



Mrs Federica Mogherini

High-Representative of the Union for Foreign Affairs
and Security Policy and Vice President of the
European Commission
European Commission
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BELGIUM

30 April 2019

Dear High Representative and Vice President,

I would like to address this letter to you regarding recent developments on sanctions adopted unilaterally by the United States against Cuba on the basis of the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996, also commonly known as the "Helms-Burton Act".

BusinessEurope is particularly concerned by the negative impact of the application of Title III of the Libertad Act will have on the activity of European companies in Cuba. Title III allows for claims to be launched against EU investors in Cuba on the basis that they traffic in property confiscated by the Cuban Government on or after 1 January 1959.

European companies have a deep and long-standing tradition of trade and investments in Cuba. They are present in many sectors, including in manufacturing, infrastructure and services. This relationship will be gravely disrupted by the full implementation of the Libertad Act.

At the same time, the bilateral economic relations between the EU and the USA will also be negatively affected. Actions by the U.S. confirm a more general trend in their sanctions policy to follow a unilateral path, which has important consequences for their allies, including the EU. BusinessEurope continues to believe that a global, coordinated approach to sanctions is a more effective way to achieve common foreign policy objectives. Meanwhile, the EU must keep on upgrading his defensive tools to make EU sovereignty respected and to preserve the freedom of EU economic operators to trade.

We understand that Title III of the Libertad Act is covered by the EU's Blocking Statute Regulation, which European companies can use in order to recover damages caused by the application of the U.S. sanctions. However, I must stress the fact that there are a number of questions on the implementation of the Blocking Statute Regulation, as it has not been used in the past. Additional guidance from the part of the European Institutions would be appreciated from the part of European companies that are currently analysing the ramifications of U.S. sanctions and consider their next legal and operational steps. The European Institutions should also make sure that all EU Member States are aware of and ready to implement the Blocking Statute Regulation.

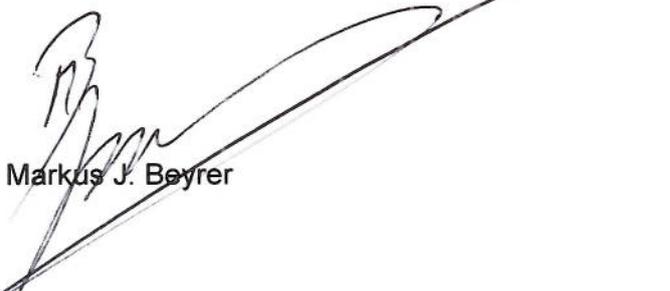


Although Title IV of the Libertad Act was not included in the announcements made by the USA on 17 April, we would also like to raise some concerns. Our reading of the Blocking Statute Regulation is that it does not offer corresponding mirroring provisions as those foreseen for Title III: it only entitles EU companies to sue in the EU specific US citizens, whose claims are used by the U.S. Department of State as a basis to ban the entry of executives of these same EU companies. This is a rather indirect and convoluted retaliation. It begs the question how a judge in the EU would be able to quantify the damage incurred by executives of EU companies who can no longer travel to the USA. Rather, the EU and its Member States should take reciprocal measures to title IV under EU & national law, whereby any US decision to bar entry would lead to an EU/national decision to bar entry to the underlying U.S. claimants, who triggered the U.S. decision in the first place. This is the only way to achieve proper deterrence.

We are also aware of the EU's continues efforts to maintain a dialogue with the U.S. authorities on all matters related to sanctions, including against Cuba. Nevertheless, as we have emphasised in our previous letters, focusing on U.S. sanctions against Iran and Russia, it is essential that the EU develops concrete and effective solutions to address the impact of the extraterritorial nature of U.S. sanctions. We take note of your efforts in this regard. At the same time, we would like to highlight the urgency of the matter, as European companies need to be reassured that their interests and the interests of the EU will be protected. BusinessEurope stands ready to discuss further with you and the relevant services of the European Institutions.

I thank you for your attention. We hope that the concerns we raise in this letter will be taken into account and will be reflected in the EU's reaction vis-à-vis measures taken by the U.S.

Yours sincerely,



Markus J. Beyrer