

Union Calendar No. 122

104TH CONGRESS
1ST SESSION

H. R. 927

[Report No. 104-202, Part I]

A BILL

To seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

AUGUST 4, 1995

The Committees on Banking and Financial Services, the Judiciary, and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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To seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 1995

Mr. BURTON of Indiana (for himself, Mr. DIAZ-BALART, Ms. ROS-LEHTINEN, Mr. TORRICELLI, Mr. MENENDEZ, Mr. DELAY, Mr. BALLENGER, Mr. SOLOMON, Mr. GOSS, Mr. SMITH of New Jersey, Mr. KING, Mr. EWING, Mr. GALLEGLY, Mr. DEUTSCH, Mr. HANSEN, Mr. BARTON of Texas, Mr. ROHRABACHER, Mr. FUNDERBURK, Mr. SAM JOHNSON of Texas, Mrs. VUCANOVICH, Mr. PETRI, Mrs. MEEK of Florida, and Mr. GILCHREST) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Ways and Means, the Judiciary, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL 18, 1995

Additional sponsors: Mr. ENGEL, Mr. KNOLLENBERG, Mr. WILSON, Mr. FOLEY, and Mr. BARTLETT of Maryland

JULY 24, 1995

Reported from the Committee on International Relations with an amendment
[Strike out all after the enacting clause and insert the part printed in *italic*]

JULY 24, 1995

Referral to the Committees on Ways and Means, the Judiciary, and Banking and Financial Services extended for a period ending not later than August 4, 1995

AUGUST 4, 1995

Additional sponsors: Mr. McCOLLUM, Mr. ROYCE, Mr. DORNAN, Mr. CALVERT, Mr. SHAW, Mr. GUTIERREZ, Mr. DUNCAN, Mr. SALMON, Mr. SANFORD, Mrs. THURMAN, Mr. FRELINGHUYSEN, Mr. KIM, Mr. CHABOT, Mr. BURR, Mr. ANDREWS, and Mr. ENGLISH of Pennsylvania

AUGUST 4, 1995

The Committees on Banking and Financial Services, the Judiciary, and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 14, 1995]

A BILL

To seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Cuban Liberty and Democratic Solidarity (LIBERTAD)*
 6 *Act of 1995”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 8 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purposes.

Sec. 4. Definitions.

TITLE I—SEEKING SANCTIONS AGAINST THE CASTRO GOVERNMENT

Sec. 101. Statement of policy.

Sec. 102. Enforcement of the economic embargo of Cuba.

Sec. 103. Prohibition against indirect financing of the Castro dictatorship.

- Sec. 104. United States opposition to Cuban membership in international financial institutions.*
- Sec. 105. United States opposition to ending the suspension of the Government of Cuba from the Organization of American States.*
- Sec. 106. Assistance by the Independent States of the former Soviet Union for the Cuban Government.*
- Sec. 107. Television broadcasting to Cuba.*
- Sec. 108. Reports on assistance and commerce received by Cuba from other foreign countries.*
- Sec. 109. Importation safeguard against certain Cuban products.*
- Sec. 110. Authorization of support for democratic and human rights groups and international observers.*
- Sec. 111. Withholding of foreign assistance from countries supporting nuclear plant in Cuba.*
- Sec. 112. Expulsion of criminals from Cuba.*

TITLE II—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

- Sec. 201. Policy toward a transition government and a democratically elected government in Cuba.*
- Sec. 202. Authorization of assistance for the Cuban people.*
- Sec. 203. Coordination of assistance program; implementation and reports to Congress; reprogramming.*
- Sec. 204. Authorization of appropriations.*
- Sec. 205. Termination of the economic embargo of Cuba.*
- Sec. 206. Requirements for a transition government.*
- Sec. 207. Requirements for a democratically elected government.*

TITLE III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS AGAINST CONFISCATORY TAKINGS BY THE CASTRO REGIME

- Sec. 301. Statement of policy.*
- Sec. 302. Liability for trafficking in property confiscated from United States nationals.*
- Sec. 303. Determination of claims to confiscated property.*
- Sec. 304. Exclusivity of Foreign Claims Settlement Commission certification procedure.*

TITLE IV—EXCLUSION OF CERTAIN ALIENS

- Sec. 401. Exclusion from the United States of aliens who have confiscated property of United States nationals or who traffic in such property.*

1 SEC. 2. FINDINGS.

2 *The Congress makes the following findings:*

- 3 (1) *The economy of Cuba has experienced a de-*
- 4 *cline of at least 60 percent in the last 5 years as a*
- 5 *result of—*

1 (A) the end of its subsidization by the
2 former Soviet Union of between 5 billion and 6
3 billion dollars annually;

4 (B) 36 years of Communist tyranny and
5 economic mismanagement by the Castro govern-
6 ment;

7 (C) the extreme decline in trade between
8 Cuba and the countries of the former Soviet bloc;
9 and

10 (D) the stated policy of the Russian Govern-
11 ment and the countries of the former Soviet bloc
12 to conduct economic relations with Cuba on
13 strictly commercial terms.

14 (2) At the same time, the welfare and health of
15 the Cuban people have substantially deteriorated as a
16 result of this economic decline and the refusal of the
17 Castro regime to permit free and fair democratic elec-
18 tions in Cuba.

19 (3) The Castro regime has made it abundantly
20 clear that it will not engage in any substantive politi-
21 cal reforms that would lead to democracy, a market
22 economy, or an economic recovery.

23 (4) The repression of the Cuban people, includ-
24 ing a ban on free and fair democratic elections, and
25 continuing violations of fundamental human rights

1 *have isolated the Cuban regime as the only completely*
2 *nondemocratic government in the Western Hemi-*
3 *sphere.*

4 *(5) As long as free elections are not held in*
5 *Cuba, the economic condition of the country and the*
6 *welfare of the Cuban people will not improve in any*
7 *significant way.*

8 *(6) The totalitarian nature of the Castro regime*
9 *has deprived the Cuban people of any peaceful means*
10 *to improve their condition and has led thousands of*
11 *Cuban citizens to risk or lose their lives in dangerous*
12 *attempts to escape from Cuba to freedom.*

13 *(7) Radio Marti and Television Marti have both*
14 *been effective vehicles for providing the people of Cuba*
15 *with news and information and have helped to bolster*
16 *the morale of the people of Cuba living under tyr-*
17 *anny.*

18 *(8) The consistent policy of the United States to-*
19 *wards Cuba since the beginning of the Castro regime,*
20 *carried out by both Democratic and Republican ad-*
21 *ministrations, has sought to keep faith with the people*
22 *of Cuba, and has been effective in sanctioning the to-*
23 *talitarian Castro regime.*

24 *(9) The United States has shown a deep commit-*
25 *ment, and considers it a moral obligation, to promote*

1 *and protect human rights and fundamental freedoms*
2 *as expressed in the Charter of the United Nations and*
3 *in the Universal Declaration of Human Rights.*

4 *(10) The Congress has historically and consist-*
5 *ently manifested its solidarity and the solidarity of*
6 *the American people with the democratic aspirations*
7 *of the Cuban people.*

8 *(11) The Cuban Democracy Act of 1992 calls*
9 *upon the President to encourage the governments of*
10 *countries that conduct trade with Cuba to restrict*
11 *their trade and credit relations with Cuba in a man-*
12 *ner consistent with the purposes of that Act.*

13 *(12) The 1992 FREEDOM Support Act requires*
14 *that the President, in providing economic assistance*
15 *to Russia and the emerging Eurasian democracies,*
16 *take into account the extent to which they are acting*
17 *to “terminate support for the communist regime in*
18 *Cuba, including removal of troops, closing military*
19 *facilities, and ceasing trade subsidies and economic,*
20 *nuclear, and other assistance”.*

21 *(13) The Cuban Government engages in the ille-*
22 *gal international narcotics trade and harbors fugi-*
23 *tives from justice in the United States.*

24 *(14) The Castro government threatens inter-*
25 *national peace and security by engaging in acts of*

1 *armed subversion and terrorism such as the training*
2 *and supplying of groups dedicated to international*
3 *violence.*

4 *(15) The Castro government has utilized from its*
5 *inception and continues to utilize torture in various*
6 *forms (including by psychiatry), as well as execution,*
7 *exile, confiscation, political imprisonment, and other*
8 *forms of terror and repression, as means of retaining*
9 *power.*

10 *(16) Fidel Castro has defined democratic plural-*
11 *ism as “pluralistic garbage” and continues to make*
12 *clear that he has no intention of tolerating the democ-*
13 *ratization of Cuban society.*

14 *(17) The Castro government holds innocent Cu-*
15 *bans hostage in Cuba by no fault of the hostages*
16 *themselves solely because relatives have escaped the*
17 *country.*

18 *(18) Although a signatory state to the 1928*
19 *Inter-American Convention on Asylum and the Inter-*
20 *national Covenant on Civil and Political Rights*
21 *(which protects the right to leave one’s own country),*
22 *Cuba nevertheless surrounds embassies in its capital*
23 *by armed forces to thwart the right of its citizens to*
24 *seek asylum and systematically denies that right to*
25 *the Cuban people, punishing them by imprisonment*

1 *for seeking to leave the country and killing them for*
2 *attempting to do so (as demonstrated in the case of*
3 *the confirmed murder of over 40 men, women, and*
4 *children who were seeking to leave Cuba on July 13,*
5 *1994).*

6 *(19) The Castro government continues to utilize*
7 *blackmail, such as the immigration crisis with which*
8 *it threatened the United States in the summer of*
9 *1994, and other unacceptable and illegal forms of con-*
10 *duct to influence the actions of sovereign states in the*
11 *Western Hemisphere in violation of the Charter of the*
12 *Organization of American States and other inter-*
13 *national agreements and international law.*

14 *(20) The United Nations Commission on Human*
15 *Rights has repeatedly reported on the unacceptable*
16 *human rights situation in Cuba and has taken the ex-*
17 *traordinary step of appointing a Special Rapporteur.*

18 *(21) The Cuban Government has consistently re-*
19 *fused access to the Special Rapporteur and formally*
20 *expressed its decision not to “implement so much as*
21 *one comma” of the United Nations Resolutions ap-*
22 *pointing the Rapporteur.*

23 *(22) The United Nations General Assembly*
24 *passed Resolution 1992/70 on December 4, 1992, Res-*
25 *olution 1993/48/142 on December 20, 1993, and Reso-*

1 *lution 1994/49/544 on October 19, 1994, referencing*
2 *the Special Rapporteur's reports to the United Na-*
3 *tions and condemning "violations of human rights*
4 *and fundamental freedoms" in Cuba.*

5 *(23) Article 39 of Chapter VII of the United Na-*
6 *tions Charter provides that the United Nations Secu-*
7 *rity Council "shall determine the existence of any*
8 *threat to the peace, breach of the peace, or act of ag-*
9 *gression and shall make recommendations, or decide*
10 *what measures shall be taken . . . , to maintain or re-*
11 *store international peace and security."*

12 *(24) The United Nations has determined that*
13 *massive and systematic violations of human rights*
14 *may constitute a "threat to peace" under Article 39*
15 *and has imposed sanctions due to such violations of*
16 *human rights in the cases of Rhodesia, South Africa,*
17 *Iraq, and the former Yugoslavia.*

18 *(25) In the case of Haiti, a neighbor of Cuba not*
19 *as close to the United States as Cuba, the United*
20 *States led an effort to obtain and did obtain a United*
21 *Nations Security Council embargo and blockade*
22 *against that country due to the existence of a military*
23 *dictatorship in power less than 3 years.*

24 *(26) United Nations Security Council Resolution*
25 *940 of July 31, 1994, subsequently authorized the use*

1 of “all necessary means” to restore the “democrat-
2 ically elected government of Haiti”, and the demo-
3 cratically elected government of Haiti was restored to
4 power on October 15, 1994.

5 (27) The Cuban people deserve to be assisted in
6 a decisive manner to end the tyranny that has op-
7 pressed them for 36 years and the continued failure
8 to do so constitutes ethically improper conduct by the
9 international community.

10 (28) For the past 36 years, the Cuban Govern-
11 ment has posed and continues to pose a national secu-
12 rity threat to the United States.

13 **SEC. 3. PURPOSES.**

14 The purposes of this Act are as follows:

15 (1) To assist the Cuban people in regaining their
16 freedom and prosperity, as well as in joining the com-
17 munity of democracies that are flourishing in the
18 Western Hemisphere.

19 (2) To seek international sanctions against the
20 Castro government in Cuba.

21 (3) To encourage the holding of free and fair
22 democratic elections in Cuba, conducted under the su-
23 pervision of internationally recognized observers.

24 (4) To develop a plan for furnishing assistance
25 to a transition government and, subsequently, to a

1 *democratically elected government when such govern-*
2 *ments meet the eligibility requirements of this Act.*

3 (5) *To protect property rights abroad of United*
4 *States nationals.*

5 (6) *To provide for the continued national secu-*
6 *rity of the United States in the face of continuing*
7 *threats from the Castro government of terrorism, theft*
8 *of property from United States nationals, and domes-*
9 *tic repression from which refugees flee to United*
10 *States shores.*

11 **SEC. 4. DEFINITIONS.**

12 *As used in this Act, the following terms have the follow-*
13 *ing meanings:*

14 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
15 *TEES.*—*The term “appropriate congressional commit-*
16 *tees” means the Committee on International Relations*
17 *and the Committee on Appropriations of the House of*
18 *Representatives and the Committee on Foreign Rela-*
19 *tions and the Committee on Appropriations of the*
20 *Senate.*

21 (2) *COMMERCIAL ACTIVITY.*—*The term “commer-*
22 *cial activity” has the meaning given that term in sec-*
23 *tion 1603(d) of title 28, United States Code.*

24 (3) *CONFISCATED.*—*As used in titles I and III,*
25 *the term “confiscated” refers to—*

1 (A) *the nationalization, expropriation, or*
2 *other seizure by the Cuban Government of owner-*
3 *ship or control of property, on or after January*
4 *1, 1959—*

5 (i) *without the property having been*
6 *returned or adequate and effective com-*
7 *ensation provided; or*

8 (ii) *without the claim to the property*
9 *having been settled pursuant to an inter-*
10 *national claims settlement agreement or*
11 *other mutually accepted settlement proce-*
12 *dure; and*

13 (B) *the repudiation by the Cuban Govern-*
14 *ment of, the default by the Cuban Government*
15 *on, or the failure by the Cuban Government to*
16 *pay, on or after January 1, 1959—*

17 (i) *a debt of any enterprise which has*
18 *been nationalized, expropriated, or other-*
19 *wise taken by the Cuban Government;*

20 (ii) *a debt which is a charge on prop-*
21 *erty nationalized, expropriated, or otherwise*
22 *taken by the Cuban Government; or*

23 (iii) *a debt which was incurred by the*
24 *Cuban Government in satisfaction or settle-*
25 *ment of a confiscated property claim.*

1 (4) *CUBAN GOVERNMENT.*—(A) *The term “Cuban*
2 *Government” includes the government of any political*
3 *subdivision of Cuba, and any agency or instrumental-*
4 *ity of the Government of Cuba.*

5 (B) *For purposes of subparagraph (A), the term*
6 *“agency or instrumentality of the Government of*
7 *Cuba” means an agency or instrumentality of a for-*
8 *foreign state as defined in section 1603(b) of title 28,*
9 *United States Code, with “Cuba” substituted for “a*
10 *foreign state” each place it appears in such section.*

11 (5) *DEMOCRATICALLY ELECTED GOVERNMENT IN*
12 *CUBA.*—*The term “democratically elected government*
13 *in Cuba” means a government determined by the*
14 *President to have met the requirements of section 207.*

15 (6) *ECONOMIC EMBARGO OF CUBA.*—*The term*
16 *“economic embargo of Cuba” refers to the economic*
17 *embargo imposed against Cuba pursuant to section*
18 *620(a) of the Foreign Assistance Act of 1961 (22*
19 *U.S.C. 2370(a)), section 5(b) of the Trading With the*
20 *Enemy Act (50 U.S.C. App. 5(b)), the International*
21 *Emergency Economic Powers Act (50 U.S.C. 1701*
22 *and following), and the Export Administration Act of*
23 *1979 (50 U.S.C. App. 2401 and following), as modi-*
24 *fied by the Cuban Democracy Act of 1992 (22 U.S.C.*
25 *6001 and following).*

1 (7) *FOREIGN NATIONAL.*—The term “foreign na-
2 tional” means—

3 (A) *an alien; or*

4 (B) *any corporation, trust, partnership, or*
5 *other juridical entity not organized under the*
6 *laws of the United States, or of any State, the*
7 *District of Columbia, the Commonwealth of*
8 *Puerto Rico, or any other territory or possession*
9 *of the United States.*

10 (8) *KNOWINGLY.*—The term “knowingly” means
11 *with knowledge or having reason to know.*

12 (9) *PROPERTY.*—(A) The term “property” means
13 *any property (including patents, copyrights, trade-*
14 *marks, and any other form of intellectual property),*
15 *whether real, personal, or mixed, and any present, fu-*
16 *ture, or contingent right, security, or other interest*
17 *therein, including any leasehold interest.*

18 (B) *For purposes of title III of this Act, the term*
19 *“property” shall not include real property used for*
20 *residential purposes unless, as of the date of the enact-*
21 *ment of this Act—*

22 (i) *the claim to the property is owned by a*
23 *United States national and the claim has been*
24 *certified under title V of the International*
25 *Claims Settlement Act of 1949; or*

1 (ii) the property is occupied by a member
2 or official of the Cuban Government or the rul-
3 ing political party in Cuba.

4 (10) *TRAFFICS*.—(A) As used in title III, a per-
5 son or entity “traffics” in property if that person or
6 entity knowingly and intentionally—

7 (i) sells, transfers, distributes, dispenses,
8 brokers, manages, or otherwise disposes of con-
9 fiscated property, or purchases, leases, receives,
10 possesses, obtains control of, manages, uses, or
11 otherwise acquires or holds an interest in con-
12 fiscated property,

13 (ii) engages in a commercial activity using
14 or otherwise benefiting from confiscated prop-
15 erty, or

16 (iii) causes, directs, participates in, or prof-
17 its from, trafficking (as described in clauses (i)
18 and (ii)) by another person, or otherwise engages
19 in trafficking (as described in clauses (i) and
20 (ii)) through another person,

21 without the authorization of the United States na-
22 tional who holds a claim to the property.

23 (B) The term “traffics” does not include—

24 (i) the delivery of international tele-
25 communication signals to Cuba that are author-

1 *ized by section 1705(e) of the Cuban Democracy*
2 *Act of 1992 (22 U.S.C. 6004(e)); or*

3 *(ii) the trading or holding of securities pub-*
4 *licly traded or held, unless the trading is with or*
5 *by a person determined by the Secretary of the*
6 *Treasury to be a specially designated national.*

7 *(11) TRANSITION GOVERNMENT IN CUBA.—The*
8 *term “transition government in Cuba” means a gov-*
9 *ernment determined by the President to have met the*
10 *requirements of section 206.*

11 *(12) UNITED STATES NATIONAL.—The term*
12 *“United States national” means—*

13 *(A) any United States citizen; or*

14 *(B) any other legal entity which is orga-*
15 *nized under the laws of the United States, or of*
16 *any State, the District of Columbia, the Com-*
17 *monwealth of Puerto Rico, or any other territory*
18 *or possession of the United States, and which has*
19 *its principal place of business in the United*
20 *States.*

21 ***TITLE I—SEEKING SANCTIONS***
22 ***AGAINST THE CASTRO GOV-***
23 ***ERNMENT***

24 ***SEC. 101. STATEMENT OF POLICY.***

25 *It is the sense of the Congress that—*

1 (1) *the acts of the Castro government, including*
2 *its massive, systematic, and extraordinary violations*
3 *of human rights, are a threat to international peace;*

4 (2) *the President should advocate, and should in-*
5 *struct the United States Permanent Representative to*
6 *the United Nations to propose and seek, within the*
7 *Security Council, a mandatory international embargo*
8 *against the totalitarian Cuban Government pursuant*
9 *to chapter VII of the Charter of the United Nations,*
10 *which is similar to measures taken by United States*
11 *representatives with respect to Haiti; and*

12 (3) *any resumption or commencement of efforts*
13 *by any state to make operational the nuclear facility*
14 *at Cienfuegos, Cuba, will have a detrimental impact*
15 *on United States assistance to and relations with that*
16 *state.*

17 **SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF**
18 **CUBA.**

19 (a) *POLICY.—(1) The Congress hereby reaffirms sec-*
20 *tion 1704(a) of the Cuban Democracy Act of 1992 that*
21 *states the President should encourage foreign countries to*
22 *restrict trade and credit relations with Cuba.*

23 (2) *The Congress further urges the President to take*
24 *immediate steps to apply the sanctions described in section*
25 *1704(b) of that Act against countries assisting Cuba.*

1 (b) *DIPLOMATIC EFFORTS.*—*The Secretary of State*
2 *shall ensure that United States diplomatic personnel abroad*
3 *understand and, in their contacts with foreign officials, are*
4 *communicating the reasons for the United States economic*
5 *embargo of Cuba, and are urging foreign governments to*
6 *cooperate more effectively with the embargo.*

7 (c) *EXISTING REGULATIONS.*—*The President should*
8 *instruct the Secretary of the Treasury and the Attorney*
9 *General to enforce fully the Cuban Assets Control Regula-*
10 *tions set forth in part 515 of title 31, Code of Federal Regu-*
11 *lations.*

12 (d) *TRADING WITH THE ENEMY ACT.*—

13 (1) *CIVIL PENALTIES.*—*Subsection (b) of section*
14 *16 of the Trading With the Enemy Act (50 U.S.C.*
15 *App. 16(b)) is amended to read as follows:*

16 “(b)(1) *A civil penalty of not to exceed \$50,000 may*
17 *be imposed by the Secretary of the Treasury on any person*
18 *who violates any license, order, rule, or regulation issued*
19 *in compliance with the provisions of this Act.*

20 “(2) *Any property, funds, securities, papers, or other*
21 *articles or documents, or any vessel, together with its tackle,*
22 *apparel, furniture, and equipment, that is the subject of a*
23 *violation under paragraph (1) shall, at the discretion of the*
24 *Secretary of the Treasury, be forfeited to the United States*
25 *Government.*

1 “(3) *The penalties provided under this subsection may*
2 *not be imposed for—*

3 “(A) *news gathering, research, or the export or*
4 *import of, or transmission of, information or infor-*
5 *mational materials; or*

6 “(B) *clearly defined educational or religious ac-*
7 *tivities, or activities of recognized human rights orga-*
8 *nizations, that are reasonably limited in frequency,*
9 *duration, and number of participants.*

10 “(4) *The penalties provided under this subsection may*
11 *be imposed only on the record after opportunity for an*
12 *agency hearing in accordance with sections 554 through 557*
13 *of title 5, United States Code, with the right to prehearing*
14 *discovery.*

15 “(5) *Judicial review of any penalty imposed under*
16 *this subsection may be had to the extent provided in section*
17 *702 of title 5, United States Code.”.*

18 (2) *FORFEITURE OF PROPERTY USED IN VIOLA-*
19 *TION.—Section 16 of the Trading With the Enemy*
20 *Act is further amended by striking subsection (c).*

21 (3) *CLERICAL AMENDMENT.—Section 16 of the*
22 *Trading With the Enemy Act is further amended by*
23 *inserting “SEC. 16.” before “(a)”.*

24 (e) *COVERAGE OF DEBT-FOR-EQUITY SWAPS BY ECO-*
25 *NOMIC EMBARGO OF CUBA.—Section 1704(b)(2) of the*

1 *Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2)) is*
2 *amended—*

3 *(1) by striking “and” at the end of subpara-*
4 *graph (A);*

5 *(2) by redesignating subparagraph (B) as sub-*
6 *paragraph (C); and*

7 *(3) by inserting after subparagraph (A) the fol-*
8 *lowing new subparagraph:*

9 *“(B) includes an exchange, reduction, or*
10 *forgiveness of Cuban debt owed to a foreign coun-*
11 *try in return for a grant of an equity interest*
12 *in a property, investment, or operation of the*
13 *Government of Cuba (including the government*
14 *of any political subdivision of Cuba, and any*
15 *agency or instrumentality of the Government of*
16 *Cuba) or of a Cuban national; and”;* and

17 *(4) by adding at the end the following flush sen-*
18 *tence:*

19 *“As used in this paragraph, the term ‘agency or in-*
20 *strumentality of the Government of Cuba’ means an*
21 *agency or instrumentality of a foreign state as de-*
22 *finied in section 1603(b) of title 28, United States*
23 *Code, with ‘Cuba’ substituted for ‘a foreign state’ each*
24 *place it appears in such section.”.*

1 **SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF**
2 **THE CASTRO DICTATORSHIP.**

3 (a) *PROHIBITION.*—Notwithstanding any other provi-
4 sion of law, no loan, credit, or other financing may be ex-
5 tended knowingly by a United States national, permanent
6 resident alien, or United States agency, to a foreign na-
7 tional, United States national, or permanent resident alien,
8 in order to finance transactions involving any confiscated
9 property the claim to which is owned by a United States
10 national as of the date of the enactment of this Act.

11 (b) *TERMINATION OF PROHIBITION.*—The prohibition
12 of subsection (a) shall cease to apply on the date on which
13 the economic embargo of Cuba terminates under section
14 205.

15 (c) *PENALTIES.*—Violations of subsection (a) shall be
16 punishable by the same penalties as are applicable to viola-
17 tions of the Cuban Assets Control Regulations set forth in
18 part 515 of title 31, Code of Federal Regulations.

19 (d) *DEFINITIONS.*—As used in this section—

20 (1) the term “permanent resident alien” means
21 an alien admitted for permanent residence into the
22 United States; and

23 (2) the term “United States agency” has the
24 meaning given the term “agency” in section 551(1) of
25 title 5, United States Code.

1 **SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBER-**
2 **SHIP IN INTERNATIONAL FINANCIAL INSTI-**
3 **TUTIONS.**

4 (a) *CONTINUED OPPOSITION TO CUBAN MEMBERSHIP*
5 *IN INTERNATIONAL FINANCIAL INSTITUTIONS.*—(1) *Except*
6 *as provided in paragraph (2), the Secretary of the Treasury*
7 *shall instruct the United States executive director to each*
8 *international financial institution to use the voice and vote*
9 *of the United States to oppose the admission of Cuba as*
10 *a member of that institution until the President submits*
11 *a determination under section 203(c)(3) that a democrat-*
12 *ically elected government in Cuba is in power.*

13 (2) *Once the President submits a determination under*
14 *section 203(c)(1) that a transition government in Cuba is*
15 *in power, the President is encouraged to take steps to sup-*
16 *port the processing of Cuba's application for membership*
17 *in any international financial institution, subject to the*
18 *membership taking effect after a democratically elected gov-*
19 *ernment in Cuba is in power.*

20 (b) *REDUCTION IN UNITED STATES PAYMENTS TO*
21 *INTERNATIONAL FINANCIAL INSTITUTIONS.*—*If any inter-*
22 *national financial institution approves a loan or other as-*
23 *sistance to the Cuban Government over the opposition of*
24 *the United States, then the Secretary of the Treasury shall*
25 *withhold from payment to that institution an amount equal*
26 *to the amount of the loan or other assistance to the Cuban*

1 *Government, with respect to each of the following types of*
2 *payment:*

3 (1) *The paid-in portion of the increase in capital*
4 *stock of the institution.*

5 (2) *The callable portion of the increase in capital*
6 *stock of the institution.*

7 (c) *DEFINITION.—For purposes of this section, the*
8 *term “international financial institution” means the Inter-*
9 *national Monetary Fund, the International Bank for Re-*
10 *construction and Development, the International Develop-*
11 *ment Association, the International Finance Corporation,*
12 *the Multilateral Investment Guaranty Agency, and the*
13 *Inter-American Development Bank.*

14 ***SEC. 105. UNITED STATES OPPOSITION TO ENDING THE***
15 ***SUSPENSION OF THE GOVERNMENT OF CUBA***
16 ***FROM THE ORGANIZATION OF AMERICAN***
17 ***STATES.***

18 *The President should instruct the United States Per-*
19 *manent Representative to the Organization of American*
20 *States to use the voice and vote of the United States to op-*
21 *pose ending the suspension of the Government of Cuba from*
22 *the Organization until the President determines under sec-*
23 *tion 203(c)(3) that a democratically elected government in*
24 *Cuba is in power.*

1 **SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF**
2 **THE FORMER SOVIET UNION FOR THE CUBAN**
3 **GOVERNMENT.**

4 (a) *REPORTING REQUIREMENT.*—Not later than 90
5 days after the date of the enactment of this Act, the Presi-
6 dent shall submit to the appropriate congressional commit-
7 tees a report detailing progress towards the withdrawal of
8 personnel of any independent state of the former Soviet
9 Union (within the meaning of section 3 of the FREEDOM
10 Support Act (22 U.S.C. 5801)), including advisers, techni-
11 cians, and military personnel, from the Cienfuegos nuclear
12 facility in Cuba.

13 (b) *CRITERIA FOR ASSISTANCE.*—Section 498A(a)(11)
14 of the Foreign Assistance Act of 1961 (22 U.S.C.
15 2295a(a)(11)) is amended by striking “of military facili-
16 ties” and inserting “military and intelligence facilities, in-
17 cluding the military and intelligence facilities at Lourdes
18 and Cienfuegos”.

19 (c) *INELIGIBILITY FOR ASSISTANCE.*—(1) Section
20 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

21 (A) by striking “or” at the end of paragraph (4);

22 (B) by redesignating paragraph (5) as para-
23 graph (6); and

24 (C) by inserting after paragraph (4) the follow-
25 ing:

1 “(5) for the government of any independent state
2 effective 30 days after the President has determined
3 and certified to the appropriate congressional com-
4 mittees (and Congress has not enacted legislation dis-
5 approving the determination within that 30-day pe-
6 riod) that such government is providing assistance
7 for, or engaging in nonmarket based trade (as defined
8 in section 498B(k)(3)) with, the Cuban Government;
9 or”.

10 (2) Subsection (k) of section 498B of that Act (22
11 U.S.C. 2295b(k)), is amended by adding at the end the
12 following:

13 “(3) *NONMARKET BASED TRADE*.—As used in
14 section 498A(b)(5), the term ‘nonmarket based trade’
15 includes exports, imports, exchanges, or other ar-
16 rangements that are provided for goods and services
17 (including oil and other petroleum products) on terms
18 more favorable than those generally available in ap-
19 plicable markets or for comparable commodities, in-
20 cluding—

21 “(A) exports to the Cuban Government on
22 terms that involve a grant, concessional price,
23 guaranty, insurance, or subsidy;

24 “(B) imports from the Cuban Government
25 at preferential tariff rates;

1 “(C) exchange arrangements that include
2 advance delivery of commodities, arrangements
3 in which the Cuban Government is not held ac-
4 countable for unfulfilled exchange contracts, and
5 arrangements under which Cuba does not pay
6 appropriate transportation, insurance, or fi-
7 nance costs; and

8 “(D) the exchange, reduction, or forgiveness
9 of Cuban debt in return for a grant by the
10 Cuban Government of an equity interest in a
11 property, investment, or operation of the Cuban
12 Government or of a Cuban national.

13 “(4) CUBAN GOVERNMENT.—(A) The term
14 ‘Cuban Government’ includes the government of any
15 political subdivision of Cuba, and any agency or in-
16 strumentality of the Government of Cuba.

17 “(B) For purposes of subparagraph (A), the term
18 ‘agency or instrumentality of the Government of
19 Cuba’ means an agency or instrumentality of a for-
20 eign state as defined in section 1603(b) of title 28,
21 United States Code, with ‘Cuba’ substituted for ‘a for-
22 eign state’ each place it appears in such section.”.

23 (d) FACILITIES AT LOURDES, CUBA.—(1) The Con-
24 gress expresses its strong disapproval of the extension by
25 Russia of credits equivalent to approximately \$200,000,000

1 *in support of the intelligence facility at Lourdes, Cuba, in*
2 *November 1994.*

3 *(2) Section 498A of the Foreign Assistance Act of 1961*
4 *(22 U.S.C. 2295a) is amended by adding at the end the*
5 *following new subsection:*

6 *“(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF IN-*
7 *TELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding*
8 *any other provision of law, the President shall withhold*
9 *from assistance provided, on or after the date of the enact-*
10 *ment of this subsection, for an independent state of the*
11 *former Soviet Union under this chapter an amount equal*
12 *to the sum of assistance and credits, if any, provided on*
13 *or after such date by such state in support of intelligence*
14 *facilities in Cuba, including the intelligence facility at*
15 *Lourdes, Cuba.*

16 *“(2)(A) The President may waive the requirement of*
17 *paragraph (1) to withhold assistance if the President cer-*
18 *tifies to the appropriate congressional committees that the*
19 *provision of such assistance is important to the national*
20 *security of the United States, and, in the case of such a*
21 *certification made with respect to Russia, if the President*
22 *certifies that the Russian Government has assured the*
23 *United States Government that the Russian Government is*
24 *not sharing intelligence data collected at the Lourdes facil-*
25 *ity with officials or agents of the Cuban Government.*

1 “(B) At the time of a certification made with respect
2 to Russia pursuant to subparagraph (A), the President
3 shall also submit to the appropriate congressional commit-
4 tees a report describing the intelligence activities of Russia
5 in Cuba, including the purposes for which the Lourdes facil-
6 ity is used by the Russian Government and the extent to
7 which the Russian Government provides payment or gov-
8 ernment credits to the Cuban Government for the continued
9 use of the Lourdes facility.

10 “(C) The report required by subparagraph (B) may
11 be submitted in classified form.

12 “(D) For purposes of this paragraph, the term ‘appro-
13 priate congressional committees’ includes the Permanent
14 Select Committee on Intelligence of the House of Represent-
15 atives and the Select Committee on Intelligence of the Sen-
16 ate.

17 “(3) The requirement of paragraph (1) to withhold as-
18 sistance shall not apply with respect to—

19 “(A) assistance to meet urgent humanitarian
20 needs, including disaster and refugee relief;

21 “(B) democratic political reform and rule of law
22 activities;

23 “(C) technical assistance for safety upgrades of
24 civilian nuclear power plants;

1 “(D) the creation of private sector and non-
2 governmental organizations that are independent of
3 government control;

4 “(E) the development of a free market economic
5 system; and

6 “(F) assistance for the purposes described in the
7 Cooperative Threat Reduction Act of 1993 (title XII
8 of Public Law 103–160).”.

9 **SEC. 107. TELEVISION BROADCASTING TO CUBA.**

10 (a) *CONVERSION TO UHF.*—The Director of the
11 United States Information Agency shall implement a con-
12 version of television broadcasting to Cuba under the Tele-
13 vision Marti Service to ultra high frequency (UHF) broad-
14 casting.

15 (b) *PERIODIC REPORTS.*—Not later than 45 days after
16 the date of the enactment of this Act, and every three months
17 thereafter until the conversion described in subsection (a)
18 is fully implemented, the Director of the United States In-
19 formation Agency shall submit a report to the appropriate
20 congressional committees on the progress made in carrying
21 out subsection (a).

22 (c) *TERMINATION OF BROADCASTING AUTHORITIES.*—
23 Upon transmittal of a determination under section
24 203(c)(3), the Television Broadcasting to Cuba Act (22

1 *U.S.C. 1465aa and following) and the Radio Broadcasting*
2 *to Cuba Act (22 U.S.C. 1465 and following) are repealed.*

3 **SEC. 108. REPORTS ON ASSISTANCE AND COMMERCE RE-**
4 **CEIVED BY CUBA FROM OTHER FOREIGN**
5 **COUNTRIES.**

6 (a) *REPORTS REQUIRED.*—Not later than 90 days
7 after the date of the enactment of this Act, and every year
8 thereafter, the President shall submit a report to the appro-
9 priate congressional committees on assistance and com-
10 merce received by Cuba from other foreign countries during
11 the preceding 12-month period.

12 (b) *CONTENTS OF REPORTS.*—Each report required by
13 subsection (a) shall, for the period covered by the report,
14 contain the following, to the extent such information is
15 known:

16 (1) *A description of all bilateral assistance pro-*
17 *vided to Cuba by other foreign countries, including*
18 *humanitarian assistance.*

19 (2) *A description of Cuba's commerce with for-*
20 *oreign countries, including an identification of Cuba's*
21 *trading partners and the extent of such trade.*

22 (3) *A description of the joint ventures completed,*
23 *or under consideration, by foreign nationals involving*
24 *facilities in Cuba, including an identification of the*
25 *location of the facilities involved and a description of*

1 *the terms of agreement of the joint ventures and the*
2 *names of the parties that are involved.*

3 *(4) A determination whether or not any of the*
4 *facilities described in paragraph (3) is the subject of*
5 *a claim by a United States national.*

6 *(5) A determination of the amount of Cuban debt*
7 *owed to each foreign country, including—*

8 *(A) the amount of debt exchanged, forgiven,*
9 *or reduced under the terms of each investment or*
10 *operation in Cuba involving foreign nationals;*
11 *and*

12 *(B) the amount of debt owed to the foreign*
13 *country that has been exchanged, reduced, or for-*
14 *given in return for a grant by the Cuban Gov-*
15 *ernment of an equity interest in a property, in-*
16 *vestment, or operation of the Cuban Government*
17 *or of a Cuban national.*

18 *(6) A description of the steps taken to ensure*
19 *that raw materials and semifinished or finished goods*
20 *produced by facilities in Cuba involving foreign na-*
21 *tionals do not enter the United States market, either*
22 *directly or through third countries or parties.*

23 *(7) An identification of countries that purchase,*
24 *or have purchased, arms or military supplies from*
25 *the Cuban Government or that otherwise have entered*

1 *into agreements with the Cuban Government that*
2 *have a military application, including—*

3 *(A) a description of the military supplies,*
4 *equipment, or other materiel sold, bartered, or*
5 *exchanged between the Cuban Government and*
6 *such countries;*

7 *(B) a listing of the goods, services, credits,*
8 *or other consideration received by the Cuban*
9 *Government in exchange for military supplies,*
10 *equipment, or materiel; and*

11 *(C) the terms or conditions of any such*
12 *agreement.*

13 ***SEC. 109. IMPORTATION SAFEGUARD AGAINST CERTAIN***
14 ***CUBAN PRODUCTS.***

15 *(a) STATEMENT OF POLICY.—*

16 *(1) The Congress reaffirms section 515.204 of*
17 *title 31, Code of Federal Regulations, that prohibits*
18 *the importation of and dealings in merchandise out-*
19 *side the United States that—*

20 *(A) is of Cuban origin,*

21 *(B) is or has been located in or transported*
22 *from or through Cuba, or*

23 *(C) is made or derived in whole or in part*
24 *from any article which is the growth, produce, or*
25 *manufacture of Cuba.*

1 (2) *The Congress reaffirms that United States*
2 *accession to the North American Free Trade Agree-*
3 *ment does not modify or alter the United States sanc-*
4 *tions against Cuba, noting that the statement of ad-*
5 *ministrative action accompanying that trade agree-*
6 *ment specifically states the following:*

7 (A) *“The NAFTA rules of origin will not in*
8 *any way diminish the Cuban sanctions pro-*
9 *gram. . . . Nothing in the NAFTA would oper-*
10 *ate to override this prohibition.”.*

11 (B) *“Article 309(3) (of the NAFTA) permits*
12 *the United States to ensure that Cuban products*
13 *or goods made from Cuban materials are not im-*
14 *ported into the United States from Mexico or*
15 *Canada and that United States products are not*
16 *exported to Cuba through those countries.”.*

17 (3) *The Congress notes that section 902(c) the*
18 *Food Security Act of 1985 (Public Law 99–198) re-*
19 *quired the President not to allocate any of the sugar*
20 *import quota to a country that is a net importer of*
21 *sugar unless that country can verify to the President*
22 *that any imports of sugar produced in Cuba are not*
23 *reexported to the United States.*

24 (4) *Protection of essential security interests of*
25 *the United States requires enhanced assurances that*

1 *sugar products imported into the United States are*
2 *not products of Cuba.*

3 *(b) IN GENERAL.—(1) Notwithstanding any other pro-*
4 *vision of law, no sugar or sugar product shall enter or be*
5 *imported into the United States unless the exporter of the*
6 *sugar or sugar product to the United States has certified,*
7 *to the satisfaction of the Secretary of the Treasury, that the*
8 *sugar or sugar product is not a product of Cuba.*

9 *(2) If the exporter described in paragraph (1) is not*
10 *the producer of the sugar or sugar product, the exporter*
11 *may certify the origin of the sugar or sugar product on*
12 *the basis of—*

13 *(A) its reasonable reliance on the producer’s*
14 *written representations as to the origin of the sugar*
15 *or sugar product; or*

16 *(B) a certification of the origin of the sugar or*
17 *sugar product by its producer, that is voluntarily*
18 *provided to the exporter by the producer.*

19 *(c) CERTIFICATION.—The Secretary of the Treasury*
20 *shall prescribe the form, content, and manner of submission*
21 *of the certification (including documentation) required in*
22 *connection with the entry or importation into the United*
23 *States of sugar or sugar products, in order to ensure the*
24 *strict enforcement of this section. Such certification shall*
25 *be in a form sufficient to satisfy the Secretary that the ex-*

1 *porter has taken steps to ensure that it is not exporting*
2 *to the United States sugar or sugar products that are a*
3 *product of Cuba.*

4 *(d) PENALTIES.—*

5 *(1) UNLAWFUL ACTS.—It is unlawful to—*

6 *(A) enter or import into the United States*
7 *any product or article if such importation is*
8 *prohibited under subsection (b), or*

9 *(B) make a false certification under sub-*
10 *section (c).*

11 *(2) FORFEITURE.—Any person or entity that*
12 *violates paragraph (1) shall forfeit to the United*
13 *States—*

14 *(A) in the case of a violation of paragraph*
15 *(1)(A), the goods imported or entered in viola-*
16 *tion of paragraph (1)(A), and*

17 *(B) in the case of a violation of paragraph*
18 *(1)(B), the goods imported or entered pursuant*
19 *to the false certification that is the subject of the*
20 *violation.*

21 *(3) ENFORCEMENT.—The Customs Service may*
22 *exercise the authorities it has under sections 581*
23 *through 641 of the Tariff Act of 1930 (19 U.S.C. 1581*
24 *through 1641) in order to carry out paragraph (2).*

1 (e) *REPORTS TO CONGRESS.*—*The Secretary of the*
2 *Treasury shall report to the Congress on any unlawful acts*
3 *and penalties imposed under subsection (d).*

4 (f) *PUBLICATION OF LISTS OF VIOLATORS.*—(1) *The*
5 *Secretary of the Treasury shall publish in the Federal Reg-*
6 *ister, not later than March 31 and September 30 of each*
7 *year, a list containing the name of any person or entity*
8 *located outside the customs territory of the United States*
9 *whose acts result in a violation of paragraph (1)(A) of sub-*
10 *section (d) or who violate paragraph (1)(B) of subsection*
11 *(d).*

12 (2) *Any person or entity whose name has been included*
13 *in a list published under paragraph (1) may petition the*
14 *Secretary to be removed from such list. If the Secretary*
15 *finds that such person or entity has not committed any vio-*
16 *lations described in paragraph (1) for a period of not less*
17 *than 1 year after the date on which the name of the person*
18 *or entity was so published, the Secretary shall remove such*
19 *person from the list as of the next publication of the list*
20 *under paragraph (1).*

21 (g) *DEFINITIONS.*—*For purposes of this section:*

22 (1) *ENTER, IMPORT, ETC.*—*The terms “entry”,*
23 *“enter or be imported”, “import”, and “importation”*
24 *into the United States mean entered, or withdrawn*

1 *from warehouse for consumption, in the customs terri-*
2 *tory of the United States.*

3 (2) *PRODUCT OF CUBA.*—*The term “product of*
4 *Cuba” means a product that—*

5 (A) *is of Cuban origin,*

6 (B) *is or has been located in or transported*
7 *from or through Cuba, or*

8 (C) *is made or derived in whole or in part*
9 *from any article which is the growth, produce, or*
10 *manufacture of Cuba.*

11 (3) *SUGAR, SUGAR PRODUCT.*—*The terms*
12 *“sugar” and “sugar product” mean sugars, syrups,*
13 *molasses, or products with sugar content in excess of*
14 *35 percent.*

15 **SEC. 110. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC**
16 **AND HUMAN RIGHTS GROUPS AND INTER-**
17 **NATIONAL OBSERVERS.**

18 (a) *AUTHORIZATION.*—*Notwithstanding any other*
19 *provision of law, except for section 634A of the Foreign As-*
20 *sistance Act of 1961 (22 U.S.C. 2394–1) and comparable*
21 *notification requirements contained in any Act making ap-*
22 *propriations for foreign operations, export financing, and*
23 *related programs, the President is authorized to furnish as-*
24 *sistance and provide other support for individuals and*

1 *independent nongovernmental organizations to support de-*
2 *mocracy-building efforts for Cuba, including the following:*

3 (1) *Published and informational matter, such as*
4 *books, videos, and cassettes, on transitions to democ-*
5 *racy, human rights, and market economies, to be*
6 *made available to independent democratic groups in*
7 *Cuba.*

8 (2) *Humanitarian assistance to victims of politi-*
9 *cal repression, and their families.*

10 (3) *Support for democratic and human rights*
11 *groups in Cuba.*

12 (4) *Support for visits and permanent deploy-*
13 *ment of independent international human rights*
14 *monitors in Cuba.*

15 (b) *OAS EMERGENCY FUND.—(1) The President shall*
16 *take the necessary steps to encourage the Organization of*
17 *American States to create a special emergency fund for the*
18 *explicit purpose of deploying human rights observers, elec-*
19 *tion support, and election observation in Cuba.*

20 (2) *The President should instruct the United States*
21 *Permanent Representative to the Organization of American*
22 *States to encourage other member states of the Organization*
23 *to join in calling for the Cuban Government to allow the*
24 *immediate deployment of independent human rights mon-*
25 *itors of the Organization throughout Cuba and on-site visits*

1 *to Cuba by the Inter-American Commission on Human*
2 *Rights.*

3 (3) *Notwithstanding section 307 of the Foreign Assist-*
4 *ance Act of 1961 (22 U.S.C. 2227) or any other provision*
5 *of law limiting the United States proportionate share of*
6 *assistance to Cuba by any international organization, the*
7 *President should provide not less than \$5,000,000 of the vol-*
8 *untary contributions of the United States to the Organiza-*
9 *tion of American States as of the date of the enactment of*
10 *this Act solely for the purposes of the special fund referred*
11 *to in paragraph (1).*

12 **SEC. 111. WITHHOLDING OF FOREIGN ASSISTANCE FROM**
13 **COUNTRIES SUPPORTING NUCLEAR PLANT IN**
14 **CUBA.**

15 (a) *FINDINGS.—The Congress makes the following*
16 *findings:*

17 (1) *President Clinton stated in April 1993 that*
18 *“the United States opposes the construction of the*
19 *Juragua nuclear power plant because of our concerns*
20 *about Cuba’s ability to ensure the safe operation of*
21 *the facility and because of Cuba’s refusal to sign the*
22 *Nuclear Non-Proliferation Treaty or ratify the Treaty*
23 *of Tlatelolco.”.*

24 (2) *Cuba has not signed the Treaty on the Non-*
25 *Proliferation of Nuclear Weapons or ratified the Trea-*

1 *ty of Tlatelolco, the latter of which establishes Latin*
2 *America and the Caribbean as a nuclear weapons-free*
3 *zone.*

4 *(3) The State Department, the Nuclear Regu-*
5 *latory Commission, and the Department of Energy*
6 *have expressed concerns about the construction and*
7 *operation of Cuba's nuclear reactors.*

8 *(4) In a September 1992 report to Congress, the*
9 *General Accounting Office outlined concerns among*
10 *nuclear energy experts about deficiencies in the nu-*
11 *clear plant project in Juragua, near Cienfuegos,*
12 *Cuba, including—*

13 *(A) a lack in Cuba of a nuclear regulatory*
14 *structure;*

15 *(B) the absence in Cuba of an adequate in-*
16 *frastructure to ensure the plant's safe operation*
17 *and requisite maintenance;*

18 *(C) the inadequacy of training of plant op-*
19 *erators;*

20 *(D) reports by a former technician from*
21 *Cuba who, by examining with x-rays weld sites*
22 *believed to be part of the auxiliary plumbing sys-*
23 *tem for the plant, found that 10 to 15 percent of*
24 *those sites were defective;*

1 (E) since September 5, 1992, when con-
2 struction on the plant was halted, the prolonged
3 exposure to the elements, including corrosive salt
4 water vapor, of the primary reactor components;
5 and

6 (F) the possible inadequacy of the upper
7 portion of the reactors' dome retention capability
8 to withstand only 7 pounds of pressure per
9 square inch, given that normal atmospheric pres-
10 sure is 32 pounds per square inch and United
11 States reactors are designed to accommodate
12 pressures of 50 pounds per square inch.

13 (5) The United States Geological Survey claims
14 that it had difficulty determining answers to specific
15 questions regarding earthquake activity in the area
16 near Cienfuegos because the Cuban Government was
17 not forthcoming with information.

18 (6) The Geological Survey has indicated that the
19 Caribbean plate, a geological formation near the south
20 coast of Cuba, may pose seismic risks to Cuba and the
21 site of the power plant, and may produce large to
22 moderate earthquakes.

23 (7) On May 25, 1992, the Caribbean plate pro-
24 duced an earthquake numbering 7.0 on the Richter
25 scale.

1 (8) According to a study by the National Oce-
2 anic and Atmospheric Administration, summer winds
3 could carry radioactive pollutants from a nuclear ac-
4 cident at the power plant throughout all of Florida
5 and parts of the States on the gulf coast as far as
6 Texas, and northern winds could carry the pollutants
7 as far northeast as Virginia and Washington, D.C.

8 (9) The Cuban Government, under dictator Fidel
9 Castro, in 1962 advocated the Soviets' launching of
10 nuclear missiles to the United States, which rep-
11 resented a direct and dangerous provocation of the
12 United States and brought the world to the brink of
13 a nuclear conflict.

14 (10) Fidel Castro over the years has consistently
15 issued threats against the United States Government,
16 most recently that he would unleash another perilous
17 mass migration from Cuba upon the enactment of
18 this Act.

19 (11) Despite the various concerns about the
20 plant's safety and operational problems, a feasibility
21 study is being conducted that would establish a sup-
22 port group to include Russia, Cuba, and third coun-
23 tries with the objective of completing and operating
24 the plant.

25 (b) WITHHOLDING OF FOREIGN ASSISTANCE. —

1 (1) *IN GENERAL.*—Notwithstanding any other
2 provision of law, the President shall withhold from
3 assistance allocated, on or after the date of the enact-
4 ment of this Act, for any country an amount equal
5 to the sum of assistance and credits, if any, provided
6 on or after such date of enactment by that country or
7 any entity in that country in support of the comple-
8 tion of the Cuban nuclear facility at Juragua, near
9 Cienfuegos, Cuba.

10 (2) *EXCEPTIONS.*—The requirement of para-
11 graph (1) to withhold assistance shall not apply with
12 respect to—

13 (A) *assistance to meet urgent humanitarian*
14 *needs, including disaster and refugee relief;*

15 (B) *democratic political reform and rule of*
16 *law activities;*

17 (C) *the creation of private sector and non-*
18 *governmental organizations that are independent*
19 *of government control;*

20 (D) *the development of a free market eco-*
21 *nomical system; and*

22 (E) *assistance for the purposes described in*
23 *the Cooperative Threat Reduction Act of 1993*
24 *(title XII of Public Law 103–160).*

1 (3) *DEFINITION.*—As used in paragraph (1), the
2 term “assistance” means assistance under the Foreign
3 Assistance Act of 1961, credits, sales, and guarantees
4 of extensions of credit under the Arms Export Control
5 Act, assistance under titles I and III of the Agricul-
6 tural Trade Development and Assistance Act of 1954,
7 assistance under the FREEDOM Support Act of
8 1992, and any other program of assistance or credits
9 provided by the United States to other countries
10 under other provisions of law, except that the term
11 “assistance” does not include humanitarian assist-
12 ance, including disaster relief assistance.

13 **SEC. 112. EXPULSION OF CRIMINALS FROM CUBA.**

14 *The President shall instruct all United States Govern-*
15 *ment officials who engage in official conduct with the*
16 *Cuban Government to raise on a regular basis the extra-*
17 *dition of or rendering to the United States all persons resid-*
18 *ing in Cuba who are sought by the United States Depart-*
19 *ment of Justice for crimes committed in the United States.*

20 **TITLE II—ASSISTANCE TO A**
21 **FREE AND INDEPENDENT CUBA**

22 **SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT**
23 **AND A DEMOCRATICALLY ELECTED GOVERN-**
24 **MENT IN CUBA.**

25 *The policy of the United States is as follows:*

1 (1) *To support the self-determination of the*
2 *Cuban people.*

3 (2) *To recognize that the self-determination of*
4 *the Cuban people is a sovereign and national right of*
5 *the citizens of Cuba which must be exercised free of*
6 *interference by the government of any other country.*

7 (3) *To encourage the Cuban people to empower*
8 *themselves with a government which reflects the self-*
9 *determination of the Cuban people.*

10 (4) *To recognize the potential for a difficult*
11 *transition from the current regime in Cuba that may*
12 *result from the initiatives taken by the Cuban people*
13 *for self-determination in response to the intransigence*
14 *of the Castro regime in not allowing any substantive*
15 *political or economic reforms, and to be prepared to*
16 *provide the Cuban people with humanitarian, devel-*
17 *opmental, and other economic assistance.*

18 (5) *In solidarity with the Cuban people, to pro-*
19 *vide appropriate forms of assistance—*

20 (A) *to a transition government in Cuba;*

21 (B) *to facilitate the rapid movement from*
22 *such a transition government to a democratically*
23 *elected government in Cuba that results from an*
24 *expression of the self-determination of the Cuban*
25 *people; and*

1 (C) to support such a democratically elected
2 government.

3 (6) Through such assistance, to facilitate a
4 peaceful transition to representative democracy and a
5 market economy in Cuba and to consolidate democ-
6 racy in Cuba.

7 (7) To deliver such assistance to the Cuban peo-
8 ple only through a transition government in Cuba,
9 through a democratically elected government in Cuba,
10 through United States Government organizations, or
11 through United States, international, or indigenous
12 nongovernmental organizations.

13 (8) To encourage other countries and multilat-
14 eral organizations to provide similar assistance, and
15 to work cooperatively with such countries and organi-
16 zations to coordinate such assistance.

17 (9) To ensure that appropriate assistance is rap-
18 idly provided and distributed to the people of Cuba
19 upon the institution of a transition government in
20 Cuba.

21 (10) Not to provide favorable treatment or influ-
22 ence on behalf of any individual or entity in the selec-
23 tion by the Cuban people of their future government.

24 (11) To assist a transition government in Cuba
25 and a democratically elected government in Cuba to

1 *prepare the Cuban military forces for an appropriate*
2 *role in a democracy.*

3 *(12) To be prepared to enter into negotiations*
4 *with a democratically elected government in Cuba ei-*
5 *ther to return the United States Naval Base at Guan-*
6 *tanamo to Cuba or to renegotiate the present agree-*
7 *ment under mutually agreeable terms.*

8 *(13) To consider the restoration of diplomatic*
9 *recognition and support the reintegration of the*
10 *Cuban Government into Inter-American organiza-*
11 *tions when the President determines that there exists*
12 *a democratically elected government in Cuba.*

13 *(14) To take steps to remove the economic embar-*
14 *go of Cuba when the President determines that a*
15 *transition to a democratically elected government in*
16 *Cuba has begun.*

17 *(15) To assist a democratically elected govern-*
18 *ment in Cuba to strengthen and stabilize its national*
19 *currency.*

20 *(16) To pursue the extension of free trade ar-*
21 *rangements to a free, democratic, and independent*
22 *Cuba or to seek the creation of an economic commu-*
23 *nity with a free, democratic, and independent Cuba.*

1 **SEC. 202. AUTHORIZATION OF ASSISTANCE FOR THE CUBAN**
2 **PEOPLE.**

3 (a) *AUTHORIZATION.*—

4 (1) *IN GENERAL.*—*The President shall develop a*
5 *plan for providing economic assistance to Cuba at*
6 *such time as the President determines that a transi-*
7 *tion government or a democratically elected govern-*
8 *ment in Cuba (as determined under section 203(c)) is*
9 *in power.*

10 (2) *EFFECT ON OTHER LAWS.*—*Assistance may*
11 *be provided under this section notwithstanding any*
12 *other provision of law, except for—*

13 (A) *this Act;*

14 (B) *section 620(a)(2) of the Foreign Assist-*
15 *ance Act of 1961 (22 U.S.C. 2370(a)(2)); and*

16 (C) *section 634A of the Foreign Assistance*
17 *Act of 1961 (22 U.S.C. 2394–1) and comparable*
18 *notification requirements contained in any Act*
19 *making appropriations for foreign operations,*
20 *export financing, and related programs.*

21 (b) *PLAN FOR ASSISTANCE.*—

22 (1) *DEVELOPMENT OF PLAN.*—*The President*
23 *shall develop a plan for providing assistance under*
24 *this section—*

25 (A) *to Cuba when a transition government*
26 *in Cuba is in power; and*

1 (B) to Cuba when a democratically elected
2 government in Cuba is in power.

3 (2) TYPES OF ASSISTANCE.—Assistance under
4 the plan developed under paragraph (1) shall include
5 the following:

6 (A) TRANSITION GOVERNMENT.—(i) Except
7 as provided in clause (ii), assistance to Cuba
8 under a transition government shall be limited
9 to—

10 (I) such food, medicine, medical sup-
11 plies and equipment, and assistance to meet
12 emergency energy needs, as is necessary to
13 meet the basic human needs of the Cuban
14 people; and

15 (II) assistance described in subpara-
16 graph (C).

17 (ii) Assistance to a transition government
18 in Cuba may include assistance for activities
19 comparable to those set forth in section 498 of
20 the Foreign Assistance Act of 1961 (22 U.S.C.
21 2295) (other than paragraph (9) of such section).

22 (iii) Only after a transition government in
23 Cuba is in power, remittances by individuals to
24 their relatives of cash or goods, as well as free-

1 *dom to travel to visit them without any restric-*
2 *tions, shall be permitted.*

3 (B) *DEMOCRATICALLY ELECTED GOVERN-*
4 *MENT.—Assistance to a democratically elected*
5 *government in Cuba shall consist of additional*
6 *economic assistance, together with assistance de-*
7 *scribed in subparagraph (C). Such economic as-*
8 *istance may include—*

9 *(i) assistance under chapter 1 of part*
10 *I (relating to development assistance), and*
11 *chapter 4 of part II (relating to the eco-*
12 *nomical support fund), of the Foreign Assist-*
13 *ance Act of 1961;*

14 *(ii) assistance under the Agricultural*
15 *Trade Development and Assistance Act of*
16 *1954;*

17 *(iii) financing, guarantees, and other*
18 *forms of assistance provided by the Export-*
19 *Import Bank of the United States;*

20 *(iv) financial support provided by the*
21 *Overseas Private Investment Corporation*
22 *for investment projects in Cuba;*

23 *(v) assistance provided by the Trade*
24 *and Development Agency;*

25 *(vi) Peace Corps programs;*

1 (vii) relief of Cuba's external debt; and
2 (viii) other appropriate assistance to
3 carry out the policy of section 201.

4 (C) *MILITARY ADJUSTMENT ASSISTANCE.*—
5 Assistance to a transition government in Cuba
6 and to a democratically elected government in
7 Cuba shall also include assistance in preparing
8 the Cuban military forces to adjust to an appro-
9 priate role in a democracy.

10 (c) *STRATEGY FOR DISTRIBUTION.*—The plan devel-
11 oped under subsection (b) shall include a strategy for dis-
12 tributing assistance under the plan.

13 (d) *DISTRIBUTION.*—Assistance under the plan devel-
14 oped under subsection (b) shall be provided through United
15 States Government organizations and nongovernmental or-
16 ganizations and private and voluntary organizations,
17 whether within or outside the United States, including hu-
18 manitarian, educational, labor, and private sector organi-
19 zations.

20 (e) *INTERNATIONAL EFFORTS.*—The President shall
21 take the necessary steps—

22 (1) to seek to obtain the agreement of other coun-
23 tries and of international financial institutions and
24 multilateral organizations to provide to a transition
25 government in Cuba, and to a democratically elected

1 *government in Cuba, assistance comparable to that*
2 *provided by the United States under this Act; and*

3 *(2) to work with such countries, institutions, and*
4 *organizations to coordinate all such assistance pro-*
5 *grams.*

6 *(f) CARIBBEAN BASIN INITIATIVE.—(1) The President*
7 *shall determine, as part of the assistance plan developed*
8 *under subsection (b), whether or not to designate Cuba as*
9 *a beneficiary country under section 212 of the Caribbean*
10 *Basin Economic Recovery Act.*

11 *(2) Any designation of Cuba as a beneficiary country*
12 *under section 212 of such Act may only be made after a*
13 *democratically elected government in Cuba is in power.*
14 *Such designation may be made notwithstanding any other*
15 *provision of law.*

16 *(3) The table contained in section 212(b) of the Carib-*
17 *bean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is*
18 *amended by inserting “Cuba” between “Costa Rica” and*
19 *“Dominica”.*

20 *(g) TRADE AGREEMENTS AND INVESTMENT.—The*
21 *President, upon transmittal to Congress of a determination*
22 *under section 203(c)(3) that a democratically elected gov-*
23 *ernment in Cuba is in power—*

1 (1) shall take the necessary steps to extend non-
2 discriminatory trade treatment (most-favored-nation
3 treatment) to the products of Cuba;

4 (2) shall take the necessary steps to enter into a
5 preliminary agreement with such government in
6 Cuba providing for extension of the North American
7 Free Trade Agreement to a free and independent
8 Cuba or to seek the creation of an economic commu-
9 nity with a free, democratic, and independent Cuba;

10 (3) is authorized to enter into negotiations with
11 a democratically elected government in Cuba to pro-
12 vide for the extension of the North American Free
13 Trade Agreement to Cuba or to seek the creation of
14 an economic community with a free, democratic, and
15 independent Cuba; and

16 (4) is authorized to take such other steps as will
17 encourage renewed investment in Cuba.

18 (h) COMMUNICATION WITH THE CUBAN PEOPLE.—The
19 President shall take the necessary steps to communicate to
20 the Cuban people the plan for assistance developed under
21 this section.

22 (i) REPORT TO CONGRESS.—Not later than 180 days
23 after the date of the enactment of this Act, the President
24 shall transmit to the appropriate congressional committees

1 *a report describing in detail the plan developed under this*
2 *section.*

3 **SEC. 203. COORDINATION OF ASSISTANCE PROGRAM; IM-**
4 **PLEMENTATION AND REPORTS TO CON-**
5 **GRESS; REPROGRAMMING.**

6 *(a) COORDINATING OFFICIAL.—The President shall*
7 *designate a coordinating official who shall be responsible*
8 *for—*

9 *(1) implementing the strategy for distributing*
10 *assistance described in section 202(b);*

11 *(2) ensuring the speedy and efficient distribution*
12 *of such assistance; and*

13 *(3) ensuring coordination among, and appro-*
14 *priate oversight by, the agencies of the United States*
15 *that provide assistance described in section 202(b),*
16 *including resolving any disputes among such agen-*
17 *cies.*

18 *(b) UNITED STATES-CUBA COUNCIL.—Upon making a*
19 *determination under subsection (c)(3) that a democratically*
20 *elected government in Cuba is in power, the President, after*
21 *consultation with the coordinating official, is authorized to*
22 *designate a United States-Cuba council—*

23 *(1) to ensure coordination between the United*
24 *States Government and the private sector in respond-*

1 *ing to change in Cuba, and in promoting market-*
2 *based development in Cuba; and*

3 *(2) to establish periodic meetings between rep-*
4 *resentatives of the United States and Cuban private*
5 *sectors for the purpose of facilitating bilateral trade.*

6 *(c) IMPLEMENTATION OF PLAN; REPORTS TO CON-*
7 *GRESS.—*

8 *(1) IMPLEMENTATION WITH RESPECT TO TRANSI-*
9 *TION GOVERNMENT.—Upon making a determination*
10 *that a transition government in Cuba is in power, the*
11 *President shall transmit that determination to the ap-*
12 *propriate congressional committees and shall, subject*
13 *to the availability of appropriations, commence the*
14 *delivery and distribution of assistance to such transi-*
15 *tion government under the plan developed under sec-*
16 *tion 202(b).*

17 *(2) REPORTS TO CONGRESS.—(A) The President*
18 *shall transmit to the appropriate congressional com-*
19 *mittees a report setting forth the strategy for provid-*
20 *ing assistance described in section 202(b)(2) (A) and*
21 *(C) to the transition government in Cuba under the*
22 *plan of assistance developed under section 202(b), the*
23 *types of such assistance, and the extent to which such*
24 *assistance has been distributed in accordance with the*
25 *plan.*

1 (B) *The President shall transmit the report not*
2 *later than 90 days after making the determination re-*
3 *ferred to in paragraph (1), except that the President*
4 *shall transmit the report in preliminary form not*
5 *later than 15 days after making that determination.*

6 (3) *IMPLEMENTATION WITH RESPECT TO DEMO-*
7 *CRATICALLY ELECTED GOVERNMENT.—The President*
8 *shall, upon determining that a democratically elected*
9 *government in Cuba is in power, submit that deter-*
10 *mination to the appropriate congressional committees*
11 *and shall, subject to the availability of appropria-*
12 *tions, commence the delivery and distribution of as-*
13 *sistance to such democratically elected government*
14 *under the plan developed under section 202(b).*

15 (4) *ANNUAL REPORTS TO CONGRESS.—Not later*
16 *than 60 days after the end of each fiscal year, the*
17 *President shall transmit to the appropriate congress-*
18 *sional committees a report on the assistance provided*
19 *under the plan developed under section 202(b), in-*
20 *cluding a description of each type of assistance, the*
21 *amounts expended for such assistance, and a descrip-*
22 *tion of the assistance to be provided under the plan*
23 *in the current fiscal year.*

24 (d) *REPROGRAMMING.—Any changes in the assistance*
25 *to be provided under the plan developed under section*

1 *202(b) may not be made unless the President notifies the*
2 *appropriate congressional committees at least 15 days in*
3 *advance in accordance with the procedures applicable to*
4 *reprogramming notifications under section 634A of the For-*
5 *ign Assistance Act of 1961 (22 U.S.C. 2394–1).*

6 **SEC. 204. AUTHORIZATION OF APPROPRIATIONS.**

7 *There are authorized to be appropriated to the Presi-*
8 *dent such sums as may be necessary to carry out this title.*

9 **SEC. 205. TERMINATION OF THE ECONOMIC EMBARGO OF**
10 **CUBA.**

11 *(a) PRESIDENTIAL ACTIONS.—Upon submitting a de-*
12 *termination to the appropriate congressional committees*
13 *under section 203(c)(1) that a transition government in*
14 *Cuba is in power, the President, after consulting with the*
15 *Congress, is authorized to take steps to suspend the eco-*
16 *nomie embargo of Cuba to the extent that such action con-*
17 *tributes to a stable foundation for a democratically elected*
18 *government in Cuba.*

19 *(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—*
20 *In carrying out subsection (a), the President may suspend*
21 *the enforcement of—*

22 *(1) section 620(a) of the Foreign Assistance Act*
23 *of 1961 (22 U.S.C. 2370(a));*

1 (2) *section 620(f) of the Foreign Assistance Act*
2 *of 1961 (22 U.S.C. 2370(f)) with regard to the “Re-*
3 *public of Cuba”;*

4 (3) *sections 1704, 1705(d), and 1706 of the*
5 *Cuban Democracy Act (22 U.S.C. 6003, 6004(d),*
6 *6005);*

7 (4) *section 902(c) of the Food Security Act of*
8 *1985; and*

9 (5) *the prohibitions on transactions described in*
10 *part 515 of title 31, Code of Federal Regulations.*

11 (c) *ADDITIONAL PRESIDENTIAL ACTIONS.—Upon sub-*
12 *mitting a determination to the appropriate congressional*
13 *committees under section 203(c)(3) that a democratically*
14 *elected government in Cuba is in power, the President shall*
15 *take steps to terminate the economic embargo of Cuba.*

16 (d) *CONFORMING AMENDMENTS.—On the date on*
17 *which the President submits a determination under section*
18 *203(c)(3)—*

19 (1) *section 620(a) of the Foreign Assistance Act*
20 *of 1961 (22 U.S.C. 2370(a)) is repealed;*

21 (2) *section 620(f) of the Foreign Assistance Act*
22 *of 1961 (22 U.S.C. 2370(f)) is amended by striking*
23 *“Republic of Cuba”;*

1 (3) sections 1704, 1705(d), and 1706 of the
2 Cuban Democracy Act of 1992 (22 U.S.C. 6003,
3 6004(d), and 6005) are repealed; and

4 (4) section 902(c) of the Food Security Act of
5 1985 is repealed.

6 (e) REVIEW OF SUSPENSION OF ECONOMIC EMBAR-
7 GO.—

8 (1) REVIEW.—If the President takes action
9 under subsection (a) to suspend the economic embargo
10 of Cuba, the President shall immediately so notify the
11 Congress. The President shall report to the Congress
12 no less frequently than every 6 months thereafter,
13 until he submits a determination under section
14 203(c)(3) that a democratically elected government in
15 Cuba is in power, on the progress being made by
16 Cuba toward the establishment of such a democrat-
17 ically elected government. The action of the President
18 under subsection (a) shall cease to be effective upon
19 the enactment of a joint resolution described in para-
20 graph (2).

21 (2) JOINT RESOLUTIONS.—For purposes of this
22 subsection, the term “joint resolution” means only a
23 joint resolution of the 2 Houses of Congress, the mat-
24 ter after the resolving clause of which is as follows:
25 “That the Congress disapproves the action of the

1 *President under section 205(a) of the Cuban Liberty*
2 *and Democratic Solidarity (LIBERTAD) Act of 1995*
3 *to suspend the economic embargo of Cuba, notice of*
4 *which was submitted to the Congress on ____.”, with*
5 *the blank space being filled with the appropriate date.*

6 (3) *REFERRAL TO COMMITTEES.—Joint resolu-*
7 *tions introduced in the House of Representatives shall*
8 *be referred to the Committee on International Rela-*
9 *tions and joint resolutions introduced in the Senate*
10 *shall be referred to the Committee on Foreign Rela-*
11 *tions.*

12 (4) *PROCEDURES.—(A) Any joint resolution*
13 *shall be considered in the Senate in accordance with*
14 *the provisions of section 601(b) of the International*
15 *Security Assistance and Arms Export Control Act of*
16 *1976.*

17 (B) *For the purpose of expediting the consider-*
18 *ation and enactment of joint resolutions, a motion to*
19 *proceed to the consideration of any joint resolution*
20 *after it has been reported by the appropriate commit-*
21 *tee shall be treated as highly privileged in the House*
22 *of Representatives.*

23 (C) *Not more than 1 joint resolution may be con-*
24 *sidered in the House of Representatives and the Sen-*
25 *ate in the 6-month period beginning on the date on*

1 (C) respecting internationally recognized
2 human rights and basic freedoms as set forth in
3 the Universal Declaration of Human Rights, to
4 which Cuba is a signatory nation;

5 (D) effectively guaranteeing the rights of
6 free speech and freedom of the press;

7 (E) organizing free and fair elections for a
8 new government—

9 (i) to be held in a timely manner with-
10 in a period not to exceed 1 year after the
11 transition government assumes power;

12 (ii) with the participation of multiple
13 independent political parties that have full
14 access to the media on an equal basis, in-
15 cluding (in the case of radio, television, or
16 other telecommunications media) in terms
17 of allotments of time for such access and the
18 times of day such allotments are given; and

19 (iii) to be conducted under the super-
20 vision of internationally recognized observ-
21 ers, such as the Organization of American
22 States, the United Nations, and other elec-
23 tions monitors;

24 (F) assuring the right to private property;

1 (G) taking appropriate steps to return to
2 United States citizens (and entities which are 50
3 percent or more beneficially owned by United
4 States citizens) property taken by the Cuban
5 Government from such citizens and entities on or
6 after January 1, 1959, or to provide equitable
7 compensation to such citizens and entities for
8 such property;

9 (H) granting permits to privately owned
10 telecommunications and media companies to op-
11 erate in Cuba; and

12 (I) allowing the establishment of independ-
13 ent trade unions as set forth in conventions 87
14 and 98 of the International Labor Organization,
15 and allowing the establishment of independent
16 social, economic, and political associations;

17 (6) does not include Fidel Castro or Raul Castro;

18 (7) has given adequate assurances that it will
19 allow the speedy and efficient distribution of assist-
20 ance to the Cuban people;

21 (8) permits the deployment throughout Cuba of
22 independent and unfettered international human
23 rights monitors; and

24 (9) has extradited or otherwise rendered to the
25 United States all persons sought by the United States

1 *Department of Justice for crimes committed in the*
2 *United States.*

3 **SEC. 207. REQUIREMENTS FOR A DEMOCRATICALLY ELECT-**
4 **ED GOVERNMENT.**

5 *For purposes of this Act, a democratically elected gov-*
6 *ernment in Cuba, in addition to continuing to comply with*
7 *the requirements of section 206, is a government in Cuba*
8 *which—*

9 *(1) results from free and fair elections conducted*
10 *under the supervision of internationally recognized*
11 *observers;*

12 *(2) has permitted opposition parties ample time*
13 *to organize and campaign for such elections, and has*
14 *permitted full access to the media to all candidates in*
15 *the elections;*

16 *(3) is showing respect for the basic civil liberties*
17 *and human rights of the citizens of Cuba;*

18 *(4) has made demonstrable progress in establish-*
19 *ing an independent judiciary;*

20 *(5) is substantially moving toward a market-ori-*
21 *ented economic system;*

22 *(6) is committed to making constitutional*
23 *changes that would ensure regular free and fair elec-*
24 *tions that meet the requirements of paragraph (2);*
25 *and*

1 (7) *has made demonstrable progress in returning*
2 *to United States citizens (and entities which are 50*
3 *percent or more beneficially owned by United States*
4 *citizens) property taken by the Cuban Government*
5 *from such citizens and entities on or after January*
6 *1, 1959, or providing full compensation for such*
7 *property in accordance with international law stand-*
8 *ards and practice.*

9 **TITLE III—PROTECTION OF**
10 **PROPERTY RIGHTS OF UNIT-**
11 **ED STATES NATIONALS**
12 **AGAINST CONFISCATORY**
13 **TAKINGS BY THE CASTRO RE-**
14 **GIME**

15 **SEC. 301. STATEMENT OF POLICY.**

16 *The Congress makes the following findings:*

17 (1) *The right of individuals to hold and enjoy*
18 *property is a fundamental right recognized by the*
19 *United States Constitution and international human*
20 *rights law, including the Universal Declaration of*
21 *Human Rights.*

22 (2) *The illegal confiscation or taking of property*
23 *by governments, and the acquiescence of governments*
24 *in the confiscation of property by their citizens, un-*

1 *dermines the comity among nations, the free flow of*
2 *commerce, and economic development.*

3 *(3) It is in the interest of all nations to respect*
4 *equally the property rights of their citizens and na-*
5 *tionals of other countries.*

6 *(4) Nations that provide an effective mechanism*
7 *for prompt, adequate, and fair compensation for the*
8 *confiscation of private property will continue to have*
9 *the support of the United States.*

10 *(5) The United States Government has an obli-*
11 *gation to its citizens to provide protection against il-*
12 *legal confiscation by foreign nations and their citi-*
13 *zens, including the provision of private remedies.*

14 *(6) Nations that illegally confiscate private*
15 *property should not be immune to another nation's*
16 *laws whose purpose is to protect against the*
17 *confiscation of lawfully acquired property by its citi-*
18 *zens.*

19 *(7) Trafficking in illegally acquired property is*
20 *a crime under the laws of the United States and other*
21 *nations, yet this same activity is allowed under inter-*
22 *national law.*

23 *(8) International law, by not providing effective*
24 *remedies, condones the illegal confiscation of property*
25 *and allows for the unjust enrichment from the use of*

1 *confiscated property by governments and private enti-*
2 *ties at the expense of those who hold legal claim to the*
3 *property.*

4 *(9) The development of an international mecha-*
5 *nism sanctioning those governments and private enti-*
6 *ties that confiscate and unjustly use private property*
7 *so confiscated should be a priority objective of United*
8 *States foreign policy.*

9 **SEC. 302. LIABILITY FOR TRAFFICKING IN PROPERTY CON-**
10 **FISCATED FROM UNITED STATES NATIONALS.**

11 *(a) CIVIL REMEDY.—*

12 *(1) LIABILITY FOR TRAFFICKING.—(A) Except as*
13 *provided in paragraphs (3) and (4), any person, in-*
14 *cluding any agency or instrumentality of a foreign*
15 *state in the conduct of a commercial activity, that,*
16 *after the end of the 6-month period beginning on the*
17 *date of the enactment of this Act, traffics in con-*
18 *fiscated property shall be liable to any United States*
19 *national who owns the claim to such property for*
20 *money damages in an amount equal to the sum of—*

21 *(i) the amount which is the greater of—*

22 *(I) the amount, if any, certified to the*
23 *claimant by the Foreign Claims Settlement*
24 *Commission under the International Claims*
25 *Settlement Act of 1949, plus interest;*

1 (II) the amount determined under sec-
2 tion 303(a)(2), plus interest; or

3 (III) the fair market value of that
4 property, calculated as being the then cur-
5 rent value of the property, or the value of
6 the property when confiscated plus interest,
7 whichever is greater; and

8 (ii) reasonable costs and attorneys' fees.

9 (B) Interest under subparagraph (A)(i) shall be
10 at the rate set forth in section 1961 of title 28, United
11 States Code, computed by the court from the date of
12 the confiscation of the property involved to the date
13 on which the action is brought under this subsection.

14 (2) PRESUMPTION IN FAVOR OF CERTIFIED
15 CLAIMS.—There shall be a presumption that the
16 amount for which a person, including any agency or
17 instrumentality of a foreign state in the conduct of a
18 commercial activity, is liable under clause (i) of
19 paragraph (1)(A) is the amount that is certified
20 under subclause (I) of that clause. The presumption
21 shall be rebuttable by clear and convincing evidence
22 that the amount described in subclause (II) or (III)
23 of that clause is the appropriate amount of liability
24 under that clause.

1 (3) *INCREASED LIABILITY FOR PRIOR NOTICE.*—
2 *Except as provided in paragraph (4), any person, in-*
3 *cluding any agency or instrumentality of a foreign*
4 *state in the conduct of a commercial activity, that*
5 *traffics in confiscated property after having re-*
6 *ceived—*

7 (A) *notice of a claim to ownership of the*
8 *property by a United States national who owns*
9 *a claim to the confiscated property, and*

10 (B) *notice of the provisions of this section,*
11 *shall be liable to that United States national for*
12 *money damages in an amount which is the sum of the*
13 *amount equal to the amount determined under para-*
14 *graph (1)(A)(ii) plus triple the amount determined*
15 *applicable under subclause (I), (II), or (III) of para-*
16 *graph (1)(A)(i).*

17 (4) *APPLICABILITY.*—(A) *Except as otherwise*
18 *provided in this paragraph, actions may be brought*
19 *under paragraph (1) with respect to property con-*
20 *fiscated before, on, or after the date of the enactment*
21 *of this Act.*

22 (B) *In the case of property confiscated before the*
23 *date of the enactment of this Act, no United States*
24 *national may bring an action under this section un-*

1 *less such national acquired ownership of the claim to*
2 *the confiscated property before such date.*

3 *(C) In the case of property confiscated on or*
4 *after the date of the enactment of this Act, no United*
5 *States national who acquired ownership of a claim to*
6 *confiscated property by assignment for value after*
7 *such date of enactment may bring an action on the*
8 *claim under this section.*

9 (5) *TREATMENT OF CERTAIN ACTIONS.—(A) In*
10 *the case of any action brought under this section by*
11 *a United States national who was eligible to file the*
12 *underlying claim in the action with the Foreign*
13 *Claims Settlement Commission under title V of the*
14 *International Claims Settlement Act of 1949 but did*
15 *not so file the claim, the court may hear the case only*
16 *if the court determines that the United States na-*
17 *tional had good cause for not filing the claim.*

18 *(B) In the case of any action brought under this*
19 *section by a United States national whose claim in*
20 *the action was timely filed with the Foreign Claims*
21 *Settlement Commission under title V of the Inter-*
22 *national Claims Settlement Act of 1949 but was de-*
23 *nyied by the Commission, the court may assess the*
24 *basis for the denial and may accept the findings of*
25 *the Commission on the claim as conclusive in the ac-*

1 *tion under this section unless good cause justifies an-*
2 *other result.*

3 (6) *INAPPLICABILITY OF ACT OF STATE DOC-*
4 *TRINE.—No court of the United States shall decline,*
5 *based upon the act of state doctrine, to make a deter-*
6 *mination on the merits in an action brought under*
7 *paragraph (1).*

8 (b) *DEFINITION.—As used in this subsection, the term*
9 *“agency or instrumentality of a foreign state” has the*
10 *meaning given that term in section 1603(b) of title 28,*
11 *United States Code.*

12 (c) *JURISDICTION.—*

13 (1) *IN GENERAL.—Chapter 85 of title 28, United*
14 *States Code, is amended by inserting after section*
15 *1331 the following new section:*

16 **“§1331a. Civil actions involving confiscated property**

17 *“The district courts shall have exclusive jurisdiction*
18 *of any action brought under section 302 of the Cuban Lib-*
19 *erty and Democratic Solidarity (LIBERTAD) Act of 1995,*
20 *regardless of the amount in controversy.”.*

21 (2) *CONFORMING AMENDMENT.—The table of sec-*
22 *tions for chapter 85 of title 28, United States Code,*
23 *is amended by inserting after the item relating to sec-*
24 *tion 1331 the following:*

“1331a. Civil actions involving confiscated property.”.

1 (d) *CERTAIN PROPERTY IMMUNE FROM EXECUTION.*—
2 Section 1611 of title 28, United States Code, is amended
3 by adding at the end the following:

4 “(c) Notwithstanding the provisions of section 1610 of
5 this chapter, the property of a foreign state shall be immune
6 from attachment and from execution in an action brought
7 under section 302 of the Cuban Liberty and Democratic
8 Solidarity (*LIBERTAD*) Act of 1995 to the extent the prop-
9 erty is a facility or installation used by an accredited diplo-
10 matic mission for official purposes.”.

11 (e) *ELECTION OF REMEDIES.*—

12 (1) *ELECTION.*—Subject to paragraph (2)—

13 (A) any United States national that brings
14 an action under this section may not bring any
15 other civil action or proceeding under the com-
16 mon law, Federal law, or the law of any of the
17 several States, the District of Columbia, or any
18 territory or possession of the United States, that
19 seeks monetary or nonmonetary compensation by
20 reason of the same subject matter; and

21 (B) any person who brings, under the com-
22 mon law or any provision of law other than this
23 section, a civil action or proceeding for monetary
24 or nonmonetary compensation arising out of a
25 claim for which an action would otherwise be

1 *cognizable under this section may not bring an*
2 *action under this section on that claim.*

3 (2) *TREATMENT OF CERTIFIED CLAIMANTS.—In*
4 *the case of any United States national that brings an*
5 *action under this section based on a claim certified*
6 *under title V of the International Claims Settlement*
7 *Act of 1949—*

8 (A) *if the recovery in the action is equal to*
9 *or greater than the amount of the certified claim,*
10 *the United States national may not receive pay-*
11 *ment on the claim under any agreement entered*
12 *into between the United States and Cuba settling*
13 *claims covered by such title, and such national*
14 *shall be deemed to have discharged the United*
15 *States from any further responsibility to rep-*
16 *resent the United States national with respect to*
17 *that claim;*

18 (B) *if the recovery in the action is less than*
19 *the amount of the certified claim, the United*
20 *States national may receive payment under a*
21 *claims agreement described in subparagraph (A)*
22 *but only to the extent of the difference between*
23 *the amount of the recovery and the amount of the*
24 *certified claim; and*

1 (C) if there is no recovery in the action, the
2 United States national may receive payment on
3 the certified claim under a claims agreement de-
4 scribed in subparagraph (A) to the same extent
5 as any certified claimant who does not bring an
6 action under this section.

7 (f) *DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER*
8 *CLAIMS AGREEMENT.*—Any amounts paid by Cuba under
9 any agreement entered into between the United States and
10 Cuba settling certified claims under title V of the Inter-
11 national Claims Settlement Act of 1949 that are in excess
12 of the payments made on such certified claims after the ap-
13 plication of subsection (e) shall be deposited into the United
14 States Treasury.

15 (g) *TERMINATION OF RIGHTS.*—

16 (1) *IN GENERAL.*—All rights created under this
17 section to bring an action for money damages with
18 respect to property confiscated before the date of the
19 enactment of this Act shall cease upon the transmittal
20 to the Congress of a determination of the President
21 under section 203(c)(3).

22 (2) *PENDING SUITS.*—The termination of rights
23 under paragraph (1) shall not affect suits commenced
24 before the date of such termination, and in all such
25 suits, proceedings shall be had, appeals taken, and

1 *judgments rendered in the same manner and with the*
2 *same effect as if this subsection had not been enacted.*

3 **SEC. 303. DETERMINATION OF CLAIMS TO CONFISCATED**
4 **PROPERTY.**

5 (a) *EVIDENCE OF OWNERSHIP.*—

6 (1) *CONCLUSIVENESS OF CERTIFIED CLAIMS.*—*In*
7 *any action brought under this title, the courts shall*
8 *accept as conclusive proof of ownership a certification*
9 *of a claim to ownership that has been made by the*
10 *Foreign Claims Settlement Commission pursuant to*
11 *title V of the International Claims Settlement Act of*
12 *1949 (22 U.S.C. 1643 and following).*

13 (2) *CLAIMS NOT CERTIFIED.*—*In the case of a*
14 *claim that has not been certified by the Foreign*
15 *Claims Settlement Commission before the enactment*
16 *of this Act, a court may appoint a special master, in-*
17 *cluding the Foreign Claims Settlement Commission,*
18 *to make determinations regarding the amount and*
19 *validity of claims to ownership of confiscated prop-*
20 *erty. Such determinations are only for evidentiary*
21 *purposes in civil actions brought under this title and*
22 *do not constitute certifications pursuant to title V of*
23 *the International Claims Settlement Act of 1949.*

24 (3) *EFFECT OF DETERMINATIONS OF FOREIGN*
25 *ENTITIES.*—*In determining ownership, courts shall*

1 *not accept as conclusive evidence of ownership any*
2 *findings, orders, judgments, or decrees from adminis-*
3 *trative agencies or courts of foreign countries or inter-*
4 *national organizations that invalidate the claim held*
5 *by a United States national, unless the invalidation*
6 *was found pursuant to binding international arbitra-*
7 *tion to which United States national submitted the*
8 *claim.*

9 **(b) AMENDMENT OF THE INTERNATIONAL CLAIMS**
10 **SETTLEMENT ACT OF 1949.**—*Title V of the International*
11 *Claims Settlement Act of 1949 (22 U.S.C. 1643 and follow-*
12 *ing) is amended by adding at the end the following new*
13 *section:*

14 “*EVALUATION OF OWNERSHIP CLAIMS REFERRED BY*
15 *DISTRICT COURTS OF THE UNITED STATES*

16 “*SEC. 514. Notwithstanding any other provision of*
17 *this title and only for purposes of section 302 of the Cuban*
18 *Liberty and Solidarity (LIBERTAD) Act, a United States*
19 *district court, for fact-finding purposes, may refer to the*
20 *Commission, and the Commission may determine, questions*
21 *of the amount and ownership of a claim by a United States*
22 *national (as defined in section 4 of the Cuban Liberty and*
23 *Solidarity (LIBERTAD) Act) resulting from the*
24 *confiscation of property by the Government of Cuba de-*
25 *scribed in section 503(a), whether or not the United States*
26 *national qualified as a national of the United States (as*

1 *defined in section 502(1)) at the time of the action by the*
2 *Government of Cuba.”.*

3 (c) *RULE OF CONSTRUCTION.*—*Nothing in this Act or*
4 *section 514 of the International Claims Settlement Act of*
5 *1949, as added by subsection (b), shall be construed—*

6 (1) *to require or otherwise authorize the claims*
7 *of Cuban nationals who became United States citizens*
8 *after their property was confiscated to be included in*
9 *the claims certified to the Secretary of State by the*
10 *Foreign Claims Settlement Commission for purposes*
11 *of future negotiation and espousal of claims with a*
12 *friendly government in Cuba when diplomatic rela-*
13 *tions are restored; or*

14 (2) *as superseding, amending, or otherwise alter-*
15 *ing certifications that have been made pursuant to*
16 *title V of the International Claims Settlement Act of*
17 *1949 before the enactment of this Act.*

18 **SEC. 304. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT**

19 **COMMISSION CERTIFICATION PROCEDURE.**

20 *Title V of the International Claims Settlement Act of*
21 *1949 (22 U.S.C. 1643 and following), as amended by sec-*
22 *tion 303, is further amended by adding at the end the fol-*
23 *lowing new section:*

1 “EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT

2 COMMISSION CERTIFICATION PROCEDURE

3 “SEC. 515. (a) Subject to subsection (b), neither any
4 national of the United States who was eligible to file a
5 claim under section 503 but did not timely file such claim
6 under that section, nor any national of the United States
7 (on the date of the enactment of this section) who was not
8 eligible to file a claim under that section, nor any national
9 of Cuba, including any agency, instrumentality, subdivi-
10 sion, or enterprise of the Government of Cuba or any local
11 government of Cuba in place on the date of the enactment
12 of this section, nor any successor thereto, whether or not
13 recognized by the United States, shall have a claim to, par-
14 ticipate in, or otherwise have an interest in, the compensa-
15 tion proceeds or other nonmonetary compensation paid or
16 allocated to a national of the United States by virtue of
17 a claim certified by the Commission under section 507, nor
18 shall any court of the United States or any State court have
19 jurisdiction to adjudicate any such claim.

20 “(b) Nothing in subsection (a) shall be construed to
21 detract from or otherwise affect any rights in the shares
22 of the capital stock of nationals of the United States owning
23 claims certified by the Commission under section 507.”.

1 **TITLE IV—EXCLUSION OF**
2 **CERTAIN ALIENS**

3 **SEC. 401. EXCLUSION FROM THE UNITED STATES OF**
4 **ALIENS WHO HAVE CONFISCATED PROPERTY**
5 **OF UNITED STATES NATIONALS OR WHO**
6 **TRAFFIC IN SUCH PROPERTY.**

7 (a) *GROUNDS FOR EXCLUSION.*—The Secretary of
8 State, in consultation with the Attorney General, shall ex-
9 clude from the United States any alien who the Secretary
10 of State determines is a person who—

11 (1) *has confiscated, or has directed or overseen*
12 *the confiscation of, property a claim to which is*
13 *owned by a United States national, or converts or has*
14 *converted for personal gain confiscated property, a*
15 *claim to which is owned by a United States national;*

16 (2) *traffics in confiscated property, a claim to*
17 *which is owned by a United States national;*

18 (3) *is a corporate officer, principal, or share-*
19 *holder with a controlling interest of an entity which*
20 *has been involved in the confiscation of property or*
21 *trafficking in confiscated property, a claim to which*
22 *is owned by a United States national; or*

23 (4) *is a spouse, minor child, or agent of a person*
24 *excludable under paragraph (1), (2), or (3).*

1 (b) *DEFINITIONS.*—As used in this section, the follow-
2 ing terms have the following meanings:

3 (1) *CONFISCATED; CONFISCATION.*—The terms
4 “confiscated” and “confiscation” refer to—

5 (A) *the nationalization, expropriation, or*
6 *other seizure by foreign governmental authority*
7 *of ownership or control of property on or after*
8 *January 1, 1959—*

9 (i) *without the property having been*
10 *returned or adequate and effective com-*
11 *ensation provided; or*

12 (ii) *without the claim to the property*
13 *having been settled pursuant to an inter-*
14 *national claims settlement agreement or*
15 *other mutually accepted settlement proce-*
16 *dure; and*

17 (B) *the repudiation by foreign governmental*
18 *authority of, the default by foreign governmental*
19 *authority on, or the failure by foreign govern-*
20 *mental authority to pay, on or after January 1,*
21 *1959—*

22 (i) *a debt of any enterprise which has*
23 *been nationalized, expropriated, or other-*
24 *wise taken by foreign governmental author-*
25 *ity;*

1 (ii) a debt which is a charge on prop-
2 erty nationalized, expropriated, or otherwise
3 taken by foreign governmental authority; or

4 (iii) a debt which was incurred by for-
5 eign governmental authority in satisfaction
6 or settlement of a confiscated property
7 claim.

8 (2) *PROPERTY.*—The term “property” does not
9 include claims arising from a territory in dispute as
10 a result of war between United Nations member states
11 in which the ultimate resolution of the disputed terri-
12 tory has not been resolved.

13 (3) *TRAFFICS.*—(A) A person or entity “traffics”
14 in property if that person or entity knowingly and
15 intentionally—

16 (i) sells, transfers, distributes, dispenses,
17 brokers, manages, or otherwise disposes of con-
18 fiscated property, or purchases, leases, receives,
19 possesses, obtains control of, manages, uses, or
20 otherwise acquires or holds an interest in con-
21 fiscated property,

22 (ii) engages in a commercial activity using
23 or otherwise benefiting from confiscated prop-
24 erty, or

1 (iii) causes, directs, participates in, or prof-
2 its from, trafficking (as described in clauses (i)
3 and (ii)) by another person, or otherwise engages
4 in trafficking (as described in clauses (i) and
5 (ii)) through another person,

6 without the authorization of the United States na-
7 tional who holds a claim to the property.

8 (B) The term “traffics” does not include—

9 (i) the delivery of international tele-
10 communication signals to Cuba that are author-
11 ized by section 1705(e) of the Cuban Democracy
12 Act of 1992 (22 U.S.C. 6004(e)); or

13 (ii) the trading or holding of securities pub-
14 licly traded or held, unless the trading is with or
15 by a person determined by the Secretary of the
16 Treasury to be a specially designated national.

17 (c) NATIONAL INTEREST EXEMPTION.—This section
18 shall not apply where the Secretary of State finds, on a
19 case-by-case basis, that making a determination under sub-
20 section (a) would be contrary to the national interest of the
21 United States.

22 (d) EFFECTIVE DATE.—

23 (1) IN GENERAL.—This section applies to aliens
24 seeking to enter the United States on or after the date
25 of the enactment of this Act.

1 (2) *TRAFFICKING.*—*This section applies only*
2 *with respect to acts within the meaning of “traffics”*
3 *that occur on or after the date of the enactment of this*
4 *Act.*

HR 927 CDH—2

HR 927 CDH—3

HR 927 CDH—4

HR 927 CDH—5

HR 927 CDH—6

HR 927 CDH—7