

Calendar No. 202

104TH CONGRESS
1ST Session
H. R. 927

AN ACT

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.

OCTOBER 10, 1995

Read the second time and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27 (legislative day, SEPTEMBER 25), 1995

Received; read the first time

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AN ACT

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,*

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—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. Authorization of support for democratic and human rights groups and international observers.
- Sec. 110. Withholding of foreign assistance from countries supporting nuclear plant in Cuba.
- Sec. 111. 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. Assistance for the Cuban people.
- Sec. 203. Coordination of assistance program; implementation and reports to Congress; reprogramming.
- 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 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—

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

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

12 (C) the extreme decline in trade between
13 Cuba and the countries of the former Soviet
14 bloc; and

15 (D) the stated policy of the Russian Gov-
16 ernment and the countries of the former Soviet
17 bloc to conduct economic relations with Cuba
18 on strictly commercial terms.

19 (2) At the same time, the welfare and health of
20 the Cuban people have substantially deteriorated as
21 a result of this economic decline and the refusal of

1 the Castro regime to permit free and fair democratic
2 elections in Cuba.

3 (3) The Castro regime has made it abundantly
4 clear that it will not engage in any substantive polit-
5 ical reforms that would lead to democracy, a market
6 economy, or an economic recovery.

7 (4) The repression of the Cuban people, includ-
8 ing a ban on free and fair democratic elections, and
9 continuing violations of fundamental human rights
10 have isolated the Cuban regime as the only com-
11 pletely nondemocratic government in the Western
12 Hemisphere.

13 (5) As long as free elections are not held in
14 Cuba, the economic condition of the country and the
15 welfare of the Cuban people will not improve in any
16 significant way.

17 (6) The totalitarian nature of the Castro regime
18 has deprived the Cuban people of any peaceful
19 means to improve their condition and has led thou-
20 sands of Cuban citizens to risk or lose their lives in
21 dangerous attempts to escape from Cuba to freedom.

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

1 bolster the morale of the people of Cuba living under
2 tyranny.

3 (8) 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 sanc-
8 tioning the totalitarian Castro regime.

9 (9) The United States has shown a deep com-
10 mitment, and considers it a moral obligation, to pro-
11 mote and protect human rights and fundamental
12 freedoms as expressed in the Charter of the United
13 Nations and in the Universal Declaration of Human
14 Rights.

15 (10) The Congress has historically and consist-
16 ently manifested its solidarity and the solidarity of
17 the American people with the democratic aspirations
18 of the Cuban people.

19 (11) The Cuban Democracy Act of 1992 calls
20 upon the President to encourage the governments of
21 countries that conduct trade with Cuba to restrict
22 their trade and credit relations with Cuba in a man-
23 ner consistent with the purposes of that Act.

24 (12) The 1992 FREEDOM Support Act re-
25 quires that the President, in providing economic as-

1 sistance to Russia and the emerging Eurasian de-
2 mocracies, take into account the extent to which
3 they are acting to “terminate support for the com-
4 munist regime in Cuba, including removal of troops,
5 closing military facilities, and ceasing trade subsidies
6 and economic, nuclear, and other assistance”.

7 (13) The Cuban Government engages in the il-
8 legal international narcotics trade and harbors fugi-
9 tives from justice in the United States.

10 (14) The Castro government threatens inter-
11 national peace and security by engaging in acts of
12 armed subversion and terrorism such as the training
13 and supplying of groups dedicated to international
14 violence.

15 (15) The Castro government has utilized from
16 its inception and continues to utilize torture in var-
17 ious forms (including by psychiatry), as well as exe-
18 cution, exile, confiscation, political imprisonment,
19 and other forms of terror and repression, as means
20 of retaining power.

21 (16) Fidel Castro has defined democratic plu-
22 ralism as “pluralistic garbage” and continues to
23 make clear that he has no intention of tolerating the
24 democratization of Cuban society.

1 (17) The Castro government holds innocent Cu-
2 bans hostage in Cuba by no fault of the hostages
3 themselves solely because relatives have escaped the
4 country.

5 (18) Although a signatory state to the 1928
6 Inter-American Convention on Asylum and the
7 International Covenant on Civil and Political Rights
8 (which protects the right to leave one's own coun-
9 try), Cuba nevertheless surrounds embassies in its
10 capital by armed forces to thwart the right of its
11 citizens to seek asylum and systematically denies
12 that right to the Cuban people, punishing them by
13 imprisonment for seeking to leave the country and
14 killing them for attempting to do so (as dem-
15 onstrated in the case of the confirmed murder of
16 over 40 men, women, and children who were seeking
17 to leave Cuba on July 13, 1994).

18 (19) The Castro government continues to utilize
19 blackmail, such as the immigration crisis with which
20 it threatened the United States in the summer of
21 1994, and other unacceptable and illegal forms of
22 conduct to influence the actions of sovereign states
23 in the Western Hemisphere in violation of the Char-
24 ter of the Organization of American States and

1 other international agreements and international
2 law.

3 (20) The United Nations Commission on
4 Human Rights has repeatedly reported on the unac-
5 ceptable human rights situation in Cuba and has
6 taken the extraordinary step of appointing a Special
7 Rapporteur.

8 (21) The Cuban Government has consistently
9 refused access to the Special Rapporteur and for-
10 mally expressed its decision not to “implement so
11 much as one comma” of the United Nations Resolu-
12 tions appointing the Rapporteur.

13 (22) The United Nations General Assembly
14 passed Resolution 1992/70 on December 4, 1992,
15 Resolution 1993/48/142 on December 20, 1993, and
16 Resolution 1994/49/544 on October 19, 1994, ref-
17 erencing the Special Rapporteur’s reports to the
18 United Nations and condemning “violations of
19 human rights and fundamental freedoms” in Cuba.

20 (23) Article 39 of Chapter VII of the United
21 Nations Charter provides that the United Nations
22 Security Council “shall determine the existence of
23 any threat to the peace, breach of the peace, or act
24 of aggression and shall make recommendations, or

1 decide what measures shall be taken . . . , to main-
2 tain or restore international peace and security.”.

3 (24) The United Nations has determined that
4 massive and systematic violations of human rights
5 may constitute a “threat to peace” under Article 39
6 and has imposed sanctions due to such violations of
7 human rights in the cases of Rhodesia, South Africa,
8 Iraq, and the former Yugoslavia.

9 (25) In the case of Haiti, a neighbor of Cuba
10 not as close to the United States as Cuba, the
11 United States led an effort to obtain and did obtain
12 a United Nations Security Council embargo and
13 blockade against that country due to the existence of
14 a military dictatorship in power less than 3 years.

15 (26) United Nations Security Council Resolu-
16 tion 940 of July 31, 1994, subsequently authorized
17 the use of “all necessary means” to restore the
18 “democratically elected government of Haiti”, and
19 the democratically elected government of Haiti was
20 restored to power on October 15, 1994.

21 (27) The Cuban people deserve to be assisted in
22 a decisive manner to end the tyranny that has op-
23 pressed them for 36 years and the continued failure
24 to do so constitutes ethically improper conduct by
25 the international community.

1 (28) For the past 36 years, the Cuban Govern-
2 ment has posed and continues to pose a national se-
3 curity threat to the United States.

4 **SEC. 3. PURPOSES.**

5 The purposes of this Act are as follows:

6 (1) To assist the Cuban people in regaining
7 their freedom and prosperity, as well as in joining
8 the community of democracies that are flourishing in
9 the Western Hemisphere.

10 (2) To seek international sanctions against the
11 Castro government in Cuba.

12 (3) To encourage the holding of free and fair
13 democratic elections in Cuba, conducted under the
14 supervision of internationally recognized observers.

15 (4) To develop a plan for furnishing assistance
16 to a transition government and, subsequently, to a
17 democratically elected government when such gov-
18 ernments meet the eligibility requirements of this
19 Act.

20 (5) To protect property rights abroad of United
21 States nationals.

22 (6) To provide for the continued national secu-
23 rity of the United States in the face of continuing
24 threats from the Castro government of terrorism,
25 theft of property from United States nationals, and

1 domestic repression from which refugees flee to
2 United States shores.

3 **SEC. 4. DEFINITIONS.**

4 As used in this Act, the following terms have the fol-
5 lowing meanings:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
7 **TEES.**—The term “appropriate congressional com-
8 mittees” means the Committee on International Re-
9 lations, the Committee on Ways and Means, and the
10 Committee on Appropriations of the House of Rep-
11 resentatives and the Committee on Foreign Rela-
12 tions, the Committee on Finance, and the Commit-
13 tee on Appropriations of the Senate.

14 (2) **COMMERCIAL ACTIVITY.**—The term “com-
15 mercial activity” has the meaning given that term in
16 section 1603(d) of title 28, United States Code.

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

19 (A) the nationalization, expropriation, or
20 other seizure by the Cuban Government of own-
21 ership or control of property, on or after Janu-
22 ary 1, 1959—

23 (i) without the property having been
24 returned or adequate and effective com-
25 pensation provided; or

1 (ii) without the claim to the property
2 having been settled pursuant to an inter-
3 national claims settlement agreement or
4 other mutually accepted settlement proce-
5 dure; and

6 (B) the repudiation by the Cuban Govern-
7 ment of, the default by the Cuban Government
8 on, or the failure by the Cuban Government to
9 pay, on or after January 1, 1959—

10 (i) a debt of any enterprise which has
11 been nationalized, expropriated, or other-
12 wise taken by the Cuban Government;

13 (ii) a debt which is a charge on prop-
14 erty nationalized, expropriated, or other-
15 wise taken by the Cuban Government; or

16 (iii) a debt which was incurred by the
17 Cuban Government in satisfaction or set-
18 tlement of a confiscated property claim.

19 (4) CUBAN GOVERNMENT.—(A) The term
20 “Cuban Government” includes the government of
21 any political subdivision of Cuba, and any agency or
22 instrumentality of the Government of Cuba.

23 (B) For purposes of subparagraph (A), the
24 term “agency or instrumentality of the Government
25 of Cuba” means an agency or instrumentality of a

foreign state as defined in section 1603(b) of title 28, United States Code, with “Cuba” substituted for “a foreign state” each place it appears in such section.

(5) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term “democratically elected government in Cuba” means a government determined by the President to have met the requirements of section 206.

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

(7) FOREIGN NATIONAL.—The term “foreign national” means—

(A) an alien; or

(B) any corporation, trust, partnership, or other juridical entity not organized under the

1 laws of the United States, or of any State, the
2 District of Columbia, the Commonwealth of
3 Puerto Rico, or any other territory or posses-
4 sion of the United States.

5 (8) KNOWINGLY.—The term “knowingly”
6 means with knowledge or having reason to know.

7 (9) PROPERTY.—(A) The term “property”
8 means any property (including patents, copyrights,
9 trademarks, and any other form of intellectual prop-
10 erty), whether real, personal, or mixed, and any
11 present, future, or contingent right, security, or
12 other interest therein, including any leasehold inter-
13 est.

14 (B) For purposes of title III of this Act, the
15 term “property” shall not include real property used
16 for residential purposes unless, as of the date of the
17 enactment of this Act—

18 (i) the claim to the property is owned by
19 a United States national and the claim has
20 been certified under title V of the International
21 Claims Settlement Act of 1949; or

22 (ii) the property is occupied by a member
23 or official of the Cuban Government or the rul-
24 ing political party in Cuba.

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

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

10 (ii) engages in a commercial activity using
11 or otherwise benefiting from confiscated prop-
12 erty, or

13 (iii) causes, directs, participates in, or
14 profits from, trafficking (as described in clauses
15 (i) and (ii)) by another person, or otherwise en-
16 gages in trafficking (as described in clauses (i)
17 and (ii)) through another person,

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

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

21 (i) the delivery of international tele-
22 communication signals to Cuba that are author-
23 ized by section 1705(e) of the Cuban Democ-
24 racy Act of 1992 (22 U.S.C. 6004(e)); or

1 (ii) the trading or holding of securities
 2 publicly traded or held, unless the trading is
 3 with or by a person determined by the Sec-
 4 retary of the Treasury to be a specially des-
 5 ignated national.

6 (11) TRANSITION GOVERNMENT IN CUBA.—The
 7 term “transition government in Cuba” means a gov-
 8 ernment determined by the President to have met
 9 the requirements of section 205.

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

12 (A) any United States citizen; or

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

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

23 **SEC. 101. STATEMENT OF POLICY.**

24 It is the sense of the Congress that—

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

5 (2) the President should advocate, and should
6 instruct the United States Permanent Representa-
7 tive to the United Nations to propose and seek,
8 within the Security Council, a mandatory inter-
9 national embargo against the totalitarian Cuban
10 Government pursuant to chapter VII of the Charter
11 of the United Nations, which is similar to measures
12 taken by United States representatives with respect
13 to Haiti; and

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

19 **SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF**
20 **CUBA.**

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

1 (2) The Congress further urges the President to take
2 immediate steps to apply the sanctions described in section
3 1704(b) of that Act against countries assisting Cuba.

4 (b) DIPLOMATIC EFFORTS.—The Secretary of State
5 shall ensure that United States diplomatic personnel
6 abroad understand and, in their contacts with foreign offi-
7 cials, are communicating the reasons for the United States
8 economic embargo of Cuba, and are urging foreign govern-
9 ments to cooperate more effectively with the embargo.

10 (c) EXISTING REGULATIONS.—The President should
11 instruct the Secretary of the Treasury and the Attorney
12 General to enforce fully the Cuban Assets Control Regula-
13 tions set forth in part 515 of title 31, Code of Federal
14 Regulations.

15 (d) TRADING WITH THE ENEMY ACT.—

16 (1) CIVIL PENALTIES.—Subsection (b) of sec-
17 tion 16 of the Trading With the Enemy Act (50
18 U.S.C. App. 16(b)) is amended to read as follows:

19 “(b)(1) A civil penalty of not to exceed \$50,000 may
20 be imposed by the Secretary of the Treasury on any per-
21 son who violates any license, order, rule, or regulation is-
22 sued in compliance with the provisions of this Act.

23 “(2) Any property, funds, securities, papers, or other
24 articles or documents, or any vessel, together with its tack-
25 le, apparel, furniture, and equipment, that is the subject

1 of a violation under paragraph (1) shall, at the discretion
2 of the Secretary of the Treasury, be forfeited to the United
3 States Government.

4 “(3) The penalties provided under this subsection
5 may not be imposed for—

6 “(A) news gathering, research, or the export or
7 import of, or transmission of, information or infor-
8 mational materials; or

9 “(B) clearly defined educational or religious ac-
10 tivities, or activities of recognized human rights or-
11 ganizations, that are reasonably limited in fre-
12 quency, duration, and number of participants.

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

18 “(5) Judicial review of any penalty imposed under
19 this subsection may be had to the extent provided in sec-
20 tion 702 of title 5, United States Code.”.

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

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

4 (e) COVERAGE OF DEBT-FOR-EQUITY SWAPS BY
5 ECONOMIC EMBARGO OF CUBA.—Section 1704(b)(2) of
6 the Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2))
7 is amended—

8 (1) by striking “and” at the end of subpara-
9 graph (A);

10 (2) by redesignating subparagraph (B) as sub-
11 paragraph (C); and

12 (3) by inserting after subparagraph (A) the fol-
13 lowing new subparagraph:

14 “(B) includes an exchange, reduction, or
15 forgiveness of Cuban debt owed to a foreign
16 country in return for a grant of an equity inter-
17 est in a property, investment, or operation of
18 the Government of Cuba (including the govern-
19 ment of any political subdivision of Cuba, and
20 any agency or instrumentality of the Govern-
21 ment of Cuba) or of a Cuban national; and”;
22 and

23 (4) by adding at the end the following flush
24 sentence:

9 (a) PROHIBITION.—Notwithstanding any other provi-
10 sion of law, no loan, credit, or other financing may be ex-
11 tended knowingly by a United States national, permanent
12 resident alien, or United States agency, to a foreign na-
13 tional, United States national, or permanent resident
14 alien, in order to finance transactions involving any con-
15 fiscated property the claim to which is owned by a United
16 States national as of the date of the enactment of this
17 Act.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by the same penalties as are applicable to violations of the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

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

2 (1) the term “permanent resident alien” means
3 an alien admitted for permanent residence into the
4 United States; and

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

8 **SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBER-**
9 **SHIP IN INTERNATIONAL FINANCIAL INSTI-**
10 **TUTIONS.**

11 (a) OPPOSITION TO CUBAN MEMBERSHIP IN INTER-
12 NATIONAL FINANCIAL INSTITUTIONS.—(1) Until such
13 time as the President determines that a transition govern-
14 ment in Cuba is in power, the Secretary of the Treasury
15 should instruct the United States executive director to
16 each international financial institution to use the voice and
17 vote of the United States to oppose the admission of Cuba
18 as a member of such institution.

19 (2) Once a transition government in Cuba is in
20 power, the President is encouraged to take steps to sup-
21 port the processing of Cuba’s application for membership
22 in any financial institution subject to the membership tak-
23 ing effect at such time as the President deems most likely
24 to facilitate the transition to a democratically elected gov-
25 ernment in Cuba.

1 (b) REDUCTION IN UNITED STATES PAYMENTS TO
2 INTERNATIONAL FINANCIAL INSTITUTIONS.—If any
3 international financial institution approves a loan or other
4 assistance to the Cuban Government over the opposition
5 of the United States, then the Secretary of the Treasury
6 shall withhold from payment to that institution an amount
7 equal to the amount of the loan or other assistance to the
8 Cuban Government, with respect to each of the following
9 types of payment:

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

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

14 (c) DEFINITION.—For purposes of this section, the
15 term “international financial institution” means the Inter-
16 national Monetary Fund, the International Bank for Re-
17 construction and Development, the International Develop-
18 ment Association, the International Finance Corporation,
19 the Multilateral Investment Guaranty Agency, and the
20 Inter-American Development Bank.

1 **SEC. 105. UNITED STATES OPPOSITION TO ENDING THE**
2 **SUSPENSION OF THE GOVERNMENT OF CUBA**
3 **FROM THE ORGANIZATION OF AMERICAN**
4 **STATES.**

5 The President should instruct the United States Per-
6 manent Representative to the Organization of American
7 States to use the voice and vote of the United States to
8 oppose ending the suspension of the Government of Cuba
9 from the Organization until the President determines
10 under section 203(c)(3) that a democratically elected gov-
11 ernment in Cuba is in power.

12 **SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF**
13 **THE FORMER SOVIET UNION FOR THE CUBAN**
14 **GOVERNMENT.**

15 (a) REPORTING REQUIREMENT.—Not later than 90
16 days after the date of the enactment of this Act, the Presi-
17 dent shall submit to the appropriate congressional com-
18 mittees a report detailing progress towards the withdrawal
19 of personnel 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
26 U.S.C. 2295a(a)(11)) is amended by striking “of military

1 facilities” and inserting “military and intelligence facili-
2 ties, including the military and intelligence facilities at
3 Lourdes and Cienfuegos”.

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

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

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

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

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

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

24 “(3) NONMARKET BASED TRADE.—As used in
25 section 498A(b)(5), the term ‘nonmarket based

1 trade' includes exports, imports, exchanges, or other
2 arrangements that are provided for goods and serv-
3 ices (including oil and other petroleum products) on
4 terms more favorable than those generally available
5 in applicable markets or for comparable commod-
6 ities, including—

7 “(A) exports to the Cuban Government on
8 terms that involve a grant, concessional price,
9 guaranty, insurance, or subsidy;

10 “(B) imports from the Cuban Government
11 at preferential tariff rates;

12 “(C) exchange arrangements that include
13 advance delivery of commodities, arrangements
14 in which the Cuban Government is not held ac-
15 countable for unfulfilled exchange contracts,
16 and arrangements under which Cuba does not
17 pay appropriate transportation, insurance, or fi-
18 nance costs; and

19 “(D) the exchange, reduction, or forgive-
20 ness of Cuban debt in return for a grant by the
21 Cuban Government of an equity interest in a
22 property, investment, or operation of the Cuban
23 Government or of a Cuban national.

24 “(4) CUBAN GOVERNMENT.—(A) The term
25 ‘Cuban Government’ includes the government of any

1 political subdivision of Cuba, and any agency or in-
2 strumentality of the Government of Cuba.

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

10 (d) FACILITIES AT LOURDES, CUBA.—(1) The Con-
11 gress expresses its strong disapproval of the extension by
12 Russia of credits equivalent to approximately
13 \$200,000,000 in support of the intelligence facility at
14 Lourdes, Cuba, in November 1994.

15 (2) Section 498A of the Foreign Assistance Act of
16 1961 (22 U.S.C. 2295a) is amended by adding at the end
17 the following new subsection:

18 “(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF
19 INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstand-
20 ing any other provision of law, the President shall with-
21 hold from assistance provided, on or after the date of the
22 enactment of this subsection, for an independent state of
23 the former Soviet Union under this chapter an amount
24 equal to the sum of assistance and credits, if any, provided
25 on or after such date by such state in support of intel-

1 ligence facilities in Cuba, including the intelligence facility
2 at Lourdes, Cuba.

3 “(2)(A) The President may waive the requirement of
4 paragraph (1) to withhold assistance if the President cer-
5 tifies to the appropriate congressional committees that the
6 provision of such assistance is important to the national
7 security of the United States, and, in the case of such
8 a certification made with respect to Russia, if the Presi-
9 dent certifies that the Russian Government has assured
10 the United States Government that the Russian Govern-
11 ment is not sharing intelligence data collected at the
12 Lourdes facility with officials or agents of the Cuban Gov-
13 ernment.

14 “(B) At the time of a certification made with respect
15 to Russia pursuant to subparagraph (A), the President
16 shall also submit to the appropriate congressional commit-
17 tees a report describing the intelligence activities of Russia
18 in Cuba, including the purposes for which the Lourdes fa-
19 cility is used by the Russian Government and the extent
20 to which the Russian Government provides payment or
21 government credits to the Cuban Government for the con-
22 tinued use of the Lourdes facility.

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

1 “(D) For purposes of this paragraph, the term ‘ap-
2 propriate congressional committees’ includes the Perma-
3 nent Select Committee on Intelligence of the House of
4 Representatives and the Select Committee on Intelligence
5 of the Senate.

6 “(3) The requirement of paragraph (1) to withhold
7 assistance shall not apply with respect to—

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

10 “(B) democratic political reform and rule of law
11 activities;

12 “(C) technical assistance for safety upgrades of
13 civilian nuclear power plants;

14 “(D) the creation of private sector and non-
15 governmental organizations that are independent of
16 government control;

17 “(E) the development of a free market eco-
18 nomic system; and

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

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

23 (a) **CONVERSION TO UHF.**—The Director of the
24 United States Information Agency shall implement a con-
25 version of television broadcasting to Cuba under the Tele-

1 vision Marti Service to ultra high frequency (UHF) broad-
 2 casting.

3 (b) PERIODIC REPORTS.—Not later than 45 days
 4 after the date of the enactment of this Act, and every
 5 three months thereafter until the conversion described in
 6 subsection (a) is fully implemented, the Director of the
 7 United States Information Agency shall submit a report
 8 to the appropriate congressional committees on the
 9 progress made in carrying out subsection (a).

10 (c) TERMINATION OF BROADCASTING AUTHORI-
 11 TIES.—Upon transmittal of a determination under section
 12 203(c)(3), the Television Broadcasting to Cuba Act (22
 13 U.S.C. 1465aa and following) and the Radio Broadcasting
 14 to Cuba Act (22 U.S.C. 1465 and following) are repealed.

15 **SEC. 108. REPORTS ON ASSISTANCE AND COMMERCE RE-**
 16 **CEIVED BY CUBA FROM OTHER FOREIGN**
 17 **COUNTRIES.**

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

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

1 port, contain the following, to the extent such information
2 is known:

3 (1) A description of all bilateral assistance pro-
4 vided to Cuba by other foreign countries, including
5 humanitarian assistance.

6 (2) A description of Cuba's commerce with for-
7 eign countries, including an identification of Cuba's
8 trading partners and the extent of such trade.

9 (3) A description of the joint ventures com-
10 pleted, or under consideration, by foreign nationals
11 involving facilities in Cuba, including an identifica-
12 tion of the location of the facilities involved and a
13 description of the terms of agreement of the joint
14 ventures and the names of the parties that are in-
15 volved.

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

19 (5) A determination of the amount of Cuban
20 debt owed to each foreign country, including—

21 (A) the amount of debt exchanged, for-
22 given, or reduced under the terms of each in-
23 vestment or operation in Cuba involving foreign
24 nationals; and

1 (B) the amount of debt owed to the foreign
2 country that has been exchanged, reduced, or
3 forgiven in return for a grant by the Cuban
4 Government of an equity interest in a property,
5 investment, or operation of the Cuban Govern-
6 ment or of a Cuban national.

7 (6) A description of the steps taken to ensure
8 that raw materials and semifinished or finished
9 goods produced by facilities in Cuba involving for-
10 eign nationals do not enter the United States mar-
11 ket, either directly or through third countries or par-
12 ties.

13 (7) An identification of countries that purchase,
14 or have purchased, arms or military supplies from
15 the Cuban Government or that otherwise have en-
16 tered into agreements with the Cuban Government
17 that have a military application, including—

18 (A) a description of the military supplies,
19 equipment, or other materiel sold, bartered, or
20 exchanged between the Cuban Government and
21 such countries;

22 (B) a listing of the goods, services, credits,
23 or other consideration received by the Cuban
24 Government in exchange for military supplies,
25 equipment, or materiel; and

1 (C) the terms or conditions of any such
2 agreement.

3 **SEC. 109. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC**
4 **AND HUMAN RIGHTS GROUPS AND INTER-**
5 **NATIONAL OBSERVERS.**

6 (a) AUTHORIZATION.—Notwithstanding any other
7 provision of law, except for section 634A of the Foreign
8 Assistance Act of 1961 (22 U.S.C. 2394–1) and com-
9 parable notification requirements contained in any Act
10 making appropriations for foreign operations, export fi-
11 nancing, and related programs, the President is author-
12 ized to furnish assistance and provide other support for
13 individuals and independent nongovernmental organiza-
14 tions to support democracy-building efforts for Cuba, in-
15 cluding the following:

16 (1) Published and informational matter, such as
17 books, videos, and cassettes, on transitions to de-
18 mocracy, human rights, and market economies, to be
19 made available to independent democratic groups in
20 Cuba.

21 (2) Humanitarian assistance to victims of polit-
22 ical repression, and their families.

23 (3) Support for democratic and human rights
24 groups in Cuba.

1 (4) Support for visits and permanent deploy-
2 ment of independent international human rights
3 monitors in Cuba.

4 (b) OAS EMERGENCY FUND.—(1) The President
5 shall take the necessary steps to encourage the Organiza-
6 tion of American States to create a special emergency fund
7 for the explicit purpose of deploying human rights observ-
8 ers, election support, and election observation in Cuba.

9 (2) The President should instruct the United States
10 Permanent Representative to the Organization of Amer-
11 ican States to encourage other member states of the Orga-
12 nization to join in calling for the Cuban Government to
13 allow the immediate deployment of independent human
14 rights monitors of the Organization throughout Cuba and
15 on-site visits to Cuba by the Inter-American Commission
16 on Human Rights.

17 (3) Notwithstanding section 307 of the Foreign As-
18 sistance Act of 1961 (22 U.S.C. 2227) or any other provi-
19 sion of law limiting the United States proportionate share
20 of assistance to Cuba by any international organization,
21 the President should provide not less than \$5,000,000 of
22 the voluntary contributions of the United States to the
23 Organization of American States as of the date of the en-
24 actment of this Act solely for the purposes of the special
25 fund referred to in paragraph (1).

1 **SEC. 110. WITHHOLDING OF FOREIGN ASSISTANCE FROM**
2 **COUNTRIES SUPPORTING NUCLEAR PLANT**
3 **IN CUBA.**

4 (a) FINDINGS.—The Congress makes the following
5 findings:

6 (1) President Clinton stated in April 1993 that
7 “the United States opposes the construction of the
8 Juragua nuclear power plant because of our con-
9 cerns about Cuba’s ability to ensure the safe oper-
10 ation of the facility and because of Cuba’s refusal to
11 sign the Nuclear Non-Proliferation Treaty or ratify
12 the Treaty of Tlatelolco.”.

13 (2) Cuba has not signed the Treaty on the Non-
14 Proliferation of Nuclear Weapons or ratified the
15 Treaty of Tlatelolco, the latter of which establishes
16 Latin America and the Caribbean as a nuclear weap-
17 ons-free zone.

18 (3) The State Department, the Nuclear Regu-
19 latory Commission, and the Department of Energy
20 have expressed concerns about the construction and
21 operation of Cuba’s nuclear reactors.

22 (4) In a September 1992 report to Congress,
23 the General Accounting Office outlined concerns
24 among nuclear energy experts about deficiencies in
25 the nuclear plant project in Juragua, near Cienfue-
26 gos, Cuba, including—

1 (A) a lack in Cuba of a nuclear regulatory
2 structure;

3 (B) the absence in Cuba of an adequate in-
4 frastructure to ensure the plant's safe operation
5 and requisite maintenance;

6 (C) the inadequacy of training of plant op-
7 erators;

8 (D) reports by a former technician from
9 Cuba who, by examining with x-rays weld sites
10 believed to be part of the auxiliary plumbing
11 system for the plant, found that 10 to 15 per-
12 cent of those sites were defective;

13 (E) since September 5, 1992, when con-
14 struction on the plant was halted, the prolonged
15 exposure to the elements, including corrosive
16 salt water vapor, of the primary reactor compo-
17 nents; and

18 (F) the possible inadequacy of the upper
19 portion of the reactors' dome retention capabil-
20 ity to withstand only 7 pounds of pressure per
21 square inch, given that normal atmospheric
22 pressure is 32 pounds per square inch and
23 United States reactors are designed to accom-
24 modate pressures of 50 pounds per square inch.

1 (5) The United States Geological Survey claims
2 that it had difficulty determining answers to specific
3 questions regarding earthquake activity in the area
4 near Cienfuegos because the Cuban Government was
5 not forthcoming with information.

6 (6) The Geological Survey has indicated that
7 the Caribbean plate, a geological formation near the
8 south coast of Cuba, may pose seismic risks to Cuba
9 and the site of the power plant, and may produce
10 large to moderate earthquakes.

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

14 (8) According to a study by the National Oce-
15 anic and Atmospheric Administration, summer
16 winds could carry radioactive pollutants from a nu-
17 clear accident at the power plant throughout all of
18 Florida and parts of the States on the gulf coast as
19 far as Texas, and northern winds could carry the
20 pollutants as far northeast as Virginia and Washing-
21 ton, D.C.

22 (9) The Cuban Government, under dictator
23 Fidel Castro, in 1962 advocated the Soviets' launch-
24 ing of nuclear missiles to the United States, which
25 represented a direct and dangerous provocation of

1 the United States and brought the world to the
2 brink of a nuclear conflict.

3 (10) Fidel Castro over the years has consist-
4 ently issued threats against the United States Gov-
5 ernment, most recently that he would unleash an-
6 other perilous mass migration from Cuba upon the
7 enactment of this Act.

8 (11) Despite the various concerns about the
9 plant's safety and operational problems, a feasibility
10 study is being conducted that would establish a sup-
11 port group to include Russia, Cuba, and third coun-
12 tries with the objective of completing and operating
13 the plant.

14 (b) WITHHOLDING OF FOREIGN ASSISTANCE.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of law, the President shall withhold from
17 assistance allocated, on or after the date of the en-
18 actment of this Act, for any country an amount
19 equal to the sum of assistance and credits, if any,
20 provided on or after such date of enactment by that
21 country or any entity in that country in support of
22 the completion of the Cuban nuclear facility at
23 Juragua, near Cienfuegos, Cuba.

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

4 (A) assistance to meet urgent humani-
5 tarian needs, including disaster and refugee re-
6 lief;

7 (B) democratic political reform and rule of
8 law activities;

9 (C) the creation of private sector and non-
10 governmental organizations that are independ-
11 ent of government control;

12 (D) the development of a free market eco-
13 nomic system; and

14 (E) assistance for the purposes described
15 in the Cooperative Threat Reduction Act of
16 1993 (title XII of Public Law 103–160).

17 (3) DEFINITION.—As used in paragraph (1),
18 the term “assistance” means assistance under the
19 Foreign Assistance Act of 1961, credits, sales, and
20 guarantees of extensions of credit under the Arms
21 Export Control Act, assistance under titles I and III
22 of the Agricultural Trade Development and Assist-
23 ance Act of 1954, assistance under the FREEDOM
24 Support Act of 1992, and any other program of as-
25 sistance or credits provided by the United States to

1 other countries under other provisions of law, except
2 that the term “assistance” does not include humani-
3 tarian assistance, including disaster relief assistance.

4 **SEC. 111. EXPULSION OF CRIMINALS FROM CUBA.**

5 The President shall instruct all United States Gov-
6 ernment officials who engage in official conduct with the
7 Cuban Government to raise on a regular basis the extra-
8 dition of or rendering to the United States all persons re-
9 siding in Cuba who are sought by the United States De-
10 partment of Justice for crimes committed in the United
11 States.

12 **TITLE II—ASSISTANCE TO A**
13 **FREE AND INDEPENDENT CUBA**

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

17 The policy of the United States is as follows:

18 (1) To support the self-determination of the
19 Cuban people.

20 (2) To recognize that the self-determination of
21 the Cuban people is a sovereign and national right
22 of the citizens of Cuba which must be exercised free
23 of interference by the government of any other coun-
24 try.

1 (3) To encourage the Cuban people to empower
2 themselves with a government which reflects the self-
3 determination of the Cuban people.

4 (4) To recognize the potential for a difficult
5 transition from the current regime in Cuba that may
6 result from the initiatives taken by the Cuban people
7 for self-determination in response to the intransi-
8 gence of the Castro regime in not allowing any
9 substantive political or economic reforms, and to be
10 prepared to provide the Cuban people with humani-
11 tarian, developmental, and other economic assist-
12 ance.

13 (5) In solidarity with the Cuban people, to pro-
14 vide appropriate forms of assistance—

15 (A) to a transition government in Cuba;

16 (B) to facilitate the rapid movement from
17 such a transition government to a democrat-
18 ically elected government in Cuba that results
19 from an expression of the self-determination of
20 the Cuban people; and

21 (C) to support such a democratically elect-
22 ed government.

23 (6) Through such assistance, to facilitate a
24 peaceful transition to representative democracy and

1 a market economy in Cuba and to consolidate de-
2 mocracy in Cuba.

3 (7) To deliver such assistance to the Cuban
4 people only through a transition government in
5 Cuba, through a democratically elected government
6 in Cuba, through United States Government organi-
7 zations, or through United States, international, or
8 indigenous nongovernmental organizations.

9 (8) To encourage other countries and multilat-
10 eral organizations to provide similar assistance, and
11 to work cooperatively with such countries and orga-
12 nizations to coordinate such assistance.

13 (9) To ensure that appropriate assistance is
14 rapidly provided and distributed to the people of
15 Cuba upon the institution of a transition govern-
16 ment in Cuba.

17 (10) Not to provide favorable treatment or in-
18 fluence on behalf of any individual or entity in the
19 selection by the Cuban people of their future govern-
20 ment.

21 (11) To assist a transition government in Cuba
22 and a democratically elected government in Cuba to
23 prepare the Cuban military forces for an appropriate
24 role in a democracy.

1 (12) To be prepared to enter into negotiations
2 with a democratically elected government in Cuba ei-
3 ther to return the United States Naval Base at
4 Guantanamo to Cuba or to renegotiate the present
5 agreement under mutually agreeable terms.

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

11 (14) To take steps to remove the economic em-
12 bargo of Cuba when the President determines that
13 a transition to a democratically elected government
14 in Cuba has begun.

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

18 (16) To pursue trade relations with a free,
19 democratic, and independent Cuba.

20 **SEC. 202. ASSISTANCE FOR THE CUBAN PEOPLE.**

21 (a) AUTHORIZATION.—

22 (1) IN GENERAL.—The President shall develop
23 a plan for providing economic assistance to Cuba at
24 such time as the President determines that a transi-
25 tion government or a democratically elected govern-

1 ment in Cuba (as determined under section 203(c))
2 is in power.

3 (2) EFFECT ON OTHER LAWS.—Assistance may
4 be provided under this section subject to an author-
5 ization of appropriations and subject to the availabil-
6 ity of appropriations.

7 (b) PLAN FOR ASSISTANCE.—

8 (1) DEVELOPMENT OF PLAN.—The President
9 shall develop a plan for providing assistance under
10 this section—

11 (A) to Cuba when a transition government
12 in Cuba is in power; and

13 (B) to Cuba when a democratically elected
14 government in Cuba is in power.

15 (2) TYPES OF ASSISTANCE.—Assistance under
16 the plan developed under paragraph (1) may, subject
17 to an authorization of appropriations and subject to
18 the availability of appropriations, include the follow-
19 ing:

20 (A) TRANSITION GOVERNMENT.—(i) Ex-
21 cept as provided in clause (ii), assistance to
22 Cuba under a transition government shall, sub-
23 ject to an authorization of appropriations and
24 subject to the availability of appropriations, be
25 limited to—

1 (I) such food, medicine, medical sup-
2 plies and equipment, and assistance to
3 meet emergency energy needs, as is nec-
4 essary to meet the basic human needs of
5 the Cuban people; and

6 (II) assistance described in subpara-
7 graph (C).

8 (ii) Assistance provided only after the
9 President certifies to the appropriate congres-
10 sional committees, in accordance with proce-
11 dures applicable to reprogramming notifications
12 under section 634A of the Foreign Assistance
13 Act of 1961, that such assistance is essential to
14 the successful completion of the transition to
15 democracy.

16 (iii) Only after a transition government in
17 Cuba is in power, remittances by individuals to
18 their relatives of cash or goods, as well as free-
19 dom to travel to visit them without any restric-
20 tions, shall be permitted.

21 (B) DEMOCRATICALLY ELECTED GOVERN-
22 MENT.—Assistance to a democratically elected
23 government in Cuba may, subject to an author-
24 ization of appropriations and subject to the
25 availability of appropriations, consist of addi-

1 tional economic assistance, together with assist-
2 ance described in subparagraph (C). Such eco-
3 nomic assistance may include—

4 (i) assistance under chapter 1 of part
5 I (relating to development assistance), and
6 chapter 4 of part II (relating to the eco-
7 nomic support fund), of the Foreign As-
8 sistance Act of 1961;

9 (ii) assistance under the Agricultural
10 Trade Development and Assistance Act of
11 1954;

12 (iii) financing, guarantees, and other
13 forms of assistance provided by the Ex-
14 port-Import Bank of the United States;

15 (iv) financial support provided by the
16 Overseas Private Investment Corporation
17 for investment projects in Cuba;

18 (v) assistance provided by the Trade
19 and Development Agency;

20 (vi) Peace Corps programs; and

21 (vii) other appropriate assistance to
22 carry out the policy of section 201.

23 (C) MILITARY ADJUSTMENT ASSIST-
24 ANCE.—Assistance to a transition government
25 in Cuba and to a democratically elected govern-

1 ment in Cuba shall also include assistance in
2 preparing the Cuban military forces to adjust to
3 an appropriate role in a democracy.

4 (c) STRATEGY FOR DISTRIBUTION.—The plan devel-
5 oped under subsection (b) shall include a strategy for dis-
6 tributing assistance under the plan.

7 (d) DISTRIBUTION.—Assistance under the plan devel-
8 oped under subsection (b) shall be provided through
9 United States Government organizations and nongovern-
10 mental organizations and private and voluntary organiza-
11 tions, whether within or outside the United States, includ-
12 ing humanitarian, educational, labor, and private sector
13 organizations.

14 (e) INTERNATIONAL EFFORTS.—The President shall
15 take the necessary steps—

16 (1) to seek to obtain the agreement of other
17 countries and of international financial institutions
18 and multilateral organizations to provide to a transi-
19 tion government in Cuba, and to a democratically
20 elected government in Cuba, assistance comparable
21 to that provided by the United States under this
22 Act; and

23 (2) to work with such countries, institutions,
24 and organizations to coordinate all such assistance
25 programs.

1 (f) COMMUNICATION WITH THE CUBAN PEOPLE.—

2 The President shall take the necessary steps to commu-
3 nicate to the Cuban people the plan for assistance devel-
4 oped under this section.

5 (g) REPORT TO CONGRESS.—Not later than 180 days
6 after the date of the enactment of this Act, the President
7 shall transmit to the appropriate congressional committees
8 a report describing in detail the plan developed under this
9 section.

10 (h) TRADE AND INVESTMENT RELATIONS.—

11 (1) REPORT TO CONGRESS.—The President, fol-
12 lowing the transmittal to the Congress of a deter-
13 mination under section 203(c)(3) that a democrat-
14 ically elected government in Cuba is in power, shall
15 submit to the appropriate congressional committees
16 a report that describes—

17 (A) acts, policies, and practices that con-
18 stitute significant barriers to, or distortions of,
19 United States trade in goods or services or for-
20 eign direct investment with respect to Cuba;

21 (B) policy objectives of the United States
22 regarding trade relations with a democratically
23 elected government in Cuba, and the reasons
24 therefor, including possible—

1 (i) reciprocal extension of nondiscrim-
2 inatory trade treatment (most-favored-
3 nation treatment);

4 (ii) designation of Cuba as a bene-
5 ficiary developing country under title V of
6 the Trade Act of 1974 (relating to the
7 Generalized System of Preferences) or as a
8 beneficiary country under the Caribbean
9 Basin Economic Recovery Act, and the im-
10 plications of such designation with respect
11 to trade with any other country that is
12 such a beneficiary developing country or
13 beneficiary country or is a party to the
14 North American Free Trade Agreement;
15 and

16 (iii) negotiations regarding free trade,
17 including the accession of Cuba to the
18 North American Free Trade Agreement;

19 (C) specific trade negotiating objectives of
20 the United States with respect to Cuba, includ-
21 ing the objectives described in section 108(b)(5)
22 of the North American Free Trade Agreement
23 Implementation Act (19 U.S.C. 3317(b)(5));
24 and

1 (D) actions proposed or anticipated to be
2 undertaken, and any proposed legislation nec-
3 essary or appropriate, to achieve any of such
4 policy and negotiating objectives.

5 (2) CONSULTATIONS.—The President shall con-
6 sult with the appropriate congressional committees
7 and shall seek advice from the appropriate advisory
8 committees established under section 135 of the
9 Trade Act of 1974 regarding the policy and nego-
10 tiating objectives and the legislative proposals de-
11 scribed in paragraph (1).

12 **SEC. 203. COORDINATION OF ASSISTANCE PROGRAM; IM-**
13 **PLEMENTATION AND REPORTS TO CON-**
14 **GRESS; REPROGRAMMING.**

15 (a) COORDINATING OFFICIAL.—The President shall
16 designate a coordinating official who shall be responsible
17 for—

18 (1) implementing the strategy for distributing
19 assistance described in section 202(b);

20 (2) ensuring the speedy and efficient distribu-
21 tion of such assistance; and

22 (3) ensuring coordination among, and appro-
23 priate oversight by, the agencies of the United
24 States that provide assistance described in section

1 202(b), including resolving any disputes among such
2 agencies.

3 (b) UNITED STATES-CUBA COUNCIL.—Upon making
4 a determination under subsection (c)(3) that a democrat-
5 ically elected government in Cuba is in power, the Presi-
6 dent, after consultation with the coordinating official, is
7 authorized to designate a United States-Cuba council—

8 (1) to ensure coordination between the United
9 States Government and the private sector in re-
10 responding to change in Cuba, and in promoting mar-
11 ket-based development in Cuba; and

12 (2) to establish periodic meetings between rep-
13 resentatives of the United States and Cuban private
14 sectors for the purpose of facilitating bilateral trade.

15 (c) IMPLEMENTATION OF PLAN; REPORTS TO CON-
16 GRESS.—

17 (1) IMPLEMENTATION WITH RESPECT TO TRAN-
18 SITION GOVERNMENT.—Upon making a determina-
19 tion that a transition government in Cuba is in
20 power, the President shall transmit that determina-
21 tion to the appropriate congressional committees and
22 shall, subject to an authorization of appropriations
23 and subject to the availability of appropriations,
24 commence the delivery and distribution of assistance

1 to such transition government under the plan devel-
2 oped under section 202(b).

3 (2) REPORTS TO CONGRESS.—(A) The Presi-
4 dent shall transmit to the appropriate congressional
5 committees a report setting forth the strategy for
6 providing assistance described in section 202(b)(2)
7 (A) and (C) to the transition government in Cuba
8 under the plan of assistance developed under section
9 202(b), the types of such assistance, and the extent
10 to which such assistance has been distributed in ac-
11 cordance with the plan.

12 (B) The President shall transmit the report not
13 later than 90 days after making the determination
14 referred to in paragraph (1), except that the Presi-
15 dent shall transmit the report in preliminary form
16 not later than 15 days after making that determina-
17 tion.

18 (3) IMPLEMENTATION WITH RESPECT TO
19 DEMOCRATICALLY ELECTED GOVERNMENT.—The
20 President shall, upon determining that a democrat-
21 ically elected government in Cuba is in power, sub-
22 mit that determination to the appropriate congress-
23 sional committees and shall, subject to an authoriza-
24 tion of appropriations and subject to the availability
25 of appropriations, commence the delivery and dis-

1 tribution of assistance to such democratically elected
2 government under the plan developed under section
3 202(b).

4 (4) ANNUAL REPORTS TO CONGRESS.—Not
5 later than 60 days after the end of each fiscal year,
6 the President shall transmit to the appropriate con-
7 gressional committees a report on the assistance
8 provided under the plan developed under section
9 202(b), including a description of each type of as-
10 sistance, the amounts expended for such assistance,
11 and a description of the assistance to be provided
12 under the plan in the current fiscal year.

13 (d) REPROGRAMMING.—Any changes in the assist-
14 ance to be provided under the plan developed under sec-
15 tion 202(b) may not be made unless the President notifies
16 the appropriate congressional committees at least 15 days
17 in advance in accordance with the procedures applicable
18 to reprogramming notifications under section 634A of the
19 Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

20 **SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF**
21 **CUBA.**

22 (a) PRESIDENTIAL ACTIONS.—Upon submitting a de-
23 termination to the appropriate congressional committees
24 under section 203(c)(1) that a transition government in
25 Cuba is in power, the President, after consulting with the

1 Congress, is authorized to take steps to suspend the eco-
2 nomic embargo of Cuba to the extent that such action con-
3 tributes to a stable foundation for a democratically elected
4 government in Cuba.

5 (b) SUSPENSION OF CERTAIN PROVISIONS OF
6 LAW.—In carrying out subsection (a), the President may
7 suspend the enforcement of—

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

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

13 (3) sections 1704, 1705(d), and 1706 of the
14 Cuban Democracy Act (22 U.S.C. 6003, 6004(d),
15 6005);

16 (4) section 902(c) of the Food Security Act of
17 1985; and

18 (5) the prohibitions on transactions described in
19 part 515 of title 31, Code of Federal Regulations.

20 (c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon
21 submitting a determination to the appropriate congres-
22 sional committees under section 203(c)(3) that a demo-
23 cratically elected government in Cuba is in power, the
24 President shall take steps to terminate the economic em-
25 bargo of Cuba.

1 (d) CONFORMING AMENDMENTS.—On the date on
2 which the President submits a determination under sec-
3 tion 203(c)(3)—

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

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

9 (3) sections 1704, 1705(d), and 1706 of the
10 Cuban Democracy Act of 1992 (22 U.S.C. 6003,
11 6004(d), and 6005) are repealed; and

12 (4) section 902(c) of the Food Security Act of
13 1985 is repealed.

14 (e) REVIEW OF SUSPENSION OF ECONOMIC EMBAR-
15 GO.—

16 (1) REVIEW.—If the President takes action
17 under subsection (a) to suspend the economic em-
18 bargo of Cuba, the President shall immediately so
19 notify the Congress. The President shall report to
20 the Congress no less frequently than every 6 months
21 thereafter, until he submits a determination under
22 section 203(c)(3) that a democratically elected gov-
23 ernment in Cuba is in power, on the progress being
24 made by Cuba toward the establishment of such a
25 democratically elected government. The action of the

1 President under subsection (a) shall cease to be ef-
2 fective upon the enactment of a joint resolution de-
3 scribed in paragraph (2).

4 (2) JOINT RESOLUTIONS.—For purposes of this
5 subsection, the term “joint resolution” means only a
6 joint resolution of the 2 Houses of Congress, the
7 matter after the resolving clause of which is as fol-
8 lows: “That the Congress disapproves the action of
9 the President under section 204(a) of the Cuban
10 Liberty and Democratic Solidarity (LIBERTAD)
11 Act of 1995 to suspend the economic embargo of
12 Cuba, notice of which was submitted to the Congress
13 on ____.”, with the blank space being filled with the
14 appropriate date.

15 (3) REFERRAL TO COMMITTEES.—Joint resolu-
16 tions introduced in the House of Representatives
17 shall be referred to the Committee on International
18 Relations and joint resolutions introduced in the
19 Senate shall be referred to the Committee on For-
20 eign Relations.

21 (4) PROCEDURES.—(A) Any joint resolution
22 shall be considered in the Senate in accordance with
23 the provisions of section 601(b) of the International
24 Security Assistance and Arms Export Control Act of
25 1976.

1 (B) For the purpose of expediting the consider-
2 ation and enactment of joint resolutions, a motion to
3 proceed to the consideration of any joint resolution
4 after it has been reported by the appropriate com-
5 mittee shall be treated as highly privileged in the
6 House of Representatives.

7 (C) Not more than 1 joint resolution may be
8 considered in the House of Representatives and the
9 Senate in the 6-month period beginning on the date
10 on which the President notifies the Congress under
11 paragraph (1) of the action taken under subsection
12 (a), and in each 6-month period thereafter.

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

15 For purposes of this Act, a transition government in
16 Cuba is a government in Cuba which—

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

20 (2) has recognized the right to independent po-
21 litical activity and association;

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

1 (4) has ceased any interference with Radio or
2 Television Marti broadcasts;

3 (5) makes public commitments to and is mak-
4 ing demonstrable progress in—

5 (A) establishing an independent judiciary;

6 (B) dissolving the present Department of
7 State Security in the Cuban Ministry of the In-
8 terior, including the Committees for the De-
9 fense of the Revolution and the Rapid Response
10 Brigades;

11 (C) respecting internationally recognized
12 human rights and basic freedoms as set forth in
13 the Universal Declaration of Human Rights, to
14 which Cuba is a signatory nation;

15 (D) effectively guaranteeing the rights of
16 free speech and freedom of the press;

17 (E) organizing free and fair elections for a
18 new government—

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

22 (ii) with the participation of multiple
23 independent political parties that have full
24 access to the media on an equal basis, in-
25 cluding (in the case of radio, television, or

1 other telecommunications media) in terms
2 of allotments of time for such access and
3 the times of day such allotments are given;
4 and

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

10 (F) assuring the right to private property;

11 (G) taking appropriate steps to return to
12 United States citizens (and entities which are
13 50 percent or more beneficially owned by Unit-
14 ed States citizens) property taken by the Cuban
15 Government from such citizens and entities on
16 or after January 1, 1959, or to provide equi-
17 table compensation to such citizens and entities
18 for such property;

19 (H) granting permits to privately owned
20 telecommunications and media companies to op-
21 erate in Cuba; and

22 (I) allowing the establishment of independ-
23 ent trade unions as set forth in conventions 87
24 and 98 of the International Labor Organiza-
25 tion, and allowing the establishment of inde-

1 pendent social, economic, and political associa-
2 tions;

3 (6) does not include Fidel Castro or Raul Cas-
4 tro;

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

8 (8) permits the deployment throughout Cuba of
9 independent and unfettered international human
10 rights monitors; and

11 (9) has extradited or otherwise rendered to the
12 United States all persons sought by the United
13 States Department of Justice for crimes committed
14 in the United States.

15 **SEC. 206. REQUIREMENTS FOR A DEMOCRATICALLY ELECT-**
16 **ED GOVERNMENT.**

17 For purposes of this Act, a democratically elected
18 government in Cuba, in addition to continuing to comply
19 with the requirements of section 205, is a government in
20 Cuba which—

21 (1) results from free and fair elections con-
22 ducted under the supervision of internationally rec-
23 ognized observers;

24 (2) has permitted opposition parties ample time
25 to organize and campaign for such elections, and has

1 permitted full access to the media to all candidates
2 in the elections;

3 (3) is showing respect for the basic civil lib-
4 erties and human rights of the citizens of Cuba;

5 (4) has made demonstrable progress in estab-
6 lishing an independent judiciary;

7 (5) is substantially moving toward a market-ori-
8 ented economic system;

9 (6) is committed to making constitutional
10 changes that would ensure regular free and fair elec-
11 tions that meet the requirements of paragraph (2);
12 and

13 (7) has made demonstrable progress in return-
14 ing to United States citizens (and entities which are
15 50 percent or more beneficially owned by United
16 States citizens) property taken by the Cuban Gov-
17 ernment from such citizens and entities on or after
18 January 1, 1959, or providing full compensation for
19 such property in accordance with international law
20 standards and practice.

1 **TITLE III—PROTECTION OF**
2 **PROPERTY RIGHTS OF**
3 **UNITED STATES NATIONALS**
4 **AGAINST CONFISCATORY**
5 **TAKINGS BY THE CASTRO RE-**
6 **GIME**

7 **SEC. 301. STATEMENT OF POLICY.**

8 The Congress makes the following findings:

9 (1) The right of individuals to hold and enjoy
10 property is a fundamental right recognized by the
11 United States Constitution and international human
12 rights law, including the Universal Declaration of
13 Human Rights.

14 (2) The illegal confiscation or taking of prop-
15 erty by governments, and the acquiescence of gov-
16 ernments in the confiscation of property by their
17 citizens, undermines the comity among nations, the
18 free flow of commerce, and economic development.

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

22 (4) Nations that provide an effective mecha-
23 nism for prompt, adequate, and fair compensation
24 for the confiscation of private property will continue
25 to have the support of the United States.

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

5 (6) Nations that illegally confiscate private
6 property should not be immune to another nation's
7 laws whose purpose is to protect against the
8 confiscation of lawfully acquired property by its citi-
9 zens.

10 (7) Trafficking in illegally acquired property is
11 a crime under the laws of the United States and
12 other nations, yet this same activity is allowed under
13 international law.

14 (8) International law, by not providing effective
15 remedies, condones the illegal confiscation of prop-
16 erty and allows for the unjust enrichment from the
17 use of confiscated property by governments and pri-
18 vate entities at the expense of those who hold legal
19 claim to the property.

20 (9) The development of an international mecha-
21 nism sanctioning those governments and private en-
22 tities that confiscate and unjustly use private prop-
23 erty so confiscated should be a priority objective of
24 United States foreign policy.

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

3 (a) CIVIL REMEDY.—

4 (1) LIABILITY FOR TRAFFICKING.—(A) Except
5 as provided in paragraphs (3) and (4), any person,
6 including any agency or instrumentality of a foreign
7 state in the conduct of a commercial activity, that,
8 after the end of the 6-month period beginning on the
9 date of the enactment of this Act, traffics in con-
10 fiscated property shall be liable to any United States
11 national who owns the claim to such property for
12 money damages in an amount equal to the sum of—

13 (i) the amount which is the greater of—

14 (I) the amount, if any, certified to the
15 claimant by the Foreign Claims Settlement
16 Commission under the International
17 Claims Settlement Act of 1949, plus inter-
18 est;

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

21 (III) the fair market value of that
22 property, calculated as being the then cur-
23 rent value of the property, or the value of
24 the property when confiscated plus inter-
25 est, whichever is greater; and

26 (ii) reasonable costs and attorneys' fees.

1 (B) Interest under subparagraph (A)(i) shall be
2 at the rate set forth in section 1961 of title 28,
3 United States Code, computed by the court from the
4 date of the confiscation of the property involved to
5 the date on which the action is brought under this
6 subsection.

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

18 (3) INCREASED LIABILITY FOR PRIOR NO-
19 TICE.—Except as provided in paragraph (4), any
20 person, including any agency or instrumentality of a
21 foreign state in the conduct of a commercial activity,
22 that traffics in confiscated property after having re-
23 ceived—

1 (A) notice of a claim to ownership of the
2 property by a United States national who owns
3 a claim to the confiscated property, and

4 (B) notice of the provisions of this section,
5 shall be liable to that United States national for
6 money damages in an amount which is the sum of
7 the amount equal to the amount determined under
8 paragraph (1)(A)(ii) plus triple the amount deter-
9 mined applicable under subclause (I), (II), or (III)
10 of paragraph (1)(A)(i).

11 (4) APPLICABILITY.—(A) Except as otherwise
12 provided in this paragraph, actions may be brought
13 under paragraph (1) with respect to property con-
14 fiscated before, on, or after the date of the enact-
15 ment of this Act.

16 (B) In the case of property confiscated before
17 the date of the enactment of this Act, no United
18 States national may bring an action under this sec-
19 tion unless such national acquired ownership of the
20 claim to the confiscated property before such date.

21 (C) In the case of property confiscated on or
22 after the date of the enactment of this Act, no Unit-
23 ed States national who acquired ownership of a
24 claim to confiscated property by assignment for

1 value after such date of enactment may bring an ac-
2 tion on the claim under this section.

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

12 (B) In the case of any action brought under
13 this section by a United States national whose claim
14 in the action was timely filed with the Foreign
15 Claims Settlement Commission under title V of the
16 International Claims Settlement Act of 1949 but
17 was denied by the Commission, the court may assess
18 the basis for the denial and may accept the findings
19 of the Commission on the claim as conclusive in the
20 action under this section unless good cause justifies
21 another result.

22 (6) INAPPLICABILITY OF ACT OF STATE DOC-
23 TRINE.—No court of the United States shall decline,
24 based upon the act of state doctrine, to make a de-

1 termination on the merits in an action brought
2 under paragraph (1).

3 (b) DEFINITION.—As used in this subsection, the
4 term “agency or instrumentality of a foreign state” has
5 the meaning given that term in section 1603(b) of title
6 28, United States Code.

7 (c) JURISDICTION.—

8 (1) IN GENERAL.—Chapter 85 of title 28, Unit-
9 ed States Code, is amended by inserting after sec-
10 tion 1331 the following new section:

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

12 “The district courts shall have exclusive jurisdiction
13 of any action brought under section 302 of the Cuban Lib-
14 erty and Democratic Solidarity (LIBERTAD) Act of
15 1995, regardless of the amount in controversy.”.

16 (2) CONFORMING AMENDMENT.—The table of
17 sections for chapter 85 of title 28, United States
18 Code, is amended by inserting after the item relating
19 to section 1331 the following:

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

20 (d) CERTAIN PROPERTY IMMUNE FROM EXECU-
21 TION.—Section 1611 of title 28, United States Code, is
22 amended by adding at the end the following:

23 “(c) Notwithstanding the provisions of section 1610
24 of this chapter, the property of a foreign state shall be
25 immune from attachment and from execution in an action

1 brought under section 302 of the Cuban Liberty and
2 Democratic Solidarity (LIBERTAD) Act of 1995 to the
3 extent the property is a facility or installation used by an
4 accredited diplomatic mission for official purposes.”.

5 (e) ELECTION OF REMEDIES.—

6 (1) ELECTION.—Subject to paragraph (2)—

7 (A) any United States national that brings
8 an action under this section may not bring any
9 other civil action or proceeding under the com-
10 mon law, Federal law, or the law of any of the
11 several States, the District of Columbia, or any
12 territory or possession of the United States,
13 that seeks monetary or nonmonetary compensa-
14 tion by reason of the same subject matter; and

15 (B) any person who brings, under the com-
16 mon law or any provision of law other than this
17 section, a civil action or proceeding for mone-
18 tary or nonmonetary compensation arising out
19 of a claim for which an action would otherwise
20 be cognizable under this section may not bring
21 an action under this section on that claim.

22 (2) TREATMENT OF CERTIFIED CLAIMANTS.—

23 In the case of any United States national that
24 brings an action under this section based on a claim

1 certified under title V of the International Claims
2 Settlement Act of 1949—

3 (A) if the recovery in the action is equal to
4 or greater than the amount of the certified
5 claim, the United States national may not re-
6 ceive payment on the claim under any agree-
7 ment entered into between the United States
8 and Cuba settling claims covered by such title,
9 and such national shall be deemed to have dis-
10 charged the United States from any further re-
11 sponsibility to represent the United States na-
12 tional with respect to that claim;

13 (B) if the recovery in the action is less
14 than the amount of the certified claim, the
15 United States national may receive payment
16 under a claims agreement described in subpara-
17 graph (A) but only to the extent of the dif-
18 ference between the amount of the recovery and
19 the amount of the certified claim; and

20 (C) if there is no recovery in the action,
21 the United States national may receive payment
22 on the certified claim under a claims agreement
23 described in subparagraph (A) to the same ex-
24 tent as any certified claimant who does not
25 bring an action under this section.

1 (f) DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER
2 CLAIMS AGREEMENT.—Any amounts paid by Cuba under
3 any agreement entered into between the United States and
4 Cuba settling certified claims under title V of the Inter-
5 national Claims Settlement Act of 1949 that are in excess
6 of the payments made on such certified claims after the
7 application of subsection (e) shall be deposited into the
8 United States Treasury.

9 (g) TERMINATION OF RIGHTS.—

10 (1) IN GENERAL.—All rights created under this
11 section to bring an action for money damages with
12 respect to property confiscated before the date of the
13 enactment of this Act shall cease upon the transmit-
14 tal to the Congress of a determination of the Presi-
15 dent under section 203(c)(3).

16 (2) PENDING SUITS.—The termination of rights
17 under paragraph (1) shall not affect suits com-
18 menced before the date of such termination, and in
19 all such suits, proceedings shall be had, appeals
20 taken, and judgments rendered in the same manner
21 and with the same effect as if this subsection had
22 not been enacted.

23 **SEC. 303. DETERMINATION OF CLAIMS TO CONFISCATED**
24 **PROPERTY.**

25 (a) EVIDENCE OF OWNERSHIP.—

1 (1) CONCLUSIVENESS OF CERTIFIED CLAIMS.—

2 In any action brought under this title, the courts
3 shall accept as conclusive proof of ownership a cer-
4 tification of a claim to ownership that has been
5 made by the Foreign Claims Settlement Commission
6 pursuant to title V of the International Claims Set-
7 tlement Act of 1949 (22 U.S.C. 1643 and following).

8 (2) CLAIMS NOT CERTIFIED.—In the case of a
9 claim that has not been certified by the Foreign
10 Claims Settlement Commission before the enactment
11 of this Act, a court may appoint a special master,
12 including the Foreign Claims Settlement Commis-
13 sion, to make determinations regarding the amount
14 and validity of claims to ownership of confiscated
15 property. Such determinations are only for evi-
16 dentiary purposes in civil actions brought under this
17 title and do not constitute certifications pursuant to
18 title V of the International Claims Settlement Act of
19 1949.

20 (3) EFFECT OF DETERMINATIONS OF FOREIGN
21 ENTITIES.—In determining ownership, courts shall
22 not accept as conclusive evidence of ownership any
23 findings, orders, judgments, or decrees from admin-
24 istrative agencies or courts of foreign countries or
25 international organizations that invalidate the claim

1 held by a United States national, unless the invali-
2 dation was found pursuant to binding international
3 arbitration to which United States national submit-
4 ted the claim.

5 (b) AMENDMENT OF THE INTERNATIONAL CLAIMS
6 SETTLEMENT ACT OF 1949.—Title V of the International
7 Claims Settlement Act of 1949 (22 U.S.C. 1643 and fol-
8 lowing) is amended by adding at the end the following new
9 section:

10 “EVALUATION OF OWNERSHIP CLAIMS REFERRED BY
11 DISTRICT COURTS OF THE UNITED STATES

12 “SEC. 514. Notwithstanding any other provision of
13 this title and only for purposes of section 302 of the
14 Cuban Liberty and Solidarity (LIBERTAD) Act, a United
15 States district court, for fact-finding purposes, may refer
16 to the Commission, and the Commission may determine,
17 questions of the amount and ownership of a claim by a
18 United States national (as defined in section 4 of the
19 Cuban Liberty and Solidarity (LIBERTAD) Act) result-
20 ing from the confiscation of property by the Government
21 of Cuba described in section 503(a), whether or not the
22 United States national qualified as a national of the
23 United States (as defined in section 502(1)) at the time
24 of the action by the Government of Cuba.”.

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

4 (1) to require or otherwise authorize the claims
 5 of Cuban nationals who became United States citi-
 6 zens after their property was confiscated to be in-
 7 cluded in the claims certified to the Secretary of
 8 State by the Foreign Claims Settlement Commission
 9 for purposes of future negotiation and espousal of
 10 claims with a friendly government in Cuba when dip-
 11 lomatic relations are restored; or

12 (2) as superseding, amending, or otherwise al-
 13 tering certifications that have been made pursuant
 14 to title V of the International Claims Settlement Act
 15 of 1949 before the enactment of this Act.

16 **SEC. 304. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT**
 17 **COMMISSION CERTIFICATION PROCEDURE.**

18 Title V of the International Claims Settlement Act
 19 of 1949 (22 U.S.C. 1643 and following), as amended by
 20 section 303, is further amended by adding at the end the
 21 following new section:

22 “EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT
 23 COMMISSION CERTIFICATION PROCEDURE

24 “SEC. 515. (a) Subject to subsection (b), neither any
 25 national of the United States who was eligible to file a
 26 claim under section 503 but did not timely file such claim

1 under that section, nor any national of the United States
2 (on the date of the enactment of this section) who was
3 not eligible to file a claim under that section, nor any na-
4 tional of Cuba, including any agency, instrumentality, sub-
5 division, or enterprise of the Government of Cuba or any
6 local government of Cuba in place on the date of the enact-
7 ment of this section, nor any successor thereto, whether
8 or not recognized by the United States, shall have a claim
9 to, participate in, or otherwise have an interest in, the
10 compensation proceeds or other nonmonetary compensa-
11 tion paid or allocated to a national of the United States
12 by virtue of a claim certified by the Commission under
13 section 507, nor shall any court of the United States or
14 any State court have jurisdiction to adjudicate any such
15 claim.

16 “(b) Nothing in subsection (a) shall be construed to
17 detract from or otherwise affect any rights in the shares
18 of the capital stock of nationals of the United States own-
19 ing claims certified by the Commission under section
20 507.”.

**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.**

(a) GROUNDS FOR EXCLUSION.—The Secretary of State, in consultation with the Attorney General, shall exclude from the United States any alien who the Secretary of State determines is a person who—

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

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

(3) is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

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

1 (b) DEFINITIONS.—As used in this section, the fol-
2 lowing 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 pensation 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 govern-
18 mental authority of, the default by foreign gov-
19 ernmental authority on, or the failure by for-
20 eign governmental authority to pay, on or after
21 January 1, 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;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by foreign governmental authority; or

(iii) a debt which was incurred by foreign governmental authority in satisfaction or settlement of a confiscated property claim.

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

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

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

1 (iii) causes, directs, participates in, or
2 profits from, trafficking (as described in clauses
3 (i) and (ii)) by another person, or otherwise en-
4 gages in trafficking (as described in clauses (i)
5 and (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 Democ-
12 racy Act of 1992 (22 U.S.C. 6004(e)); or

13 (ii) the trading or holding of securities
14 publicly traded or held, unless the trading is
15 with or by a person determined by the Sec-
16 retary of the Treasury to be a specially des-
17 ignated national.

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

23 (d) EFFECTIVE DATE.—

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

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

Passed the House of Representatives September 21,
1995.

Attest: ROBIN H. CARLE,
Clerk.

By LINDA NAVE,
Deputy Clerk.

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