

104TH CONGRESS
1ST SESSION

S. 381

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9 (legislative day, JANUARY 30), 1995

Mr. HELMS (for himself, Mr. DOLE, Mr. MACK, Mr. COVERDELL, Mr. GRAHAM, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GREGG, Mr. INHOFE, Mr. HOLLINGS, Ms. SNOWE, Mr. KYL, Mr. THOMAS, and Mr. SMITH) introduced the following bill; which was read twice and ordered held at the desk until the close of business February 10, 1995

FEBRUARY 10 (legislative day, JANUARY 30), 1995

Referred to the Committee on Foreign Relations

A BILL

To strengthen international sanctions against the Castro government in Cuba, to develop a plan to support 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

TITLE I—STRENGTHENING INTERNATIONAL 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 Cuba.
- Sec. 104. United States opposition to Cuban membership in international financial institutions.
- Sec. 105. United States opposition to readmission of the Government of Cuba to the Organization of American States.
- Sec. 106. Assistance by the independent states of the former Soviet Union for the Government of Cuba.
- Sec. 107. Television broadcasting to Cuba.
- Sec. 108. Reports on commerce with, and assistance to, Cuba from other foreign countries.
- Sec. 109. Importation sanction against certain Cuban trading partners.

TITLE II—SUPPORT FOR 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. Implementation; reports to Congress.
- Sec. 204. Termination of the economic embargo of Cuba.
- Sec. 205. Requirements for a transition government.
- Sec. 206. Requirements for a democratically elected government.

TITLE III—PROTECTION OF AMERICAN PROPERTY RIGHTS
 ABROAD

- Sec. 301. Exclusion from the United States of aliens who have confiscated property claimed by United States persons.
- Sec. 302. Liability for trafficking in confiscated property claimed by United States persons.
- Sec. 303. Determination of claims to confiscated 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 approximately 60 percent in the last 5 years
5 as a result of—

6 (A) the reduction in its subsidization by
7 the former Soviet Union;

8 (B) 36 years of Communist tyranny and
9 economic mismanagement by the Castro govern-
10 ment;

11 (C) the precipitous decline in trade be-
12 tween Cuba and the countries of the former So-
13 viet bloc; and

14 (D) the policy of the Russian Government
15 and the countries of the former Soviet bloc to
16 conduct economic relations with Cuba predomi-
17 nantly on commercial terms.

18 (2) At the same time, the welfare and health of
19 the Cuban people have substantially deteriorated as
20 a result of Cuba's economic decline and the refusal
21 of the Castro regime to permit free and fair demo-
22 cratic elections in Cuba or to adopt any economic or
23 political reforms that would lead to democracy, a
24 market economy, or an economic recovery.

25 (3) The repression of the Cuban people, includ-
26 ing a ban on free and fair democratic elections and

1 the continuing violation of fundamental human
2 rights, has isolated the Cuban regime as the only
3 nondemocratic government in the Western Hemi-
4 sphere.

5 (4) As long as no such economic or political re-
6 forms are adopted by the Cuban government, the
7 economic condition of the country and the welfare of
8 the Cuban people will not improve in any significant
9 way.

10 (5) Fidel Castro has defined democratic plural-
11 ism as “pluralistic garbage” and has made clear
12 that he has no intention of permitting free and fair
13 democratic elections in Cuba or otherwise tolerating
14 the democratization of Cuban society.

15 (6) The Castro government, in an attempt to
16 retain absolute political power, continues to utilize,
17 as it has from its inception, torture in various forms
18 (including psychiatric abuse), execution, exile,
19 confiscation, political imprisonment, and other forms
20 of terror and repression as most recently dem-
21 onstrated by the massacre of more than 70 Cuban
22 men, women, and children attempting to flee Cuba.

23 (7) The Castro government holds hostage in
24 Cuba innocent Cubans whose relatives have escaped
25 the country.

1 (8) The Castro government has threatened
2 international peace and security by engaging in acts
3 of armed subversion and terrorism, such as the
4 training and arming of groups dedicated to inter-
5 national violence.

6 (9) The Government of Cuba engages in illegal
7 international narcotics trade and harbors fugitives
8 from justice in the United States.

9 (10) The totalitarian nature of the Castro re-
10 gime has deprived the Cuban people of any peaceful
11 means to improve their condition and has led thou-
12 sands of Cuban citizens to risk or lose their lives in
13 dangerous attempts to escape from Cuba to freedom.

14 (11) Attempts to escape from Cuba and coura-
15 geous acts of defiance of the Castro regime by
16 Cuban pro-democracy and human rights groups have
17 ensured the international community's continued
18 awareness of, and concern for, the plight of Cuba.

19 (12) The Cuban people deserve to be assisted in
20 a decisive manner in order to end the tyranny that
21 has oppressed them for 36 years.

22 (13) Radio Marti and Television Marti have
23 both been effective vehicles for providing the people
24 of Cuba with news and information and have helped

1 to bolster the morale of the Cubans living under tyr-
2 anny.

3 (14) The consistent policy of the United States
4 towards Cuba since the beginning of the Castro re-
5 gime, carried out by both Democratic and Repub-
6 lican administrations, has sought to keep faith with
7 the people of Cuba, and has been effective in isolat-
8 ing the totalitarian Castro regime.

9 **SEC. 3. PURPOSES.**

10 The purposes of this Act are—

11 (1) to strengthen international sanctions
12 against the Castro government;

13 (2) to encourage the holding of free and fair
14 democratic elections in Cuba, conducted under the
15 supervision of internationally recognized observers;

16 (3) to provide a policy framework for United
17 States support to the Cuban people in response to
18 the formation of a transition government or a demo-
19 cratically elected government in Cuba; and

20 (4) to protect the rights of United States per-
21 sons who own claims to confiscated property abroad.

22 **SEC. 4. DEFINITIONS.**

23 As used in this Act—

24 (1) APPROPRIATE CONGRESSIONAL COMMIT-
25 TEES.—The term “appropriate congressional com-

1 mittees” means the Committee on International Re-
2 lations and the Committee on Appropriations of the
3 House of Representatives and the Committee on
4 Foreign Relations and the Committee on Appropria-
5 tions of the Senate.

6 (2) CONFISCATED.—The term “confiscated” re-
7 fers to the nationalization, expropriation, or other
8 seizure of ownership or control of property by gov-
9 ernmental authority—

10 (A) without adequate and effective com-
11 pensation or in violation of the law of the place
12 where the property was situated when the
13 confiscation occurred; and

14 (B) without the claim to the property hav-
15 ing been settled pursuant to an international
16 claims settlement agreement.

17 (3) CUBAN GOVERNMENT.—The term “Cuban
18 government” includes the government of any politi-
19 cal subdivision, agency, or instrumentality of the
20 Government of Cuba.

21 (4) DEMOCRATICALLY ELECTED GOVERNMENT
22 IN CUBA.—The term “democratically elected govern-
23 ment in Cuba” means a government described in
24 section 206.

1 (5) ECONOMIC EMBARGO OF CUBA.—The term
2 “economic embargo of Cuba” refers to the economic
3 embargo imposed against Cuba pursuant to section
4 620(a) of the Foreign Assistance Act of 1961 (22
5 U.S.C. 2370(a)), section 5(b) of the Trading With
6 the Enemy Act (50 U.S.C. App. 5(b)), the Inter-
7 national Emergency Economic Powers Act, and the
8 Export Administration Act of 1979.

9 (6) PROPERTY.—The term “property” means—

10 (A) any property, right, or interest, includ-
11 ing any leasehold interest,

12 (B) debts owed by a foreign government or
13 by any enterprise which has been confiscated by
14 a foreign government; and

15 (C) debts which are a charge on property
16 confiscated by a foreign government.

17 (7) TRAFFICS.—The term “traffics” means sell-
18 ing, transferring, distributing, dispensing, or other-
19 wise disposing of property, or purchasing, receiving,
20 possessing, obtaining control of, managing, or using
21 property.

22 (8) TRANSITION GOVERNMENT IN CUBA.—The
23 term “transition government in Cuba” means a gov-
24 ernment described in section 205.

1 (9) UNITED STATES PERSON.—The term
2 “United States person” means—

3 (A) any United States citizen, including, in
4 the context of claims to confiscated property,
5 any person who becomes a United States citizen
6 after the property was confiscated but before
7 final resolution of the claim to that property;

8 and

9 (B) any corporation, trust, partnership, or
10 other juridical entity 50 percent or more bene-
11 ficially owned by United States citizens.

12 **TITLE I—STRENGTHENING**
13 **INTERNATIONAL SANCTIONS**
14 **AGAINST THE CASTRO GOV-**
15 **ERNMENT**

16 **SEC. 101. STATEMENT OF POLICY.**

17 It is the sense of the Congress that—

18 (1) the acts of the Castro government, includ-
19 ing its massive, systematic, and extraordinary viola-
20 tions of human rights, are a threat to international
21 peace;

22 (2) the President should advocate, and should
23 instruct the United States Permanent Representa-
24 tive to the United Nations to propose and seek with-
25 in the Security Council a mandatory international

1 embargo against the totalitarian government of
2 Cuba pursuant to chapter VII of the Charter of the
3 United Nations, which is similar to consultations
4 conducted by United States representatives with re-
5 spect to Haiti; and

6 (3) any resumption of efforts by any independ-
7 ent state of the former Soviet Union to make oper-
8 ational the nuclear facility at Cienfuegos, Cuba, will
9 have a detrimental impact on United States assist-
10 ance to such state.

11 **SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF**
12 **CUBA.**

13 (a) POLICY.—(1) The Congress hereby reaffirms sec-
14 tion 1704(a) of the Cuban Democracy Act of 1992, which
15 states the President should encourage foreign countries to
16 restrict trade and credit relations with Cuba.

17 (2) The Congress further urges the President to take
18 immediate steps to apply the sanctions described in section
19 1704(b)(1) of such Act against countries assisting Cuba.

20 (b) DIPLOMATIC EFFORTS.—The Secretary of State
21 should ensure that United States diplomatic personnel
22 abroad understand and, in their contacts with foreign offi-
23 cials are—

24 (1) communicating the reasons for the United
25 States economic embargo of Cuba; and

1 (b) TERMINATION OF PROHIBITION.—The prohibi-
2 tion of subsection (a) shall cease to apply on the date of
3 termination of the economic embargo of Cuba.

4 (c) PENALTIES.—Violations of subsection (a) shall be
5 punishable by the same penalties as are applicable to simi-
6 lar violations of the Cuban Assets Control Regulations in
7 part 515 of title 31, Code of Federal Regulations.

8 (d) DEFINITIONS.—As used in this section—

9 (1) the term “foreign person” means (A) an
10 alien, and (B) any corporation, trust, partnership, or
11 other juridical entity that is not 50 percent or more
12 beneficially owned by United States citizens; and

13 (2) the term “United States agency” has the
14 same meaning given to the term “agency” in section
15 551(1) of title 5, United States Code.

16 **SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBER-**
17 **SHIP IN INTERNATIONAL FINANCIAL INSTI-**
18 **TUTIONS.**

19 (a) CONTINUED OPPOSITION TO CUBAN MEMBER-
20 SHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—(1)
21 Except as provided in paragraph (2), the Secretary of the
22 Treasury shall instruct the United States executive direc-
23 tor of each international financial institution to vote
24 against the admission of Cuba as a member of such insti-
25 tution until Cuba holds free and fair, democratic elections,

1 conducted under the supervision of internationally recog-
2 nized observers.

3 (2) During the period that a transition government
4 in Cuba is in power, the President shall take steps to sup-
5 port the processing of Cuba's application for membership
6 in any international financial institution, subject to the
7 membership taking effect after a democratically elected
8 government in Cuba is in power.

9 (b) REDUCTION IN UNITED STATES PAYMENTS TO
10 INTERNATIONAL FINANCIAL INSTITUTIONS.—If any
11 international financial institution approves a loan or other
12 assistance to Cuba over the opposition of the United
13 States, then the Secretary of the Treasury shall withhold
14 from payment to such institution an amount equal to the
15 amount of the loan or other assistance, with respect to
16 each of the following types of payment:

17 (1) The paid-in portion of the increase in cap-
18 ital stock of the institution.

19 (2) The callable portion of the increase in cap-
20 ital stock of the institution.

21 (c) DEFINITION.—For purposes of this section, the
22 term “international financial institution” means the Inter-
23 national Monetary Fund, the International Bank for Re-
24 construction and Development, the International Develop-
25 ment Association, the International Finance Corporation,

1 the Multilateral Investment Guaranty Agency, and the
2 Inter-American Development Bank.

3 **SEC. 105. UNITED STATES OPPOSITION TO READMISSION**
4 **OF THE GOVERNMENT OF CUBA TO THE OR-**
5 **GANIZATION OF AMERICAN STATES.**

6 The President should instruct the United States Per-
7 manent Representative to the Organization of American
8 States to vote against the readmission of the Government
9 of Cuba to membership in the Organization until the
10 President determines under section 203(c) that a demo-
11 cratically elected government in Cuba is in power.

12 **SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF**
13 **THE FORMER SOVIET UNION OF THE GOV-**
14 **ERNMENT OF CUBA.**

15 (a) REPORTING REQUIREMENT.—Not later than 90
16 days after the date of enactment of this Act, the President
17 shall submit to the appropriate congressional committees
18 a report detailing progress towards the withdrawal of per-
19 sonnel of any independent state of the former Soviet
20 Union (within the meaning of section 3 of the FREEDOM
21 Support Act (22 U.S.C. 5801)), including advisers, techni-
22 cians, and military personnel, from the Cienfuegos nuclear
23 facility in Cuba.

24 (b) CRITERIA FOR ASSISTANCE.—Section
25 498A(a)(11) of the Foreign Assistance Act of 1961 (22

1 U.S.C. 2295a(a)(1)) is amended by striking “of military
2 facilities” and inserting “military and intelligence facili-
3 ties, including the military and intelligence facilities at
4 Lourdes and Cienfuegos,”.

5 (c) INELIGIBILITY FOR ASSISTANCE.—(1) Section
6 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

7 (A) by striking “or” at the end of paragraph
8 (4);

9 (B) by redesignating paragraph (5) as para-
10 graph (6); and

11 (C) by inserting after paragraph (4) the follow-
12 ing:

13 “(5) for the government of any independent
14 state effective 30 days after the President has deter-
15 mined and certified to the appropriate congressional
16 committees (and Congress has not enacted legisla-
17 tion disapproving the determination within the 30-
18 day period) that such government is providing as-
19 sistance for, or engaging in nonmarket based trade
20 (as defined in section 498B(k)(3)) with, the Govern-
21 ment of Cuba; or”.

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

1 “(3) NONMARKET BASED TRADE.—As used in
2 section 498A(b)(5), the term ‘nonmarket based
3 trade’ includes exports, imports, exchanges, or other
4 arrangements that are provided for goods and serv-
5 ices (including oil and other petroleum products) on
6 terms more favorable than those generally available
7 in applicable markets or for comparable commod-
8 ities, including—

9 “(A) exports to the Government of Cuba
10 on terms that involve a grant, concessional
11 price, guarantee, insurance, or subsidy;

12 “(B) imports from the Government of
13 Cuba at preferential tariff rates; and

14 “(C) exchange arrangements that include
15 advance delivery of commodities, arrangements
16 in which the Government of Cuba is not held
17 accountable for unfulfilled exchange contracts,
18 and arrangements under which Cuba does not
19 pay appropriate transportation, insurance, or fi-
20 nance costs.”.

21 (d) FACILITIES AT LOURDES, CUBA.—(1) The Con-
22 gress expresses its strong disapproval of the extension by
23 Russia of credits equivalent to \$200,000,000 in support
24 of the intelligence facility at Lourdes, Cuba, in November
25 1994.

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

4 “(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF
5 MILITARY AND INTELLIGENCE FACILITIES IN CUBA.—(1)
6 Notwithstanding any other provision of law, the President
7 shall withhold from assistance allocated for an independ-
8 ent state of the former Soviet Union under this chapter
9 an amount equal to the sum of assistance and credits, if
10 any, provided by such state in support of military and in-
11 telligence facilities in Cuba, such as the intelligence facility
12 at Lourdes, Cuba.

13 “(2) Nothing in this subsection may be construed to
14 apply to—

15 “(A) assistance provided under the Soviet Nu-
16 clear Threat Reduction Act of 1991 (title II of Pub-
17 lic Law 102–228) or the Cooperative Threat Reduc-
18 tion Act of 1993 (title XII of Public Law 103–160);
19 or

20 “(B) assistance to meet urgent humanitarian
21 needs under section 498(1), including disaster as-
22 sistance described in subsection (c)(3) of this sec-
23 tion.”.

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

2 (a) CONVERSION TO UHF.—The Director of the
3 United States Information Agency shall implement a con-
4 version of television broadcasting to Cuba under the Tele-
5 vision Marti Service to ultra high frequency (UHF) broad-
6 casting.

7 (b) PERIODIC REPORTS.—Not later than 45 days
8 after the date of enactment of this Act, and every three
9 months thereafter until the conversion described in sub-
10 section (a) is fully implemented, the Director shall submit
11 a report to the appropriate congressional committees on
12 the progress made in carrying out subsection (a).

13 **SEC. 108. REPORTS ON COMMERCE WITH, AND ASSISTANCE**
14 **TO, CUBA FROM OTHER FOREIGN COUN-**
15 **TRIES.**

16 (a) REPORTS REQUIRED.—Not later than 90 days
17 after the date of enactment of this Act, and every year
18 thereafter, the President shall submit a report to the ap-
19 propriate congressional committees on commerce with,
20 and assistance to, Cuba from other foreign countries dur-
21 ing the preceding 12-month period.

22 (b) CONTENTS OF REPORTS.—Each report required
23 by subsection (a) shall, for the period covered by the re-
24 port, contain—

1 (1) a description of all bilateral assistance pro-
2 vided to Cuba by other foreign countries, including
3 humanitarian assistance;

4 (2) a description of Cuba's commerce with for-
5 eign countries, including an identification of Cuba's
6 trading partners and the extent of such trade;

7 (3) a description of the joint ventures com-
8 pleted, or under consideration, by foreign nationals
9 and business firms involving facilities in Cuba, in-
10 cluding an identification of the location of the facili-
11 ties involved and a description of the terms of agree-
12 ment of the joint ventures and the names of the par-
13 ties that are involved;

14 (4) a determination as to whether or not any of
15 the facilities described in paragraph (3) is the sub-
16 ject of a claim against Cuba by a United States per-
17 son;

18 (5) a determination of the amount of Cuban
19 debt owed to each foreign country, including the
20 amount of debt exchanged, forgiven, or reduced
21 under the terms of each investment or operation in
22 Cuba involving foreign nationals or businesses; and

23 (6) a description of the steps taken to assure
24 that raw materials and semifinished or finished
25 goods produced by facilities in Cuba involving for-

1 minations made under subsection (a) and all certifications
2 made under subsection (b).

3 (d) REALLOCATION OF SUGAR QUOTAS.—During any
4 period in which a sanction under subsection (a) is in effect
5 with respect to a country, the President may reallocate
6 to other countries the quota of sugars, syrups, and molas-
7 ses allocated to that country, before the prohibition went
8 into effect, under chapter 17 of the Harmonized Tariff
9 Schedule of the United States.

10 **TITLE II—SUPPORT FOR A FREE** 11 **AND INDEPENDENT CUBA**

12 **SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT** 13 **AND A DEMOCRATICALLY ELECTED GOVERN-** 14 **MENT IN CUBA.**

15 It is the policy of the United States—

16 (1) to support the self-determination of the
17 Cuban people;

18 (2) to facilitate a peaceful transition to rep-
19 resentative democracy and a free market economy in
20 Cuba;

21 (3) to be impartial toward any individual or en-
22 tity in the selection by the Cuban people of their fu-
23 ture government;

24 (4) to enter into negotiations with a democrat-
25 ically elected government in Cuba regarding the sta-

1 tus of the United States Naval Base at Guantanamo
2 Bay;

3 (5) to restore diplomatic relations with Cuba,
4 and support the reintegration of Cuba into entities
5 of the Inter-American System, when the President
6 determines that there exists a democratically elected
7 government in Cuba;

8 (6) to remove the economic embargo of Cuba
9 when the President determines that there exists a
10 democratically elected government in Cuba; and

11 (7) to pursue a mutually beneficial trading rela-
12 tionship with a democratic Cuba.

13 **SEC. 202. AUTHORIZATION OF ASSISTANCE FOR THE**
14 **CUBAN PEOPLE.**

15 (a) AUTHORIZATION.—

16 (1) IN GENERAL.—The President may provide
17 assistance under this section for the Cuban people
18 after a transition government, or a democratically
19 elected government, is in power in Cuba, as deter-
20 mined under section 203 (a) and (c).

21 (2) EFFECT ON OTHER LAWS.—

22 (A) SUPERSEDING OTHER LAWS.—Subject
23 to subparagraph (B), assistance may be pro-
24 vided under this section notwithstanding any
25 other provision of law.

1 (B) DETERMINATION REQUIRED REGARD-
2 ING PROPERTY TAKEN FROM UNITED STATES
3 PERSONS.—Subparagraph (A) shall not apply
4 to section 620(a)(2) of the Foreign Assistance
5 Act of 1961 (22 U.S.C. 2370(a)(2)).

6 (b) RESPONSE PLAN.—

7 (1) DEVELOPMENT OF PLAN.—The President
8 shall develop a plan detailing the manner in which
9 the United States would provide and implement sup-
10 port for the Cuban people in response to the forma-
11 tion of—

12 (A) a transition government in Cuba; and

13 (B) a democratically elected government in
14 Cuba.

15 (2) TYPES OF ASSISTANCE.—Support for the
16 Cuban people under the plan described in paragraph
17 (1) shall include the following types of assistance:

18 (A) TRANSITION GOVERNMENT.—Assist-
19 ance under the plan to a transition government
20 in Cuba shall be limited to such food, medicine,
21 medical supplies and equipment, and other as-
22 sistance as may be necessary to meet emer-
23 gency humanitarian needs of the Cuban people.

24 (B) DEMOCRATICALLY ELECTED GOVERN-
25 MENT.—Assistance under the plan for a demo-

1 cratically elected government in Cuba shall con-
2 sist of assistance to promote free market devel-
3 opment, private enterprise, and a mutually ben-
4 efiticial trade relationship between the United
5 States and Cuba. Such assistance should in-
6 clude—

7 (i) financing, guarantees, and other
8 assistance provided by the Export-Import
9 Bank of the United States;

10 (ii) insurance, guarantees, and other
11 assistance provided by the Overseas Pri-
12 vate Investment Corporation for invest-
13 ment projects in Cuba;

14 (iii) assistance provided by the Trade
15 and Development Agency;

16 (iv) international narcotics control as-
17 sistance provided under chapter 8 of part
18 I of the Foreign Assistance Act of 1961;

19 and

20 (v) Peace Corps activities.

21 (c) CARIBBEAN BASIN INITIATIVE.—(1) The Presi-
22 dent shall determine, as part of the plan developed under
23 subsection (b), whether or not to designate Cuba as a ben-
24 efiiciary country under section 212 of the Caribbean Basin
25 Economic Recovery Act.

1 (2) Any designation of Cuba as a beneficiary country
2 under section 212 of such Act may only be made after
3 a democratically elected government in Cuba is in power.
4 Such designation may be made notwithstanding any other
5 provision of law.

6 (3) The table contained in section 212(b) of the Car-
7ibbean Basin Economic Recovery Act (19 U.S.C. 2702(b))
8 is amended by inserting “Cuba” between “Costa Rica”
9 and “Dominica”.

10 (d) TRADE AGREEMENTS.—Notwithstanding any
11 other provision of law, the President, upon transmittal to
12 Congress of a determination under section 203(c) that a
13 democratically elected government in Cuba is in power,
14 should—

15 (1) take the steps necessary to extend non-
16 discriminatory trade treatment (most-favored-nation
17 status) to the products of Cuba; and

18 (2) take such other steps as will encourage re-
19 newed investment in Cuba.

20 (e) COMMUNICATION WITH THE CUBAN PEOPLE.—
21 The President should take the necessary steps to commu-
22 nicate to the Cuban people the plan developed under this
23 section.

24 (f) REPORT TO CONGRESS.—Not later than 180 days
25 after the date of the enactment of this Act, the President

1 shall transmit to the appropriate congressional committees
2 a report describing in detail the plan developed under this
3 section.

4 **SEC. 203. IMPLEMENTATION; REPORTS TO CONGRESS.**

5 (a) IMPLEMENTATION WITH RESPECT TO TRANSI-
6 TION GOVERNMENT.—Upon making a determination that
7 a transition government in Cuba is in power, the President
8 shall transmit that determination to the appropriate con-
9 gressional committees and should, subject to the availabil-
10 ity of appropriations, commence the provision of assist-
11 ance to such transition government under the plan devel-
12 oped under section 202(b).

13 (b) REPORTS TO CONGRESS.—(1) The President
14 shall transmit to the appropriate congressional committees
15 a report setting forth the strategy for providing assistance
16 described in section 202(b)(2)(A) to the transition govern-
17 ment in Cuba under the plan of assistance developed
18 under section 202(b), the types of such assistance, and
19 the extent to which such assistance has been distributed
20 in accordance with the plan.

21 (2) The President shall transmit the report not later
22 than 90 days after making the determination referred to
23 in paragraph (1), except that the President shall transmit
24 the report in preliminary form not later than 15 days after
25 making that determination.

1 (c) IMPLEMENTATION WITH RESPECT TO DEMO-
2 CRATICALLY ELECTED GOVERNMENT.—The President
3 shall, upon determining that a democratically elected gov-
4 ernment in Cuba is in power, transmit that determination
5 to the appropriate congressional committees and should,
6 subject to the availability of appropriations, commence the
7 provision of assistance to such democratically elected gov-
8 ernment under the plan developed under section
9 202(b)(2)(B).

10 (d) ANNUAL REPORTS TO CONGRESS.—Not later
11 than 60 days after the end of each fiscal year, the Presi-
12 dent shall transmit to the appropriate congressional com-
13 mittees a report on the assistance provided under the plan
14 developed under section 202(b), including a description of
15 each type of assistance, the amounts expended for such
16 assistance, and a description of the assistance to be pro-
17 vided under the plan in the current fiscal year.

18 **SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF**

19 **CUBA.**

20 (a) TERMINATION.—Upon the effective date of this
21 section—

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

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

4 (3) the prohibitions on transactions described in
5 part 515 of title 31, Code of Federal Regulations,
6 shall cease to apply; and

7 (4) the President shall take such other steps as
8 may be necessary to rescind any other regulations in
9 effect under the economic embargo of Cuba.

10 (b) EFFECTIVE DATE.—This section shall take effect
11 upon transmittal to Congress of a determination under
12 section 203(c) that a democratically elected government
13 in Cuba is in power.

14 **SEC. 205. REQUIREMENTS FOR A TRANSITION GOVERN-**
15 **MENT.**

16 For purposes of this Act, a transition government in
17 Cuba is a government in Cuba that—

18 (1) is demonstrably in transition from com-
19 munist totalitarian dictatorship to representative de-
20 mocracy;

21 (2) has released all political prisoners and al-
22 lowed for investigations of Cuban prisons by appro-
23 priate international human rights organizations;

24 (3) has dissolved the present Department of
25 State Security in the Cuban Ministry of the Interior,

1 including the Committees for the Defense of the
2 Revolution and the Rapid Response Brigades;

3 (4) has publicly committed itself to, and is
4 making demonstrable progress in—

5 (A) establishing an independent judiciary;

6 (B) respecting internationally recognized
7 human rights and basic freedoms as set forth in
8 the Universal Declaration of Human Rights, to
9 which Cuba is a signatory nation;

10 (C) effectively guaranteeing the rights of
11 free speech and freedom of the press;

12 (D) permitting the reinstatement of citi-
13 zenship to Cuban-born nationals returning to
14 Cuba;

15 (E) organizing free and fair elections for a
16 new government—

17 (i) to be held within 1 year after the
18 transition government assumes power;

19 (ii) with the participation of multiple
20 independent political parties that have full
21 access to the media on an equal basis, in-
22 cluding (in the case of radio, television, or
23 other telecommunications media) in terms
24 of allotments of time for such access and

1 the times of day such allotments are given;

2 and

3 (iii) to be conducted under the super-
4 vision of internationally recognized observ-
5 ers, such as the Organization of American
6 States, the United Nations, and other elec-
7 tions monitors;

8 (F) assuring the right to private property;

9 (G) taking appropriate steps to return to
10 United States citizens and entities property
11 taken by the Government of Cuba from such
12 citizens and entities on or after January 1,
13 1959, or to provide equitable compensation to
14 such citizens and entities for such property;

15 (H) having a currency that is fully convert-
16 ible domestically and internationally;

17 (I) granting permits to privately owned
18 telecommunications and media companies to op-
19 erate in Cuba; and

20 (J) allowing the establishment of an inde-
21 pendent labor movement and of independent so-
22 cial, economic, and political associations;

23 (5) does not include Fidel Castro or Raul Cas-
24 tro;

1 (6) has given adequate assurances that it will
2 allow the speedy and efficient distribution of assist-
3 ance to the Cuban people; and

4 (7) permits the deployment throughout Cuba of
5 independent and unfettered international human
6 rights monitors.

7 **SEC. 206. REQUIREMENTS FOR A DEMOCRATICALLY ELECT-**
8 **ED GOVERNMENT.**

9 For purposes of this Act, a democratically elected
10 government in Cuba, in addition to continuing to comply
11 with the requirements of section 205, is a government in
12 Cuba which—

13 (1) results from free and fair elections—

14 (A) conducted under the supervision of
15 internationally recognized observers;

16 (B) in which opposition parties were per-
17 mitted ample time to organize and campaign
18 for such elections, and in which all candidates
19 in the elections were permitted full access to the
20 media;

21 (2) is showing respect for the basic civil lib-
22 erties and human rights of the citizens of Cuba;

23 (3) has established an independent judiciary;

1 (4) is substantially moving toward a market-ori-
2 ented economic system based on the right to own
3 and enjoy property;

4 (5) is committed to making constitutional
5 changes that would ensure regular free and fair elec-
6 tions that meet the requirements of paragraph (2);
7 and

8 (6) has returned to United States citizens, and
9 entities which are 50 percent or more beneficially
10 owned by United States citizens, property taken by
11 the Government of Cuba from such citizens and en-
12 tities on or after January 1, 1959, or provided full
13 compensation in accordance with international law
14 standards and practice to such citizens and entities
15 for such property.

16 **TITLE III—PROTECTION OF**
17 **AMERICAN PROPERTY**
18 **RIGHTS ABROAD**

19 **SEC. 301. EXCLUSION FROM THE UNITED STATES OF**
20 **ALIENS WHO HAVE CONFISCATED PROPERTY**
21 **CLAIMED BY UNITED STATES PERSONS.**

22 (a) ADDITIONAL GROUNDS FOR EXCLUSION.—Sec-
23 tion 212(a)(9) of the Immigration and Nationality Act (8
24 U.S.C. 1182(a)) is amended by adding at the end the fol-
25 lowing:

1 “(D) ALIENS WHO HAVE CONFISCATED
2 AMERICAN PROPERTY ABROAD AND RELATED
3 PERSONS.—(i) Any alien who—

4 “(I) has confiscated, or has directed
5 or overseen the confiscation of, property
6 the claim to which is owned by a United
7 States person, or converts or has converted
8 for personal gain confiscated property, the
9 claim to which is owned by a United States
10 person;

11 “(II) traffics in confiscated property,
12 the claim to which is owned by a United
13 States person;

14 “(III) is a corporate officer, principal,
15 or shareholder of an entity which the Sec-
16 retary of State determines or is informed
17 by competent authority has been involved
18 in the confiscation, trafficking in, or subse-
19 quent unauthorized use or benefit from
20 confiscated property, the claim to which is
21 owned by a United States person, or

22 “(IV) is a spouse or dependent of a
23 person described in subclause (I),
24 is excludable.

1 (A) the amount certified by the Foreign Claims
2 Settlement Commission under title V of the Inter-
3 national Claims Settlement Act of 1949, plus inter-
4 est at the commercially recognized normal rate;

5 (B) the amount determined under section
6 303(a)(2); or

7 (C) the fair market value of that property, cal-
8 culated as being the then current value of the prop-
9 erty, or the value of the property when confiscated
10 plus interest at the commercially recognized normal
11 rate, whichever is greater.

12 (2) Except as provided in paragraph (3), any person
13 or government that traffics in confiscated property after
14 having received (A) notice of a claim to ownership of the
15 property by the United States person who owns the claim
16 to the confiscated property, and (B) a copy of this section,
17 shall be liable to such United States person for money
18 damages in an amount which is treble the amount speci-
19 fied in paragraph (1).

20 (3)(A) Actions may be brought under paragraph (1)
21 with respect to property confiscated before, on, or after
22 the date of enactment of this Act.

23 (B) In the case of property confiscated before the
24 date of enactment of this Act, no United States person
25 may bring an action under this section unless such person

1 acquired ownership of the claim to the confiscated prop-
2 erty before such date.

3 (C) In the case of property confiscated on or after
4 the date of enactment of this Act, in order to maintain
5 the action, the United States person who is the plaintiff
6 must demonstrate to the court that the plaintiff has taken
7 reasonable steps to exhaust all available local remedies.

8 (b) JURISDICTION.—Chapter 85 of title 28, United
9 States Code, is amended by inserting after section 1331
10 the following new section:

11 **“§ 1331a. Civil actions involving confiscated property**

12 “The district courts shall have exclusive jurisdiction,
13 without regard to the amount in controversy, of any action
14 brought under section 302 of the Cuban Liberty and
15 Democratic Solidarity (LIBERTAD) Act of 1995.”.

16 (c) WAIVER OF SOVEREIGN IMMUNITY.—Section
17 1605 of title 28, United States Code, is amended—

18 (1) by striking “or” at the end of paragraph

19 (5);

20 (2) by striking the period at the end of para-
21 graph (6) and inserting “; or”; and

22 (3) by adding at the end the following:

23 “(7) in which the action is brought with respect
24 to confiscated property under section 302 of the

1 Cuban Liberty and Democratic Solidarity
2 (LIBERTAD) Act of 1995.”.

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

5 (a) EVIDENCE OF OWNERSHIP.—For purposes of
6 this Act, conclusive evidence of ownership by the United
7 States person of a claim to confiscated property is estab-
8 lished—

9 (1) when the Foreign Claims Settlement Com-
10 mission certifies the claim under title V of the Inter-
11 national Claims Settlement Act of 1949, as amended
12 by subsection (b); or

13 (2) when the claim has been determined to be
14 valid by a court or administrative agency of the
15 country in which the property was confiscated.

16 (b) AMENDMENT OF THE INTERNATIONAL CLAIMS
17 SETTLEMENT ACT OF 1949.—Title V of the International
18 Claims Settlement Act of 1949 is amended by adding at
19 the end the following new section:

20 “ADDITIONAL CLAIMS

21 “SEC. 514. Notwithstanding any other provision of
22 this title, a United States national may bring a claim to
23 the Commission for determination and certification under
24 this title of the amount and validity of a claim resulting
25 from actions taken by the Government of Cuba described
26 in section 503(a), whether or not the United States na-

1 tional qualified as a United States national at the time
2 of the Cuban government action, except that, in the case
3 of property confiscated after the date of enactment of this
4 section, the claimant must be a United States national at
5 the time of the confiscation.”.

6 (c) CONFORMING REPEAL.—Section 510 of the Inter-
7 national Claims Settlement Act of 1949 (22 U.S.C. 1643i)
8 is repealed.

○

S. 381 RTS—2

S. 381 RTS—3

S. 381 RTS—4