

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2027

To provide for the reinstatement of democracy in Haiti, the restoration to office of the duly elected President of Haiti, Jean-Bertrand Aristide, the end of human rights abuses against the Haitian people, support for the implementation of the Governors Island Agreement, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 19 (legislative day, APRIL 11), 1994

Mr. DODD (for himself, Mr. HARKIN, Ms. MOSELEY-BRAUN, Mr. FEINGOLD, Mr. WELLSTONE, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To provide for the reinstatement of democracy in Haiti, the restoration to office of the duly elected President of Haiti, Jean-Bertrand Aristide, the end of human rights abuses against the Haitian people, support for the implementation of the Governors Island Agreement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Haitian Restoration  
5 of Democracy Act of 1994”.

1 **SEC. 2. STATEMENT OF UNITED STATES POLICY.**

2 It is the policy of the United States to support the  
3 restoration of democracy in Haiti and the return to office  
4 of Jean-Bertrand Aristide, the duly elected President of  
5 Haiti.

6 **SEC. 3. CONGRESSIONAL STATEMENT.**

7 (a) HUMAN RIGHTS OBSERVERS.—The Congress  
8 strongly urges the President to take such steps as are nec-  
9 essary to facilitate the return to Haiti of a full contingent  
10 of human rights observers under the auspices of the Unit-  
11 ed Nations or the Organization of American States.

12 (b) MULTINATIONAL BORDER PATROL.—Subject to  
13 the request of the democratically elected President of  
14 Haiti Jean-Bertrand Aristide, the Congress strongly urges  
15 President Clinton to take all available measures to effect  
16 the deployment of a multinational border patrol between  
17 the Dominican Republic and Haiti which will be fully  
18 equipped in terms of personnel and equipment to halt  
19 cross-border violations of sanctions against Haiti imposed  
20 by the United States and other countries.

21 (c) MULTILATERAL SOCIOECONOMIC AND PEACE-  
22 KEEPING ASSISTANCE.—The Congress reaffirms the un-  
23 wavering commitment of the United States to support  
24 multilateral socioeconomic and peacekeeping assistance to  
25 Haiti upon the return to power of the democratically elect-

1 ed President of Haiti and the removal of Haiti's military  
2 high command.

3 **SEC. 4. SANCTITY OF GOVERNORS ISLAND AGREEMENT.**

4 (a) IN GENERAL.—Subject to subsection (b) and not-  
5 withstanding any other provision of law, no officer or em-  
6 ployee of the United States shall attempt, directly or indi-  
7 rectly, to amend, reinterpret, or nullify the Governors Is-  
8 land Agreement.

9 (b) EXCEPTION.—Subsection (a) shall not apply to  
10 the October 30, 1993, deadline for the return to power  
11 of the democratically elected President of Haiti, Jean-  
12 Bertrand Aristide.

13 **SEC. 5. TERMINATION OF BILATERAL MIGRANT INTERDIC-**  
14 **TION AGREEMENT.**

15 The President shall notify the Government of Haiti  
16 immediately of the intention of the United States Govern-  
17 ment to terminate the agreement between the United  
18 States and Haiti relating to migrant interdiction effected  
19 by the exchange of notes signed at Port-au-Prince on Sep-  
20 tember 23, 1981 (33 U.S.T. 3559; T.I.A.S. 6577).

21 **SEC. 6. ADHERENCE TO INTERNATIONAL LAW REQUIRE-**  
22 **MENT OF NONREFOULEMENT WITH RESPECT**  
23 **TO HAITI.**

24 (a) OBLIGATIONS OUTSIDE THE UNITED STATES.—  
25 No officer or employee of the United States may return,

1 cause to be returned, or affect the movement in any man-  
2 ner which results in returning, to Haiti a national or ha-  
3 bitual resident of Haiti, who is outside the territorial  
4 boundaries of Haiti, without the individual's consent, un-  
5 less the President first determines, in a manner that incor-  
6 porates procedural safeguards consistent with internation-  
7 ally endorsed standards and guidelines, that such individ-  
8 ual is not a refugee.

9 (b) OBLIGATIONS WITHIN THE TERRITORIAL WA-  
10 TERS OF HAITI.—No officer or employee of the United  
11 States may return, cause to be returned, or affect the  
12 movement in any manner which results in returning, to  
13 the land territory of Haiti a national or habitual resident  
14 of Haiti, who is within the territorial waters of Haiti, with-  
15 out the individual's consent, unless the President first de-  
16 termines, in a manner that incorporates procedural safe-  
17 guards consistent with internationally endorsed standards  
18 and guidelines, that if that individual were outside the ter-  
19 ritorial boundaries of Haiti such individual would not be  
20 a refugee.

21 (c) EXCEPTIONS.—The provisions of this section do  
22 not apply to a national or habitual resident of Haiti if—  
23 (1) such individual ordered, incited, assisted, or  
24 otherwise participated in the persecution of any per-  
25 son on account of race, religion, nationality, mem-

1       bership in a particular social group, or political opin-  
2       ion; or

3           (2) such individual, having been convicted by a  
4       final judgment of an aggravated felony (as defined  
5       in section 101(a)(43) of the Immigration and Na-  
6       tionality Act), constitutes a danger to the commu-  
7       nity of the United States.

8       (d) PROHIBITION ON USE OF FUNDS.—No funds  
9       available to any department, agency, or other entity of the  
10      United States Government may be used in violation of  
11      subsection (a) or (b).

12      (e) REFUGEE DEFINED.—For purposes of this sec-  
13      tion, the term “refugee” means a person who—

14           (1) is a refugee under Article 1 of the Conven-  
15      tion Relating to the Status of Refugees (done at Ge-  
16      neva, July 28, 1951), as applied under Article I of  
17      the United National Protocol Relating to the Status  
18      of Refugees (done at New York, January 31, 1967);  
19      or

20           (2) is designated as a refugee for purposes of  
21      Article 33 of the Convention Relating to the Status  
22      of Refugees.

23      (f) RULE OF CONSTRUCTION.—Nothing in this sec-  
24      tion may be construed—

1           (1) to impose new obligations on the Govern-  
2           ment of the United States in its treatment of nation-  
3           als and habitual residents of Haiti at United States  
4           diplomatic missions and consular posts in a foreign  
5           country; or

6           (2) to constitute authority for conducting oper-  
7           ations by the United States Government within the  
8           territorial waters of Haiti or any other country.

9   **SEC. 7. SANCTIONS AGAINST HAITI.**

10       (a) PROHIBITING ASSISTANCE AND CERTAIN OTHER  
11       TRANSACTIONS INVOLVING HAITI.—(1) The following are  
12       prohibited:

13           (A) The grant or extension of credits or loans  
14           by any United States person to the unelected mili-  
15           tary rulers of Haiti, its instrumentalities, and con-  
16           trolled entities.

17           (B) The importation into the United States of  
18           any goods or services of Haitian origin other than  
19           publications and material imported for news publica-  
20           tions or news broadcast dissemination.

21           (C) The exportation to Haiti of any goods, tech-  
22           nology (including technical data or other informa-  
23           tion), or services from the United States, except  
24           publications, food, medicine, medical supplies, and

1 donations of articles intended to relieve human suf-  
2 fering such as clothing and temporary housing.

3 (D) The purchase by any United States person  
4 of any goods for export from Haiti to any country.

5 (E) The performance by any United States per-  
6 son of any contract in support of an industrial or  
7 other commercial or governmental project in Haiti.

8 (2) Compliance with the export sanctions of this sub-  
9 section shall be carried out in accordance with section 12  
10 of the Export Administration Act of 1979 and a violation  
11 of any such section shall be considered to be a violation  
12 of such Act for purposes of section 11 of such Act (relat-  
13 ing to the imposition of criminal and civil penalties).

14 (b) PROHIBITION OF CERTAIN AIR TRANSPORT IN-  
15 VOLVING HAITI.—The following are prohibited:

16 (1) Any transaction by a United States person  
17 relating to air transportation to or from Haiti.

18 (2) The provision of transportation to or from  
19 the United States by aircraft of Haitian registration.

20 (3) The sale in the United States by any person  
21 holding authority under the Federal Aviation Act of  
22 1958 of any transportation by air which includes  
23 any stop in Haiti.

24 (c) SANCTIONS AGAINST OTHER COUNTRIES.—(1) If  
25 the President determines that a foreign country is not co-

1 operating with United States sanctions against Haiti  
2 under this Act or with applicable sanctions against Haiti  
3 imposed by the United Nations and the Organization of  
4 American States, effective 60 days after such determina-  
5 tion no United States assistance may be provided to such  
6 foreign country.

7 (2) If the President makes a determination under  
8 paragraph (1)—

9 (A) the President shall impose at least one  
10 other penalty or sanction which the President con-  
11 siders to be appropriate under the International  
12 Emergency Economic Powers Act; and

13 (B) the President may impose such other sanc-  
14 tions and penalties under the International Emer-  
15 gency Economic Powers Act as the President consid-  
16 ers appropriate.

17 (3) For the purpose of this subsection, the term  
18 “United States assistance” means assistance of any kind  
19 which is provided by grant, sale, loan, lease, credit, guar-  
20 anty, or insurance, or by any other means, by any agency  
21 or instrumentality of the United States Government, in-  
22 cluding—

23 (A) assistance under the Foreign Assistance  
24 Act of 1961; and

1 (B) sales, credits, and guaranties under the  
2 Arms Export Control Act.

3 (d) SANCTIONS BY OTHER COUNTRIES.—The Presi-  
4 dent shall direct the United States Permanent Represent-  
5 ative to the United Nations to assume a leadership role  
6 within the United Nations Security Council to ensure that  
7 sanctions against Haiti unilaterally imposed by the United  
8 States under this Act are adopted by the international  
9 community.

10 (e) TERMINATION OF SANCTIONS.—The provisions of  
11 this section shall terminate on the date the President cer-  
12 tifies to the Congress that the democratically elected  
13 President of Haiti has been reinstated and Haiti’s military  
14 high command has met its obligations under the Gov-  
15 ernors Island Agreement.

16 (f) DEFINITION.—For purposes of this section, the  
17 term “United States person” means any United States  
18 resident or national (other than an individual resident out-  
19 side the United States and employed by other than a Unit-  
20 ed States person), any domestic concern (including any  
21 permanent domestic establishment of any foreign con-  
22 cern), and any foreign subsidiary or affiliate (including  
23 any permanent foreign establishment) of any domestic  
24 concern which is controlled in fact by such domestic con-  
25 cern, as determined under regulations of the President.

1 **SEC. 8. TEMPORARY PROTECTED STATUS FOR HAITIANS.**

2 (a) IN GENERAL.—Haiti shall be deemed to be a des-  
3 ignated foreign state for purposes of section 244A(b) of  
4 the Immigration and Nationality Act (8 U.S.C. 1254a(b)),  
5 subject to the provisions of this section.

6 (b) ELIGIBLE HAITIANS.—Any alien—

7 (1) who is a national of Haiti and is present in  
8 the United States or in the custody or control of the  
9 United States (including Guantanamo Bay, Cuba,  
10 and any other vessel or facility of the United States  
11 Government) at any time during the period de-  
12 scribed in subsection (c) of this section;

13 (2) who is not an alien designated under section  
14 9(b) or 10(b) of this Act;

15 (3) who meets the requirements of section  
16 244A(c)(1)(A)(iii) of the Immigration and National-  
17 ity Act; and

18 (4) who, during the period described in sub-  
19 section (c) of this section, registers for temporary  
20 protected status to the extent and in a manner  
21 which the Attorney General establishes,

22 shall be granted temporary protected status for the dura-  
23 tion of that period in accordance with section 244A(a)(1)  
24 of the Immigration and Nationality Act to the extent that  
25 such section is not inconsistent with this section.

1 (c) PERIOD OF DESIGNATION.—The designation pur-  
2 suant to subsection (a) shall be in effect during the period  
3 beginning on the date of enactment of this Act and ending  
4 on the date on which the President certifies to the Con-  
5 gress that the democratically elected President of Haiti  
6 has been reinstated and Haiti’s military high command  
7 has met its obligations under the Governors Island Agree-  
8 ment. Subsections (b)(2) and (b)(3) of section 244A of  
9 the Immigration and Nationality Act shall not apply with  
10 respect to the designation pursuant to subsection (a) of  
11 this section.

12 **SEC. 9. CERTAIN HAITIANS INELIGIBLE TO RECEIVE VISAS**  
13 **AND EXCLUDED FROM ADMISSION.**

14 (a) EXCLUSION.—During the period specified in sub-  
15 section (c), an alien designated under subsection (b) shall  
16 be ineligible to receive any visa and shall be excluded from  
17 admission into the United States.

18 (b) DESIGNATED ALIEN.—An alien designated under  
19 this subsection is any alien who—

20 (1) is a national of Haiti; and

21 (2)(A) is a member of the Haitian military;

22 (B) provided financial or other material support  
23 for, or directly assisted, the military coup of Septem-  
24 ber 30, 1991, which overthrew the democratically

1 elected Haitian Government of President Jean-  
2 Bertrand Aristide;

3 (C) provided financial or other material support  
4 for, or directly participated in, terrorist acts against  
5 the Haitian people during any period after such  
6 coup; or

7 (D) contributed to the obstruction of United  
8 Nations Security Council Resolutions 841 and 843  
9 (1993), the Governors Island Agreement, or the ac-  
10 tivities of the United Nations mission in Haiti.

11 (c) PERIOD OF EXCLUSION.—The period of exclusion  
12 specified in this subsection begins on the date of the enact-  
13 ment of this Act and ends on the date on which the Presi-  
14 dent certifies to the Congress that the democratically  
15 elected President of Haiti has been reinstated and Haiti's  
16 military high command has met its obligations under the  
17 Governors Island Agreement.

18 **SEC. 10. BLOCKING OF ASSETS OF CERTAIN HAITIANS.**

19 (a) BLOCKING OF ASSETS.—During the period speci-  
20 fied in subsection (c), all property and interests in prop-  
21 erty of aliens designated under subsection (b) that are in  
22 the United States, that hereafter come within the United  
23 States, or that are or hereafter come within the possession  
24 or control of United States persons (including overseas  
25 branches of United States persons), are blocked.

1 (b) DESIGNATED ALIEN.—An alien designated under  
2 this subsection is any alien who—

3 (1) is a national of Haiti; and

4 (2)(A) is a member of the Haitian military;

5 (B) provided financial or other material support  
6 for, or directly assisted, the military coup of Septem-  
7 ber 30, 1991, which overthrew the democratically  
8 elected Haitian Government of President Jean-  
9 Bertrand Aristide;

10 (C) provided financial or other material support  
11 for, or directly participated in, terrorist acts against  
12 the Haitian people during any period after such  
13 coup; or

14 (D) contributed to the obstruction of United  
15 Nations Security Council Resolutions 841 and 843  
16 (1993), the Governors Island Agreement, or the ac-  
17 tivities of the United Nations mission in Haiti.

18 (c) PERIOD OF BLOCKED ASSETS.—The period of  
19 blocked assets specified in subsection (a) begins on the  
20 date of the enactment of this Act and ends on the date  
21 on which the President certifies to the Congress that the  
22 democratically elected President of Haiti has been rein-  
23 stated and Haiti's military high command has met its obli-  
24 gations under the Governors Island Agreement.

1 **SEC. 11. DEFINITION.**

2 For purposes of this Act, the term “Governors Island  
3 Agreement” refers to the Agreement of Governors Island  
4 between the President of the Republic of Haiti and the  
5 Commander-in-Chief of the Armed Forces of Haiti, signed  
6 July 3, 1993.

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