Will Cuba Be On The Agenda At U.S.-EU Summit In June?
Who Will Mention First? von der Leyen, Borrell, Michel, Or Biden
Four Meetings In Brussels Since March And No Discussion Of Cuba

The White House
Washington DC
8 June 2021

“The President will participate in the U.S.-EU Summit, which will underscore our commitment to a strong Transatlantic partnership based on shared interests and values. The leaders will discuss a common agenda to ensure global health security, stimulate global economic recovery, tackle climate change, enhance digital and trade cooperation, strengthen democracy, and address mutual foreign policy concerns.”

On 15 June 2021, The Honorable Joseph Biden Jr., President of the United States, will meet in Brussels, Belgium, with H.E. Charles Michel, President of the European Council, and H.E. Dr. Ursula von der Leyen, President of the European Commission (EC). President Michel represents the leaders of the twenty-seven members of the European Union (EU). President von de Leyen manages the executive branch of the EU.

Expected to participate in all or part of the U.S.-EU Summit are H.E. Josep Borrell, EU High Representative for Foreign Affairs and Security Policy and Vice President of the EC, and The Honorable Antony Blinken, United States Secretary of State.

NOTE: From 11 June 2021 to 13 June 2021, President Michel, and President von der Leyen participated in the G7 (Group of Seven) Summit in Cornwall, United Kingdom, where they interacted with President Biden. G7 members include Canada, France, Germany, Italy, Japan, United Kingdom, and United States. Representatives of the EU also attend.

Since 20 January 2021, officials representing the Biden Administration (The White House and United States Department of State) have continued to maintain that issues relating to the Republic of Cuba are neither a high priority nor a priority.

The Biden Administration has four known reviews underway relating to the Republic of Cuba: 1) comprehensive policy review led by the National Security Council (NSC) and United States Department of State with a focus upon what changes should be made to policies and regulations implemented during the Trump Administration (2017-2021) including whether to nominate a United States Ambassador to the Republic of Cuba 2) reviews led by the Central Intelligence Agency (CIA) and United States Department of State into the cause(s) of injuries to United States government employees in 2016/2017 while they were in the Republic of Cuba 3) review whether to suspend again Title III of the Libertad Act and 4) review whether to remove the Republic of Cuba from the State Sponsors of Terrorism List maintained by the United States Department of State.

Absent a crisis in the Republic of Cuba directly impacting the United States, there has been no demonstrated urgency for completing the four known reviews.
EC/EU Interaction With United States Department Of State

- **15 February 2021**- European Parliament (EP) Member Wrote About Cuba To Mr. Borrell
- **24 March 2021**- Secretary Of State Antony Blinken Visits Brussels- **Cuba Not Discussed**
- **29 March 2021**- Mr. Borrell Writes To EP Member He Would “Address” Cuba With Biden Administration
- **15 April 2021**- One Year Since EU-Based Libertad Act Lawsuit Defendant Asked EC For Guidance
- **15 April 2021**- Secretary Of State Blinken Visits Brussels- **Cuba Not Discussed**
- **4 May 2021**- Secretary Of State Blinken Visits London, Meets Mr. Borrell- **Cuba Not Discussed**
- **26 May 2021**- Deputy Secretary Of State Wendy Sherman Visits Brussels, Meets Mr. Stefano Sannino, European External Action Service [EEAS] Secretary General- **Cuba Not Discussed**
- **15 June 2021**- President Biden Visit To Brussels For U.S.-EU Summit

From United States Department of State: “Secretary of State Antony J. Blinken will travel to Brussels, Belgium April 13-15 [2021] ... Separately, Secretary Blinken will hold bilateral and multilateral meetings with European counterparts to discuss key priorities and shared challenges. ... The Honorable Philip Reeker, Acting Assistant Secretary of State for European and Eurasian Affairs, will accompany Secretary Blinken to Brussels this week.” Secretary of State Blinken met President von der Leyen and EU High Representative for Foreign Affairs and Security Policy and EC Vice President Borrell. There was no statement as to Secretary of State Blinken meeting with Charles Michel, President of the European Council.

On 24 March 2021, Secretary Blinken held separate meetings with President von der Leyen and EU High Representative for Foreign Affairs and Security Policy and EC Vice President Borrell. According to a spokesperson for the EU: “In their meeting, the HRVP [Borrell Fontelles] and Secretary of State discussed Venezuela, and they agreed to work together in a coordinated approach. Cuba was not discussed on this occasion.” The EU spokesperson did not confirm if the Republic of Cuba, Title III and Title IV of the Cuban Liberty and Democratic Solidarity Act of 1996 (known as “Libertad Act”), and/or Venezuela was discussed during the meeting between President von der Leyen and Secretary Blinken. The subjects were not referenced in remarks by President von der Leyen and Secretary Blinken in advance of their meeting.

There is a possibility the Republic of Cuba and Libertad Act were discussed during the 24 March 2021 and 15 April 2021 meetings in Brussels between lower-level officials of the EC/EU and United States Department of State. There is also a possibility the United States Department of State and EC/EU jointly agreed in advance to exclude the Republic of Cuba and Libertad Act from the official agendas; that the United States Department of State refused to include the Republic of Cuba and Libertad Act in the official agendas; and that the Republic of Cuba and Libertad Act were discussed outside of the official agendas.

What is known- despite statements from the EC/EU and member states of the EU that the Libertad Act remains since 1996 a material issue impacting the bilateral relationship with the United States; and since May 2019 when Title III of the Libertad Act was made operational by the Trump Administration ten EU-based companies became defendants in lawsuits filed in the United States, the Libertad Act was not material enough to be included in the agenda for the first visit to the EC/EU by the Secretary of State.
On 29 March 2021, EU High Representative for Foreign Affairs and Security Policy and EC Vice President Borrell responded to an inquiry from Mr. Javier Moreno Sanchez, a member of the Strasbourg, France-based EP who is a member of the “Group of Friendship and Solidarity with the People of Cuba.” The response from EU High Representative for Foreign Affairs and Security Policy and EC Vice President Borrell was inaccurately publicized as an agreement by EU High Representative for Foreign Affairs and Security Policy and EC Vice President Borrell to “mediate” rather than “address” the issue with the United States:

Dear Members of the European Parliament, Thank you for your letter of 15 February on the designation of Cuba as a state sponsor of terrorism by the previous US administration. As I have stated to Foreign Minister Rodriguez at the EU-Cuba Joint Council on 20 January, the EU rejects this designation. The decision taken by the previous US administration has no factual basis, given the positive role Cuba has played in the peace negotiations between the Colombian government and the National Liberation Army (Ejercito de Liberacion Nacional, ELN). The ELN members were in Cuba as part of the now aborted peace negotiations with the Colombian government, having travelled there at the request of the Colombian government for the negotiation process, which has had the full support of the EU. As I have indicated in my statement referred to above (1), this designation adds to the hardship caused to the Cuban people by the US embargo. In our contacts with the new US administration, we will address this issue and call on the US to lift this designation. Yours faithfully, Josep Borrell Fontelles

Waiting More Than 400 Days

Mr. Hermenegildo Altozano, an attorney with Madrid, Spain-based Bird & Bird, to a United States District Court: “On April 15, 2020, I filed an Application for Authorisation under Article 5 paragraph 2 of Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, on behalf of the Spanish company Iberostar Hoteles y Apartamentos S.L.U. ("Iberostar").” The United States District Court hearing the lawsuit granted the defendant’s Motion to Stay Proceedings and required a status report every thirty days.

EU-based defendants total 2019 revenues were US$158 Billion. EU-based defendants in Libertad Act Title III lawsuits include: Copenhagen, Denmark-based A.P. Moller-Maersk A/S (2019 revenue approximately US$39 billion); Paris, France-based BNP Paribas (2019 revenue approximately US$49 billion); Amsterdam, Netherland-based Booking.com B.V. (2019 revenue approximately US$15 billion); Palma, Spain-based Melia Hotels International S.A. (2019 revenue approximately US$2.6 billion); Palma, Spain-based Trivago GmbH (2019 revenue approximately US$27.4 billion); and Dusseldorf, Germany-based Société Générale S.A. (2019 revenue approximately US$27.4 billion). Additional lawsuits are expected to be filed. Madrid, Spain-based NH Hotel Group S.A. (2019 revenues approximately US$1.9 billion) was a defendant in a lawsuit, but the lawsuit was dismissed by the plaintiff.

A diplomatic challenge for President von der Leyen and HRVP Borrell. H.E. Dr. von der Leyen served in three cabinet positions and was the longest serving member of Federal Republic of Germany Chancellor Angela Merkel’s cabinet; and Libertad Act Title III defendant Trivago GmbH is headquartered in Dusseldorf, Germany. HRVP Borrell was Minister of Foreign Affairs, EU and Cooperation of the Kingdom of Spain; and Libertad Act Title III defendants Melia Hotels
International S.A. and Iberostar Hoteles y Apartamentos S.L. are both headquartered in Palma, Spain.

An expected decision by the EC and EU would be to authorize EU-based defendants to proceed with their individual and collective defenses in lawsuits filed and lawsuits to be filed. The EC/EU position could be that until there is a lawsuit verdict, settlement, or judgement directly impacting the EC/EU, premature for the EC/EU to unilaterally constrict and disarm defendants, particularly as some of the defendants have commenced their defenses and have available assets within the United States that could be subject to the execution of a judgement from a court.

For the EC/EU to resolve its issue with the exterritorial application of Title III of the Libertad Act, at least one of the lawsuits need result in a verdict against an EU-based defendant and the plaintiff need to have seized an asset of the defendant. Only then will the EC/EU have the full implementation of Title III and the result of Title III from which to defend its interests - both in courts throughout the world and in its bilateral relationship with the United States - currently represented by the [Joseph] Biden Administration.

**Libertad Act Background**

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 and one Spain-based company are currently known to be subject to this provision based upon a certified claim and non-certified claim.

**Libertad Act 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 United States Foreign Claims Settlement Commission (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 is approximately US$8,750,130,510.77.

The first asset (along with 382 enterprises the same day) to be expropriated by the Republic of Cuba was an oil refinery on 6 August 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).

From the certified claim filed by Texaco: “The Cuban corporation was intervened on June 29, 1960, pursuant to Resolution 188 of June 28, 1960, under Law 635 of 1959. Resolution 188 was promulgated by the Government of Cuba when the Cuban corporation assertedly refused to refine certain crude oil as assertedly provided under a 1938 law pertaining to combustible materials. Subsequently, this Cuban firm was listed as nationalized in Resolution 19 of August 6, 1960, pursuant to Cuban Law 851. The Commission finds, however, that the Cuban corporation was effectively intervened within the meaning of Title V of the Act by the Government of Cuba on June 29, 1960.”

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 third-largest certified claim valued at US$97,373,414.72 is controlled by New York, New York-based North American Sugar Industries, Inc. 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.

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.
Background


“The European Union is a political and economic union of 27 member states that are located primarily in Europe. Its members have a combined area of 4,233,255.3 km² [1,634,469 square miles] and an estimated total population of about 447 million.”

“The European Commission is the executive branch of the European Union, responsible for proposing legislation, implementing decisions, upholding the EU treaties and managing the day-to-day business of the EU. The Commission is steered by a group of 27 Commissioners, known as 'the college'. Together they take decisions on the Commission's political and strategic direction. A new college of Commissioners is appointed every 5 years. The Commission is organised into policy departments, known as Directorates-General (DGs), which are responsible for different policy areas. DGs develop, implement and manage EU policy, law, and funding programmes. In addition, service departments deal with particular administrative issues. Executive agencies manage programmes set up by the Commission.”

“The members of the European Council are the heads of state or government of the 27 EU member states, the European Council President and the President of the European Commission. The High Representative of the Union for Foreign Affairs and Security Policy also takes part in European Council meetings when foreign affairs issues are discussed. The European Council mostly takes its decisions by consensus. However, in certain specific cases outlined in the EU treaties, it decides by unanimity or by qualified majority. If a vote is taken, neither the European Council President nor the Commission President take part.”

“The European Parliament is the legislative branch of the European Union and one of its seven institutions. It is directly-elected and made up of 705 members (MEPs) representing all EU countries. The European Parliament decides upon EU legislation, including the multiannual budget, together with the Council of the European Union (EU Member State governments). The EP holds other EU institutions, like the European Commission, to account. It elects the President of the European Commission and plays a key role in vetting Commissioner-designates through individual hearings. The College of Commissioners - how the twenty-seven commissioners are referred to collectively - must then be approved through a consent vote by the EP. Members of the European Parliament are elected in EU member states every five years and represent around 446 million citizens. Over the years, and with subsequent changes to EU treaties, the Parliament has acquired substantial legislative and budgetary powers.”