

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

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On 17 April 2019, the Washington DC-based advocacy group issued a statement in opposition to the decision by the Trump Administration to implement on 2 May 2019 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 where the owner of the certified claim has not received compensation from the Republic of Cuba or from a third-party who is using the asset.

***“This lets the Cuban government off the hook and shifts the burden to American, European and Canadian companies. American companies and our closest allies will now be paying instead of the Cuban government.”***

However, the advocacy group has not always opposed shifting the burden of repayment of the certified claims from the Republic of Cuba to others...

In 2017, the advocacy group supported proposed language to legislation (H.R. 525) introduced by The Honorable Rick Crawford (R- 1<sup>st</sup> District, Arkansas) to impose a 2% tax upon United States exports of agricultural commodities and food products to the Republic of Cuba to compensate the 5,913 certified claimants.

As reported on 27 May 2017 in The Miami Herald: “Every transaction will have a two percent excise fee that would be collected and administered to certified claimants through the Treasury Department,” he said. “The 2% user fee functions like an excise tax on the total sale, and it is paid by the seller of the agricultural product,” added a staffer from Crawford’s office.... “an end thanks to an “elegant” solution that is part of proposed legislation: a 2 percent user fee on agricultural products sold to the island that would be used to compensate those who have certified claims of properties confiscated by the Cuban government.”

The Trade Sanctions Reform and Export Enhancement Act of 2000 (TSREEA) authorized the export of agricultural commodities and food products from the United States to the Republic of Cuba on a cash-in-advance basis.

The following were the “elegant solution” calculations, then deemed rational, by Representative Crawford and the advocacy group:

In 2016, the value of TSREEA-related exports was US\$232,064,645.00; and 2% was US\$4,641,292.90. If the highest value TSREEA-related export year (2001 onward) is used, US\$710,086,323.00 in 2008, which was not surpassed in 2016, 2017 or 2018 or thus far in 2019; then 2% was US\$14,201,726.46.

At that rate, repayment of the original value of the certified claims, US\$1,902,202,284.95, would take approximately **400 years** based upon the 2016 value and approximately **133 years** based upon the 2008 value.

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If the US\$8,521,866,236.58 approximate current value of the certified claims is used, the repayment schedule ranges from approximately **501 years** (2008) to **1,836 years** (2016).

There are credible individuals, organizations and other entities who estimate unfettered TSREEA-related (meaning no restrictions) exports to the Republic of Cuba could be US\$2 billion annually.

Using that valuation, the 2% fee would be US\$40 million; and certified claimants could be repaid in approximately **47 years** to **200 years** depending upon which certified claim total value is used in the calculation.

The proposed legislative wording by Representative Crawford and supported by the advocacy group and others was eventually withdrawn due to opposition by United States exporters. It should have never been introduced in the United States Congress- and should have never received support from advocacy groups.

## **Previously Published Analyses**

### **2% Tax on US Exports To Cuba To Compensate Certified Claimants Is Foolish 5 May 2017**

When A Politician Negotiates A Business Deal  
Unintended (For One Side) Consequences To Find “A Proper Path Forward”  
Not A Poison Pill- A Poison Fee  
How To Define An “Elegant Solution”  
133 Years to 1,723 Years For Repayment  
The Hurry To Lose? Repeating The Mistake Of 6,000 Days Ago

<https://www.cubatrade.org/blog/2017/5/29/0t6ts1bv3by20ot3mi9bydvdqv3e86?rq=crawford>

### **A Cuban-American Republican Congressman Is Cuba’s New US\$8 Billion Best Friend; President Trump Can’t Get More Than 2 Cents On The Dollar? 4 June 2017**

A Cuban-American Republican Congressman Is Cuba’s New US\$8 Billion Best Friend  
Cuba Pays Nothing & U.S. Pays Everything  
President Trump Can’t Negotiate More Than US\$.02 Cents On The Dollar? Really?  
An Illegal Export Tax  
Fifth Amendment Issues  
Should Riceland Foods Pay Starwood Hotels  
Should Cargill Pay Texaco  
Should Grove Enterprises Pay InterContinental Hotels  
Will Cuba Importers Have Access To US Government Financing Programs

<https://www.cubatrade.org/blog/2017/6/4/xagpzv70sjpnask50nzx9tbfyn5pp0?rq=Crawford>

### **Rep. Crawford Withdraws Legislation.... Good News For Certified Claimants 28 June 2017**

<https://www.cubatrade.org/blog/2017/6/28/rep-crawford-withdraws-legislation-good-news-for-certified-claimants?rq=crawford>

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## 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. The USFCSC permitted interest to be accrued in the amount of 6% per annum; with the current value of the 5,913 certified claims approximately **US\$8,521,866,156.95**.

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 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.