Liability for trafficking.--(A) Except as otherwise provided in this section, any person that, after the end of the 3-month period beginning on the effective date of this title, traffics in property which was confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to such property for money damages in an amount equal to the sum of-- (i) the amount which is the greater of-- (I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949, plus interest; (II) the amount determined under section 303(a)(2), plus interest; or (III) the fair market value of that property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and (ii) court costs and reasonable attorneys' fees. (B) Interest under subparagraph (A)(i) shall be at the rate set forth in section 1961 of title 28, United States Code, computed by the court from the date of confiscation of the property involved to the date on which the action is brought under this subsection.

(2) Presumption in favor of the certified claims.--There shall be a presumption that the amount for which a person is liable under clause (i) of paragraph (1)(A) is the amount that is certified as described in subclause (I) of that clause. The presumption shall be rebuttable by clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate amount of liability under that clause.

(3) Increased liability.-- (A) Any person that traffics in confiscated property for which liability is incurred under paragraph (1) shall, if a United States national owns a claim with respect to that property which was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949, be liable for damages computed in accordance with subparagraph (C).

(B) If the claimant in an action under this subsection (other than a United States national to whom subparagraph (A) applies) provides, after the end of the 3-month period described in paragraph (1) notice to-- (i) a person against whom the action is to be initiated, or (ii) a person who is to be joined as a defendant in the action, at least 30 days before initiating the action or joining such person as a defendant, as the case may be, and that person, after the end of the 30- day period beginning on the date the notice is provided, traffics in the confiscated property that is the subject of the action, then that person shall be liable to that claimant for damages computed in accordance with subparagraph (C).

(C) Damages for which a person is liable under subparagraph (A) or subparagraph (B) are money damages

in an amount equal to the sum of-- (i) the amount determined under paragraph (1)(A)(ii), and (ii) 3 times the amount determined applicable under paragraph (1)(A)(i). (D) Notice to a person under subparagraph (B)-- (i) shall be in writing; (ii) shall be posted by certified mail or personally delivered to the person; and (iii) shall contain-- (I) a statement of intention to commence the action under this section or to join the person as a defendant (as the case may be), together with the reasons therefor; (II) a demand that the unlawful trafficking in the claimant's property cease immediately; and (III) a copy of the summary statement published under paragraph (8). (4) Applicability.--(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of the enactment of this Act.

(B) In the case of property confiscated before the date of the enactment of this Act, a United States national may not bring an action under this section on a claim to the confiscated property unless such national acquires ownership of the claim before such date of enactment. (C) In the case of property confiscated on or after the date of the enactment of this Act, a United States national who, after the property is confiscated, acquires ownership of a claim to the property by assignment for value, may not bring an action on the claim under this section.

(5) Treatment of certain actions.--(A) In the case of a United States national who was eligible to file a claim with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but did not so file the claim, that United States national may not bring an action on that claim under this section. (B) In the case of any action brought under this section by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this section.

(C) A United States national, other than a United States national bringing an action under this section on a claim certified under title V of the International Claims Settlement Act of 1949, may not bring an action on a claim under this section before the end of the 2-year period beginning on the date of the enactment of this Act.

(D) An interest in property for which a United States national has a claim certified under title V of the International Claims Settlement Act of 1949 may not be the subject of a claim in an action under this section by any other person. Any person bringing an action under this section whose claim has not been so certified shall have the burden of establishing for the court that the interest in property that is the subject of the claim is not the subject of a claim so certified. (6) Inapplicability of act of state doctrine. No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1).

(7) Licenses not required. (A) Notwithstanding any other provision of law, an action under this section may be brought and may be settled, and a judgment rendered in such action may be enforced, without obtaining any license or other permission from any agency of the United States, except that this paragraph shall not apply to the execution of a judgment against, or the settlement of actions involving, property blocked under the authorities of section 5(b) of the Trading with the Enemy Act that were being exercised on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act.