

Pennsylvania [Mr. SPECTER], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. LEVIN], the Senator from Alaska [Mr. STEVENS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from New York [Mr. MOYNIHAN], the Senator from Washington [Mrs. MURRAY], the Senator from Rhode Island [Mr. PELL], the Senator from South Carolina [Mr. THURMOND], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. WELLSTONE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arizona [Mr. MCCAIN], the Senator from Massachusetts [Mr. KERRY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wyoming [Mr. THOMAS], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Hawaii [Mr. INOUE], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of Senate Resolution 177, a resolution to designate October 19, 1995, as "National Mammography Day."

#### AMENDMENTS SUBMITTED

#### THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

#### KEMPTHORNE (AND CRAIG) AMENDMENTS NOS. 2928-2929

(Ordered to lie on the table.)

Mr. KEMPTHORNE (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by them to amendment No. 2898 proposed by Mr. DOLE to the bill (H.R. 927) 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; as follows:

##### AMENDMENT No. 2928

At the end, insert the following:

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, any person or entity, including any agency or instrumentality of a foreign state, shall be deemed to have received the notices described in subsections (B)(i) and (B)(ii) with respect to any claim certified prior to the effective date hereof by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, an action may be brought under Title III by a United States national only where the amount in controversy exceeds \$50,000, exclusive of costs, attorneys' fees, and exclusive interest under sections 302(a)(i)(I), (II), and (III), and exclusive of any additional sums under section 302(a)(3)(B).

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, a United States national who was eligible to file the underlying claim in the action with

the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but did not so file the claim may not bring an action under this Title.

( ) Notwithstanding any other provisions of this Act, but for purposes of Title III, in the event some or all actions or claims filed under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy such claims, including a pool of assets in a proceeding in bankruptcy, every certified claimant who filed such an action or claim which is consolidated in such manner with other claims shall be entitled to payment in full of its claim from the assets in such pool prior to any payment from the assets in such pool with respect to any claim not certified by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the case of any action brought under this Title by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this Title.

##### AMENDMENT No. 2929

At the end, insert the following:

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, any person or entity, including any agency or instrumentality of a foreign state, shall be deemed to have received the notices described in subsections (B)(i) and (B)(ii) with respect to any claim certified prior to the effective date hereof by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, an action may be brought under Title III by a United States national only where the amount in controversy exceeds \$50,000, exclusive of costs, attorneys' fees, and exclusive interest under sections 302(a)(i)(I), (II), and (III), and exclusive of any additional sums under section 302(a)(3)(B).

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, a United States national who was eligible to file the underlying claim in the action with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but did not so file the claim may not bring an action under this Title.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the event some or all actions or claims filed under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy such claims, including a pool of assets in a proceeding in bankruptcy, every certified claimant who filed such an action or claim which is consolidated in such manner with other claims shall be entitled to payment in full of its claim from the assets in such pool prior to any payment from the assets in such pool with respect to any claim not certified by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the case of any action brought under this Title by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this Title.

( ) Notwithstanding any other provision of this Act, any provisions in this Act related to the import of sugar or sugar products shall be deemed "sense of the Congress" language.

#### BRADLEY AMENDMENTS NOS. 2930-2931

(Ordered to lie on the table.)

Mr. BRADLEY submitted two amendments intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

##### AMENDMENT No. 2930

On page 14, strike line 1 and all that follows through line 14 on page 16 and insert in lieu thereof the following:

"(5) except for assistance under the secondary school exchange program administered by the United States Information Agency, for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination without the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or"

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2298b(k)), is amended by adding at the end the following:

"(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

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

"(B) imports from the Government of Cuba at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of Cuban government debt in return for a grant by the Cuban government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national."

"(4) CUBAN GOVERNMENT.—(A) The term Cuban government includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraph (A), the term 'agency or instrumentality' is used within the meaning of section 1603(b) of title 28, United States Code."

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress express its strong disapproval of the extension by Russia of credits equivalent to \$200,000,000 in support of the intelligence facility at Lourdes, Cuba, announced in November 1994.

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

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of enactment

of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2)(A) the President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

"(C) the report required by subparagraph (B) may be submitted in classified form.

"(D) For purposes of this paragraph, the term 'appropriate congressional committees' includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

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

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

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

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector and nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system;

"(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

"(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160)".

#### AMENDMENT NO. 1931

In lieu of the matter proposed to be inserted by the amendment, insert the following:

The language beginning on page 14, line 1, through line 14 on page 16 is deemed to be as follows:

"(5) except for assistance under the secondary school exchange program administered by the United States Information Agency, for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or"

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

"(3) NONMARKET BASED TRADE.—As used in, section 498A(b)(5), the term 'nonmarket

based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

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

"(B) imports from the Government of Cuba at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of Cuban government debt in return for a grant by the Cuban government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national."

"(4) CUBAN GOVERNMENT.—(A) The term Cuban government includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraph (A), the term 'agency or instrumentality' is used within the meaning of section 1603(b) of title 28, United States Code."

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to \$200,000,000 in support of the intelligence facility at Lourdes, Cuba, announced in November 1994.

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

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2)(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

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

"(D) For purposes of this paragraph, the term 'appropriate congressional committees,' includes the Permanent Select Committee on Intelligence of the House of Representa-

tives and the Select Committee on Intelligence of the Senate.

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

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

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

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector and nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system;

"(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

"(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160)".

#### DODD AMENDMENT NO. 2932

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to amendment No. 2913 submitted by Mr. MACK to amendment No. 2898 proposed by Mr. DOLE to the bill, H.R. 927, *supra*; as follows:

Strike all after the first word of the pending amendment and insert in lieu thereof the following:

(a) CONGRESSIONAL NOTIFICATION.—The President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations in the Senate within 48 hours of concluding any agreement entered into between the governments of the United States and Cuba;

(b) To the extent possible, the President should also consult the relevant committees of Congress with respect to any ongoing negotiations between such governments unless such consultations would adversely effect the outcome.

#### DODD AMENDMENT NO. 2933

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to amendment No. 2923 submitted by Mr. HELMS to amendment No. 2898 proposed by Mr. DOLE to the bill, H.R. 927, *supra*; as follows:

Strike all after the first word of the pending amendment and insert in lieu thereof the following:

#### IV—STUDY ON EXCLUSION OF ALIENS FOR PROPERTY PURPOSES

SEC. 401. (a) The Secretary of State shall undertake a study of how serious a problem the confiscation of U.S. property by foreign governments has become.

(b) The Secretary of State shall submit a legal analysis to the relevant Congressional Committees as to whether the exclusion of aliens from the U.S., who may be involved in the expropriation issues, is consistent with U.S. obligations entered into in the context of GATT and NAFTA.

#### SIMON AMENDMENT NO. 2934

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to amendment No. 2899 submitted by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, *supra*; as follows:

Strike Title , "Freedom to Travel."

Strike section 103(d), and insert the following in its stead:

**SEC. 103(d). TRAVEL TO CUBA.**

(1) FREEDOM TO TRAVEL TO CUBA FOR UNITED STATES CITIZENS AND LEGAL RESIDENTS.—Notwithstanding any other provision of law, the President shall not restrict travel to Cuba by United States citizens or legal residents, except in the event that armed hostilities between Cuba and the United States are in progress, or where such travel presents an imminent danger to the public health or the physical safety of United States travelers.

(2) AMENDMENTS TO TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading With The Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraphs:

"(5) The authority granted by the President in this section does not include the authority to regulate or prohibit, directly or indirectly, and of the following transactions incident to travel to or from Cuba by individuals who are citizens or residents of the United States:

"(A) Any transactions ordinarily incident to travel to or from Cuba, including the importation into Cuba or the United States of accompanied baggage for personal use only.

"(B) Any transactions ordinarily incident to travel to or maintenance within Cuba, including the payment of living expenses and the acquisition of goods and services for personal use.

"(C) Any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to or within Cuba.

"(D) Any transactions ordinarily incident to nonscheduled air, sea, or land voyages, except that this subparagraph does not authorize the carriage of articles into Cuba except accompanied baggage.

"(E) Normal banking transactions incident to the foregoing, including the issuance, clearing, processing, or payment of checks, drafts, travelers checks, credit or debit card instruments, negotiable instruments, or similar instruments.

This paragraph does not authorize the importation into the United States of any goods for personal consumption acquired in Cuba other than those items described in paragraph (4)."

"(6) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, travel to Cuba incident to

"(A) activities of scholars;

"(B) other educational or academic activities;

"(C) exchanges in furtherance of any such activities;

"(D) cultural activities and exchanges; or

"(E) public exhibitions or performances by the nationals of one country in another country,

to the extent that any such activities, exchanges, exhibitions, or performances are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 and to the extent that, with respect to such activities, exchanges, exhibitions, or performances, no acts are prohibited by chapter 37 of title 18, U.S. Code."

(3) FOREIGN ASSISTANCE ACT OF 1961.—Section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is amended by adding at the end thereof the following:

"(3) Notwithstanding paragraph (1), the authority granted to the President in such paragraph does not include the authority to regulate or prohibit, directly or indirectly, any activities or transactions which may not be regulated or prohibited under paragraph (5) or (6) of section 5(b) of the Trading With The Enemy Act."

(4) APPLICABILITY.—The authorities conferred upon the President by section 5(b) of the Trading with the Enemies Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which under section 5(b)(5) or (6) of the Trading with the Enemy Act (as added by this Act) may not be regulated or prohibited.

**SIMON AMENDMENT NO. 2935**

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

Strike section 103(d), and insert the following in its stead:

**SEC. 103(d). TRAVEL TO CUBA**

(1) FREEDOM TO TRAVEL TO CUBA FOR UNITED STATES CITIZENS AND LEGAL RESIDENTS.—Notwithstanding any other provision of law, the President shall not restrict travel to Cuba by United States citizens or legal residents, except in the event that armed hostilities between Cuba and the United States are in progress, or where such travel presents an imminent danger to the public health or the physical safety of United States travelers.

(2) AMENDMENTS TO TRADING WITH THE ENEMY ACT.—Section 5(b) of the Trading With The Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraphs:

"(5) The authority granted by the President in this section does not include the authority to regulate or prohibit, directly or indirectly, any of the following transactions incident to travel to or from Cuba by individuals who are citizens or residents of the United States:

"(A) Any transactions ordinarily incident to travel to or from Cuba, including the importation into Cuba or the United States of accompanied baggage for personal use only.

"(B) Any transactions ordinarily incident to travel to or maintenance within Cuba, including the payment of living expenses and the acquisition of goods and services for personal use.

"(C) Any transactions ordinarily incident to the arrangement, promotion, or facilitation of travel to or within Cuba.

"(D) Any transactions ordinarily incident to non-scheduled air, sea, or land voyages, except that this subparagraph does not authorize the carriage of articles into Cuba except accompanied baggage.

"(E) Normal banking transactions incident to the foregoing, including the issuance, clearing, processing, or payment of checks, drafts, travelers checks, credit or debit card instruments, negotiable instruments, or similar instruments.

This paragraph does not authorize the importation into the United States of any goods for personal consumption acquired in Cuba other than those items described in paragraph (4)."

"(6) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, travel to Cuba incident to

"(A) activities of scholars;

"(B) other educational or academic activities;

"(C) exchanges in furtherance of any such activities;

"(D) cultural activities and exchanges; or

"(E) public exhibitions or performances by the nationals of one country in another country.

to the extent that any such activities, exchanges, exhibitions, or performances are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 and to the extent that, with respect to such activities, exchanges, exhibitions, or performances, no acts are prohibited by chapter 37 of title 18, United States Code."

(3) FOREIGN ASSISTANCE ACT OF 1961.—Section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is amended by adding at the end thereof the following:

"(3) Notwithstanding paragraph (1), the authority granted to the President in such paragraph does not include the authority to regulate or prohibit, directly or indirectly, any activities or transactions which may not be regulated or prohibited under paragraph (5) or (6) of section 5(b) of the Trading With The Enemy Act."

(4) APPLICABILITY.—The authorities conferred upon the President by section 5(b) of the Trading with the Enemies Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which under section 5(b) (5) or (6) of the Trading with the Enemy Act (as added by this Act) may not be regulated or prohibited.

**HELMS AMENDMENT NO. 2936**

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

Strike out all after the first word and insert in lieu thereof the following:

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

(a) SHORT TITLE.—This Act may be cited as "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of 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. Authorization of support for democratic and human rights groups and international observers.

Sec. 103. Enforcement of the economic embargo of Cuba.

Sec. 104. Prohibition against indirect financing of Cuba.

Sec. 105. United States opposition to Cuban membership in international financial institutions.

Sec. 106. United States opposition to the termination of the suspension of the Government of Cuba from participation in the Organization of American States.

Sec. 107. Assistance by the independent states of the former Soviet Union for the Government of Cuba.

Sec. 108. Television broadcasting to Cuba.

Sec. 109. Reports on commerce with, and assistance to, Cuba from other foreign countries.

Sec. 110. Reinstitution of family remittances and travel to Cuba.

Sec. 111. News bureaus in Cuba.  
 Sec. 112. Impact on lawful U.S. government activities.

## 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. 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. Factors for determining a democratically elected government.  
 Sec. 207. Settlement of outstanding U.S. claims to confiscated property in Cuba.

### SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of approximately 60 percent in the last 5 years as a result of—

(A) the reduction in subsidies from the former Soviet Union;

(B) 36 years of Communist tyranny and economic mismanagement by the Castro government;

(C) the precipitous decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba predominantly on commercial terms.

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

(3) The repression of the Cuban people, including a ban on free and fair democratic elections and the continuing violation of fundamental human rights, has isolated the Cuban regime as the only nondemocratic government in the Western Hemisphere.

(4) As long as no such economic or political reforms are adopted by the Cuban government, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(5) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and has made clear that he has no intention of permitting free and fair democratic elections in Cuba or otherwise tolerating the democratization of Cuban society.

(6) The Castro government, in an attempt to retain absolute political power, continues to utilize, as it has from its inception, torture in various forms (including psychiatric abuse), execution, exile, confiscation, political imprisonment, and other forms of terror and repression as most recently demonstrated by the massacre of more than 40 Cuban men, women, and children attempting to flee Cuba.

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

(8) The Castro government has threatened international peace and security by engaging in acts of armed subversion and terrorism, such as the training and supplying of groups dedicated to international violence.

(9) Over the past 36 years, the Cuban government has posed a national security threat to the United States.

(10) The completion and any operation of a nuclear-powered facility in Cuba, for energy generation or otherwise, poses an unacceptable

threat to the national security of the United States.

(11) The unleashing on United States shores of thousands of Cuban refugees fleeing Cuban oppression will be considered an act of aggression.

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

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

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

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

(16) Radio Marti and Television Marti have been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the Cubans living under tyranny.

(17) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in isolating the totalitarian Castro regime.

### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;

(2) to strengthen international sanctions against the Castro government;

(3) to provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals, and the political manipulation of the desire of Cubans to escape that results in mass migration to the United States;

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

(5) to provide for a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(6) to protect American nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime.

### SEC. 4. DEFINITIONS.

As used in this Act, the following terms have the following meanings:

(1) AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE.—The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28, United States Code, except as otherwise provided for in this Act under paragraph 4(5).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) COMMERCIAL ACTIVITY.—The term "commercial activity" has the meaning given

that term in section 1603(d) of title 28, United States Code.

(4) CONFISCATED.—The term "confiscated" refers to

(A) the nationalization, expropriation, or other seizure by the Cuban government of ownership or control of property, on or after January 1, 1959,—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban government of, the default by the Cuban government on, or the failure by the Cuban government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban government,

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban government, or

(iii) a debt which was incurred by the Cuban government in satisfaction or settlement of a confiscated property claim.

(5) CUBAN GOVERNMENT.—(A) The terms "Cuban government" and "Government of Cuba" include the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality" is used within the meaning of section 1603(b) of title 28, United States Code.

(6) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term "democratically elected government in Cuba" means a government that the President has determined as being democratically elected, taking into account the factors listed in section 206.

(7) 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), 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).

(8) FOREIGN NATIONAL.—The term "foreign national" means—

(A) an alien, or

(b) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

(10) OFFICIAL OF THE CUBAN GOVERNMENT OR THE RULING POLITICAL PARTY IN CUBA.—The term "official of the Cuban Government or the ruling political party in Cuba" refers to members of the Council of Ministers, Council of State, central committee of the Cuban Communist Party, the Politburo, or their equivalents.

(11) PROPERTY.—(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of title III of this Act, the term "property" shall not include real property used for residential purposes, unless, at the time of enactment of this Act—

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

(ii) the property is occupied by an official of the Cuban government or the ruling political party in Cuba.

(13) **TRANSITION GOVERNMENT IN CUBA.**—The term "transition government in Cuba" means a government that the President determines as being a transition government consistent with the requirements and factors listed in section 205.

(14) **UNITED STATES NATIONAL.**—The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States, and which has its principal place of business in the United States.

**TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT**  
**SEC. 101. STATEMENT OF POLICY.**

It is the sense of the Congress that—

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

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council a mandatory international embargo against the totalitarian government of Cuba pursuant to similar to consultations conducted by United States representatives with respect to Haiti;

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational the nuclear facility at Cienfuegos, Cuba, and the continuation of intelligence activities from Cuba targeted at the United States and its citizens will have a detrimental impact on United States assistance to such state; and

(4) in view of the threat to the national security posed by the operation of any nuclear facility, and the Castro government's continuing blackmail to unleash another wave of Cuban refugees fleeing from Castro's oppression, most of whom find their way to United States shores further depleting limited humanitarian and other resources of the United States, the President should do all in his power to make it clear to the Cuban government that—

(A) the completion and operation of any nuclear power facility, or

(B) any further political manipulation of the desire of Cubans to escape that results in mass migration to the United States, will be considered an act of aggression which will be met with an appropriate response in order to maintain the security of the national borders of the United States and the health and safety of the American people.

**SEC. 102. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS.**

(a) **AUTHORIZATION.**—The President is authorized to furnish assistance to and make available other support for individuals and nongovernmental organizations to support democracy-building efforts in Cuba, including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy, human rights, and market economies to be made available to independent democratic groups in Cuba.

(2) humanitarian assistance to victims of political repression and their families.

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

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

(b) **DENIAL OF FUNDS TO THE GOVERNMENT OF CUBA.**—In implementing this section, the President shall take all necessary steps to ensure that no funds or other assistance are provided to the Government of Cuba or any of its agencies, entities, or instrumentalities.

(c) **SUPERSEDING OTHER LAWS.**—Assistance may be provided under this section notwithstanding any other provision of law, except for section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394) and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs appropriations Act.

**SEC. 103. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.**

(a) **POLICY.**—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states the President should encourage foreign countries to restrict trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

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

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

(c) **EXISTING REGULATIONS.**—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) **TRADING WITH THE ENEMY ACT.**—(1) Subsection (b) of section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16(b)), as added by Public Law 102-484, is amended to read as follows:

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

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

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

"(4) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code".

(2) Section 16 of the Trading With the Enemy Act is further amended—

(A) by striking subsection (b), as added by Public Law 102-393; and

(B) by striking subsection (c).

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

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) includes an exchange, reduction, or forgiveness of Cuban debt owned to a foreign

country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national; and".

**SEC. 104. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.**

(A) **PROHIBITION.**—Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to a foreign or United States national for the purpose of financing transactions involving any property confiscated by the Cuban government the claim to which is owned by a United States national as of the date of enactment of this Act, except for financing by the owner of the property or the claim thereto for a permitted transaction.

(b) **SUSPENSION AND TERMINATION OF PROHIBITION.**—(1) The President is authorized to suspend this prohibition upon a determination pursuant to section 203(a).

(2) The prohibition in subsection (a) shall cease to apply on the date of termination of the economic embargo of Cuba, as provided for in section 204.

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

**SEC. 105. UNITED STATES OPPOSITION OF CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.**

(a) **CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.**—

(1) Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until the President submits a determination pursuant to section 203(c).

(2) Once the President submits a determination under section 203(a) that a transition government in Cuba is in power—

(A) the President is encouraged to take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power; and

(B) the Secretary of the Treasury is authorized to instruct the United States executive director of each international financial institution to support loans or other assistance to Cuba only to the extent that such loans or assistance contribute to a stable foundation for a democratically elected government in Cuba.

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

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

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

(c) **DEFINITION.**—For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

**SEC. 106. UNITED STATES OPPOSITION TO TERMINATION OF THE SUSPENSION OF THE GOVERNMENT OF CUBA FROM PARTICIPATION IN THE ORGANIZATION OF AMERICAN STATES.**

The President should instruct the United States Permanent Representative to the Organization of American States to oppose and vote against any termination of the suspension of the Cuban government from participation in the Organization until the President determines under section 203(c) that a democratically elected government in Cuba is in power.

**SEC. 107 ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION FOR THE GOVERNMENT OF CUBA.**

(a) **REPORTING REQUIREMENT.**—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress toward the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) **CRITERIA FOR ASSISTANCE.**—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(11)) is amended by striking "of military facilities" and inserting "military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos."

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

(A) by striking "or" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or"

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

"(3) **NONMARKET BASED TRADE.**—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

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

"(B) imports from the Government of Cuba at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of Cuban government debt in return for a grant by the Cuban government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national.

"(4) **CUBAN GOVERNMENT.**—(A) The term Cuban government includes the government of any political subdivision of Cuba, and any

agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraphs (A), the term 'agency or instrumentality' is used within the meaning of section 1603(b) of title 28, United States Code."

(d) **FACILITIES AT LOURDES, CUBA.**—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to \$200,000,000 in support of the intelligence facility at Lourdes, Cuba, announced in November 1994.

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

"(d) **REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.**—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2)(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

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

"(D) For purposes of this paragraph, the term appropriate congressional committees, includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

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

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

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

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector and nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system; or

"(F) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160)".

**SEC. 108. TELEVISION BROADCASTING TO CUBA.**

(a) **CONVERSION TO UHF.**—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Martí Service to ultra high frequency (UHF) broadcasting.

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

(c) **TERMINATION OF BROADCASTING AUTHORITIES.**—Upon transmittal of a determination under section 203(c), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) are repealed.

**SEC. 109. REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.**

(a) **REPORTS REQUIRED.**—Not later than 90 days after the date of enactment of this Act, and by January 1 each year thereafter until the President submits a determination under section 203(a), the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

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

(1) a description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance;

(2) a description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade;

(3) a description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved;

(4) a determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States national;

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

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

(B) the amount of debt owed the foreign country that has been exchanged, reduced, or forgiven in return for a grant by the Cuban government of an equity interest in a property, investment, or operation of the Government of Cuba or of a Cuban national;

(6) a description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals or businesses do not enter the United States market, either directly or through third countries or parties; and

(7) an identification of countries that purchase, or have purchased, arms or military supplies from Cuba or that otherwise have entered into agreements with Cuba that have a military application, including—

(A) a description of the military supplies, equipment, or other material sold, bartered, or exchanged between Cuba and such countries,

(B) a listing of the goods, services, credits, or other consideration received by Cuba in exchange for military supplies, equipment, or material, and

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

**SEC. 110. IMPORTATION SAFEGUARD AGAINST CERTAIN CUBAN PRODUCTS.**

(a) **STATEMENT OF POLICY.**—(1) The Congress notes that section 515.204 of title 31,

Code of Federal Regulations, prohibits the entry of, and dealings outside the United States in, merchandise that—

- (A) is of Cuban origin,
- (B) is or has been located in or transported from or through Cuba, or
- (C) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(2) The Congress notes that United States accession to the North American Free Trade Agreement does not modify or alter the United States sanctions against Cuba, noting that the statement of administrative action accompanying that trade agreement specifically states the following:

(A) "The NAFTA rules of origin will not in any way diminish the Cuban sanctions program. . . . Nothing in the NAFTA would operate to override this prohibition."

(B) "Article 309(3) [of the NAFTA] permits the United States to ensure that Cuban products or goods made from Cuban materials are not imported into the United States from Mexico or Canada and that United States products are not exported to Cuba through those countries."

(3) The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99-198) required the President not to allocate any of the sugar import quota to a country that is a net importer of sugar unless appropriate officials of that country verify to the President that the country does not import for reexport to the United States any sugar produced in Cuba.

(4) Protection of essential security interests of the United States requires enhanced assurances that sugar products that are entered are not products of Cuba.

#### **SEC. 111. REINSTITUTION OF FAMILY REMITTANCES AND TRAVEL TO CUBA.**

It is the sense of Congress that the President should, before considering the reinstitution of general licensure for—

- (1) family remittances to Cuba—

(A) insist that, prior to such reinstitution, the government of Cuba permit the unfettered operation of small businesses fully endowed with the right to hire others to whom they may pay wages, buy materials necessary in the operation of the business and such other authority and freedom required to foster the operation of small businesses throughout the island, and

(B) require a specific license for remittance above \$500; and

(2) travel to Cuba by U.S. resident family members of Cuban nationals resident in Cuba itself insist on such actions by the Government of Cuba as abrogation of the sanction for refugee departure from the island, release of political prisoners, recognition of the right of association and other fundamental freedoms.

#### **SEC. 112. NEWS BUREAU IN CUBA.**

(a) **ESTABLISHMENT OF NEWS BUREAUS.**—The President is authorized to establish and implement an exchange of news bureaus between the United States and Cuba, if—

- (1) the exchange is fully reciprocal;

(2) the Cuban Government allows free, unrestricted, and uninhibited movement in Cuba of journalists of any United States-based news organizations;

(3) the Cuban Government agrees not to interfere with the news-gathering activities of individuals assigned to work as journalists in the news bureaus in Cuba of United States-based news organizations;

(4) the United States Government is able to ensure that only accredited journalists regularly employed with a news gathering organization avail themselves of the general license to travel to Cuba; and

(5) the Cuban Government agrees not to interfere with the transmission of tele-

communications signals of news bureaus or with the distribution within Cuba of any United States-based news organization that has a news bureau in Cuba.

(b) **ASSURANCE AGAINST ESPIONAGE.**—In implementing this section the President shall take all necessary steps to assure the safety and security of the United States against espionage by Cuban journalists it believes to be working for the intelligence agencies of the Cuban Government.

(c) **FULLY RECIPROCAL.**—It is the sense of Congress that the term "fully reciprocal" means that all news services, news organizations, and broadcasting services, including such services or organizations that receive financing, assistance or other support from a governmental or official source, are permitted to establish and operate a news bureau in each nation.

#### **SEC. 113. IMPACT ON LAWFUL U.S. GOVERNMENT ACTIVITIES**

Nothing in this Act shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States.

#### **TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA**

#### **SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.**

It is the policy of the United States—

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

(2) to facilitate a peaceful transition to representative democracy and a free market economy in Cuba;

(3) to be impartial toward any individual or entity in the selection by the Cuban people of their future government;

(4) to enter into negotiations with a democratically elected government in Cuba regarding the status of the United States Naval Base at Guantanamo Bay;

(5) to consider the restoration of diplomatic relations with Cuba and support the reintegration of the Cuban government into of the Inter-American System after a transition government in Cuba comes to power and at such a time as will facilitate the rapid transition to a democratic government;

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

(7) to pursue a mutually beneficial trading relationship with a democratic Cuba.

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

(a) **AUTHORIZATION.**—

(1) **IN GENERAL.**—The President may provide assistance under this section for the Cuban people after a transition government, or a democratically elected government, is in power in Cuba, subject to subsections 203 (a) and (c).

(2) **EFFECT ON OTHER LAWS.**—Subject to section 203, the President is authorized to provide such forms of assistance to Cuba as are provided for in subsection (b), notwithstanding any other provision of law, except for—

(A) this Act;

(B) section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)(2)); and

(C) section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394) and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs appropriations Act.

(b) **RESPONSE PLAN.**—

(1) **DEVELOPMENT OF PLAN.**—The President shall develop a plan detailing, to the extent possible, the manner in which the United States would provide and implement support for the Cuban people in response to the formation of—

(A) a transition government in Cuba; and  
(B) a democratically elected government in Cuba.

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

(A) **TRANSITION GOVERNMENT.**—(i) The plan developed under paragraph (1)(A) for assistance to a transition government in Cuba shall be limited to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet the basic human needs of the Cuban people.

(ii) When a transition government in Cuba is in power, the President is encouraged to remove or modify restrictions that may exist on—

(I) remittances by individuals to their relatives of cash or humanitarian items, and

(II) on freedom to travel to visit Cuba other than that the provision of such services and costs in connection with such travel shall be internationally competitive.

(iii) Upon transmittal to Congress of a determination under section 203(a) that a transition government in Cuba is in power, the President should take such other steps as will encourage renewed investment in Cuba to contribute to a stable foundation for a democratically elected government in Cuba.

(B) **DEMOCRATICALLY ELECTED GOVERNMENT.**—(i) The plan developed under paragraph (1)(B) for assistance for a democratically elected government in Cuba should consist of assistance to promote free market development, private enterprise, and a mutually beneficial trade relationship between the United States and Cuba. Such assistance should include—

(I) financing, guarantees, and other assistance provided by the Export-Import Bank of the United States;

(II) insurance, guarantees, and other assistance provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(III) assistance provided by the Trade and Development Agency;

(IV) international narcotics control assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961; and

(V) Peace Corps activities.

(c) **INTERNATIONAL EFFORTS.**—The President is encouraged to take the necessary steps—

(1) to seek to obtain the agreement of other countries and multinational organizations to provide assistance to a transition government in Cuba and to a democratically elected government in Cuba; and

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

(d) **REPORT ON TRADE AND INVESTMENT RELATIONS.**—

(1) **REPORT TO CONGRESS.**—The President, following the transmittal to the Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and other appropriate congressional committees a report that describes—

(A) acts, policies, and practices which constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

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

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored-nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade



Act of 1974 (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act, and the implications of such designation with respect to trade and any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

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

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 108(b)(5) of the North American Free Trade Agreement Implementation Act; and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) CONSULTATION.—The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and other appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

(e) COMMUNICATION WITH THE CUBAN PEOPLE.—The President is encouraged to take the necessary steps to communicate to the Cuban people the plan developed under this section.

(f) REPORTS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

#### SEC. 203. IMPLEMENTATION; REPORTS TO CONGRESS.

(a) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination, consistent with the requirements and factors in section 205, that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the authorization of appropriations and the availability of appropriations, commence to provide assistance pursuant to section 202(b)(2)(A).

(b) REPORTS TO CONGRESS.—(1) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance authorized under section 202(b)(2)(A) to the transition government in Cuba, the types of such assistance, and the extent to which such assistance has been distributed.

(2) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall consult regularly with the appropriate congressional committees regarding the development of the plan.

(c) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—Upon making a determination, consistent with section 206, that a democratically elected government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the authorization of appropriations and the availability of appropriations, commence to provide such forms of assistance as may be included in the plan for assistance pursuant to section 202(b)(2)(B).

(d) ANNUAL REPORTS TO CONGRESS.—Once the President has transmitted a determination referred to in either subsection (a) or (c), the President shall, not later than 60

days after the end of each fiscal year, transmit to the appropriate congressional committees a report on the assistance to Cuba authorized under section 202, including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

#### SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(a) that a transition government in Cuba is in power, the President, after consulting with the Congress, is authorized to take steps to suspend the economic embargo on Cuba and to suspend application of the right of action created in section 302 as to actions thereafter filed against the Government of Cuba, to the extent that such action contributes to a stable foundation for a democratically elected government in Cuba.

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

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

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with regard to the "Republic of Cuba";

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

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

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

(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba.

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

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

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

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

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

(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 203(c) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on .", with the blank space being filled with the appropriate date.

(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

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

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

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

#### SEC. 205. REQUIREMENTS FOR A TRANSITION GOVERNMENT.

(a) A determination under section 203(a) that a transition government in Cuba is in power shall not be made unless that government has taken the following actions—

(1) legalized all political activity;

(2) released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; and

(4) has committed to organizing free and fair elections for a new government—

(i) to be held in a timely manner within 2 years after the transition government assumes power;

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

(iii) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other election monitors;

(b) In addition to the requirements in subsection (a), in determining whether a transition government is in power in Cuba, the President shall take into account the extent to which that government—

(1) is demonstrably in transition from communist totalitarian dictatorship to representative democracy;

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

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights;

(C) effectively guaranteeing the rights of free speech and freedom of the press, including granting permits to privately owned media and telecommunications companies to operate in Cuba;

(D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba;

(E) assuring the right to private property; and

(F) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;



(3) has ceased any interference with broadcasts by Radio Marti or the Television Marti Service;

(4) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and

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

**SEC. 206. FACTORS FOR DETERMINING A DEMOCRATICALLY ELECTED GOVERNMENT.**

For purposes of determining under section 203(c) of this Act whether a democratically elected government in Cuba is in power, the President shall take into account whether, and the extent to which, that government—

(1) results from free and fair elections—

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

(B) in which opposition parties were permitted ample time to organize and campaign for such elections, and in which all candidates in the elections were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(4) is committed to making constitutional changes that would ensure regular free and fair elections and the full enjoyment of basic civil liberties and human rights by the citizens of Cuba; and

(5) is continuing to comply with the requirements of section 205.

**SEC. 207. SETTLEMENT OF OUTSTANDING U.S. CLAIMS TO CONFISCATED PROPERTY IN CUBA.**

(a) **SUPPORT FOR A TRANSITION GOVERNMENT.**—Notwithstanding any other provision of this Act—

(1) no assistance may be provided under the authority of this Act to a transition government in Cuba, and

(2) the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of a transition government in Cuba, except for assistance to meet the emergency humanitarian needs of the Cuban people.

unless the President determines and certifies to Congress that such a government has publicly committed itself, and is taking appropriate steps, to establish a procedure under its law or through international arbitration to provide for the return of, or prompt, adequate, and effective compensation for, property confiscated by the Government of Cuba on or after January 1, 1959, from any person or entity that is a United States national who is described in section 620(a)(2) of the Foreign Assistance Act of 1961.

(b) **SUPPORT FOR A DEMOCRATICALLY ELECTED GOVERNMENT.**—Notwithstanding any other provision of this Act—

(1) no assistance may be provided under the authority of this Act to a democratically elected government in Cuba, and

(2) the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of a democratically elected government in Cuba.

unless the President determines and certifies to Congress that such a government has adopted and is effectively implementing a procedure under its law or through international arbitration to provide for the return of, or prompt, adequate, and effective compensation for, property confiscated by

the Government of Cuba on or after January 1, 1959, from any person or entity that is a United States national who is described in section 620(a)(2) of the Foreign Assistance Act of 1961.

(c) **REPORT TO CONGRESS.**—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall provide a report to the appropriate congressional committees containing an assessment of the property dispute question in Cuba, including—

(1) an estimate of the number and amount of claims to property confiscated by the Cuban government held by United States nationals beyond those certified under section 507 of the International Claims Settlement Act of 1949,

(2) an assessment of the significance of promptly resolving confiscated property claims to the revitalization of the Cuban economy,

(3) a review and evaluation of technical and other assistance that the United States could provide to help either a transition government in Cuba or a democratically elected government in Cuba establish mechanisms to resolve property questions,

(4) an assessment of the role and types of support the United States could provide to help resolve claims to property confiscated by the Cuban government held by United States nationals who did not receive or qualify for certification under section 507 of the International Claims Settlement Act of 1949, and

(5) an assessment of any areas requiring legislative review or action regarding the resolution of property claims in Cuba prior to a change of government in Cuba.

(d) **SENSE OF CONGRESS.**—It is the sense of the Congress that the satisfactory resolution of property claims by a Cuban government recognized by the United States remains an essential condition for the full resumption of economic and diplomatic relations between the United States and Cuba.

(e) **WAIVER.**—The President may waive the prohibitions in subsections (a) and (b) if the President determines and certifies to the Congress that it is in the vital national interest of the United States to provide assistance to contribute to the stable foundation for a democratically elected government in Cuba.

**HELMS AMENDMENT NO. 2937**

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill H.R. 927, supra; as follows:

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

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

The Congress makes the following findings:

(1) Individuals enjoy a fundamental right to own and enjoy property which is enshrined in the United States Constitution.

(2) The wrongful confiscation or taking of property belonging to United States nationals by the Cuban government, and the subsequent exploitation of this property at the expense of the rightful owner, undermines the comity of nations, the free flow of commerce, and economic development.

(3) Since Fidel Castro seized power in Cuba in 1959—

(A) he has trampled on the fundamental rights of the Cuban people, and

(B) through his personal despotism, he has confiscated the property of—

(i) millions of his own citizens,

(ii) thousands of United States nationals, and

(iii) thousands more Cubans who claimed asylum in the United States as refugees because of persecution and later became naturalized citizens of the United States.

(4) It is in the interest of the Cuban people that the government of Cuba respect equally the property rights of Cuban and foreign nationals.

(5) The Cuban government is offering foreign investors the opportunity to purchase an equity interest in, manage, or enter into joint ventures with property and assets some of which were confiscated from United States nationals.

(6) This "trafficking" in confiscated property provides badly needed financial benefit, including hard currency, oil and productive investment and expertise, to the current government of Cuba and thus undermines the foreign policy of the United States—

(A) to bring democratic institutions to Cuba through the pressure of a general economic embargo at a time when the Castro regime has proven to be vulnerable to international economic pressure, and

(B) to protect the claims of United States nationals who had property wrongfully confiscated by the Cuban government.

(7) The U.S. State Department has notified other governments that the transfer of properties confiscated by the Cuban government to third parties "would complicate any attempt to return them to their original owners".

(8) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.

(9) International law recognizes that a nation has the ability to provide for rules of law with respect to "conduct outside its territory that has or is intended to have substantial effect within its territory".

(10) The United States Government has an obligation to its citizens to provide protection against wrongful confiscations by foreign nations and their citizens, including the provision of private remedies.

(11) To deter trafficking in wrongfully confiscated property, United States nationals who were the victims of these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny traffickers any profits from economically exploiting Castro's wrongful seizures.

**SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES NATIONALS.**

(a) **CIVIL REMEDY.**—(1) **LIABILITY OF TRAFFICKING.**—(A) Except as otherwise provided in this section, any person or entity, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, that after the end of the 6-month period beginning on the date of enactment of this Act traffics in property which was confiscated by the Government of Cuba on or after January 1, 1959, shall be liable to the United States national who owns the claim to such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

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

(II) the amount determined under section 303(a)(2), plus interest; or

(III) the fair market value of that property, calculated as being the then current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) reasonable court costs and attorneys' fees.

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

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

(3) REQUIREMENT FOR PRIOR NOTICE AND INCREASED LIABILITY FOR SUBSEQUENT ADDITIONAL NOTICE.—(A) Following the conclusion of 180 days after the date of enactment of this Act but at least 30 days prior to instituting suit hereunder, notice of intention to institute a suit pursuant to this section must be served on each intended party or, in the case of ongoing intention to add any party to ongoing litigation hereunder, to each such additional party.

(B) Except as provided in this section, any person or entity, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, that traffics in confiscated property after having received—

(i) a subsequent additional notice of a claim to ownership of the property by the United States national who owns the claim to the confiscated property, and

(ii) notice of the provisions of this section, shall be liable to that United States national for money damages in an amount which is the sum of the amount equal to the amount determined under paragraph (1)(A)(ii), plus triple the amount determined applicable under subclause (I), (II), or (III) of paragraph (1)(A)(I).

(C) For purposes of this section, any person or entity, including any agency or instrumentality of a foreign state, shall be deemed to have received the notices described in subsections (B)(I) and (ii) with respect to any claim certified prior to the effective date hereof by the Foreign Claims Settlement Commission.

(4) APPLICABILITY.—(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of enactment of this Act.

(B) In the case of property confiscated by the Government of Cuba before the date of enactment of this title, no United States national may bring an action under this section unless such national acquired ownership of the claim to the confiscated property before such date of enactment.

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

(5) TREATMENT OF CERTAIN ACTIONS.—(A) A United States national who was eligible to file the underlying claim in the action with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but did not so file the claim may not bring an action under this section.

(B) In the case of any action brought under this section by a United States national whose underlying claim in the action was

timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this section.

(6) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1).

(7) Notwithstanding any other provision of law, an action under this section may be brought and may be settled, and a judgment rendered in such action may be enforced, without the necessity of obtaining any license or other permission from any agency of the United States, except that this subsection shall not apply to the execution of a judgment against or the settlement of actions involving property blocked under the authority of the Trading with the Enemy Act (Appendix to title 50, United States Code, sections 1 through 44).

(8) Notwithstanding any other provision of law, any claim against the Government of Cuba shall not be deemed an interest in property the transfer of which required or requires a license or permission of any agency of the United States.

(b) AMOUNT IN CONTROVERSY.—An action may be brought under this section by a United States national only where the matter in controversy exceeds the sum or value of \$50,000 exclusive of costs and attorneys' fees, exclusive of interest under sections 302(a)(I), (II), and (III), and exclusive of any additional sums under section 302(a)(3)(B).

(c) SERVICE OF PROCESS.—(1) Service of process shall be effected against an agency or instrumentality of a foreign state in the conduct of a commercial activity, or against individuals acting under color of law in conformity with section 1608 of title 28, United States Code, except as provided by paragraph (3) of this subsection.

(2) Service of process shall be effected against all parties not included under the terms of paragraph (1) in conformity with section 1331 of title 28, United States Code.

(3) For all actions brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995, no judgment by default shall be entered by a court of the United States against the government of Cuba, its political subdivision, or its agencies or instrumentalities, unless a government recognized by the United States in Cuba and with which it has diplomatic relations is given the opportunity to cure and be heard thereon and the claimant establishes his claim or right to relief by evidence satisfactory to the court.

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

"(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 1605(7) to the extent the property is a facility or installation used by an accredited diplomatic mission for official purposes."

(e) ELECTION OF REMEDIES.—

(1) ELECTION.—Subject to paragraph (2), and except for an action or proceeding commenced prior to enactment of this Act—

(A) any United States national that brings an action under this section may not bring any other civil action or proceeding under the common law, Federal law, or the law of any of the several states, the District of Columbia, or any territory or possession of the United States that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action would otherwise be cognizable under this section may not bring an action under this section on that claim.

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

(A) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States national may not receive payment on the claim under any agreement entered into between the United States and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the United States from any further responsibility to represent the United States national with respect to that claim;

(B) If the recovery in the action is less than the amount of the certified claim, the United States national may receive payment under a claims agreement described in subparagraph (A) but only to the extent of the difference between the amount of the recovery and the amount of the certified claim; and

(C) If there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in subparagraph (A) to the same extent as any certified claimant who does not bring an action under this section.

(D) In the event some or all actions or claims filed under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy such claims, including a pool of assets in a proceeding in bankruptcy, every certified claimant who filed such an action or claim which is consolidated in such manner with other claims shall be entitled to payment in full of its claim from the assets in such pool prior to any payment from the assets in such pool with respect to any claim not certified by the Foreign Claims Settlement Commission.

(f) DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER CLAIM AGREEMENT.—Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling certified claims under title V of the International Claims Settlement Act of 1949 that are in excess of the payments made on such certified claims after the application of subsection (e) shall be deposited into the United States Treasury.

(g) TERMINATION OF RIGHTS.—(1) All rights created under this section to bring an action for money damages with respect to property confiscated by the Government of Cuba before the date of enactment of this Act shall cease upon transmittal to the Congress of a determination of the President under section 203(c).

(2) The termination of rights under paragraph (1) shall not affect suits commenced before the date of such termination, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subsection had not been enacted.

#### SEC. 303. PROOF OF OWNERSHIP OF CLAIMS TO CONFISCATED PROPERTY.

(a) EVIDENCE OF OWNERSHIP.—(1) In any action brought under this Act, the courts shall accept as conclusive proof of ownership a certification of a claim to ownership that has been made by the Foreign Claims Settlement Commission pursuant to title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following).

(2) In the case of a claim that has not been certified by the Foreign Claims Settlement Commission before the enactment of this Act, a court may appoint a Special Master, including the Foreign Claims Settlement Commission, to make determinations regarding the amount and ownership of claims to ownership of confiscated property by the Government of Cuba. Such determinations are only for evidentiary purposes in civil actions brought under this Act and do not constitute certifications pursuant to title V of the International Claims Settlement Act of 1949.

(3) In determining ownership, courts shall not accept as conclusive evidence of ownership any findings, orders, judgments, or decrees from administrative agencies or courts of foreign countries or international organizations that invalidate the claim held by a United States national, unless the invalidation was found pursuant to binding international arbitration to which United States submitted the claim.

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

**"DETERMINATION OF OWNERSHIP CLAIMS REFERRED BY DISTRICT COURTS OF THE UNITED STATES**

"SEC. 514. Notwithstanding any other provision of this Act and only for purposes of section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995, a United States district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States national (as defined in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995, resulting from the confiscation of property by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a national of the United States (as defined in section 502(1)) at the time of action by the Government of Cuba".

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

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made pursuant to title V of the International Claims Settlement Act of 1949 before the enactment of this Act.

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

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

**"EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE**

"SEC. 515. (a) Subject to subsection (b) neither any national of the United States who was eligible to file a claim under section 503 but did not timely file such claim under that section, nor any national of the United States (on the date of the enactment of this section) who was not eligible to file a claim under that section, nor any national of Cuba,

including any agency, instrumentality, subdivision, or enterprise of the Government of Cuba or any local government of Cuba in place on the date of the enactment of this section, nor any successor thereto, whether or not recognized by the United States, shall have a claim to, participate in, or otherwise have an interest in, the compensation proceeds or non-monetary compensation paid or allocated to a national of the United States by virtue of a claim certified by the Commission pursuant to section 507, nor shall any district court of the United States have jurisdiction to adjudicate any such claim.

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

**SEC. 305. DEFINITIONS.**

As used in this title, the following terms have the following meanings:

(1) AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE.—The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28, United States Code, except as otherwise provided for in this title under paragraph 4(B).

(2) COMMERCIAL ACTIVITY.—The term "commercial activity" has the meaning given that term in section 1603(d) of title 28, United States Code.

(3) CONFISCATED.—The term "confiscated" refers to—

(A) the nationalization, expropriation, or other seizure by the Cuban government of ownership or control of property, on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban government of, the default by the Cuban government on, or the failure by the Cuban government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban government,

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban government, or

(iii) a debt which was incurred by the Cuban government in satisfaction or settlement of a confiscated property claim.

(4) CUBAN GOVERNMENT.—(A) The terms "Cuban government" and "Government of Cuba" include the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality" is used within the meaning of section 1603(b) of title 28, United States Code.

(5) FOREIGN NATIONAL.—The term "foreign national" means—

(A) an alien, or

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

(6) KNOWINGLY.—The term "knowingly" means with knowledge or having reason to know.

(7) OFFICIAL OF THE CUBAN GOVERNMENT OR THE RULING POLITICAL PARTY IN CUBA.—The term "official of the Cuban Government or the ruling political party in Cuba" refers to members of the Council of Ministers, Council of State, central committee of the Cuban

Communist Party, the Politburo, or their equivalents.

(8) PROPERTY.—(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of this title, the term "property" shall not include real property used for residential purposes, unless, at the time of enactment of this Act—

(I) the claim to the property is held by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949; or

(ii) the property is occupied by an official of the Cuban government or the ruling political party in Cuba.

(9) TRAFFICS.—(A) AS used in this title, 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, received, 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 benefitting from a confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clauses (I) and (ii)) by another person, or otherwise engages in trafficking (as described in clauses (I) and (ii)) through another person,

without the authorization of the United States national who holds a claim to the property.

(B) The term "traffic" does not include—

(I) the delivery of international telecommunications signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the degree that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property for residential purposes by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban government or the ruling political party in Cuba, unless, at the time of enactment of this title, the claim to the property is held by a United States national and the claims has been certified under title V of the International Claims Settlement Act of 1949.

(10) UNITED STATES NATIONAL.—The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States, and which has its principal place of business in the United States.

**NOTICE OF HEARING**

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management to receive testimony from