

(Pub. L. 104-114, title I, §108, Mar. 12, 1996, 110 Stat. 798.)

Executive Documents

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46075, set out as a note under section 301 of Title 3, The President.

§ 6039. Authorization of support for democratic and human rights groups and international observers

(a) Authorization

Notwithstanding any other provision of law (including section 6032 of this title), except for section 2394-1 of this title and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for 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) OAS emergency fund

(1) For support of human rights and elections

The President shall take the necessary steps to encourage the Organization of American States to create a special emergency fund for the explicit purpose of deploying human rights observers, election support, and election observation in Cuba.

(2) Action of other member states

The President should instruct the United States Permanent Representative to the Organization of American States to encourage other member states of the Organization to join in calling for the Cuban Government to allow the immediate deployment of independent human rights monitors of the Organization throughout Cuba and on-site visits to Cuba by the Inter-American Commission on Human Rights.

(3) Voluntary contributions for fund

Notwithstanding section 2227 of this title or any other provision of law limiting the United States proportionate share of assistance to Cuba by any international organization, the President should provide not less than \$5,000,000 of the voluntary contributions of the United States to the Organization of American States solely for the purposes of the special fund referred to in paragraph (1).

(c) Denial of funds to Cuban Government

In implementing this section, the President shall take all necessary steps to ensure that no

funds or other assistance is provided to the Cuban Government.

(Pub. L. 104-114, title I, §109, Mar. 12, 1996, 110 Stat. 799.)

§ 6040. Importation safeguard against certain Cuban products

(a) Prohibition on import of and dealings in Cuban products

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—

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

(b) Effect of NAFTA

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. The statement of administrative action accompanying that trade agreement specifically states the following:

(1) “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.”

(2) “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.”

(c) Restriction of sugar imports

The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99-198) requires 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.

(d) Assurances regarding sugar products

Protection of essential security interests of the United States requires assurances that sugar products that are entered, or withdrawn from warehouse for consumption, into the customs territory of the United States are not products of Cuba.

(Pub. L. 104-114, title I, §110, Mar. 12, 1996, 110 Stat. 800.)

Editorial Notes

REFERENCES IN TEXT

Section 902(c) of the Food Security Act of 1985, referred to in subsec. (c), is section 902(c) of Pub. L. 99-198, which is set out as a note under section 1446g of Title 7, Agriculture.

§ 6041. Withholding of foreign assistance from countries supporting Juragua nuclear plant in Cuba

(a) Findings

The Congress makes the following findings:

(1) President Clinton stated in April 1993 that the United States opposed the construction of the Juragua nuclear power plant because of the concerns of the United States about Cuba's ability to ensure the safe operation of the facility and because of Cuba's refusal to sign the Nuclear Non-Proliferation Treaty or ratify the Treaty of Tlatelolco.

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

(3) The State Department, the Nuclear Regulatory Commission, and the Department of Energy have expressed concerns about the construction and operation of Cuba's nuclear reactors.

(4) In a September 1992 report to the Congress, the General Accounting Office outlined concerns among nuclear energy experts about deficiencies in the nuclear plant project in Juragua, near Cienfuegos, Cuba, including—

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

(B) the absence in Cuba of an adequate infrastructure to ensure the plant's safe operation and requisite maintenance;

(C) the inadequacy of training of plant operators;

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

(E) since September 5, 1992, when construction on the plant was halted, the prolonged exposure to the elements, including corrosive salt water vapor, of the primary reactor components; and

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

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

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

(7) On May 25, 1992, the Caribbean plate produced an earthquake numbering 7.0 on the Richter scale.

(8) According to a study by the National Oceanic and Atmospheric Administration, summer winds could carry radioactive pollutants from a nuclear accident at the power plant throughout all of Florida and parts of the States on the coast of the Gulf of Mexico as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, D.C.

(9) The Cuban Government, under dictator Fidel Castro, in 1962 advocated the Soviets' launching of nuclear missiles to the United States, which represented a direct and dangerous provocation of the United States and brought the world to the brink of a nuclear conflict.

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

(11) Despite the various concerns about the plant's safety and operational problems, a feasibility study is being conducted that would establish a support group to include Russia, Cuba, and third countries with the objective of completing and operating the plant.

(b) Withholding of foreign assistance

(1) In general

Notwithstanding any other provision of law, the President shall withhold from assistance allocated, on or after March 12, 1996, for any country an amount equal to the sum of assistance and credits, if any, provided on or after March 12, 1996, by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

(2) Exceptions

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 or rule of law activities;

(C) the creation of private sector or non-governmental organizations that are independent of government control;

(D) the development of a free market economic system;

(E) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160) [22 U.S.C. 5951 et seq.]; or

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

(3) "Assistance" defined

As used in paragraph (1), the term "assistance" means assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], credits, sales, guarantees of extensions of credit, and other assistance under the Arms Export Control Act [22 U.S.C. 2751 et seq.], assistance under titles I and III of the Food for Peace Act [7 U.S.C. 1701 et seq., 1727 et seq.], assistance under the FREEDOM Support Act, and any other program of assistance or credits provided by the United States to other countries under other provisions of law.

(Pub. L. 104-114, title I, §111, Mar. 12, 1996, 110 Stat. 800; Pub. L. 110-246, title III, §3001(b)(1)(A), (2)(W), June 18, 2008, 122 Stat. 1820, 1821.)

Editorial Notes

REFERENCES IN TEXT

Upon the enactment of this chapter, referred to in subsec. (a)(10), means the date of enactment of Pub. L. 104-114, which was approved Mar. 12, 1996.

The Cooperative Threat Reduction Act of 1993, referred to in subsec. (b)(2)(E), is title XII of div. A of Pub. L. 103-160, Nov. 30, 1993, 107 Stat. 1777, which is classified generally to chapter 68A (§5951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5951 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (b)(3), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (b)(3), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Food for Peace Act, referred to in subsec. (b)(3), is act July 10, 1954, ch. 469, 68 Stat. 454. Titles I and III of the Act are classified generally to subchapters II (§1701 et seq.) and III-A (§1727 et seq.), respectively, of chapter 41 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The FREEDOM Support Act, referred to in subsec. (b)(3), is Pub. L. 102-511, Oct. 24, 1992, 106 Stat. 3320, also known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110-246 substituted “Food for Peace Act” for “Agricultural Trade Development and Assistance Act of 1954”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office by section 8 of Pub. L. 108-271, set out as a note under section 702 of Title 31, Money and Finance.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§ 6042. Reinstitution of family remittances and travel to Cuba

It is the sense of the Congress that the President should—

(1)(A) before considering the reinstatement of general licenses for family remittances to Cuba, insist that, prior to such reinstatement, the Cuban Government permit the unfettered operation of small businesses fully empowered with the right to hire others to whom they may pay wages and to buy materials necessary

in the operation of the businesses, and with such other authority and freedom as are required to foster the operation of small businesses throughout Cuba; and

(B) if licenses described in subparagraph (A) are reinstated, require a specific license for remittances described in subparagraph (A) in amounts of more than \$500; and

(2) before considering the reinstatement of general licenses for travel to Cuba by individuals resident in the United States who are family members of Cuban nationals who are resident in Cuba, insist on such actions by the Cuban Government as abrogation of the sanction for departure from Cuba by refugees, release of political prisoners, recognition of the right of association, and other fundamental freedoms.

(Pub. L. 104-114, title I, §112, Mar. 12, 1996, 110 Stat. 802.)

§ 6043. Expulsion of criminals from Cuba

The President shall instruct all United States Government officials who engage in official contacts with the Cuban Government to raise on a regular basis the extradition of or rendering to the United States all persons residing in Cuba who are sought by the United States Department of Justice for crimes committed in the United States.

(Pub. L. 104-114, title I, §113, Mar. 12, 1996, 110 Stat. 803.)

§ 6044. News bureaus 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 the exchange meets the following conditions:

(1) The exchange is fully reciprocal.

(2) The Cuban Government agrees not to interfere with the establishment of news bureaus or with the movement in Cuba of journalists of any United States-based news organizations, including Radio Marti and Television Marti.

(3) The Cuban Government agrees not to interfere with decisions of United States-based news organizations with respect to individuals assigned to work as journalists in their news bureaus in Cuba.

(4) The Department of the Treasury is able to ensure that only accredited journalists regularly employed with a news gathering organization travel to Cuba under this subsection.

(5) The Cuban Government agrees not to interfere with the transmission of telecommunications signals of news bureaus or with the distribution within Cuba of publications 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 ensure 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.