

104TH CONGRESS
1ST SESSION

H. R. 2347

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 1995

Mr. BURTON of Indiana introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Ways and Means, Banking and Financial Services, the Judiciary, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

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

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

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

TITLE I—SEEKING SANCTIONS AGAINST THE CASTRO
 GOVERNMENT

- Sec. 101. Statement of policy.
- Sec. 102. Enforcement of the economic embargo of Cuba.
- Sec. 103. Prohibition against indirect financing of the Castro dictatorship.
- Sec. 104. United States opposition to Cuban membership in international financial institutions.
- Sec. 105. United States opposition to ending the suspension of the Government of Cuba from the Organization of American States.
- Sec. 106. Assistance by the Independent States of the former Soviet Union for the Cuban Government.
- Sec. 107. Television broadcasting to Cuba.
- Sec. 108. Reports on assistance and commerce received by Cuba from other foreign countries.
- Sec. 109. Authorization of support for democratic and human rights groups and international observers.
- Sec. 110. Withholding of foreign assistance from countries supporting nuclear plant in Cuba.
- Sec. 111. Expulsion of criminals from Cuba.

TITLE II—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

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

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

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

TITLE IV—EXCLUSION OF CERTAIN ALIENS

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

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

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

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

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

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

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

19 (2) At the same time, the welfare and health of
20 the Cuban people have substantially deteriorated as
21 a result of this economic decline and the refusal of
22 the Castro regime to permit free and fair democratic
23 elections in Cuba.

24 (3) The Castro regime has made it abundantly
25 clear that it will not engage in any substantive polit-

1 ical reforms that would lead to democracy, a market
2 economy, or an economic recovery.

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

9 (5) As long as free elections are not held in
10 Cuba, the economic condition of the country and the
11 welfare of the Cuban people will not improve in any
12 significant way.

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

18 (7) Radio Marti and Television Marti have both
19 been effective vehicles for providing the people of
20 Cuba with news and information and have helped to
21 bolster the morale of the people of Cuba living under
22 tyranny.

23 (8) The consistent policy of the United States
24 towards Cuba since the beginning of the Castro re-
25 gime, carried out by both Democratic and Repub-

1 lican administrations, has sought to keep faith with
2 the people of Cuba, and has been effective in sanc-
3 tioning the totalitarian Castro regime.

4 (9) The United States has shown a deep com-
5 mitment, and considers it a moral obligation, to pro-
6 mote and protect human rights and fundamental
7 freedoms as expressed in the Charter of the United
8 Nations and in the Universal Declaration of Human
9 Rights.

10 (10) The Congress has historically and consist-
11 ently manifested its solidarity and the solidarity of
12 the American people with the democratic aspirations
13 of the Cuban people.

14 (11) The Cuban Democracy Act of 1992 calls
15 upon the President to encourage the governments of
16 countries that conduct trade with Cuba to restrict
17 their trade and credit relations with Cuba in a man-
18 ner consistent with the purposes of that Act.

19 (12) The 1992 FREEDOM Support Act re-
20 quires that the President, in providing economic as-
21 sistance to Russia and the emerging Eurasian de-
22 mocracies, take into account the extent to which
23 they are acting to “terminate support for the com-
24 munist regime in Cuba, including removal of troops,

1 closing military facilities, and ceasing trade subsidies
2 and economic, nuclear, and other assistance”.

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

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

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

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

21 (17) The Castro government holds innocent Cu-
22 bans hostage in Cuba by no fault of the hostages
23 themselves solely because relatives have escaped the
24 country.

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

14 (19) The Castro government continues to utilize
15 blackmail, such as the immigration crisis with which
16 it threatened the United States in the summer of
17 1994, and other unacceptable and illegal forms of
18 conduct to influence the actions of sovereign states
19 in the Western Hemisphere in violation of the Char-
20 ter of the Organization of American States and
21 other international agreements and international
22 law.

23 (20) The United Nations Commission on
24 Human Rights has repeatedly reported on the unac-
25 ceptable human rights situation in Cuba and has

1 taken the extraordinary step of appointing a Special
2 Rapporteur.

3 (21) The Cuban Government has consistently
4 refused access to the Special Rapporteur and for-
5 mally expressed its decision not to “implement so
6 much as one comma” of the United Nations Resolu-
7 tions appointing the Rapporteur.

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

15 (23) Article 39 of Chapter VII of the United
16 Nations Charter provides that the United Nations
17 Security Council “shall determine the existence of
18 any threat to the peace, breach of the peace, or act
19 of aggression and shall make recommendations, or
20 decide what measures shall be taken . . . , to main-
21 tain or restore international peace and security.”.

22 (24) The United Nations has determined that
23 massive and systematic violations of human rights
24 may constitute a “threat to peace” under Article 39
25 and has imposed sanctions due to such violations of

1 human rights in the cases of Rhodesia, South Africa,
2 Iraq, and the former Yugoslavia.

3 (25) In the case of Haiti, a neighbor of Cuba
4 not as close to the United States as Cuba, the
5 United States led an effort to obtain and did obtain
6 a United Nations Security Council embargo and
7 blockade against that country due to the existence of
8 a military dictatorship in power less than 3 years.

9 (26) United Nations Security Council Resolu-
10 tion 940 of July 31, 1994, subsequently authorized
11 the use of “all necessary means” to restore the
12 “democratically elected government of Haiti”, and
13 the democratically elected government of Haiti was
14 restored to power on October 15, 1994.

15 (27) The Cuban people deserve to be assisted in
16 a decisive manner to end the tyranny that has op-
17 pressed them for 36 years and the continued failure
18 to do so constitutes ethically improper conduct by
19 the international community.

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

23 **SEC. 3. PURPOSES.**

24 The purposes of this Act are as follows:

1 (1) To assist the Cuban people in regaining
2 their freedom and prosperity, as well as in joining
3 the community of democracies that are flourishing in
4 the Western Hemisphere.

5 (2) To seek international sanctions against the
6 Castro government in Cuba.

7 (3) To encourage the holding of free and fair
8 democratic elections in Cuba, conducted under the
9 supervision of internationally recognized observers.

10 (4) To develop a plan for furnishing assistance
11 to a transition government and, subsequently, to a
12 democratically elected government when such gov-
13 ernments meet the eligibility requirements of this
14 Act.

15 (5) To protect property rights abroad of United
16 States nationals.

17 (6) To provide for the continued national secu-
18 rity of the United States in the face of continuing
19 threats from the Castro government of terrorism,
20 theft of property from United States nationals, and
21 domestic repression from which refugees flee to
22 United States shores.

23 **SEC. 4. DEFINITIONS.**

24 As used in this Act, the following terms have the fol-
25 lowing meanings:

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

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

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

14 (A) the nationalization, expropriation, or
15 other seizure by the Cuban Government of own-
16 ership or control of property, on or after Janu-
17 ary 1, 1959—

18 (i) without the property having been
19 returned or adequate and effective com-
20 pensation provided; or

21 (ii) without the claim to the property
22 having been settled pursuant to an inter-
23 national claims settlement agreement or
24 other mutually accepted settlement proce-
25 dure; and

1 (B) the repudiation by the Cuban Govern-
2 ment of, the default by the Cuban Government
3 on, or the failure by the Cuban Government to
4 pay, on or after January 1, 1959—

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

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

11 (iii) a debt which was incurred by the
12 Cuban Government in satisfaction or set-
13 tlement of a confiscated property claim.

14 (4) CUBAN GOVERNMENT.—(A) The term
15 “Cuban Government” includes the government of
16 any political subdivision of Cuba, and any agency or
17 instrumentality of the Government of Cuba.

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

1 (5) DEMOCRATICALLY ELECTED GOVERNMENT
2 IN CUBA.—The term “democratically elected govern-
3 ment in Cuba” means a government determined by
4 the President to have met the requirements of sec-
5 tion 206.

6 (6) ECONOMIC EMBARGO OF CUBA.—The term
7 “economic embargo of Cuba” refers to the economic
8 embargo imposed against Cuba pursuant to section
9 620(a) of the Foreign Assistance Act of 1961 (22
10 U.S.C. 2370(a)), section 5(b) of the Trading With
11 the Enemy Act (50 U.S.C. App. 5(b)), the Inter-
12 national Emergency Economic Powers Act (50
13 U.S.C. 1701 and following), and the Export Admin-
14 istration Act of 1979 (50 U.S.C. App. 2401 and fol-
15 lowing), as modified by the Cuban Democracy Act of
16 1992 (22 U.S.C. 6001 and following).

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

19 (A) an alien; or

20 (B) any corporation, trust, partnership, or
21 other juridical entity not organized under the
22 laws of the United States, or of any State, the
23 District of Columbia, the Commonwealth of
24 Puerto Rico, or any other territory or posses-
25 sion of the United States.

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

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

10 (B) For purposes of title III of this Act, the
11 term “property” shall not include real property used
12 for residential purposes unless, as of the date of the
13 enactment of this Act—

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

18 (ii) the property is occupied by a member
19 or official of the Cuban Government or the rul-
20 ing political party in Cuba.

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

24 (i) sells, transfers, distributes, dispenses,
25 brokers, manages, or otherwise disposes of con-

1 fiscated property, or purchases, leases, receives,
2 possesses, obtains control of, manages, uses, or
3 otherwise acquires or holds an interest in con-
4 fiscated property,

5 (ii) engages in a commercial activity using
6 or otherwise benefiting from confiscated prop-
7 erty, or

8 (iii) causes, directs, participates in, or
9 profits from, trafficking (as described in clauses
10 (i) and (ii)) by another person, or otherwise en-
11 gages in trafficking (as described in clauses (i)
12 and (ii)) through another person,

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

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

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

20 (ii) the trading or holding of securities
21 publicly traded or held, unless the trading is
22 with or by a person determined by the Sec-
23 retary of the Treasury to be a specially des-
24 ignated national.

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

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

7 (A) any United States citizen; or

8 (B) any other legal entity which is orga-
9 nized under the laws of the United States, or
10 of any State, the District of Columbia, the
11 Commonwealth of Puerto Rico, or any other
12 territory or possession of the United States,
13 and which has its principal place of business in
14 the United States.

15 **TITLE I—SEEKING SANCTIONS**
16 **AGAINST THE CASTRO GOV-**
17 **ERNMENT**

18 **SEC. 101. STATEMENT OF POLICY.**

19 It is the sense of the Congress that—

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

24 (2) the President should advocate, and should
25 instruct the United States Permanent Representa-

1 tive to the United Nations to propose and seek,
2 within the Security Council, a mandatory inter-
3 national embargo against the totalitarian Cuban
4 Government pursuant to chapter VII of the Charter
5 of the United Nations, which is similar to measures
6 taken by United States representatives with respect
7 to Haiti; and

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

13 **SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF**
14 **CUBA.**

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

19 (2) The Congress further urges the President to take
20 immediate steps to apply the sanctions described in section
21 1704(b) of that Act against countries assisting Cuba.

22 (b) **DIPLOMATIC EFFORTS.**—The Secretary of State
23 shall ensure that United States diplomatic personnel
24 abroad understand and, in their contacts with foreign offi-
25 cials, are communicating the reasons for the United States

1 economic embargo of Cuba, and are urging foreign govern-
2 ments to cooperate more effectively with the embargo.

3 (c) EXISTING REGULATIONS.—The President should
4 instruct the Secretary of the Treasury and the Attorney
5 General to enforce fully the Cuban Assets Control Regula-
6 tions set forth in part 515 of title 31, Code of Federal
7 Regulations.

8 (d) TRADING WITH THE ENEMY ACT.—

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

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

16 “(2) Any property, funds, securities, papers, or other
17 articles or documents, or any vessel, together with its tack-
18 le, apparel, furniture, and equipment, that is the subject
19 of a violation under paragraph (1) shall, at the discretion
20 of the Secretary of the Treasury, be forfeited to the United
21 States Government.

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

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

4 “(B) clearly defined educational or religious ac-
5 tivities, or activities of recognized human rights or-
6 ganizations, that are reasonably limited in fre-
7 quency, duration, and number of participants.

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

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

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

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

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

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

3 (2) by redesignating subparagraph (B) as sub-
4 paragraph (C); and

5 (3) by inserting after subparagraph (A) the fol-
6 lowing new subparagraph:

7 “(B) includes an exchange, reduction, or
8 forgiveness of Cuban debt owed to a foreign
9 country in return for a grant of an equity inter-
10 est in a property, investment, or operation of
11 the Government of Cuba (including the govern-
12 ment of any political subdivision of Cuba, and
13 any agency or instrumentality of the Govern-
14 ment of Cuba) or of a Cuban national; and”;
15 and

16 (4) by adding at the end the following flush
17 sentence:

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

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

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

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

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

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

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

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

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

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

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

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

1 equal to the amount of the loan or other assistance to the
2 Cuban Government, with respect to each of the following
3 types of payment:

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

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

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

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

19 The President should instruct the United States Per-
20 manent Representative to the Organization of American
21 States to use the voice and vote of the United States to
22 oppose ending the suspension of the Government of Cuba
23 from the Organization until the President determines
24 under section 203(c)(3) that a democratically elected gov-
25 ernment in Cuba is in power.

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

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

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

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

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

22 (4);

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

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

1 “(5) for the government of any independent
2 state effective 30 days after the President has deter-
3 mined and certified to the appropriate congressional
4 committees (and Congress has not enacted legisla-
5 tion disapproving the determination within that 30-
6 day period) that such government is providing as-
7 sistance for, or engaging in nonmarket based trade
8 (as defined in section 498B(k)(3)) with, the Cuban
9 Government; or”.

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

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

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

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

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

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

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

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

24 (d) FACILITIES AT LOURDES, CUBA.—(1) The Con-
25 gress expresses its strong disapproval of the extension by

1 Russia of credits equivalent to approximately
2 \$200,000,000 in support of the intelligence facility at
3 Lourdes, Cuba, in November 1994.

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

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

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

1 Lourdes facility with officials or agents of the Cuban Gov-
2 ernment.

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

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

14 “(D) For purposes of this paragraph, the term ‘ap-
15 propriate congressional committees’ includes the Perma-
16 nent Select Committee on Intelligence of the House of
17 Representatives and the Select Committee on Intelligence
18 of the Senate.

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

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

23 “(B) democratic political reform and rule of law
24 activities;

1 “(C) technical assistance for safety upgrades of
2 civilian nuclear power plants;

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

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

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

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

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

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

24 (c) **TERMINATION OF BROADCASTING AUTHORI-**
25 **TIES.**—Upon transmittal of a determination under section

1 203(c)(3), the Television Broadcasting to Cuba Act (22
2 U.S.C. 1465aa and following) and the Radio Broadcasting
3 to Cuba Act (22 U.S.C. 1465 and following) are repealed.

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

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

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

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

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

23 (3) A description of the joint ventures com-
24 pleted, or under consideration, by foreign nationals
25 involving facilities in Cuba, including an identifica-

1 tion of the location of the facilities involved and a
2 description of the terms of agreement of the joint
3 ventures and the names of the parties that are in-
4 volved.

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

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

10 (A) the amount of debt exchanged, for-
11 given, or reduced under the terms of each in-
12 vestment or operation in Cuba involving foreign
13 nationals; and

14 (B) the amount of debt owed to the foreign
15 country that has been exchanged, reduced, or
16 forgiven in return for a grant by the Cuban
17 Government of an equity interest in a property,
18 investment, or operation of the Cuban Govern-
19 ment or of a Cuban national.

20 (6) A description of the steps taken to ensure
21 that raw materials and semifinished or finished
22 goods produced by facilities in Cuba involving for-
23 eign nationals do not enter the United States mar-
24 ket, either directly or through third countries or par-
25 ties.

1 (7) An identification of countries that purchase,
2 or have purchased, arms or military supplies from
3 the Cuban Government or that otherwise have en-
4 tered into agreements with the Cuban Government
5 that have a military application, including—

6 (A) a description of the military supplies,
7 equipment, or other materiel sold, bartered, or
8 exchanged between the Cuban Government and
9 such countries;

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

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

16 **SEC. 109. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC**
17 **AND HUMAN RIGHTS GROUPS AND INTER-**
18 **NATIONAL OBSERVERS.**

19 (a) AUTHORIZATION.—Notwithstanding any other
20 provision of law, except for section 634A of the Foreign
21 Assistance Act of 1961 (22 U.S.C. 2394–1) and com-
22 parable notification requirements contained in any Act
23 making appropriations for foreign operations, export fi-
24 nancing, and related programs, the President is author-
25 ized to furnish assistance and provide other support for

1 individuals and independent nongovernmental organiza-
2 tions to support democracy-building efforts for Cuba, in-
3 cluding the following:

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

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

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

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

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

21 (2) The President should instruct the United States
22 Permanent Representative to the Organization of Amer-
23 ican States to encourage other member states of the Orga-
24 nization to join in calling for the Cuban Government to
25 allow the immediate deployment of independent human

1 rights monitors of the Organization throughout Cuba and
2 on-site visits to Cuba by the Inter-American Commission
3 on Human Rights.

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

13 **SEC. 110. WITHHOLDING OF FOREIGN ASSISTANCE FROM**
14 **COUNTRIES SUPPORTING NUCLEAR PLANT**
15 **IN CUBA.**

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

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

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

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

10 (4) In a September 1992 report to Congress,
11 the General Accounting Office outlined concerns
12 among nuclear energy experts about deficiencies in
13 the nuclear plant project in Juragua, near Cienfue-
14 gos, Cuba, including—

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

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

20 (C) the inadequacy of training of plant op-
21 erators;

22 (D) reports by a former technician from
23 Cuba who, by examining with x-rays weld sites
24 believed to be part of the auxiliary plumbing

1 system for the plant, found that 10 to 15 per-
2 cent of those sites were defective;

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

8 (F) the possible inadequacy of the upper
9 portion of the reactors' dome retention capabil-
10 ity to withstand only 7 pounds of pressure per
11 square inch, given that normal atmospheric
12 pressure is 32 pounds per square inch and
13 United States reactors are designed to accom-
14 modate pressures of 50 pounds per square inch.

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

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

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

4 (8) According to a study by the National Oce-
5 anic and Atmospheric Administration, summer
6 winds could carry radioactive pollutants from a nu-
7 clear accident at the power plant throughout all of
8 Florida and parts of the States on the gulf coast as
9 far as Texas, and northern winds could carry the
10 pollutants as far northeast as Virginia and Washing-
11 ton, D.C.

12 (9) The Cuban Government, under dictator
13 Fidel Castro, in 1962 advocated the Soviets' launch-
14 ing of nuclear missiles to the United States, which
15 represented a direct and dangerous provocation of
16 the United States and brought the world to the
17 brink of a nuclear conflict.

18 (10) Fidel Castro over the years has consist-
19 ently issued threats against the United States Gov-
20 ernment, most recently that he would unleash an-
21 other perilous mass migration from Cuba upon the
22 enactment of this Act.

23 (11) Despite the various concerns about the
24 plant's safety and operational problems, a feasibility
25 study is being conducted that would establish a sup-

1 port group to include Russia, Cuba, and third coun-
2 tries with the objective of completing and operating
3 the plant.

4 (b) WITHHOLDING OF FOREIGN ASSISTANCE.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of law, the President shall withhold from
7 assistance allocated, on or after the date of the en-
8 actment of this Act, for any country an amount
9 equal to the sum of assistance and credits, if any,
10 provided on or after such date of enactment by that
11 country or any entity in that country in support of
12 the completion of the Cuban nuclear facility at
13 Juragua, near Cienfuegos, Cuba.

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

17 (A) assistance to meet urgent humani-
18 tarian needs, including disaster and refugee re-
19 lief;

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

22 (C) the creation of private sector and non-
23 governmental organizations that are independ-
24 ent of government control;

1 (D) the development of a free market eco-
2 nomic system; and

3 (E) assistance for the purposes described
4 in the Cooperative Threat Reduction Act of
5 1993 (title XII of Public Law 103–160).

6 (3) DEFINITION.—As used in paragraph (1),
7 the term “assistance” means assistance under the
8 Foreign Assistance Act of 1961, credits, sales, and
9 guarantees of extensions of credit under the Arms
10 Export Control Act, assistance under titles I and III
11 of the Agricultural Trade Development and Assist-
12 ance Act of 1954, assistance under the FREEDOM
13 Support Act of 1992, and any other program of as-
14 sistance or credits provided by the United States to
15 other countries under other provisions of law, except
16 that the term “assistance” does not include humani-
17 tarian assistance, including disaster relief assistance.

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

19 The President shall instruct all United States Gov-
20 ernment officials who engage in official conduct with the
21 Cuban Government to raise on a regular basis the extra-
22 dition of or rendering to the United States all persons re-
23 siding in Cuba who are sought by the United States De-
24 partment of Justice for crimes committed in the United
25 States.

1 **TITLE II—ASSISTANCE TO A**
2 **FREE AND INDEPENDENT CUBA**

3 **SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT**
4 **AND A DEMOCRATICALLY ELECTED GOVERN-**
5 **MENT IN CUBA.**

6 The policy of the United States is as follows:

7 (1) To support the self-determination of the
8 Cuban people.

9 (2) To recognize that the self-determination of
10 the Cuban people is a sovereign and national right
11 of the citizens of Cuba which must be exercised free
12 of interference by the government of any other coun-
13 try.

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

17 (4) To recognize the potential for a difficult
18 transition from the current regime in Cuba that may
19 result from the initiatives taken by the Cuban people
20 for self-determination in response to the intransi-
21 gience of the Castro regime in not allowing any
22 substantive political or economic reforms, and to be
23 prepared to provide the Cuban people with humani-
24 tarian, developmental, and other economic assist-
25 ance.

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

3 (A) to a transition government in Cuba;

4 (B) to facilitate the rapid movement from
5 such a transition government to a democrat-
6 ically elected government in Cuba that results
7 from an expression of the self-determination of
8 the Cuban people; and

9 (C) to support such a democratically elect-
10 ed government.

11 (6) Through such assistance, to facilitate a
12 peaceful transition to representative democracy and
13 a market economy in Cuba and to consolidate de-
14 mocracy in Cuba.

15 (7) To deliver such assistance to the Cuban
16 people only through a transition government in
17 Cuba, through a democratically elected government
18 in Cuba, through United States Government organi-
19 zations, or through United States, international, or
20 indigenous nongovernmental organizations.

21 (8) To encourage other countries and multilat-
22 eral organizations to provide similar assistance, and
23 to work cooperatively with such countries and orga-
24 nizations to coordinate such assistance.

1 (9) To ensure that appropriate assistance is
2 rapidly provided and distributed to the people of
3 Cuba upon the institution of a transition govern-
4 ment in Cuba.

5 (10) Not to provide favorable treatment or in-
6 fluence on behalf of any individual or entity in the
7 selection by the Cuban people of their future govern-
8 ment.

9 (11) To assist a transition government in Cuba
10 and a democratically elected government in Cuba to
11 prepare the Cuban military forces for an appropriate
12 role in a democracy.

13 (12) To be prepared to enter into negotiations
14 with a democratically elected government in Cuba ei-
15 ther to return the United States Naval Base at
16 Guantanamo to Cuba or to renegotiate the present
17 agreement under mutually agreeable terms.

18 (13) To consider the restoration of diplomatic
19 recognition and support the reintegration of the
20 Cuban Government into Inter-American organiza-
21 tions when the President determines that there ex-
22 ists a democratically elected government in Cuba.

23 (14) To take steps to remove the economic em-
24 bargo of Cuba when the President determines that

1 a transition to a democratically elected government
2 in Cuba has begun.

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

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

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

9 (a) AUTHORIZATION.—

10 (1) IN GENERAL.—The President shall develop
11 a plan for providing economic assistance to Cuba at
12 such time as the President determines that a transi-
13 tion government or a democratically elected govern-
14 ment in Cuba (as determined under section 203(c))
15 is in power.

16 (2) EFFECT ON OTHER LAWS.—Assistance may
17 be provided under this section subject to an author-
18 ization of appropriations and subject to the availabil-
19 ity of appropriations.

20 (b) PLAN FOR ASSISTANCE.—

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

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

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

3 (2) TYPES OF ASSISTANCE.—Assistance under
4 the plan developed under paragraph (1) may, subject
5 to an authorization of appropriations and subject to
6 the availability of appropriations, include the follow-
7 ing:

8 (A) TRANSITION GOVERNMENT.—(i) Ex-
9 cept as provided in clause (ii), assistance to
10 Cuba under a transition government shall, sub-
11 ject to an authorization of appropriations and
12 subject to the availability of appropriations, be
13 limited to—

14 (I) such food, medicine, medical sup-
15 plies and equipment, and assistance to
16 meet emergency energy needs, as is nec-
17 essary to meet the basic human needs of
18 the Cuban people; and

19 (II) assistance described in subpara-
20 graph (C).

21 (ii) Assistance provided only after the
22 President certifies to the appropriate congres-
23 sional committees, in accordance with proce-
24 dures applicable to reprogramming notifications
25 under section 634A of the Foreign Assistance

1 Act of 1961, that such assistance is essential to
2 the successful completion of the transition to
3 democracy.

4 (iii) Only after a transition government in
5 Cuba is in power, remittances by individuals to
6 their relatives of cash or goods, as well as free-
7 dom to travel to visit them without any restric-
8 tions, shall be permitted.

9 (B) DEMOCRATICALLY ELECTED GOVERN-
10 MENT.—Assistance to a democratically elected
11 government in Cuba may, subject to an author-
12 ization of appropriations and subject to the
13 availability of appropriations, consist of addi-
14 tional economic assistance, together with assist-
15 ance described in subparagraph (C). Such eco-
16 nomic assistance may include—

17 (i) assistance under chapter 1 of part
18 I (relating to development assistance), and
19 chapter 4 of part II (relating to the eco-
20 nomic support fund), of the Foreign As-
21 sistance Act of 1961;

22 (ii) assistance under the Agricultural
23 Trade Development and Assistance Act of
24 1954;

1 (iii) financing, guarantees, and other
2 forms of assistance provided by the Ex-
3 port-Import Bank of the United States;

4 (iv) financial support provided by the
5 Overseas Private Investment Corporation
6 for investment projects in Cuba;

7 (v) assistance provided by the Trade
8 and Development Agency;

9 (vi) Peace Corps programs; and

10 (vii) other appropriate assistance to
11 carry out the policy of section 201.

12 (C) MILITARY ADJUSTMENT ASSIST-
13 ANCE.—Assistance to a transition government
14 in Cuba and to a democratically elected govern-
15 ment in Cuba shall also include assistance in
16 preparing the Cuban military forces to adjust to
17 an appropriate role in a democracy.

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

21 (d) DISTRIBUTION.—Assistance under the plan devel-
22 oped under subsection (b) shall be provided through
23 United States Government organizations and nongovern-
24 mental organizations and private and voluntary organiza-
25 tions, whether within or outside the United States, includ-

1 ing humanitarian, educational, labor, and private sector
2 organizations.

3 (e) INTERNATIONAL EFFORTS.—The President shall
4 take the necessary steps—

5 (1) to seek to obtain the agreement of other
6 countries and of international financial institutions
7 and multilateral organizations to provide to a transi-
8 tion government in Cuba, and to a democratically
9 elected government in Cuba, assistance comparable
10 to that provided by the United States under this
11 Act; and

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

15 (f) COMMUNICATION WITH THE CUBAN PEOPLE.—
16 The President shall take the necessary steps to commu-
17 nicate to the Cuban people the plan for assistance devel-
18 oped under this section.

19 (g) REPORT TO CONGRESS.—Not later than 180 days
20 after the date of the enactment of this Act, the President
21 shall transmit to the appropriate congressional committees
22 a report describing in detail the plan developed under this
23 section.

24 (h) TRADE AND INVESTMENT RELATIONS.—

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

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

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

15 (i) reciprocal extension of nondiscrim-
16 inatory trade treatment (most-favored-
17 nation treatment);

18 (ii) designation of Cuba as a bene-
19 ficiary developing country under title V of
20 the Trade Act of 1974 (relating to the
21 Generalized System of Preferences) or as a
22 beneficiary country under the Caribbean
23 Basin Economic Recovery Act, and the im-
24 plications of such designation with respect
25 to trade with any other country that is

1 such a beneficiary developing country or
2 beneficiary country or is a party to the
3 North American Free Trade Agreement;
4 and

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

8 (C) specific trade negotiating objectives of
9 the United States with respect to Cuba, includ-
10 ing the objectives described in section 108(b)(5)
11 of the North American Free Trade Agreement
12 Implementation Act (19 U.S.C. 3317(b)(5));
13 and

14 (D) actions proposed or anticipated to be
15 undertaken, and any proposed legislation nec-
16 essary or appropriate, to achieve any of such
17 policy and negotiating objectives.

18 (2) CONSULTATIONS.—The President shall con-
19 sult with the appropriate congressional committees
20 and shall seek advice from the appropriate advisory
21 committees established under section 135 of the
22 Trade Act of 1974 regarding the policy and nego-
23 tiating objectives and the legislative proposals de-
24 scribed in paragraph (1).

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

4 (a) COORDINATING OFFICIAL.—The President shall
5 designate a coordinating official who shall be responsible
6 for—

7 (1) implementing the strategy for distributing
8 assistance described in section 202(b);

9 (2) ensuring the speedy and efficient distribu-
10 tion of such assistance; and

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

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

21 (1) to ensure coordination between the United
22 States Government and the private sector in re-
23 sponding to change in Cuba, and in promoting mar-
24 ket-based development in Cuba; and

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

4 (c) IMPLEMENTATION OF PLAN; REPORTS TO CON-
5 GRESS.—

6 (1) IMPLEMENTATION WITH RESPECT TO TRAN-
7 SITION GOVERNMENT.—Upon making a determina-
8 tion that a transition government in Cuba is in
9 power, the President shall transmit that determina-
10 tion to the appropriate congressional committees and
11 shall, subject to an authorization of appropriations
12 and subject to the availability of appropriations,
13 commence the delivery and distribution of assistance
14 to such transition government under the plan devel-
15 oped under section 202(b).

16 (2) REPORTS TO CONGRESS.—(A) The Presi-
17 dent shall transmit to the appropriate congressional
18 committees a report setting forth the strategy for
19 providing assistance described in section 202(b)(2)
20 (A) and (C) to the transition government in Cuba
21 under the plan of assistance developed under section
22 202(b), the types of such assistance, and the extent
23 to which such assistance has been distributed in ac-
24 cordance with the plan.

1 (B) The President shall transmit the report not
2 later than 90 days after making the determination
3 referred to in paragraph (1), except that the Presi-
4 dent shall transmit the report in preliminary form
5 not later than 15 days after making that determina-
6 tion.

7 (3) IMPLEMENTATION WITH RESPECT TO
8 DEMOCRATICALLY ELECTED GOVERNMENT.—The
9 President shall, upon determining that a democrat-
10 ically elected government in Cuba is in power, sub-
11 mit that determination to the appropriate congres-
12 sional committees and shall, subject to an authoriza-
13 tion of appropriations and subject to the availability
14 of appropriations, commence the delivery and dis-
15 tribution of assistance to such democratically elected
16 government under the plan developed under section
17 202(b).

18 (4) ANNUAL REPORTS TO CONGRESS.—Not
19 later than 60 days after the end of each fiscal year,
20 the President shall transmit to the appropriate con-
21 gressional committees a report on the assistance
22 provided under the plan developed under section
23 202(b), including a description of each type of as-
24 sistance, the amounts expended for such assistance,

1 and a description of the assistance to be provided
2 under the plan in the current fiscal year.

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

10 **SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF**
11 **CUBA.**

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

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

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

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

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

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

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

11 (c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon
12 submitting a determination to the appropriate congres-
13 sional committees under section 203(c)(3) that a demo-
14 cratically elected government in Cuba is in power, the
15 President shall take steps to terminate the economic em-
16 bargo of Cuba.

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

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

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

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

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

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

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

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

1 the President under section 204(a) of the Cuban
2 Liberty and Democratic Solidarity (LIBERTAD)
3 Act of 1995 to suspend the economic embargo of
4 Cuba, notice of which was submitted to the Congress
5 on ____.”, with the blank space being filled with the
6 appropriate date.

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

13 (4) PROCEDURES.—(A) Any joint resolution
14 shall be considered in the Senate in accordance with
15 the provisions of section 601(b) of the International
16 Security Assistance and Arms Export Control Act of
17 1976.

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

24 (C) Not more than 1 joint resolution may be
25 considered in the House of Representatives and the

1 Senate in the 6-month period beginning on the date
2 on which the President notifies the Congress under
3 paragraph (1) of the action taken under subsection
4 (a), and in each 6-month period thereafter.

5 **SEC. 205. REQUIREMENTS FOR A TRANSITION GOVERN-**
6 **MENT.**

7 For purposes of this Act, a transition government in
8 Cuba is a government in Cuba which—

9 (1) is demonstrably in transition from com-
10 munist totalitarian dictatorship to representative de-
11 mocracy;

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

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

17 (4) has ceased any interference with Radio or
18 Television Marti broadcasts;

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

21 (A) establishing an independent judiciary;

22 (B) dissolving the present Department of
23 State Security in the Cuban Ministry of the In-
24 terior, including the Committees for the De-

1 fense of the Revolution and the Rapid Response
2 Brigades;

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

7 (D) effectively guaranteeing the rights of
8 free speech and freedom of the press;

9 (E) organizing free and fair elections for a
10 new government—

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

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

22 (iii) to be conducted under the super-
23 vision of internationally recognized observ-
24 ers, such as the Organization of American

1 States, the United Nations, and other elec-
2 tions monitors;

3 (F) assuring the right to private property;

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

12 (H) granting permits to privately owned
13 telecommunications and media companies to op-
14 erate in Cuba; and

15 (I) allowing the establishment of independ-
16 ent trade unions as set forth in conventions 87
17 and 98 of the International Labor Organiza-
18 tion, and allowing the establishment of inde-
19 pendent social, economic, and political associa-
20 tions;

21 (6) does not include Fidel Castro or Raul Cas-
22 tro;

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

1 (8) permits the deployment throughout Cuba of
2 independent and unfettered international human
3 rights monitors; and

4 (9) has extradited or otherwise rendered to the
5 United States all persons sought by the United
6 States Department of Justice for crimes committed
7 in the United States.

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

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

14 (1) results from free and fair elections con-
15 ducted under the supervision of internationally rec-
16 ognized observers;

17 (2) has permitted opposition parties ample time
18 to organize and campaign for such elections, and has
19 permitted full access to the media to all candidates
20 in the elections;

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

23 (4) has made demonstrable progress in estab-
24 lishing an independent judiciary;

1 (5) is substantially moving toward a market-ori-
2 ented economic system;

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

7 (7) has made demonstrable progress in return-
8 ing to United States citizens (and entities which are
9 50 percent or more beneficially owned by United
10 States citizens) property taken by the Cuban Gov-
11 ernment from such citizens and entities on or after
12 January 1, 1959, or providing full compensation for
13 such property in accordance with international law
14 standards and practice.

15 **TITLE III—PROTECTION OF**
16 **PROPERTY RIGHTS OF**
17 **UNITED STATES NATIONALS**
18 **AGAINST CONFISCATORY**
19 **TAKINGS BY THE CASTRO RE-**
20 **GIME**

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

22 The Congress makes the following findings:

23 (1) The right of individuals to hold and enjoy
24 property is a fundamental right recognized by the
25 United States Constitution and international human

1 rights law, including the Universal Declaration of
2 Human Rights.

3 (2) The illegal confiscation or taking of prop-
4 erty by governments, and the acquiescence of gov-
5 ernments in the confiscation of property by their
6 citizens, undermines the comity among nations, the
7 free flow of commerce, and economic development.

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

11 (4) Nations that provide an effective mecha-
12 nism for prompt, adequate, and fair compensation
13 for the confiscation of private property will continue
14 to have the support of the United States.

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

19 (6) Nations that illegally confiscate private
20 property should not be immune to another nation's
21 laws whose purpose is to protect against the
22 confiscation of lawfully acquired property by its citi-
23 zens.

24 (7) Trafficking in illegally acquired property is
25 a crime under the laws of the United States and

1 other nations, yet this same activity is allowed under
2 international law.

3 (8) International law, by not providing effective
4 remedies, condones the illegal confiscation of prop-
5 erty and allows for the unjust enrichment from the
6 use of confiscated property by governments and pri-
7 vate entities at the expense of those who hold legal
8 claim to the property.

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

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

16 (a) CIVIL REMEDY.—

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

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

2 (I) the amount, if any, certified to the
3 claimant by the Foreign Claims Settlement
4 Commission under the International
5 Claims Settlement Act of 1949, plus inter-
6 est;

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

9 (III) the fair market value of that
10 property, calculated as being the then cur-
11 rent value of the property, or the value of
12 the property when confiscated plus inter-
13 est, whichever is greater; and

14 (ii) reasonable costs and attorneys' fees.

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

21 (2) PRESUMPTION IN FAVOR OF CERTIFIED
22 CLAIMS.—There shall be a presumption that the
23 amount for which a person, including any agency or
24 instrumentality of a foreign state in the conduct of
25 a commercial activity, is liable under clause (i) of

1 paragraph (1)(A) is the amount that is certified
2 under subclause (I) of that clause. The presumption
3 shall be rebuttable by clear and convincing evidence
4 that the amount described in subclause (II) or (III)
5 of that clause is the appropriate amount of liability
6 under that clause.

7 (3) INCREASED LIABILITY FOR PRIOR NO-
8 TICE.—Except as provided in paragraph (4), any
9 person, including any agency or instrumentality of a
10 foreign state in the conduct of a commercial activity,
11 that traffics in confiscated property after having re-
12 ceived—

13 (A) notice of a claim to ownership of the
14 property by a United States national who owns
15 a claim to the confiscated property, and

16 (B) notice of the provisions of this section,
17 shall be liable to that United States national for
18 money damages in an amount which is the sum of
19 the amount equal to the amount determined under
20 paragraph (1)(A)(ii) plus triple the amount deter-
21 mined applicable under subclause (I), (II), or (III)
22 of paragraph (1)(A)(i).

23 (4) APPLICABILITY.—(A) Except as otherwise
24 provided in this paragraph, actions may be brought
25 under paragraph (1) with respect to property con-

1 fiscated before, on, or after the date of the enact-
2 ment of this Act.

3 (B) In the case of property confiscated before
4 the date of the enactment of this Act, no United
5 States national may bring an action under this sec-
6 tion unless such national acquired ownership of the
7 claim to the confiscated property before such date.

8 (C) In the case of property confiscated on or
9 after the date of the enactment of this Act, no Unit-
10 ed States national who acquired ownership of a
11 claim to confiscated property by assignment for
12 value after such date of enactment may bring an ac-
13 tion on the claim under this section.

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

23 (B) In the case of any action brought under
24 this section by a United States national whose claim
25 in the action was timely filed with the Foreign

1 Claims Settlement Commission under title V of the
2 International Claims Settlement Act of 1949 but
3 was denied by the Commission, the court may assess
4 the basis for the denial and may accept the findings
5 of the Commission on the claim as conclusive in the
6 action under this section unless good cause justifies
7 another result.

8 (6) INAPPLICABILITY OF ACT OF STATE DOC-
9 TRINE.—No court of the United States shall decline,
10 based upon the act of state doctrine, to make a de-
11 termination on the merits in an action brought
12 under paragraph (1).

13 (b) DEFINITION.—As used in this subsection, the
14 term “agency or instrumentality of a foreign state” has
15 the meaning given that term in section 1603(b) of title
16 28, United States Code.

17 (c) JURISDICTION.—

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

21 “**§ 1331a. Civil actions involving confiscated property**

22 “The district courts shall have exclusive jurisdiction
23 of any action brought under section 302 of the Cuban Lib-
24 erty and Democratic Solidarity (LIBERTAD) Act of
25 1995, regardless of the amount in controversy.”.

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

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

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

8 “(c) Notwithstanding the provisions of section 1610
9 of this chapter, the property of a foreign state shall be
10 immune from attachment and from execution in an action
11 brought under section 302 of the Cuban Liberty and
12 Democratic Solidarity (LIBERTAD) Act of 1995 to the
13 extent the property is a facility or installation used by an
14 accredited diplomatic mission for official purposes.”.

15 (e) ELECTION OF REMEDIES.—

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

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

1 (B) any person who brings, under the com-
2 mon law or any provision of law other than this
3 section, a civil action or proceeding for mone-
4 tary or nonmonetary compensation arising out
5 of a claim for which an action would otherwise
6 be cognizable under this section may not bring
7 an action under this section on that claim.

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

13 (A) if the recovery in the action is equal to
14 or greater than the amount of the certified
15 claim, the United States national may not re-
16 ceive payment on the claim under any agree-
17 ment entered into between the United States
18 and Cuba settling claims covered by such title,
19 and such national shall be deemed to have dis-
20 charged the United States from any further re-
21 sponsibility to represent the United States na-
22 tional with respect to that claim;

23 (B) if the recovery in the action is less
24 than the amount of the certified claim, the
25 United States national may receive payment

1 under a claims agreement described in subpara-
2 graph (A) but only to the extent of the dif-
3 ference between the amount of the recovery and
4 the amount of the certified claim; and

5 (C) if there is no recovery in the action,
6 the United States national may receive payment
7 on the certified claim under a claims agreement
8 described in subparagraph (A) to the same ex-
9 tent as any certified claimant who does not
10 bring an action under this section.

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

19 (g) TERMINATION OF RIGHTS.—

20 (1) IN GENERAL.—All rights created under this
21 section to bring an action for money damages with
22 respect to property confiscated before the date of the
23 enactment of this Act shall cease upon the transmit-
24 tal to the Congress of a determination of the Presi-
25 dent under section 203(c)(3).

1 (2) PENDING SUITS.—The termination of rights
2 under paragraph (1) shall not affect suits com-
3 menced before the date of such termination, and in
4 all such suits, proceedings shall be had, appeals
5 taken, and judgments rendered in the same manner
6 and with the same effect as if this subsection had
7 not been enacted.

8 **SEC. 303. DETERMINATION OF CLAIMS TO CONFISCATED**
9 **PROPERTY.**

10 (a) EVIDENCE OF OWNERSHIP.—

11 (1) CONCLUSIVENESS OF CERTIFIED CLAIMS.—
12 In any action brought under this title, the courts
13 shall accept as conclusive proof of ownership a cer-
14 tification of a claim to ownership that has been
15 made by the Foreign Claims Settlement Commission
16 pursuant to title V of the International Claims Set-
17 tlement Act of 1949 (22 U.S.C. 1643 and following).

18 (2) CLAIMS NOT CERTIFIED.—In the case of a
19 claim that has not been certified by the Foreign
20 Claims Settlement Commission before the enactment
21 of this Act, a court may appoint a special master,
22 including the Foreign Claims Settlement Commis-
23 sion, to make determinations regarding the amount
24 and validity of claims to ownership of confiscated
25 property. Such determinations are only for evi-

1 dentiary purposes in civil actions brought under this
2 title and do not constitute certifications pursuant to
3 title V of the International Claims Settlement Act of
4 1949.

5 (3) EFFECT OF DETERMINATIONS OF FOREIGN
6 ENTITIES.—In determining ownership, courts shall
7 not accept as conclusive evidence of ownership any
8 findings, orders, judgments, or decrees from admin-
9 istrative agencies or courts of foreign countries or
10 international organizations that invalidate the claim
11 held by a United States national, unless the invali-
12 dation was found pursuant to binding international
13 arbitration to which United States national submit-
14 ted the claim.

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

20 “EVALUATION OF OWNERSHIP CLAIMS REFERRED BY
21 DISTRICT COURTS OF THE UNITED STATES

22 “SEC. 514. Notwithstanding any other provision of
23 this title and only for purposes of section 302 of the
24 Cuban Liberty and Solidarity (LIBERTAD) Act, a United
25 States district court, for fact-finding purposes, may refer
26 to the Commission, and the Commission may determine,

1 questions of the amount and ownership of a claim by a
2 United States national (as defined in section 4 of the
3 Cuban Liberty and Solidarity (LIBERTAD) Act) result-
4 ing from the confiscation of property by the Government
5 of Cuba described in section 503(a), whether or not the
6 United States national qualified as a national of the
7 United States (as defined in section 502(1)) at the time
8 of the action by the Government of Cuba.”.

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

12 (1) to require or otherwise authorize the claims
13 of Cuban nationals who became United States citi-
14 zens after their property was confiscated to be in-
15 cluded in the claims certified to the Secretary of
16 State by the Foreign Claims Settlement Commission
17 for purposes of future negotiation and espousal of
18 claims with a friendly government in Cuba when dip-
19 lomatic relations are restored; or

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

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

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

7 “EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT
8 COMMISSION CERTIFICATION PROCEDURE

9 “SEC. 515. (a) Subject to subsection (b), neither any
10 national of the United States who was eligible to file a
11 claim under section 503 but did not timely file such claim
12 under that section, nor any national of the United States
13 (on the date of the enactment of this section) who was
14 not eligible to file a claim under that section, nor any na-
15 tional of Cuba, including any agency, instrumentality, sub-
16 division, or enterprise of the Government of Cuba or any
17 local government of Cuba in place on the date of the enact-
18 ment of this section, nor any successor thereto, whether
19 or not recognized by the United States, shall have a claim
20 to, participate in, or otherwise have an interest in, the
21 compensation proceeds or other nonmonetary compensa-
22 tion paid or allocated to a national of the United States
23 by virtue of a claim certified by the Commission under
24 section 507, nor shall any court of the United States or
25 any State court have jurisdiction to adjudicate any such
26 claim.

1 “(b) Nothing in subsection (a) shall be construed to
2 detract from or otherwise affect any rights in the shares
3 of the capital stock of nationals of the United States own-
4 ing claims certified by the Commission under section
5 507.”.

6 **TITLE IV—EXCLUSION OF**
7 **CERTAIN ALIENS**

8 **SEC. 401. EXCLUSION FROM THE UNITED STATES OF**
9 **ALIENS WHO HAVE CONFISCATED PROPERTY**
10 **OF UNITED STATES NATIONALS OR WHO**
11 **TRAFFIC IN SUCH PROPERTY.**

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

16 (1) has confiscated, or has directed or overseen
17 the confiscation of, property a claim to which is
18 owned by a United States national, or converts or
19 has converted for personal gain confiscated property,
20 a claim to which is owned by a United States na-
21 tional;

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

24 (3) is a corporate officer, principal, or share-
25 holder with a controlling interest of an entity which

1 has been involved in the confiscation of property or
2 trafficking in confiscated property, a claim to which
3 is owned by a United States national; or

4 (4) is a spouse, minor child, or agent of a per-
5 son excludable under paragraph (1), (2), or (3).

6 (b) DEFINITIONS.—As used in this section, the fol-
7 lowing terms have the following meanings:

8 (1) CONFISCATED; CONFISCATION.—The terms
9 “confiscated” and “confiscation” refer to—

10 (A) the nationalization, expropriation, or
11 other seizure by foreign governmental authority
12 of ownership or control of property on or after
13 January 1, 1959—

14 (i) without the property having been
15 returned or adequate and effective com-
16 pensation provided; or

17 (ii) without the claim to the property
18 having been settled pursuant to an inter-
19 national claims settlement agreement or
20 other mutually accepted settlement proce-
21 dure; and

22 (B) the repudiation by foreign govern-
23 mental authority of, the default by foreign gov-
24 ernmental authority on, or the failure by for-

1 eign governmental authority to pay, on or after
2 January 1, 1959—

3 (i) a debt of any enterprise which has
4 been nationalized, expropriated, or other-
5 wise taken by foreign governmental author-
6 ity;

7 (ii) a debt which is a charge on prop-
8 erty nationalized, expropriated, or other-
9 wise taken by foreign governmental author-
10 ity; or

11 (iii) a debt which was incurred by for-
12 eign governmental authority in satisfaction
13 or settlement of a confiscated property
14 claim.

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

20 (3) TRAFFICS.—(A) A person or entity “traf-
21 fics” in property if that person or entity knowingly
22 and intentionally—

23 (i) sells, transfers, distributes, dispenses,
24 brokers, manages, or otherwise disposes of con-
25 fiscated property, or purchases, leases, receives,

1 possesses, obtains control of, manages, uses, or
2 otherwise acquires or holds an interest in con-
3 fiscated property,

4 (ii) engages in a commercial activity using
5 or otherwise benefiting from confiscated prop-
6 erty, or

7 (iii) causes, directs, participates in, or
8 profits from, trafficking (as described in clauses
9 (i) and (ii)) by another person, or otherwise en-
10 engages in trafficking (as described in clauses (i)
11 and (ii)) through another person,

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

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

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

19 (ii) the trading or holding of securities
20 publicly traded or held, unless the trading is
21 with or by a person determined by the Sec-
22 retary of the Treasury to be a specially des-
23 igned national.

24 (c) NATIONAL INTEREST EXEMPTION.—This section
25 shall not apply where the Secretary of State finds, on a

1 case-by-case basis, that making a determination under
2 subsection (a) would be contrary to the national interest
3 of the United States.

4 (d) EFFECTIVE DATE.—

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

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

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