

SENATE  
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HLC

104TH CONGRESS }  
2d Session

SENATE

{ REPORT  
104-468

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY  
(LIBERTAD) ACT OF 1996

MARCH 1, 1996.—Ordered to be printed

Mr. HELMS, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 927]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 927), to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

*File 11-10-96*

*esp. -  
all Ital.  
PP1-104*

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Cuban Liberty and Democratic Solidarity (LIBERTAD)  
4 Act of 1996”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.
- Sec. 5. Severability.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST  
THE CASTRO GOVERNMENT

- Sec. 101. Statement of policy.
- Sec. 102. Enforcement of the economic embargo of Cuba.
- Sec. 103. Prohibition against indirect financing of Cuba.
- Sec. 104. United States opposition to Cuban membership in international financial institutions.
- Sec. 105. United States opposition to termination of the suspension of the Cuban Government from participation in 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 commerce with, and assistance to, Cuba from other foreign countries.
- Sec. 109. Authorization of support for democratic and human rights groups and international observers.
- Sec. 110. Importation safeguard against certain Cuban products.
- Sec. 111. Withholding of foreign assistance from countries supporting Juragua nuclear plant in Cuba.
- Sec. 112. Reinstitution of family remittances and travel to Cuba.
- Sec. 113. Expulsion of criminals from Cuba.
- Sec. 114. News bureaus in Cuba.
- Sec. 115. Effect of Act on lawful United States Government activities.
- Sec. 116. Condemnation of Cuban attack on American aircraft.

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 and factors for determining a transition government.
- Sec. 206. Requirements for determining a democratically elected government.

Sec. 207. Settlement of outstanding United States claims to confiscated property in Cuba.

TITLE III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS

- Sec. 301. Findings.
- Sec. 302. Liability for trafficking in confiscated property claimed by United States nationals.
- Sec. 303. Proof of ownership of claims to confiscated property.
- Sec. 304. Exclusivity of Foreign Claims Settlement Commission certification procedure.
- Sec. 305. Limitation of actions.
- Sec. 306. Effective date.

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

1            bloc to conduct economic relations with Cuba  
2            on strictly commercial terms.

3            (2) At the same time, the welfare and health of  
4            the Cuban people have substantially deteriorated as  
5            a result of this economic decline and the refusal of  
6            the Castro regime to permit free and fair democratic  
7            elections in Cuba.

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

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

18           (5) As long as free elections are not held in  
19           Cuba, the economic condition of the country and the  
20           welfare of the Cuban people will not improve in any  
21           significant way.

22           (6) The totalitarian nature of the Castro regime  
23           has deprived the Cuban people of any peaceful  
24           means to improve their condition and has led thou-

1 sands of Cuban citizens to risk or lose their lives in  
2 dangerous attempts to escape from Cuba to freedom.

3 (7) Radio Marti and Television Marti have both  
4 been effective vehicles for providing the people of  
5 Cuba with news and information and have helped to  
6 bolster the morale of the people of Cuba living under  
7 tyranny.

8 (8) The consistent policy of the United States  
9 towards Cuba since the beginning of the Castro re-  
10 gime, carried out by both Democratic and Repub-  
11 lican administrations, has sought to keep faith with  
12 the people of Cuba, and has been effective in sanc-  
13 tioning the totalitarian Castro regime.

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

20 (10) The Congress has historically and consist-  
21 ently manifested its solidarity and the solidarity of  
22 the American people with the democratic aspirations  
23 of the Cuban people.

24 (11) The Cuban Democracy Act of 1992 calls  
25 upon the President to encourage the governments of

1 countries that conduct trade with Cuba to restrict  
2 their trade and credit relations with Cuba in a man-  
3 ner consistent with the purposes of that Act.

4 (12) Amendments to the Foreign Assistance  
5 Act of 1961 made by the FREEDOM Support Act  
6 require that the President, in providing economic as-  
7 sistance to Russia and the emerging Eurasian de-  
8 mocracies, take into account the extent to which  
9 they are acting to "terminate support for the com-  
10 munist regime in Cuba, including removal of troops,  
11 closing military facilities, and ceasing trade subsidies  
12 and economic, nuclear, and other assistance".

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

16 (14) The Castro government threatens inter-  
17 national peace and security by engaging in acts of  
18 armed subversion and terrorism such as the training  
19 and supplying of groups dedicated to international  
20 violence.

21 (15) The Castro government has utilized from  
22 its inception and continues to utilize torture in var-  
23 ious forms (including by psychiatry), as well as exe-  
24 cution, exile, confiscation, political imprisonment,

1 and other forms of terror and repression, as means  
2 of retaining power.

3 (16) Fidel Castro has defined democratic plu-  
4 ralism as "pluralistic garbage" and continues to  
5 make clear that he has no intention of tolerating the  
6 democratization of Cuban society.

7 (17) The Castro government holds innocent Cu-  
8 bans hostage in Cuba by no fault of the hostages  
9 themselves solely because relatives have escaped the  
10 country.

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

24 (19) The Castro government continues to utilize  
25 blackmail, such as the immigration crisis with which

1       it threatened the United States in the summer of  
2       1994, and other unacceptable and illegal forms of  
3       conduct to influence the actions of sovereign states  
4       in the Western Hemisphere in violation of the Char-  
5       ter of the Organization of American States and  
6       other international agreements and international  
7       law.

8               (20) The United Nations Commission on  
9       Human Rights has repeatedly reported on the unac-  
10      ceptable human rights situation in Cuba and has  
11      taken the extraordinary step of appointing a Special  
12      Rapporteur.

13              (21) The Cuban Government has consistently  
14      refused access to the Special Rapporteur and for-  
15      mally expressed its decision not to “implement so  
16      much as one comma” of the United Nations Resolu-  
17      tions appointing the Rapporteur.

18              (22) The United Nations General Assembly  
19      passed Resolution 47-139 on December 18, 1992,  
20      Resolution 48-142 on December 20, 1993, and Res-  
21      olution 49-200 on December 23, 1994, referencing  
22      the Special Rapporteur’s reports to the United Na-  
23      tions and condemning violations of human rights  
24      and fundamental freedoms in Cuba.



1           (23) Article 39 of Chapter VII of the United  
2 Nations Charter provides that the United Nations  
3 Security Council "shall determine the existence of  
4 any threat to the peace, breach of the peace, or act  
5 of aggression and shall make recommendations, or  
6 decide what measures shall be taken . . . , to main-  
7 tain or restore international peace and security."

8           (24) The United Nations has determined that  
9 massive and systematic violations of human rights  
10 may constitute a "threat to peace" under Article 39  
11 and has imposed sanctions due to such violations of  
12 human rights in the cases of Rhodesia, South Africa,  
13 Iraq, and the former Yugoslavia.

14           (25) In the case of Haiti, a neighbor of Cuba  
15 not as close to the United States as Cuba, the Unit-  
16 ed States led an effort to obtain and did obtain a  
17 United Nations Security Council embargo and block-  
18 ade against that country due to the existence of a  
19 military dictatorship in power less than 3 years.

20           (26) United Nations Security Council Resolu-  
21 tion 940 of July 31, 1994, subsequently authorized  
22 the use of "all necessary means" to restore the  
23 "democratically elected government of Haiti", and  
24 the democratically elected government of Haiti was  
25 restored to power on October 15, 1994.

1           (27) The Cuban people deserve to be assisted in  
2 a decisive manner to end the tyranny that has op-  
3 pressed them for 36 years, and the continued failure  
4 to do so constitutes ethically improper conduct by  
5 the international community.

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

9 **SEC. 3. PURPOSES.**

10       The purposes of this Act are—

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

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

17           (3) 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 by  
21 the Castro government, and the political manipula-  
22 tion by the Castro government of the desire of Cu-  
23 bans to escape that results in mass migration to the  
24 United States;.

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

4           (5) to provide a policy framework for United  
5 States support to the Cuban people in response to  
6 the formation of a transition government or a demo-  
7 cratically elected government in Cuba; and

8           (6) to protect United States nationals against  
9 confiscatory takings and the wrongful trafficking in  
10 property confiscated by the Castro regime.

11 **SEC. 4. DEFINITIONS.**

12       As used in this Act, the following terms have the fol-  
13 lowing meanings:

14           (1) **AGENCY OR INSTRUMENTALITY OF A FOR-**  
15 **EIGN STATE.**—The term “agency or instrumentality  
16 of a foreign state” has the meaning given that term  
17 in section 1603(b) of title 28, United States Code.

18           (2) **APPROPRIATE CONGRESSIONAL COMMIT-**  
19 **TEES.**—The term “appropriate congressional com-  
20 mittees” means the Committee on International Re-  
21 lations and the Committee on Appropriations of the  
22 House of Representatives and the Committee on  
23 Foreign Relations and the Committee on Appropria-  
24 tions of the Senate.

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

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

6                   (A) the nationalization, expropriation, or  
7                   other seizure by the Cuban Government of own-  
8                   ership or control of property, on or after Janu-  
9                   ary 1, 1959—

10                           (i) without the property having been  
11                           returned or adequate and effective com-  
12                           pensation provided; or

13                                   (ii) without the claim to the property  
14                                   having been settled pursuant to an inter-  
15                                   national claims settlement agreement or  
16                                   other mutually accepted settlement proce-  
17                                   dure; and

18                           (B) the repudiation by the Cuban Govern-  
19                           ment of, the default by the Cuban Government  
20                           on, or the failure of the Cuban Government to  
21                           pay, on or after January 1, 1959—

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

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

4 (iii) a debt which was incurred by the  
5 Cuban Government in satisfaction or set-  
6 tlement of a confiscated property claim.

7 (5) CUBAN GOVERNMENT.—(A) The term  
8 “Cuban Government” includes the government of  
9 any political subdivision of Cuba, and any agency or  
10 instrumentality of the Government of Cuba.

11 (B) For purposes of subparagraph (A), the  
12 term “agency or instrumentality of the Government  
13 of Cuba” means an agency or instrumentality of a  
14 foreign state as defined in section 1603(b) of title  
15 28, United States Code, with each reference in such  
16 section to “a foreign state” deemed to be a reference  
17 to “Cuba”.

18 (6) DEMOCRATICALLY ELECTED GOVERNMENT  
19 IN CUBA.—The term “democratically elected govern-  
20 ment in Cuba” means a government determined by  
21 the President to have met the requirements of sec-  
22 tion 206.

23 (7) ECONOMIC EMBARGO OF CUBA.—The term  
24 “economic embargo of Cuba” refers to—

1 (A) the economic embargo (including all  
2 restrictions on trade or transactions with, and  
3 travel to or from, Cuba, and all restrictions on  
4 transactions in property in which Cuba or na-  
5 tionals of Cuba have an interest) that was im-  
6 posed against Cuba pursuant to section 620(a)  
7 of the Foreign Assistance Act of 1961 (22  
8 U.S.C. 2370(a)), section 5(b) of the Trading  
9 with the Enemy Act (50 U.S.C. App. 5(b)), the  
10 Cuban Democracy Act of 1992 (22 U.S.C. 6001  
11 and following), or any other provision of law;  
12 and

13 (B) the restrictions imposed by section  
14 902(c) of the Food Security Act of 1985.

15 (8) FOREIGN NATIONAL.—The term “foreign  
16 national” means—

17 (A) an alien; or

18 (B) any corporation, trust, partnership, or  
19 other juridical entity not organized under the  
20 laws of the United States, or of any State, the  
21 District of Columbia, or any commonwealth,  
22 territory, or possession of the United States.

23 (9) KNOWINGLY.—The term “knowingly”  
24 means with knowledge or having reason to know.

1           (10) OFFICIAL OF THE CUBAN GOVERNMENT  
2 OR THE RULING POLITICAL PARTY IN CUBA.—The  
3 term “official of the Cuban Government or the rul-  
4 ing political party in Cuba” refers to any member of  
5 the Council of Ministers, Council of State, central  
6 committee of the Communist Party of Cuba, or the  
7 Politburo of Cuba, or their equivalents.

8           (11) PERSON.—The term “person” means any  
9 person or entity, including any agency or instrumen-  
10 tality of a foreign state.

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

18           (B) For purposes of title III of this Act, the  
19 term “property” does not include real property used  
20 for residential purposes unless, as of the date of the  
21 enactment of this Act—

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

1           (ii) the property is occupied by an official  
2           of the Cuban Government or the ruling political  
3           party in Cuba.

4           (13) TRAFFICS.—(A) As used in title III, and  
5           except as provided in subparagraph (B), a person  
6           “traffics” in confiscated property if that person  
7           knowingly and intentionally—

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

14          (ii) engages in a commercial activity using  
15          or otherwise benefiting from confiscated prop-  
16          erty, or

17          (iii) causes, directs, participates in, or  
18          profits from, trafficking (as described in clause  
19          (i) or (ii)) by another person, or otherwise en-  
20          gages in trafficking (as described in clause (i)  
21          or (ii)) through another person,

22          without the authorization of any United States na-  
23          tional who holds a claim to the property.

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



1 (i) the delivery of international tele-  
2 communication signals to Cuba;

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

8 (iii) transactions and uses of property inci-  
9 dent to lawful travel to Cuba, to the extent that  
10 such transactions and uses of property are nec-  
11 essary to the conduct of such travel; or

12 (iv) transactions and uses of property by a  
13 person who is both a citizen of Cuba and a resi-  
14 dent of Cuba, and who is not an official of the  
15 Cuban Government or the ruling political party  
16 in Cuba.

17 (14) TRANSITION GOVERNMENT IN CUBA.—The  
18 term “transition government in Cuba” means a gov-  
19 ernment that the President determines is a transi-  
20 tion government consistent with the requirements  
21 and factors set forth in section 205.

22 (15) UNITED STATES NATIONAL.—The term  
23 “United States national” means—

24 (A) any United States citizen; or

1           (B) any other legal entity which is orga-  
2           nized under the laws of the United States, or  
3           of any State, the District of Columbia, or any  
4           commonwealth, territory, or possession of the  
5           United States, and which has its principal place  
6           of business in the United States.

7 **SEC. 5. SEVERABILITY.**

8           If any provision of this Act or the amendments made  
9           by this Act or the application thereof to any person or  
10          circumstance is held invalid, the remainder of this Act,  
11          the amendments made by this Act, or the application  
12          thereof to other persons not similarly situated or to other  
13          circumstances shall not be affected by such invalidation.

14 **TITLE            I—STRENGTHENING**  
15 **INTERNATIONAL 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 with- ✓  
2       in the Security Council, a mandatory international  
3       embargo against the totalitarian Cuban Government  
4       pursuant to chapter VII of the Charter of the Unit-  
5       ed Nations, employing efforts similar to consulta-  
6       tions conducted by United States representatives  
7       with respect to Haiti;

8           (3) any resumption of efforts by any independ-  
9       ent state of the former Soviet Union to make oper-  
10      ational any nuclear facilities in Cuba, and any con-  
11      tinuation of intelligence activities by such a state  
12      from Cuba that are targeted at the United States  
13      and its citizens will have a detrimental impact on  
14      United States assistance to such state; and

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

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

1           (B) any further political manipulation of  
2           the desire of Cubans to escape that results in  
3           mass migration to the United States,  
4           will be considered an act of aggression which will be  
5           met with an appropriate response in order to main-  
6           tain the security of the national borders of the Unit-  
7           ed States and the health and safety of the American  
8           people.

9 **SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF**  
10 **CUBA.**

11 **(a) POLICY.—**

12 **(1) RESTRICTIONS BY OTHER COUNTRIES.—**

13           The Congress hereby reaffirms section 1704(a) of  
14           the Cuban Democracy Act of 1992, which states  
15           that the President should encourage foreign coun-  
16           tries to restrict trade and credit relations with Cuba  
17           in a manner consistent with the purposes of that  
18           Act.

19 **(2) SANCTIONS ON OTHER COUNTRIES.—The**

20           Congress further urges the President to take imme-  
21           diate steps to apply the sanctions described in sec-  
22           tion 1704(b)(1) of that Act against countries assist-  
23           ing Cuba.

24 **(b) DIPLOMATIC EFFORTS.—The Secretary of State**  
25           should ensure that United States diplomatic personnel

1 abroad understand and, in their contacts with foreign offi-  
2 cials, are communicating the reasons for the United States  
3 economic embargo of Cuba, and are urging foreign govern-  
4 ments to cooperate more effectively with the embargo.

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

10 (d) **TRADING WITH THE ENEMY ACT.**—

11 (1) **CIVIL PENALTIES.**—Subsection (b) of sec-  
12 tion 16 of the Trading with the Enemy Act (50  
13 U.S.C. App. 16(b)), as added by Public Law 102-  
14 484, is amended to read as follows:

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

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

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

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

9               (2) CONFORMING AMENDMENT.—Section 16 of  
10 the Trading with the Enemy Act is further amended  
11 by striking subsection (b), as added by Public Law  
12 102-393.

13               (3) CLERICAL AMENDMENTS.—Section 16 of  
14 the Trading with the Enemy Act is further amend-  
15 ed—

16                       (A) by inserting “SEC. 16.” before “(a)”;

17                       and

18                       (B) in subsection (a) by striking “partici-  
19 pants” and inserting “participates”.

20               (e) DENIAL OF VISAS TO CERTAIN CUBAN NATION-  
21 ALS.—It is the sense of the Congress that the President  
22 should instruct the Secretary of State and the Attorney  
23 General to enforce fully existing regulations to deny visas

1 to Cuban nationals considered by the Secretary of State  
2 to be officers or employees of the Cuban Government or  
3 of the Communist Party of Cuba.

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

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

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

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

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

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

1       “As used in this paragraph, the term ‘agency or in-  
2       strumentality of the Government of Cuba’ means an  
3       agency or instrumentality of a foreign state as de-  
4       fined in section 1603(b) of title 28, United States  
5       Code, with each reference in such section to ‘a for-  
6       eign state’ deemed to be a reference to ‘Cuba’.”

7       (g) TELECOMMUNICATIONS SERVICES.—Section  
8 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C.  
9 6004(e)) is amended by adding at the end the following  
10 new paragraph:

11           “(5) PROHIBITION ON INVESTMENT IN DOMES-  
12 TIC TELECOMMUNICATIONS SERVICES.—Nothing in  
13 this subsection shall be construed to authorize the  
14 investment by any United States person in the do-  
15 mestic telecommunications network within Cuba.  
16 For purposes of this paragraph, an ‘investment’ in  
17 the domestic telecommunications network within  
18 Cuba includes the contribution (including by dona-  
19 tion) of funds or anything of value to or for, and the  
20 making of loans to or for, such network.

21           “(6) REPORTS TO CONGRESS.—The President  
22 shall submit to the Congress on a semiannual basis  
23 a report detailing payments made to Cuba by any  
24 United States person as a result of the provision of



1 telecommunications services authorized by this sub-  
2 section.”.

3 (h) CODIFICATION OF ECONOMIC EMBARGO.—The  
4 economic embargo of Cuba, as in effect on March 1, 1996,  
5 including all restrictions under part 515 of title 31, Code  
6 of Federal Regulations, shall be in effect upon the enact-  
7 ment of this Act, and shall remain in effect, subject to  
8 section 204 of this Act.

9 **SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF**  
10 **CUBA.**

11 (a) PROHIBITION.—Notwithstanding any other provi-  
12 sion of law, no loan, credit, or other financing may be ex-  
13 tended knowingly by a United States national, a perma-  
14 nent resident alien, or a United States agency to any per-  
15 son for the purpose of financing transactions involving any  
16 confiscated property the claim to which is owned by a  
17 United States national as of the date of the enactment  
18 of this Act, except for financing by the United States na-  
19 tional owning such claim for a transaction permitted  
20 under United States law.

21 (b) SUSPENSION AND TERMINATION OF PROHIBI-  
22 TION.—

23 (1) SUSPENSION.—The President is authorized  
24 to suspend the prohibition contained in subsection

25 (a) upon a determination made under section

1       203(c)(1) that a transition government in Cuba is in  
2       power.

3           (2) TERMINATION.—The prohibition contained  
4       in subsection (a) shall cease to apply on the date on  
5       which the economic embargo of Cuba terminates as  
6       provided in section 204.

7           (c) PENALTIES.—Violations of subsection (a) shall be  
8       punishable by such civil penalties as are applicable to vio-  
9       lations of the Cuban Assets Control Regulations set forth  
10      in part 515 of title 31, Code of Federal Regulations.

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

12           (1) the term “permanent resident alien” means  
13       an alien lawfully admitted for permanent residence  
14       into the United States; and

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

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

21          (a) CONTINUED OPPOSITION TO CUBAN MEMBER-  
22      SHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—

23           (1) IN GENERAL.—Except as provided in para-  
24       graph (2), the Secretary of the Treasury shall in-  
25       struct the United States executive director of each

1 international financial institution to use the voice  
2 and vote of the United States to oppose the admis-  
3 sion of Cuba as a member of such institution until  
4 the President submits a determination under section  
5 203(c)(3) that a democratically elected government  
6 in Cuba is in power.

7 (2) TRANSITION GOVERNMENT.—Once the  
8 President submits a determination under section  
9 203(c)(1) that a transition government in Cuba is in  
10 power—

11 (A) the President is encouraged to take  
12 steps to support the processing of Cuba's appli-  
13 cation for membership in any international fi-  
14 nancial institution, subject to the membership  
15 taking effect after a democratically elected gov-  
16 ernment in Cuba is in power, and

17 (B) the Secretary of the Treasury is au-  
18 thorized to instruct the United States executive  
19 director of each international financial institu-  
20 tion to support loans or other assistance to  
21 Cuba only to the extent that such loans or as-  
22 sistance contribute to a stable foundation for a  
23 democratically elected government in Cuba.

24 (b) REDUCTION IN UNITED STATES PAYMENTS TO  
25 INTERNATIONAL FINANCIAL INSTITUTIONS.—If any

✓ 1 international financial institution approves a loan or other  
2 assistance to the Cuban Government over the opposition  
3 of the United States, then the Secretary of the Treasury  
4 shall withhold from payment to such institution an  
5 amount equal to the amount of the loan or other assist-  
6 ance, with respect to either of the following types of pay-  
7 ment:

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

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

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

19 **SEC. 105. UNITED STATES OPPOSITION TO TERMINATION**  
20 **OF THE SUSPENSION OF THE CUBAN GOV-**  
21 **ERNMENT FROM PARTICIPATION IN THE OR-**  
22 **GANIZATION OF AMERICAN STATES.**

✓ 23           The President should instruct the United States Per-  
24 manent Representative to the Organization of American  
25 States to oppose and vote against any termination of the

1 suspension of the Cuban Government from participation  
2 in the Organization until the President determines under  
3 section 203(c)(3) that a democratically elected government  
4 in Cuba is in power.

5 **SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF**  
6 **THE FORMER SOVIET UNION FOR THE CUBAN**  
7 **GOVERNMENT.**

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

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

23 (c) **INELIGIBILITY FOR ASSISTANCE.**—

24 (1) **IN GENERAL.**—Section 498A(b) of that Act  
25 (22 U.S.C. 2295a(b)) is amended—

1 (A) by striking “or” at the end of paragraph  
2 (4);

3 (B) by redesignating paragraph (5) as para-  
4 graph (6); and

5 (C) by inserting after paragraph (4) the follow-  
6 ing new paragraph:

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

16 (2) DEFINITION.—Subsection (k) of section  
17 498B of that Act (22 U.S.C. 2295b(k)) is amended  
18 by adding at the end the following new paragraph:

19 “(3) NONMARKET BASED TRADE.—As used in  
20 section 498A(b)(5), the term ‘nonmarket based  
21 trade’ includes exports, imports, exchanges, or other  
22 arrangements that are provided for goods and serv-  
23 ices (including oil and other petroleum products) on  
24 terms more favorable than those generally available

1 in applicable markets or for comparable commod-  
2 ities, including—

3 “(A) exports to the Cuban Government on  
4 terms that involve a grant, concessional price,  
5 guaranty, insurance, or subsidy;

6 “(B) imports from the Cuban Government  
7 at preferential tariff rates;

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

15 “(D) the exchange, reduction, or forgive-  
16 ness of debt of the Cuban Government in re-  
17 turn for a grant by the Cuban Government of  
18 an equity interest in a property, investment, or  
19 operation of the Cuban Government or of a  
20 Cuban national.

21 “(4) CUBAN GOVERNMENT.—(A) The term  
22 ‘Cuban Government’ includes the government of any  
23 political subdivision of Cuba, and any agency or in-  
24 strumentality of the Government of Cuba.

1           “(B) For purposes of subparagraph (A), the  
2 term ‘agency or instrumentality of the Government  
3 of Cuba’ means an agency or instrumentality of a  
4 foreign state as defined in section 1603(b) of title  
5 28, United States Code, with each reference in such  
6 section to ‘a foreign state’ deemed to be a reference  
7 to ‘Cuba’.”.

8           (3) EXCEPTION.—Section 498A(c) of the For-  
9 eign Assistance Act of 1961 (22 U.S.C. 2295A(c))  
10 is amended by inserting after paragraph (3) the fol-  
11 lowing new paragraph:

12           “(4) The assistance is provided under the sec-  
13 ondary school exchange program administered by the  
14 United States Information Agency.”.

15           (d) FACILITIES AT LOURDES, CUBA.—

16           (1) DISAPPROVAL OF CREDITS.—The Congress  
17 expresses its strong disapproval of the extension by  
18 Russia of credits equivalent to \$200,000,000 in sup-  
19 port of the intelligence facility at Lourdes, Cuba, in  
20 November 1994.

21           (2) REDUCTION IN ASSISTANCE.—Section 498A  
22 of the Foreign Assistance Act of 1961 (22 U.S.C.  
23 2295a) is amended by adding at the end the follow-  
24 ing new subsection:



1       “(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF  
2 INTELLIGENCE FACILITIES IN CUBA.—

3           “(1) REDUCTION IN ASSISTANCE.—Notwith-  
4 standing any other provision of law, the President  
5 shall withhold from assistance provided, on or after  
6 the date of the enactment of this subsection, for an  
7 independent state of the former Soviet Union under  
8 this Act an amount equal to the sum of assistance  
9 and credits, if any, provided on or after such date  
10 by such state in support of intelligence facilities in  
11 Cuba, including the intelligence facility at Lourdes,  
12 Cuba.

13           “(2) WAIVER.—(A) The President may waive  
14 the requirement of paragraph (1) to withhold assist-  
15 ance if the President certifies to the appropriate  
16 congressional committees that the provision of such  
17 assistance is important to the national security of  
18 the United States, and, in the case of such a certifi-  
19 cation made with respect to Russia, if the President  
20 certifies that the Russian Government has assured  
21 the United States Government that the Russian  
22 Government is not sharing intelligence data collected  
23 at the Lourdes facility with officials or agents of the  
24 Cuban Government.

1           “(B) At the time of a certification made with  
2           respect to Russia under subparagraph (A), the  
3           President shall also submit to the appropriate con-  
4           gressional committees a report describing the intel-  
5           ligence activities of Russia in Cuba, including the  
6           purposes for which the Lourdes facility is used by  
7           the Russian Government and the extent to which the  
8           Russian Government provides payment or govern-  
9           ment credits to the Cuban Government for the con-  
10          tinued use of the Lourdes facility.

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

13          “(D) For purposes of this paragraph, the term  
14          ‘appropriate congressional committees’ includes the  
15          Permanent Select Committee on Intelligence of the  
16          House of Representatives and the Select Committee  
17          on Intelligence of the Senate.

18          “(3) EXCEPTIONS TO REDUCTIONS IN ASSIST-  
19          ANCE.—The requirement of paragraph (1) to with-  
20          hold assistance shall not apply with respect to—

21                  “(A) assistance to meet urgent humani-  
22                  tarian needs, including disaster and refugee re-  
23                  lief;

24                  “(B) democratic political reform or rule of  
25                  law activities;

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

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

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

8           “(F) assistance under the secondary school  
9           exchange program administered by the United  
10          States Information Agency; or

11          “(G) assistance for the purposes described  
12          in the Cooperative Threat Reduction Act of  
13          1993 (title XII of Public Law 103-160).”.

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

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

20          (b) **PERIODIC REPORTS.**—Not later than 45 days  
21          after the date of the enactment of this Act, and every  
22          three months thereafter until the conversion described in  
23          subsection (a) is fully implemented, the Director of the  
24          United States Information Agency shall submit a report

1 to the appropriate congressional committees on the  
2 progress made in carrying out subsection (a).

3 (c) TERMINATION OF BROADCASTING AUTHORI-  
4 TIES.—Upon transmittal of a determination under section  
5 203(c)(3), the Television Broadcasting to Cuba Act (22  
6 U.S.C. 1465aa and following) and the Radio Broadcasting  
7 to Cuba Act (22 U.S.C. 1465 and following) are repealed.

8 **SEC. 108. REPORTS ON COMMERCE WITH, AND ASSISTANCE**  
9 **TO, CUBA FROM OTHER FOREIGN COUN-**  
10 **TRIES.**

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

19 (b) **CONTENTS OF REPORTS.**—Each report required  
20 by subsection (a) shall, for the period covered by the re-  
21 port, contain the following, to the extent such information  
22 is available:

23 (1) A description of all bilateral assistance pro-  
24 vided to Cuba by other foreign countries, including  
25 humanitarian assistance.

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

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

11          (4) A determination as to whether or not any  
12          of the facilities described in paragraph (3) is the  
13          subject of a claim against Cuba by a United States  
14          national.

15          (5) A determination of the amount of debt of  
16          the Cuban Government that is owed to each foreign  
17          country, including—

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

22                (B) the amount of debt owed the foreign  
23                country that has been exchanged, forgiven, or  
24                reduced in return for a grant by the Cuban  
25                Government of an equity interest in a property,

1 investment, or operation of the Cuban Govern-  
2 ment or of a Cuban national.

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

9 (7) An identification of countries that purchase,  
10 or have purchased, arms or military supplies from  
11 Cuba or that otherwise have entered into agreements  
12 with Cuba that have a military application, includ-  
13 ing—

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

17 (B) a listing of the goods, services, credits,  
18 or other consideration received by Cuba in ex-  
19 change for military supplies, equipment, or ma-  
20 terial, and

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

1 SEC. 109. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC  
 2 AND HUMAN RIGHTS GROUPS AND INTER-  
 3 NATIONAL OBSERVERS.

4 (a) AUTHORIZATION.—Notwithstanding any other  
 5 provision of law (including section 102 of this Act), except  
 6 for section 634A of the Foreign Assistance Act of 1961  
 7 (22 U.S.C. 2394–1) and comparable notification require-  
 8 ments contained in any Act making appropriations for for-  
 9 eign operations, export financing, and related programs,  
 10 the President is authorized to furnish assistance and pro-  
 11 vide other support for individuals and independent non-  
 12 governmental organizations to support democracy-building  
 13 efforts for Cuba, including the following:

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

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

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

23 (4) Support for visits and permanent deploy-  
 24 ment of independent international human rights  
 25 monitors in Cuba.

26 (b) OAS EMERGENCY FUND.—

✓ 1 (1) FOR SUPPORT OF HUMAN RIGHTS AND  
2 ELECTIONS.—The President shall take the necessary  
3 steps to encourage the Organization of American  
4 States to create a special emergency fund for the ex-  
5 plicit purpose of deploying human rights observers,  
6 election support, and election observation in Cuba.

7 (2) ACTION OF OTHER MEMBER STATES.—The  
8 President should instruct the United States Perma-  
9 nent Representative to the Organization of American  
10 States to encourage other member states of the Or-  
11 ganization to join in calling for the Cuban Govern-  
12 ment to allow the immediate deployment of inde-  
13 pendent human rights monitors of the Organization  
14 throughout Cuba and on-site visits to Cuba by the  
15 Inter-American Commission on Human Rights.

16 (3) VOLUNTARY CONTRIBUTIONS FOR FUND.—  
17 Notwithstanding section 307 of the Foreign Assist-  
18 ance Act of 1961 (22 U.S.C. 2227) or any other  
19 provision of law limiting the United States propor-  
20 tionate share of assistance to Cuba by any inter-  
21 national organization, the President should provide  
22 not less than \$5,000,000 of the voluntary contribu-  
23 tions of the United States to the Organization of  
24 American States solely for the purposes of the spe-  
25 cial fund referred to in paragraph (1).



1 (c) DENIAL OF FUNDS TO THE CUBAN GOVERN-  
 2 MENT.—In implementing this section, the President shall  
 3 take all necessary steps to ensure that no funds or other  
 4 assistance is provided to the Cuban Government.

5 SEC. 110. IMPORTATION SAFEGUARD AGAINST CERTAIN  
 6 CUBAN PRODUCTS.

7 (a) PROHIBITION ON IMPORT OF AND DEALINGS IN  
 8 CUBAN PRODUCTS.—The Congress notes that section  
 9 515.204 of title 31, Code of Federal Regulations, prohibits  
 10 the entry of, and dealings outside the United States in,  
 11 merchandise that—

12 (1) is of Cuban origin;

13 (2) is or has been located in or transported  
 14 from or through Cuba; or

15 (3) is made or derived in whole or in part of  
 16 any article which is the growth, produce, or manu-  
 17 facture of Cuba.

18 (b) EFFECT OF NAFTA.—The Congress notes that  
 19 United States accession to the North American Free  
 20 Trade Agreement does not modify or alter the United  
 21 States sanctions against Cuba. The statement of adminis-  
 22 trative action accompanying that trade agreement specifi-  
 23 cally states the following:

24 (1) “The NAFTA rules of origin will not in any  
 25 way diminish the Cuban sanctions program. . . .

1 Nothing in the NAFTA would operate to override  
2 this prohibition.”.

3 (2) “Article 309(3) [of the NAFTA] permits  
4 the United States to ensure that Cuban products or  
5 goods made from Cuban materials are not imported  
6 into the United States from Mexico or Canada and  
7 that U.S. products are not exported to Cuba through  
8 those countries.”.

9 (c) RESTRICTION OF SUGAR IMPORTS.—The Con-  
10 gress notes that section 902(c) of the Food Security Act  
11 of 1985 (Public Law 99-198) requires the President not  
12 to allocate any of the sugar import quota to a country  
13 that is a net importer of sugar unless appropriate officials  
14 of that country verify to the President that the country  
15 does not import for reexport to the United States any  
16 sugar produced in Cuba.

17 (d) ASSURANCES REGARDING SUGAR PRODUCTS.—  
18 Protection of essential security interests of the United  
19 States requires assurances that sugar products that are  
20 entered, or withdrawn from warehouse for consumption,  
21 into the customs territory of the United States are not  
22 products of Cuba.

1 SEC. 111. WITHHOLDING OF FOREIGN ASSISTANCE FROM  
2 COUNTRIES SUPPORTING JURAGUA NU-  
3 CLEAR PLANT IN CUBA.

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

6 (1) President Clinton stated in April 1993 that  
7 the United States opposed the construction of the  
8 Juragua nuclear power plant because of the con-  
9 cerns of the United States about Cuba's ability to  
10 ensure the safe operation of the facility and because  
11 of Cuba's refusal to sign the Nuclear Non-Prolifera-  
12 tion Treaty or ratify the Treaty of Tlatelolco.

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

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

22 (4) In a September 1992 report to the Con-  
23 gress, the General Accounting Office outlined con-  
24 cerns among nuclear energy experts about defi-  
25 ciencies in the nuclear plant project in Juragua,  
26 near Cienfuegos, Cuba, including—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (b) WITHHOLDING OF FOREIGN ASSISTANCE.—

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

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

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

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

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

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

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

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

20           (3) DEFINITION.—As used in paragraph (1),  
21 the term “assistance” means assistance under the  
22 Foreign Assistance Act of 1961, credits, sales, guar-  
23 antees of extensions of credit, and other assistance  
24 under the Arms Export Control Act, assistance  
25 under titles I and III of the Agricultural Trade De-

1           velopment and Assistance Act of 1954, assistance  
2           under the FREEDOM Support Act, and any other  
3           program of assistance or credits provided by the  
4           United States to other countries under other provi-  
5           sions of law.

6   **SEC. 112. REINSTITUTION OF FAMILY REMITTANCES AND**  
7                           **TRAVEL TO CUBA.**

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

10           (1)(A) before considering the reinstatement of  
11           general licenses for family remittances to Cuba, in-  
12           sist that, prior to such reinstatement, the Cuban Gov-  
13           ernment permit the unfettered operation of small  
14           businesses fully empowered with the right to hire  
15           others to whom they may pay wages and to buy ma-  
16           terials necessary in the operation of the businesses,  
17           and with such other authority and freedom as are  
18           required to foster the operation of small businesses  
19           throughout Cuba; and

20           (B) if licenses described in subparagraph (A)  
21           are reinstated, require a specific license for remit-  
22           tances described in subparagraph (A) in amounts of  
23           more than \$500; and

24           (2) before considering the reinstatement of gen-  
25           eral licenses for travel to Cuba by individuals resi-



1       dent in the United States who are family members  
2       of Cuban nationals who are resident in Cuba, insist  
3       on such actions by the Cuban Government as abro-  
4       gation of the sanction for departure from Cuba by  
5       refugees, release of political prisoners, recognition of  
6       the right of association, and other fundamental free-  
7       doms.

8       **SEC. 113. EXPULSION OF CRIMINALS FROM CUBA.**

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

16      **SEC. 114. NEWS BUREAUS IN CUBA.**

17      (a) **ESTABLISHMENT OF NEWS BUREAUS.**—The  
18      President is authorized to establish and implement an ex-  
19      change of news bureaus between the United States and  
20      Cuba, if the exchange meets the following conditions:

21              (1) The exchange is fully reciprocal.

22              (2) The Cuban Government agrees not to inter-  
23      fere with the establishment of news bureaus or with  
24      the movement in Cuba of journalists of any United

1 States-based news organizations, including Radio  
2 Marti and Television Marti.

3 (3) The Cuban Government agrees not to inter-  
4 fere with decisions of United States-based news or-  
5 ganizations with respect to individuals assigned to  
6 work as journalists in their news bureaus in Cuba.

7 (4) The Department of the Treasury is able to  
8 ensure that only accredited journalists regularly em-  
9 ployed with a news gathering organization travel to  
10 Cuba under this subsection.

11 (5) The Cuban Government agrees not to inter-  
12 fere with the transmission of telecommunications  
13 signals of news bureaus or with the distribution  
14 within Cuba of publications of any United States-  
15 based news organization that has a news bureau in  
16 Cuba.

17 (b) ASSURANCE AGAINST ESPIONAGE.—In imple-  
18 menting this section, the President shall take all necessary  
19 steps to ensure the safety and security of the United  
20 States against espionage by Cuban journalists it believes  
21 to be working for the intelligence agencies of the Cuban  
22 Government.

23 (c) FULLY RECIPROCAL.—As used in subsection  
24 (a)(1), the term “fully reciprocal” means that all news  
25 services, news organizations, and broadcasting services, in-

1 cluding such services or organizations that receive financ-  
2 ing, assistance, or other support from a governmental or  
3 official source, are permitted to establish and operate a  
4 news bureau in the United States and Cuba.

5 **SEC. 115. EFFECT OF ACT ON LAWFUL UNITED STATES**  
6 **GOVERNMENT ACTIVITIES.**

7 Nothing in this Act prohibits any lawfully authorized  
8 investigative, protective, or intelligence activity of a law  
9 enforcement agency, or of an intelligence agency, of the  
10 United States.

11 **SEC. 116. CONDEMNATION OF CUBAN ATTACK ON AMER-**  
12 **ICAN AIRCRAFT.**

13 (a) **FINDINGS.**—The Congress makes the following  
14 findings:

15 (1) Brothers to the Rescue is a Miami-based  
16 humanitarian organization engaged in searching for  
17 and aiding Cuban refugees in the Straits of Florida,  
18 and was engaged in such a mission on Saturday,  
19 February 24, 1996.

20 (2) The members of Brothers to the Rescue  
21 were flying unarmed and defenseless planes in a  
22 mission identical to hundreds they have flown since  
23 1991 and posed no threat whatsoever to the Cuban  
24 Government, the Cuban military, or the Cuban peo-  
25 ple.

1           (3) Statements by the Cuban Government that  
2 Brothers to the Rescue has engaged in covert oper-  
3 ations, bombing campaigns, and commando oper-  
4 ations against the Government of Cuba have no  
5 basis in fact.

6           (4) The Brothers to the Rescue aircraft notified  
7 air traffic controllers as to their flight plans, which  
8 would take them south of the 24th parallel and close  
9 to Cuban airspace.

10          (5) International law provides a nation with air-  
11 space over the 12-mile territorial sea.

12          (6) The response of Fidel Castro's dictatorship  
13 to Saturday's afternoon flight was to scramble 2  
14 fighter jets from a Havana airfield.

15          (7) At approximately 3:24 p.m., the pilot of one  
16 of the Cuban MiGs received permission and pro-  
17 ceeded to shoot down one Brothers to the Rescue  
18 airplane more than 6 miles north of the Cuban ex-  
19 clusion zone, or 18 miles from the Cuban coast.

20          (8) Approximately 7 minutes later, the pilot of  
21 the Cuban fighter jet received permission and pro-  
22 ceeded to shoot down the second Brothers to the  
23 Rescue airplane almost 18.5 miles north of the  
24 Cuban exclusion zone, or 30.5 miles from the Cuban  
25 coast.

1           (9) The Cuban dictatorship, if it truly felt  
2 threatened by the flight of these unarmed aircraft,  
3 could have and should have pursued other peaceful  
4 options as required by international law.

5           (10) The response chosen by Fidel Castro, the  
6 use of lethal force, was completely inappropriate to  
7 the situation presented to the Cuban Government,  
8 making such actions a blatant and barbaric violation  
9 of international law and tantamount to cold-blooded  
10 murder.

11           (11) There were no survivors of the attack on  
12 these aircraft, and the crew of a third aircraft man-  
13 aged to escape this criminal attack by Castro's Air  
14 Force.

15           (12) The crew members of the destroyed planes,  
16 Pablo Morales, Carlos Costa, Mario de la Pena, and  
17 Armando Alejandro, were United States citizens  
18 from Miami flying with Brothers to the Rescue on  
19 a voluntary basis.

20           (13) It is incumbent upon the United States  
21 Government to protect the lives and livelihoods of  
22 United States citizens as well as the rights of free  
23 passage and humanitarian missions.

24           (14) This premeditated act took place after a  
25 week-long waive of repression by the Cuban Govern-

1       ment against Concilio Cubano, an umbrella organi-  
2       zation of human rights activists, dissidents, inde-  
3       pendent economists, and independent journalists,  
4       among others.

5           (15) The waive of repression against Concilio  
6       Cubano, whose membership is committed to peaceful  
7       democratic change in Cuba, included arrests, strip  
8       searches, house arrests, and in some cases sentences  
9       to more than 1 year in jail.

10       (b) STATEMENTS BY THE CONGRESS.—(1) The Con-  
11      gress strongly condemns the act of terrorism by the Castro  
12      regime in shooting down the Brothers to the Rescue air-  
13      craft on February 24, 1996.

14       (2) The Congress extends its condolences to the fami-  
15      lies of Pablo Morales, Carlos Costa, Mario de la Pena, and  
16      Armando Alejandro, the victims of the attack.

17       (3) The Congress urges the President to seek, in the  
18      International Court of Justice, indictment for this act of  
19      terrorism by Fidel Castro.

20           **TITLE II—ASSISTANCE TO A**  
21           **FREE AND INDEPENDENT CUBA**  
22           **SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT**  
23                           **AND A DEMOCRATICALLY ELECTED GOVERN-**  
24                           **MENT IN CUBA.**

25           The policy of the United States is as follows:

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

3           (2) To recognize that the self-determination of  
4 the Cuban people is a sovereign and national right  
5 of the citizens of Cuba which must be exercised free  
6 of interference by the government of any other coun-  
7 try.

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

11           (4) To recognize the potential for a difficult  
12 transition from the current regime in Cuba that may  
13 result from the initiatives taken by the Cuban people  
14 for self-determination in response to the intran-  
15 sigence of the Castro regime in not allowing any  
16 substantive political or economic reforms, and to be  
17 prepared to provide the Cuban people with humani-  
18 tarian, developmental, and other economic assist-  
19 ance.

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

22                   (A) to a transition government in Cuba;

23                   (B) to facilitate the rapid movement from  
24 such a transition government to a democrat-  
25 ically elected government in Cuba that results

1 from an expression of the self-determination of  
2 the Cuban people; and

3 (C) to support such a democratically elect-  
4 ed government.

5 (6) Through such assistance, to facilitate a  
6 peaceful transition to representative democracy and  
7 a market economy in Cuba and to consolidate de-  
8 mocracy in Cuba.

9 (7) To deliver such assistance to the Cuban  
10 people only through a transition government in  
11 Cuba, through a democratically elected government  
12 in Cuba, through United States Government organi-  
13 zations, or through United States, international, or  
14 indigenous nongovernmental organizations.

15 (8) To encourage other countries and multilat-  
16 eral organizations to provide similar assistance, and  
17 to work cooperatively with such countries and orga-  
18 nizations to coordinate such assistance.

19 (9) To ensure that appropriate assistance is  
20 rapidly provided and distributed to the people of  
21 Cuba upon the institution of a transition govern-  
22 ment in Cuba.

23 (10) Not to provide favorable treatment or in-  
24 fluence on behalf of any individual or entity in the



1 selection by the Cuban people of their future govern-  
2 ment.

3 (11) To assist a transition government in Cuba  
4 and a democratically elected government in Cuba to  
5 prepare the Cuban military forces for an appropriate  
6 role in a democracy.

7 (12) To be prepared to enter into negotiations  
8 with a democratically elected government in Cuba ei-  
9 ther to return the United States Naval Base at ✓  
10 Guantanamo to Cuba or to renegotiate the present  
11 agreement under mutually agreeable terms.

12 (13) To consider the restoration of diplomatic  
13 recognition and support the reintegration of the  
14 Cuban Government into Inter-American organiza-  
15 tions when the President determines that there ex-  
16 ists a democratically elected government in Cuba.

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

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

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

1 SEC. 202. ASSISTANCE FOR THE CUBAN PEOPLE.

2 (a) AUTHORIZATION.—

3 (1) IN GENERAL.—The President shall develop  
4 a plan for providing economic assistance to Cuba at  
5 such time as the President determines that a transi-  
6 tion government or a democratically elected govern-  
7 ment in Cuba (as determined under section 203(c))  
8 is in power.

9 (2) EFFECT ON OTHER LAWS.—Assistance may  
10 be provided under this section subject to an author-  
11 ization of appropriations and subject to the availabil-  
12 ity of appropriations.

13 (b) PLAN FOR ASSISTANCE.—

14 (1) DEVELOPMENT OF PLAN.—The President  
15 shall develop a plan for providing assistance under  
16 this section—

17 (A) to Cuba when a transition government  
18 in Cuba is in power; and

19 (B) to Cuba when a democratically elected  
20 government in Cuba is in power.

21 (2) TYPES OF ASSISTANCE.—Assistance under  
22 the plan developed under paragraph (1) may, subject  
23 to an authorization of appropriations and subject to  
24 the availability of appropriations, include the follow-  
25 ing:

1           (A) TRANSITION GOVERNMENT.—(i) Ex-  
2           cept as provided in clause (ii), assistance to  
3           Cuba under a transition government shall, sub-  
4           ject to an authorization of appropriations and  
5           subject to the availability of appropriations, be  
6           limited to—

7                   (I) such food, medicine, medical sup-  
8                   plies and equipment, and assistance to  
9                   meet emergency energy needs, as is nec-  
10                  essary to meet the basic human needs of  
11                  the Cuban people; and

12                  (II) assistance described in subpara-  
13                  graph (C).

14           (ii) Assistance in addition to assistance  
15           under clause (i) may be provided, but only after  
16           the President certifies to the appropriate con-  
17           gressional committees, in accordance with pro-  
18           cedures applicable to reprogramming notifica-  
19           tions under section 634A of the Foreign Assist-  
20           ance Act of 1961, that such assistance is essen-  
21           tial to the successful completion of the transi-  
22           tion to democracy.

23           (iii) Only after a transition government in  
24           Cuba is in power, freedom of individuals to

1 travel to visit their relatives without any restric-  
2 tions shall be permitted.

3 (B) DEMOCRATICALLY ELECTED GOVERN-  
4 MENT.—Assistance to a democratically elected  
5 government in Cuba may, subject to an author-  
6 ization of appropriations and subject to the  
7 availability of appropriations, consist of eco-  
8 nomic assistance in addition to assistance avail-  
9 able under subparagraph (A), together with as-  
10 sistance described in subparagraph (C). Such  
11 economic assistance may include—

12 (i) assistance under chapter 1 of part  
13 I (relating to development assistance), and  
14 chapter 4 of part II (relating to the eco-  
15 nomic support fund), of the Foreign As-  
16 sistance Act of 1961;

17 (ii) assistance under the Agricultural  
18 Trade Development and Assistance Act of  
19 1954;

20 (iii) financing, guarantees, and other  
21 forms of assistance provided by the Ex-  
22 port-Import Bank of the United States;

23 (iv) financial support provided by the  
24 Overseas Private Investment Corporation  
25 for investment projects in Cuba;

1 (v) assistance provided by the Trade  
2 and Development Agency;

3 (vi) Peace Corps programs; and

4 (vii) other appropriate assistance to  
5 carry out the policy of section 201.

6 (C) **MILITARY ADJUSTMENT ASSIST-**  
7 **ANCE.**—Assistance to a transition government  
8 in Cuba and to a democratically elected govern-  
9 ment in Cuba shall also include assistance in  
10 preparing the Cuban military forces to adjust to  
11 an appropriate role in a democracy.

12 (c) **STRATEGY FOR DISTRIBUTION.**—The plan devel-  
13 oped under subsection (b) shall include a strategy for dis-  
14 tributing assistance under the plan.

15 (d) **DISTRIBUTION.**—Assistance under the plan devel-  
16 oped under subsection (b) shall be provided through Unit-  
17 ed States Government organizations and nongovernmental  
18 organizations and private and voluntary organizations,  
19 whether within or outside the United States, including hu-  
20 manitarian, educational, labor, and private sector organi-  
21 zations.

22 (e) **INTERNATIONAL EFFORTS.**—The President shall  
23 take the necessary steps—

24 (1) to seek to obtain the agreement of other  
25 countries and of international financial institutions

1 and multilateral organizations to provide to a transi-  
2 tion government in Cuba, and to a democratically  
3 elected government in Cuba, assistance comparable  
4 to that provided by the United States under this  
5 Act; and

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

9 (f) COMMUNICATION WITH THE CUBAN PEOPLE.—  
10 The President shall take the necessary steps to commu-  
11 nicate to the Cuban people the plan for assistance devel-  
12 oped under this section.

13 (g) REPORT TO CONGRESS.—Not later than 180 days  
14 after the date of the enactment of this Act, the President  
15 shall transmit to the appropriate congressional committees  
16 a report describing in detail the plan developed under this  
17 section.

18 (h) REPORT ON TRADE AND INVESTMENT RELA-  
19 TIONS.—

20 (1) REPORT TO CONGRESS.—The President, fol-  
21 lowing the transmittal to the Congress of a deter-  
22 mination under section 203(c)(3) that a democrat-  
23 ically elected government in Cuba is in power, shall  
24 submit to the Committee on Ways and Means of the  
25 House of Representatives and the Committee on Fi-

1 nance of the Senate and the appropriate congress-  
2 sional committees a report that describes—

3 (A) acts, policies, and practices which con-  
4 stitute significant barriers to, or distortions of,  
5 United States trade in goods or services or for-  
6 eign direct investment with respect to Cuba;

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

11 (i) reciprocal extension of nondiscrim-  
12 inatory trade treatment (most-favored-na-  
13 tion treatment);

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

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

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

10 (D) actions proposed or anticipated to be  
11 undertaken, and any proposed legislation nec-  
12 essary or appropriate, to achieve any of such  
13 policy and negotiating objectives.

14 (2) CONSULTATION.—The President shall con-  
15 sult with the Committee on Ways and Means of the  
16 House of Representatives and the Committee on Fi-  
17 nance of the Senate and the appropriate congres-  
18 sional committees and shall seek advice from the ap-  
19 propriate advisory committees established under sec-  
20 tion 135 of the Trade Act of 1974 regarding the pol-  
21 icy and negotiating objectives and the legislative pro-  
22 posals described 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 consultation with  
16 the Congress, is authorized to take steps to suspend the  
17 economic embargo of Cuba and to suspend the right of  
18 action created in section 302 with respect to actions there-  
19 after filed against the Cuban Government, to the extent  
20 that such steps contribute to a stable foundation for a  
21 democratically elected government in Cuba.

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

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

3 (2) section 620(f) of the Foreign Assistance Act  
4 of 1961 (22 U.S.C. 2370(f)) with respect to the  
5 “Republic of Cuba”;

6 (3) sections 1704, 1705(d), and 1706 of the  
7 Cuban Democracy Act of 1992 (22 U.S.C. 6003,  
8 6004(d), and 6005);

9 (4) section 902(c) of the Food Security Act of  
10 1985; and

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

13 (c) **ADDITIONAL PRESIDENTIAL ACTIONS.**—Upon  
14 submitting a determination to the appropriate congres-  
15 sional committees under section 203(c)(3) that a demo-  
16 cratically elected government in Cuba is in power, the  
17 President shall take steps to terminate the economic em-  
18 bargo of Cuba, including the restrictions under part 515  
19 of title 31, Code of Federal Regulations.

20 (d) **CONFORMING AMENDMENTS.**—On the date on  
21 which the President submits a determination under sec-  
22 tion 203(c)(3)—

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

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

4           (3) sections 1704, 1705(d), and 1706 of the  
5 Cuban Democracy Act of 1992 (22 U.S.C. 6003,  
6 6004(d), and 6005) are repealed; and

7           (4) section 902(c) of the Food Security Act of  
8 1985 is repealed.

9           (e) REVIEW OF SUSPENSION OF ECONOMIC EMBAR-  
10 GO.—

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

24           (2) JOINT RESOLUTIONS.—For purposes of this  
25 subsection, the term “joint resolution” means only a

1 joint resolution of the 2 Houses of Congress, the  
2 matter after the resolving clause of which is as fol-  
3 lows: "That the Congress disapproves the action of  
4 the President under section 204(a) of the Cuban  
5 Liberty and Democratic Solidarity (LIBERTAD)  
6 Act of 1996 to suspend the economic embargo of  
7 Cuba, notice of which was submitted to the Congress  
8 on \_\_\_\_.", with the blank space being filled with the  
9 appropriate date.

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

16 (4) PROCEDURES.—(A) Any joint resolution  
17 shall be considered in the Senate in accordance with  
18 the provisions of section 601(b) of the International  
19 Security Assistance and Arms Export Control Act of  
20 1976.

21 (B) For the purpose of expediting the consider-  
22 ation and enactment of joint resolutions, a motion to  
23 proceed to the consideration of any joint resolution  
24 after it has been reported by the appropriate com-

1       mittee shall be treated as highly privileged in the  
2       House of Representatives.

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

9       **SEC. 205. REQUIREMENTS AND FACTORS FOR DETERMIN-**  
10               **ING A TRANSITION GOVERNMENT.**

11       (a) **REQUIREMENTS.**—For the purposes of this Act,  
12       a transition government in Cuba is a government that—

13               (1) has legalized all political activity;

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

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

21               (4) has made public commitments to organizing  
22       free and fair elections for a new government—

23               (A) to be held in a timely manner within  
24       a period not to exceed 18 months after the  
25       transition government assumes power;



1 (B) with the participation of multiple inde-  
2 pendent political parties that have full access to  
3 the media on an equal basis, including (in the  
4 case of radio, television, or other telecommuni-  
5 cations media) in terms of allotments of time  
6 for such access and the times of day such allot-  
7 ments are given; and

8 (C) to be conducted under the supervision  
9 of internationally recognized observers, such as  
10 the Organization of American States, the Unit-  
11 ed Nations, and other election monitors;

12 (5) has ceased any interference with Radio  
13 Marti or Television Marti broadcasts;

14 (6) makes public commitments to and is mak-  
15 ing demonstrable progress in—

16 (A) establishing an independent judiciary;

17 (B) respecting internationally recognized  
18 human rights and basic freedoms as set forth in  
19 the Universal Declaration of Human Rights, to  
20 which Cuba is a signatory nation;

21 (C) allowing the establishment of inde-  
22 pendent trade unions as set forth in conven-  
23 tions 87 and 98 of the International Labor Or-  
24 ganization, and allowing the establishment of

1 independent social, economic, and political asso-  
 2 ciations;

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

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

8 (b) ADDITIONAL FACTORS.—In addition to the re-  
 9 quirements in subsection (a), in determining whether a  
 10 transition government in Cuba is in power, the President  
 11 shall take into account the extent to which that govern-  
 12 ment—

13 (1) is demonstrably in transition from a com-  
 14 munist totalitarian dictatorship to representative de-  
 15 mocracy;

16 (2) has made public commitments to, and is  
 17 making demonstrable progress in—

18 (A) effectively guaranteeing the rights of  
 19 free speech and freedom of the press, including  
 20 granting permits to privately owned media and  
 21 telecommunications companies to operate in  
 22 Cuba;

23 (B) permitting the reinstatement of citi-  
 24 zenship to Cuban-born persons returning to  
 25 Cuba;

1 (C) assuring the right to private property;

2 and

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

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

15 (4) has permitted the deployment throughout  
16 Cuba of independent and unfettered international  
17 human rights monitors.

18 **SEC. 206. REQUIREMENTS FOR DETERMINING A DEMO-**  
19 **CRATICALLY ELECTED GOVERNMENT.**

20 For purposes of this Act, a democratically elected  
21 government in Cuba, in addition to meeting the require-  
22 ments of section 205(a), is a government which—

23 (1) results from free and fair elections—

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

1 (B) in which—

2 (i) opposition parties were permitted  
3 ample time to organize and campaign for  
4 such elections; and

5 (ii) all candidates were permitted full  
6 access to the media;

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

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

12 (4) is committed to making constitutional  
13 changes that would ensure regular free and fair elec-  
14 tions and the full enjoyment of basic civil liberties  
15 and human rights by the citizens of Cuba;

16 (5) has made demonstrable progress in estab-  
17 lishing an independent judiciary; and

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

1 SEC. 207. SETTLEMENT OF OUTSTANDING UNITED STATES  
2 CLAIMS TO CONFISCATED PROPERTY IN  
3 CUBA.

4 (a) REPORT TO CONGRESS.—Not later than 180 days  
5 after the date of the enactment of this Act, the Secretary  
6 of State shall provide a report to the appropriate congress-  
7 sional committees containing an assessment of the prop-  
8 erty dispute question in Cuba, including—

9 (1) an estimate of the number and amount of  
10 claims to property confiscated by the Cuban Govern-  
11 ment that are held by United States nationals in ad-  
12 dition to those claims certified under section 507 of  
13 the International Claims Settlement Act of 1949;

14 (2) an assessment of the significance of prompt-  
15 ly resolving confiscated property claims to the revi-  
16 talization of the Cuban economy;

17 (3) a review and evaluation of technical and  
18 other assistance that the United States could pro-  
19 vide to help either a transition government in Cuba  
20 or a democratically elected government in Cuba es-  
21 tablish mechanisms to resolve property questions;

22 (4) an assessment of the role and types of sup-  
23 port the United States could provide to help resolve  
24 claims to property confiscated by the Cuban Govern-  
25 ment that are held by United States nationals who  
26 did not receive or qualify for certification under sec-

1       tion 507 of the International Claims Settlement Act  
2       of 1949; and

3               (5) an assessment of any areas requiring legis-  
4       lative review or action regarding the resolution of  
5       property claims in Cuba prior to a change of govern-  
6       ment in Cuba.

7       (d) SENSE OF CONGRESS.—It is the sense of the  
8       Congress that the satisfactory resolution of property  
9       claims by a Cuban Government recognized by the United  
10      States remains an essential condition for the full resump-  
11      tion of economic and diplomatic relations between the  
12      United States and Cuba.

13      **TITLE        III—PROTECTION        OF**  
14      **PROPERTY RIGHTS OF UNIT-**  
15      **ED STATES NATIONALS**

16      SEC. 301. FINDINGS.

17      The Congress makes the following findings:

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

21               (2) The wrongful confiscation or taking of prop-  
22      erty belonging to United States nationals by the  
23      Cuban Government, and the subsequent exploitation  
24      of this property at the expense of the rightful owner,

1 undermines the comity of nations, the free flow of  
2 commerce, and economic development.

3 (3) Since Fidel Castro seized power in Cuba in  
4 1959—

5 (A) he has trampled on the fundamental  
6 rights of the Cuban people; and

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

9 (i) millions of his own citizens;

10 (ii) thousands of United States na-  
11 tionals; and

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

17 (4) It is in the interest of the Cuban people  
18 that the Cuban Government respect equally the  
19 property rights of Cuban nationals and nationals of  
20 other countries.

21 (5) The Cuban Government is offering foreign  
22 investors the opportunity to purchase an equity in-  
23 terest in, manage, or enter into joint ventures using  
24 property and assets some of which were confiscated  
25 from United States nationals.

1           (6) This “trafficking” in confiscated property  
2 provides badly needed financial benefit, including  
3 hard currency, oil, and productive investment and  
4 expertise, to the current Cuban Government and  
5 thus undermines the foreign policy of the United  
6 States—

7           (A) to bring democratic institutions to  
8 Cuba through the pressure of a general eco-  
9 nomic embargo at a time when the Castro re-  
10 gime has proven to be vulnerable to inter-  
11 national economic pressure; and

12           (B) to protect the claims of United States  
13 nationals who had property wrongfully con-  
14 fiscated by the Cuban Government.

15           (7) The United States Department of State has  
16 notified other governments that the transfer to third  
17 parties of properties confiscated by the Cuban Gov-  
18 ernment “would complicate any attempt to return  
19 them to their original owners”.

20           (8) The international judicial system, as cur-  
21 rently structured, lacks fully effective remedies for  
22 the wrongful confiscation of property and for unjust  
23 enrichment from the use of wrongfully confiscated  
24 property by governments and private entities at the  
25 expense of the rightful owners of the property.



1           (9) International law recognizes that a nation  
2           has the ability to provide for rules of law with re-  
3           spect to conduct outside its territory that has or is  
4           intended to have substantial effect within its terri-  
5           tory.

6           (10) The United States Government has an ob-  
7           ligation to its citizens to provide protection against  
8           wrongful confiscations by foreign nations and their  
9           citizens, including the provision of private remedies.

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

16 **SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED**  
17                   **PROPERTY CLAIMED BY UNITED STATES NA-**  
18                   **TIONALS.**

19          (a) **CIVIL REMEDY.—**

20           (1) **LIABILITY FOR TRAFFICKING.—(A) Except**  
21           **as otherwise provided in this section, any person**  
22           **that, after the end of the 3-month period beginning**  
23           **on the effective date of this title, traffics in property**  
24           **which was confiscated by the Cuban Government on**  
25           **or after January 1, 1959, shall be liable to any**

1 United States national who owns the claim to such  
2 property for money damages in an amount equal to  
3 the sum of—

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

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

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

12 (III) the fair market value of that  
13 property, calculated as being either the  
14 current value of the property, or the value  
15 of the property when confiscated plus in-  
16 terest, whichever is greater; and

17 (ii) court costs and reasonable attorneys'  
18 fees.

19 (B) Interest under subparagraph (A)(i) shall be  
20 at the rate set forth in section 1961 of title 28,  
21 United States Code, computed by the court from the  
22 date of confiscation of the property involved to the  
23 date on which the action is brought under this sub-  
24 section.

1           (2) PRESUMPTION IN FAVOR OF THE CER-  
2           TIFIED CLAIMS.—There shall be a presumption that  
3           the amount for which a person is liable under clause  
4           (i) of paragraph (1)(A) is the amount that is cer-  
5           tified as described in subclause (I) of that clause.  
6           The presumption shall be rebuttable by clear and  
7           convincing evidence that the amount described in  
8           subclause (II) or (III) of that clause is the appro-  
9           priate amount of liability under that clause.

10           (3) INCREASED LIABILITY.—(A) Any person  
11           that traffics in confiscated property for which liabil-  
12           ity is incurred under paragraph (1) shall, if a United  
13           States national owns a claim with respect to that  
14           property which was certified by the Foreign Claims  
15           Settlement Commission under title V of the Inter-  
16           national Claims Settlement Act of 1949, be liable for  
17           damages computed in accordance with subparagraph  
18           (C).

19           (B) If the claimant in an action under this sub-  
20           section (other than a United States national to  
21           whom subparagraph (A) applies) provides, after the  
22           end of the 3-month period described in paragraph  
23           (1) notice to—

24                   (i) a person against whom the action is to  
25                   be initiated, or

1                   (ii) a person who is to be joined as a de-  
 2                   fendant in the action,  
 3                   at least 30 days before initiating the action or join-  
 4                   ing such person as a defendant, as the case may be,  
 5                   and that person, after the end of the 30-day period  
 6                   beginning on the date the notice is provided, traffics  
 7                   in the confiscated property that is the subject of the  
 8                   action, then that person shall be liable to that claim-  
 9                   ant for damages computed in accordance with sub-  
 10                  paragraph (C).

11                  (C) Damages for which a person is liable under  
 12                  subparagraph (A) or subparagraph (B) are money  
 13                  damages in an amount equal to the sum of—

- 14                   (i) the amount determined under para-  
 15                   graph (1)(A)(ii), and
- 16                   (ii) 3 times the amount determined appli-  
 17                   cable under paragraph (1)(A)(i).

18                  (D) Notice to a person under subparagraph  
 19                  (B)—

- 20                   (i) shall be in writing;
- 21                   (ii) shall be posted by certified mail or per-  
 22                   sonally delivered to the person; and
- 23                   (iii) shall contain—

24                   (I) a statement of intention to com-  
 25                   mence the action under this section or to

1 join the person as a defendant (as the case  
2 may be), together with the reasons there-  
3 for;

4 (II) a demand that the unlawful traf-  
5 ficking in the claimant's property cease im-  
6 mediately; and

7 (III) a copy of the summary state-  
8 ment published under paragraph (8).

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

14 (B) In the case of property confiscated before  
15 the date of the enactment of this Act, a United  
16 States national may not bring an action under this  
17 section on a claim to the confiscated property unless  
18 such national acquires ownership of the claim before  
19 such date of enactment.

20 (C) In the case of property confiscated on or  
21 after the date of the enactment of this Act, a United  
22 States national who, after the property is con-  
23 fiscated, acquires ownership of a claim to the prop-  
24 erty by assignment for value, may not bring an ac-  
25 tion on the claim under this section.

1           (5) TREATMENT OF CERTAIN ACTIONS.—(A) In  
2 the case of a United States national who was eligible  
3 to file a claim with the Foreign Claims Settlement  
4 Commission under title V of the International  
5 Claims Settlement Act of 1949 but did not so file  
6 the claim, that United States national may not bring  
7 an action on that claim under this section.

8           (B) In the case of any action brought under  
9 this section by a United States national whose un-  
10 derlying claim in the action was timely filed with the  
11 Foreign Claims Settlement Commission under title V  
12 of the International Claims Settlement Act of 1949  
13 but was denied by the Commission, the court shall  
14 accept the findings of the Commission on the claim  
15 as conclusive in the action under this section.

16           (C) A United States national, other than a  
17 United States national bringing an action under this  
18 section on a claim certified under title V of the  
19 International Claims Settlement Act of 1949, may  
20 not bring an action on a claim under this section be-  
21 fore the end of the 2-year period beginning on the  
22 date of the enactment of this Act.

23           (D) An interest in property for which a United  
24 States national has a claim certified under title V of  
25 the International Claims Settlement Act of 1949

1        may not be the subject of a claim in an action under  
2        this section by any other person. Any person bring-  
3        ing an action under this section whose claim has not  
4        been so certified shall have the burden of establish-  
5        ing for the court that the interest in property that  
6        is the subject of the claim is not the subject of a  
7        claim so certified.

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           (7) LICENSES NOT REQUIRED.—(A) Notwith-  
14       standing any other provision of law, an action under  
15       this section may be brought and may be settled, and  
16       a judgment rendered in such action may be en-  
17       forced, without obtaining any license or other per-  
18       mission from any agency of the United States, ex-  
19       cept that this paragraph shall not apply to the exe-  
20       cution of a judgment against, or the settlement of  
21       actions involving, property blocked under the au-  
22       thorities of section 5(b) of the Trading with the  
23       Enemy Act that were being exercised on July 1,  
24       1977, as a result of a national emergency declared

1 by the President before such date, and are being ex-  
2 exercised on the date of the enactment of this Act.

3 (B) Notwithstanding any other provision of law,  
4 and for purposes of this title only, any claim against  
5 the Cuban Government shall not be deemed to be an  
6 interest in property the transfer of which to a Unit-  
7 ed States national required before the enactment of  
8 this Act, or requires after the enactment of this Act,  
9 a license issued by, or the permission of, any agency  
10 of the United States.

11 (8) PUBLICATION BY ATTORNEY GENERAL.—  
12 Not later than 60 days after the date of the enact-  
13 ment of this Act, the Attorney General shall prepare  
14 and publish in the Federal Register a concise sum-  
15 mary of the provisions of this title, including a state-  
16 ment of the liability under this title of a person traf-  
17 ficking in confiscated property, and the remedies  
18 available to United States nationals under this title.

19 (b) AMOUNT IN CONTROVERSY.—An action may be  
20 brought under this section by a United States national  
21 only where the amount in controversy exceeds the sum or  
22 value of \$50,000, exclusive of interest, costs, and attor-  
23 neys' fees. In calculating \$50,000 for purposes of the pre-  
24 ceding sentence, the applicable amount under subclause



1 (I), (II), or (III) of subsection (a)(1)(A)(i) may not be  
2 tripled as provided in subsection (a)(3).

3 (c) PROCEDURAL REQUIREMENTS.—

4 (1) IN GENERAL.—Except as provided in this  
5 title, the provisions of title 28, United States Code,  
6 and the rules of the courts of the United States  
7 apply to actions under this section to the same ex-  
8 tent as such provisions and rules apply to any other  
9 action brought under section 1331 of title 28, Unit-  
10 ed States Code.

11 (2) SERVICE OF PROCESS.—In an action under  
12 this section, service of process on an agency or in-  
13 strumentality of a foreign state in the conduct of a  
14 commercial activity, or against individuals acting  
15 under color of law, shall be made in accordance with  
16 section 1608 of title 28, United States Code.

17 (d) ENFORCEABILITY OF JUDGMENTS AGAINST  
18 CUBAN GOVERNMENT.—In an action brought under this  
19 section, any judgment against an agency or instrumentality  
20 of the Cuban Government shall not be enforceable  
21 against an agency or instrumentality of either a transition  
22 government in Cuba or a democratically elected govern-  
23 ment in Cuba.

24 (e) CERTAIN PROPERTY IMMUNE FROM EXECU-  
25 TION.—Section 1611 of title 28, United States Code, is

1 amended by adding at the end the following new sub-  
2 section:

3       “(c) Notwithstanding the provisions of section 1610  
4 of this chapter, the property of a foreign state shall be  
5 immune from attachment and from execution in an action  
6 brought under section 302 of the Cuban Liberty and  
7 Democratic Solidarity (LIBERTAD) Act of 1996 to the  
8 extent that the property is a facility or installation used  
9 by an accredited diplomatic mission for official purposes.”.

10       (f) ELECTION OF REMEDIES.—

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

12                 (A) any United States national that brings  
13                 an action under this section may not bring any  
14                 other civil action or proceeding under the com-  
15                 mon law, Federal law, or the law of any of the  
16                 several States, the District of Columbia, or any  
17                 commonwealth, territory, or possession of the  
18                 United States, that seeks monetary or  
19                 nonmonetary compensation by reason of the  
20                 same subject matter; and

21                 (B) any person who brings, under the com-  
22                 mon law or any provision of law other than this  
23                 section, a civil action or proceeding for mone-  
24                 tary or nonmonetary compensation arising out  
25                 of a claim for which an action would otherwise

1           be cognizable under this section may not bring  
2           an action under this section on that claim.

3           (2) TREATMENT OF CERTIFIED CLAIMANTS.—

4           (A) In the case of any United States national that  
5           brings an action under this section based on a claim  
6           certified under title V of the International Claims  
7           Settlement Act of 1949—

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

18                   (ii) if the recovery in the action is less than  
19                   the amount of the certified claim, the United  
20                   States national may receive payment under a  
21                   claims agreement described in clause (i) but  
22                   only to the extent of the difference between the  
23                   amount of the recovery and the amount of the  
24                   certified claim; and

1 (iii) if there is no recovery in the action,  
2 the United States national may receive payment  
3 on the certified claim under a claims agreement  
4 described in clause (i) to the same extent as  
5 any certified claimant who does not bring an  
6 action under this section.

7 (B) In the event some or all actions brought  
8 under this section are consolidated by judicial or  
9 other action in such manner as to create a pool of  
10 assets available to satisfy the claims in such actions,  
11 including a pool of assets in a proceeding in bank-  
12 ruptcy, every claimant whose claim in an action so  
13 consolidated was certified by the Foreign Claims  
14 Settlement Commission under title V of the Inter-  
15 national Claims Settlement Act of 1949 shall be en-  
16 titled to payment in full of its claim from the assets  
17 in such pool before any payment is made from the  
18 assets in such pool with respect to any claim not so  
19 certified.

20 (g) DEPOSIT OF EXCESS PAYMENTS BY CUBA  
21 UNDER CLAIMS AGREEMENT.—Any amounts paid by  
22 Cuba under any agreement entered into between the Unit-  
23 ed States and Cuba settling certified claims under title  
24 V of the International Claims Settlement Act of 1949 that  
25 are in excess of the payments made on such certified

1 claims after the application of subsection (f) shall be de-  
2 posited into the United States Treasury.

3 (h) TERMINATION OF RIGHTS.—

4 (1) IN GENERAL.—All rights created under this  
5 section to bring an action for money damages with  
6 respect to property confiscated by the Cuban Gov-  
7 ernment—

8 (A) may be suspended under section  
9 204(a); and

10 (B) shall cease upon transmittal to the  
11 Congress of a determination of the President  
12 under section 203(c)(3) that a democratically  
13 elected government in Cuba is in power.

14 (2) PENDING SUITS.—The suspension or termi-  
15 nation of rights under paragraph (1) shall not affect  
16 suits commenced before the date of such suspension  
17 or termination (as the case may be), and in all such  
18 suits, proceedings shall be had, appeals taken, and  
19 judgments rendered in the same manner and with  
20 the same effect as if the suspension or termination  
21 had not occurred.

22 (i) IMPOSITION OF FILING FEES.—The Judicial Con-  
23 ference of the United States shall establish a uniform fee  
24 that shall be imposed upon the plaintiff or plaintiffs in  
25 each action brought under this section. The fee should be

1 established at a level sufficient to recover the costs to the  
2 courts of actions brought under this section. The fee under  
3 this subsection is in addition to any other fees imposed  
4 under title 28, United States Code.

5 **SEC. 303. PROOF OF OWNERSHIP OF CLAIMS TO CON-**  
6 **FISCATED PROPERTY.**

7 (a) **EVIDENCE OF OWNERSHIP.—**

8 (1) **CONCLUSIVENESS OF CERTIFIED CLAIMS.—**

9 In any action brought under this title, the court  
10 shall accept as conclusive proof of ownership of an  
11 interest in property a certification of a claim to own-  
12 ership of that interest that has been made by the  
13 Foreign Claims Settlement Commission under title V  
14 of the International Claims Settlement Act of 1949  
15 (22 U.S.C. 1643 and following).

16 (2) **CLAIMS NOT CERTIFIED.—**If in an action  
17 under this title a claim has not been so certified by  
18 the Foreign Claims Settlement Commission, the  
19 court may appoint a special master, including the  
20 Foreign Claims Settlement Commission, to make de-  
21 terminations regarding the amount and ownership of  
22 the claim. Such determinations are only for evi-  
23 dentiary purposes in civil actions brought under this  
24 title and do not constitute certifications under title

1 V of the International Claims Settlement Act of  
2 1949.

3 (3) EFFECT OF DETERMINATIONS OF FOREIGN  
4 OR INTERNATIONAL ENTITIES.—In determining the  
5 amount or ownership of a claim in an action under  
6 this title, the court shall not accept as conclusive evi-  
7 dence any findings, orders, judgments, or decrees  
8 from administrative agencies or courts of foreign  
9 countries or international organizations that declare  
10 the value of or invalidate the claim, unless the dec-  
11 laration of value or invalidation was found pursuant  
12 to binding international arbitration to which the  
13 United States or the claimant submitted the claim.

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

19 “DETERMINATION OF OWNERSHIP OF CLAIMS REFERRED  
20 BY DISTRICT COURTS OF THE UNITED STATES

21 “SEC. 514. Notwithstanding any other provision of  
22 this Act and only for purposes of section 302 of the Cuban  
23 Liberty and Democratic Solidarity (LIBERTAD) Act of  
24 1996, a United State district court, for fact-finding pur-  
25 poses, may refer to the Commission, and the Commission  
26 may determine, questions of the amount and ownership

1 of a claim by a United States national (as defined in sec-  
2 tion 4 of the Cuban Liberty and Democratic Solidarity  
3 (LIBERTAD) Act of 1996), resulting from the  
4 confiscation of property by the Government of Cuba de-  
5 scribed in section 503(a), whether or not the United  
6 States national qualified as a national of the United States  
7 (as defined in section 502(1)) at the time of the action  
8 by the Government of Cuba.”.

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

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

21 (2) as superseding, amending, or otherwise al-  
22 tering certifications that have been made under title  
23 V of the International Claims Settlement Act of  
24 1949 before the date of 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 person who was ineligible to  
13 file a claim under section 503, nor any national of Cuba,  
14 including any agency, instrumentality, subdivision, or en-  
15 terprise of the Government of Cuba or any local govern-  
16 ment of Cuba, nor any successor thereto, whether or not  
17 recognized by the United States, shall have a claim to,  
18 participate in, or otherwise have an interest in, the com-  
19 pensation proceeds or nonmonetary compensation paid or  
20 allocated to a national of the United States by virtue of  
21 a claim certified by the Commission under section 507,  
22 nor shall any district court of the United States have juris-  
23 diction to adjudicate any such claim.

24 "(b) Nothing in subsection (a) shall be construed to  
25 detract from or otherwise affect any rights in the shares

1 of capital stock of nationals of the United States owning  
2 claims certified by the Commission under section 507.”.

3 **SEC. 305. LIMITATION OF ACTIONS.**

4 An action under section 302 may not be brought  
5 more than 2 years after the trafficking giving rise to the  
6 action has ceased to occur.

7 **SEC. 306. EFFECTIVE DATE.**

8 (a) **IN GENERAL.**—Subject to subsections (b) and (c),  
9 this title and the amendments made by this title shall take  
10 effect on August 1, 1996.

11 (b) **SUSPENSION AUTHORITY.**—

12 (1) **SUSPENSION AUTHORITY.**—The President  
13 may suspend the effective date under subsection (a)  
14 for a period of not more than 6 months if the Presi-  
15 dent determines and reports in writing to the appro-  
16 priate congressional committees at least 15 days be-  
17 fore such effective date that the suspension is nec-  
18 essary to the national interests of the United States  
19 and will expedite a transition to democracy in Cuba.

20 (2) **ADDITIONAL SUSPENSIONS.**—The President  
21 may suspend the effective date under subsection (a)  
22 for additional periods of not more than 6 months  
23 each, each of which shall begin on the day after the  
24 last day of the period during which a suspension is  
25 in effect under this subsection, if the President de-

1 termines and reports in writing to the appropriate  
2 congressional committees at least 15 days before the  
3 date on which the additional suspension is to begin  
4 that the suspension is necessary to the national in-  
5 terests of the United States and will expedite a tran-  
6 sition to democracy in Cuba.

7 (c) OTHER AUTHORITIES.—

8 (1) SUSPENSION.—After this title and the  
9 amendments of this title have taken effect—

10 (A) no person shall acquire a property in-  
11 terest in any potential or pending action under  
12 this title; and

13 (B) the President may suspend the right to  
14 bring an action under this title with respect to  
15 confiscated property for a period of not more  
16 than 6 months if the President determines and  
17 reports in writing to the appropriate congres-  
18 sional committees at least 15 days before the  
19 suspension takes effect that such suspension is  
20 necessary to the national interests of the United  
21 States and will expedite a transition to democ-  
22 racy in Cuba.

23 (2) ADDITIONAL SUSPENSIONS.—The President  
24 may suspend the right to bring an action under this  
25 title for additional periods of not more than 6

1 months each, each of which shall begin on the day  
2 after the last day of the period during which a sus-  
3 pension is in effect under this subsection, if the  
4 President determines and reports in writing to the  
5 appropriate congressional committees at least 15  
6 days before the date on which the additional suspen-  
7 sion is to begin that the suspension is necessary to  
8 the national interests of the United States and will  
9 expedite a transition to democracy in Cuba.

10 (3) PENDING SUITS.—The suspensions of ac-  
11 tions under paragraph (1) shall not affect suits com-  
12 menced before the date of such suspension, and in  
13 all such suits, proceedings shall be had, appeals  
14 taken, and judgments rendered in this same manner  
15 and with the same effect as if the suspension had  
16 not occurred.

17 (d) RESCISSION OF SUSPENSION.—The President  
18 may rescind any suspension made under subsection (b) or  
19 (c) upon reporting to the appropriate congressional com-  
20 mittees that doing so will expedite a transition to democ-  
21 racy in Cuba.

1           **TITLE IV—EXCLUSION OF**  
2                           **CERTAIN ALIENS**

3   **SEC. 401. EXCLUSION FROM THE UNITED STATES OF**  
4                           **ALIENS WHO HAVE CONFISCATED PROPERTY**  
5                           **OF UNITED STATES NATIONALS OR WHO**  
6                           **TRAFFIC IN SUCH PROPERTY.**

7           **(a) GROUNDS FOR EXCLUSION.—**The Secretary of  
8   State shall deny a visa to, and the Attorney General shall  
9   exclude from the United States, any alien who the Sec-  
10   retary of State determines is a person who, after the date  
11   of the enactment of this Act—

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

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

20                   (3) is a corporate officer, principal, or share-  
21   holder with a controlling interest of an entity which  
22   has been involved in the confiscation of property or  
23   trafficking in confiscated property, a claim to which  
24   is owned by a United States national; or

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

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

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

7           (A) the nationalization, expropriation, or  
8           other seizure by the Cuban Government of own-  
9           ership or control of property—

10           (i) without the property having been  
11           returned or adequate and effective com-  
12           pensation provided; or

13           (ii) without the claim to the property  
14           having been settled pursuant to an inter-  
15           national claims settlement agreement or  
16           other mutually accepted settlement proce-  
17           dure; and

18           (B) the repudiation by the Cuban Govern-  
19           ment of, the default by the Cuban Government  
20           on, or the failure of the Cuban Government to  
21           pay—

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

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

4                   (iii) a debt which was incurred by the  
5                   Cuban Government in satisfaction or set-  
6                   tlement of a confiscated property claim.

7                   (2) **TRAFFICS.**—(A) Except as provided in sub-  
8                   paragraph (B), a person “traffics” in confiscated  
9                   property if that person knowingly and inten-  
10                  tionally—

11                  (i)(I) transfers, distributes, dispenses, bro-  
12                  kers, or otherwise disposes of confiscated prop-  
13                  erty,

14                  (II) purchases, receives, obtains control of,  
15                  or otherwise acquires confiscated property, or

16                  (III) improves (other than for routine  
17                  maintenance), invests in (by contribution of  
18                  funds or anything of value, other than for rou-  
19                  tine maintenance), or begins after the date of  
20                  the enactment of this Act to manage, lease, pos-  
21                  sess, use, or hold an interest in confiscated  
22                  property,

23                  (ii) enters into a commercial arrangement  
24                  using or otherwise benefiting from confiscated  
25                  property, or

1           (iii) causes, directs, participates in, or  
2 profits from, trafficking (as described in clause  
3 (i) or (ii)) by another person, or otherwise en-  
4 gages in trafficking (as described in clause (i)  
5 or (ii)) through another person,  
6 without the authorization of any United States na-  
7 tional who holds a claim to the property.

8           (B) The term "traffics" does not include—

9           (i) the delivery of international tele-  
10 communication signals to Cuba;

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

16           (iii) transactions and uses of property inci-  
17 dent to lawful travel to Cuba, to the extent that  
18 such transactions and uses of property are nec-  
19 essary to the conduct of such travel; or

20           (iv) transactions and uses of property by a  
21 person who is both a citizen of Cuba and a resi-  
22 dent of Cuba, and who is not an official of the  
23 Cuban Government or the ruling political party  
24 in Cuba.



1       (c) EXEMPTION.—This section shall not apply where  
2 the Secretary of State finds, on a case by case basis, that  
3 the entry into the United States of the person who would  
4 otherwise be excluded under this section is necessary for  
5 medical reasons or for purposes of litigation of an action  
6 under title III.

7       (d) EFFECTIVE DATE.—

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

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

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**ROMAN**

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And the Senate agree to the same.

# H.R. 927

*Managers on the part of the  
SENATE*

*Managers on the part of the  
HOUSE*

Mr. Helms

*Jensen Helms*

Mr. Coverdell

*Paul P. Coverdell*

Mr. Thompson

*Anthony Thompson*

Ms. Snowe

*Christine Snowe*

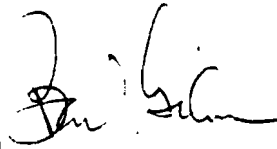
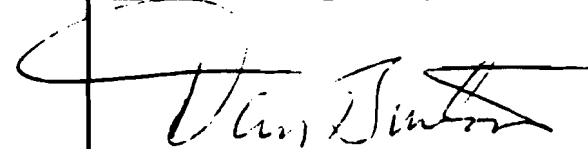
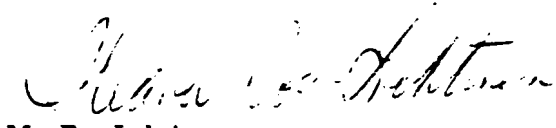
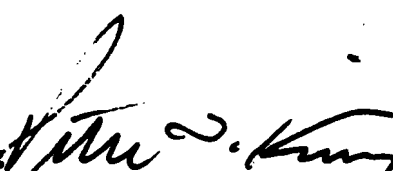



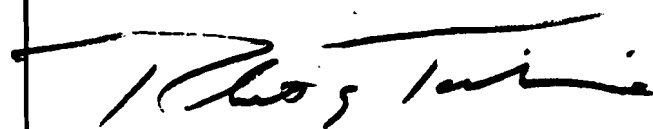
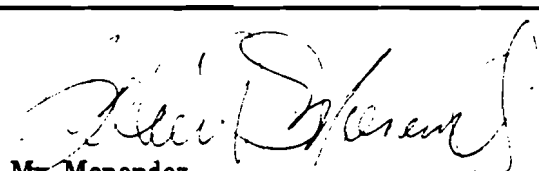
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~~\_\_\_\_\_~~

*Charles A. Robb*

Mr. Robb

# H.R. 927—Continued

<i>Managers on the part of the SENATE</i>	<i>Managers on the part of the HOUSE</i>
	 Mr. Gilman
	 Mr. Burton of Indiana
	 Ms. Ros-Lehtinen
	 Mr. King
	 Mr. Diaz-Balart
	
	
	 Mr. Torricelli
	 Mr. Menendez

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 927), to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

## FINDINGS

The House bill (section 2) sets forth findings of the Congress with respect to Cuba as well as U.S. policy aimed at liberating the Cuban people from the dictatorship of Fidel Castro.

The Senate amendment (section 2) contains similar provisions.

The conference substitute (section 2) adopts the House language.

## PURPOSES

The House bill (section 3) sets forth the purposes of this Act, including support for a democratic transition in Cuba, to protect the property rights of U.S. nationals, and to protect the national security of the United States.

The Senate amendment (section 3) contains a similar provision.

The conference substitute (section 3) adopts the Senate language.

## DEFINITIONS

The House bill (section 4) defines specific terms used in the Act.

The Senate amendment (section 4) contains a similar provision.

The Conference substitute (section 4) is similar to the House definitions, but modifies definitions of "appropriate Congressional committees", "economic embargo of Cuba", "official of the Cuban government or the ruling political party in Cuba", "property", "transition government in Cuba", and "traffics", and adds a new definition of "person" for purposes of Title III.

The committee of conference modified the definition of "economic embargo of Cuba" to include all statutes or regulations relating to trade, travel, and transactions involving Cuban assets imposed under section 620(a) of the Foreign Assistance Act of 1961, section 5(b) of the Trading with the Enemy Act, the Cuban Democracy Act of 1992, section 902(c) of the Food Security Act of 1985, or any other provision of law. It is the intent of the committee that this definition be interpreted broadly, in part, in order to ensure that the suspension or termination of any economic sanctions on Cuba be pursuant only to the authority granted in section 204 of this Act.

The committee of conference notes that the definition of "property" specifically excludes residential properties from title III, unless the residence is, at the time of enactment of this Act, the claim to the property is held by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949 or the property is occupied by an official of the Cuban government or the ruling political party in Cuba, and the claimant can meet the other criteria (e.g., amount in controversy) in title III. The definition of "traffics," as used in

Title III, has been modified to remove any liability for the delivery of telecommunications signals to Cuba, the trading or holding of publicly-traded stock (unless the trading is with a person designated by the Secretary of the Treasury as a "specifically designated national"), and any activities related to lawful travel to Cuba, and transactions and uses of property by Cuban citizens residing in Cuba who are not officials of the Cuban Government or the Communist Party.

### SEVERABILITY

The conference substitute (section 5) states that if any provision of this Act is held invalid, the remainder of this Act shall not be affected by such invalidation.

Neither the House bill nor the Senate amendment contained such a provision. It is the intent of the committee to preserve the remaining provisions of this Act if any particular provision is invalidated.

### TITLE I - STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

#### STATEMENT OF POLICY

The House bill (section 101) expresses the sense of Congress on U.S. policy toward Cuba, *inter alia*, that the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace and that the President should propose and seek a U.N. Security Council vote on a mandatory international embargo against the totalitarian government of Cuba pursuant to chapter VII of the Charter of the United Nations, which is similar to measures taken by the United States with respect to Haiti.

The Senate amendment (section 101) has a similar provision.

The conference substitute (section 101) adopts the Senate language.

#### ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA

The House bill (section 102) reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states the President should encourage foreign countries to restrict trade and credit relations with Cuba. This section also urges the President to take immediate steps to apply the sanctions described in section 1704(b) of that Act against countries assisting Cuba; states that the Secretary of State shall ensure that U.S. diplomatic personnel communicate the reasons for the U.S. economic embargo on Cuba and urge foreign governments to cooperate more effectively with the embargo; urges the full enforcement of the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations; adds "debt-for-equity swaps" to transactions constituting

“assistance to Cuba” by foreign countries under section 1704(b)(2) of the Cuban Democracy Act of 1992; subjects persons violating travel restrictions to civil penalties and forfeiture of property by amending section 16 of the Trading With the Enemy Act (exempting most news gathering, research, religious, or human rights groups).

The Senate amendment (section 103) has a similar provision, although it does not contain an exception to the application of civil penalties for unlicensed travel to Cuba for specifically for “news gathering” or “educational or religious activities.”

The conference substitute (section 102) adopts the Senate language, with modifications that incorporate House language defining “agency or instrumentality of the Government of Cuba,” requiring a semiannual report to Congress by the President on “payments made to Cuba by any United States person” for telecommunications services under the Cuban Democracy Act of 1992.

The conference substitute (section 102(e)) states the sense of the Congress that existing regulations should be fully enforced to deny visas to officers or employees of the Cuban Government or of the Communist Party of Cuba, pursuant to Proclamation 5377 of October 4, 1985, issued by President Ronald Reagan, under section 212(f) of the Immigration and Nationality Act of 1952, as amended.

The conference substitute (subsection 102(g)) makes clear that the Cuban Democracy Act of 1992 should not be construed as authorizing any United States person to make any direct or indirect investment, in cash or in-kind, in the domestic telephone network within the island of Cuba until such time as the economic restrictions on such transactions are suspended or terminated as provided in subsection 102(h)).

The conference substitute (subsection (102(h)) codifies the “economic embargo of Cuba,” as defined in section 4. It is the intent of the committee of conference that all economic sanctions in force on March 1, 1996, shall remain in effect until they are either suspended or terminated pursuant to the authorities provided in section 204 of this Act (requiring a Presidential determination that a democratic transition is under way in Cuba). It is not the intent of this section to prohibit executive branch agencies from amending existing regulations to tighten economic sanctions on Cuba or to implement the provisions of this Act.

The committee of conference expresses its profound conviction that executive branch agencies must be more vigorous in their enforcement of certain provisions of the U.S. embargo on Cuba, and must be accorded the resources by the President for this purpose. The committee of conference concludes that the President and executive agencies must be more vigorous in advocating U.S. policy before foreign governments. The explicit mandates in this legislation make clear congressional intent that U.S. law be enforced fully and, thereby, provide a basis for strict congressional oversight of executive branch enforcement measures henceforth.



## PROHIBITION AGAINST INDIRECT FINANCING OF CUBA

The House bill (section 103) prohibits a U.S. national, agency, or permanent resident alien from knowingly extending any loan, credit, or other financing to finance transactions involving any property confiscated by the Cuban government the claim to which is owned by a U.S. national; subjects violators of this prohibition to penalties under the Cuban Assets Control Regulations; and terminates this prohibition when the U.S. embargo is lifted.

The Senate amendment (section 104) has a similar provision that provides an exception for "financing by the owner of the property or the claim thereto for a permitted transaction."

The conference substitute (section 103) adopts the Senate language with minor modifications, including House language defining "permanent resident alien" and "United States agency" as used in this section.

## UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS

The House bill (section 104) seeks to ensure that the current Cuban government cannot join or benefit from membership in international financial institutions (such as the World Bank, International Monetary Fund, the Inter-American Development Bank, etc.). This section states that the Secretary of the Treasury shall instruct the United States executive director to each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until a democratically elected government is in power in Cuba (as defined in section 206 of this Act). This section provides that during the period that a transition government is in power in Cuba (as defined in section 205 of this Act), the President shall take steps to support the processing of Cuba's application for membership to take effect after a democratically elected government is in power. This section states further that, if any international financial institution approves a loan or other assistance to Cuba over U.S. opposition, the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the loan or other assistance to the Cuban government.

The Senate amendment (section 105) has a similar provision that has the effect of withholding U.S. support for Cuba's membership in international financial institutions until there is a "democratically elected government" there; however, the Senate language does authorize U.S. support for loans or other assistance to a "transition government" by these institutions as well as U.S. support for a transition government's application for membership "taking effect after a democratically elected government in Cuba is in power."

The conference substitute (section 104) adopts the Senate language.

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

The House bill (section 105) seeks to ensure that the United States opposes the reintegration of the current government of Cuba into the Organization of American States. (The Castro government was suspended by a vote of the OAS member states in 1961.)

The Senate amendment (section 106) has a similar provision.

The conference substitute (section 105) adopts the Senate language.

The committee believes that it is inconceivable that any OAS member government would consider Cuba to be worthy of active participation in the OAS without first undertaking fundamental democratic reforms, in light of the historic measures taken by the Organization to recognize "representative democracy as an indispensable condition for stability, peace, and development in the region...."

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

The House bill (section 106) seeks to discourage any form of assistance from former Soviet states to the Cuban government, in light of the Castro regime's historic dependency on such assistance. This section (1) requires a report to Congress detailing progress toward the withdrawal from Cuba of personnel of any independent state of the former Soviet Union, including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba; (2) amends section 498A(a)(11) of the Foreign Assistance Act of 1961 to explicitly designate facilities at Lourdes and Cienfuegos among those installations the dismantling of which should be considered by the President in determining whether to provide assistance to a former Soviet state; (3) adds "providing assistance for or engaging in nonmarket based trade" with Cuba to the list of activities that render such countries ineligible for U.S. assistance; and (4) requires the President to reduce assistance allocated for an independent state of the former Soviet Union by an amount equal to the sum of assistance and credits, if any, provided by such state after the date of enactment of this Act in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

The President may waive this requirement if doing so is important to the national security and, in the case of Russia, if the President certifies that the Russian government has assured the U.S. Government that the Russian government is not sharing intelligence from Lourdes with officials or agents of the Cuban government. Urgent humanitarian needs, including disaster and refugee relief; assistance for democratic political reform and rule of law; technical assistance for safety upgrades of civilian nuclear power plants; aid to create private sector and nongovernmental

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organizations and develop a free market system; and aid under the Cooperative Threat Reduction Act of 1993 are exempt from the withholding requirement. The President also is required, in the case of a certification with respect to Russia, to report to Congress on the intelligence activities of Russia in Cuba, the purposes of the Lourdes facility, and the extent of any Russian credits provided to Cuba for the use of the Lourdes facility.

The Senate amendment (section 107) has a similar provision that adds an exception under section 498(c) of the Foreign Assistance Act for "assistance provided under the secondary school exchange program administered by the United States Information Agency."

The conference substitute (section 106) adopts the Senate language with minor modifications, including the House definition of "agency or instrumentality of the Government of Cuba" as used in this section.

The committee of conference notes that since the enactment of the FREEDOM Support Act in 1992, questions have arisen about the nature of the trade relationship between the former Soviet states and Cuba, and whether that trade has been conducted on market terms. The *LIBERTAD* Act would define the terms for judging such trade and a mechanism for discouraging Russian support for the Castro regime. The committee of conference notes that Russian-Cuban trade primarily involves a barter exchange of Russian oil for Cuban sugar; to the extent that any such exchange is done on terms more favorable to Cuba than are otherwise available in the market, the committee concludes that such "concessional" terms represent a subsidy of the Castro regime. The committee of conference intends that U.S. assistance be provided in a manner that prevents any indirect U.S. foreign aid subsidy of any Russian support for the Castro regime.

This *LIBERTAD* Act does not affect any market-based economic relationship between any former Soviet state and Cuba, and it does not undermine U.S. support for denuclearization activities or democratic and free market reform in Russia, for which there are provided specific exceptions of the "withholding" provision and ample presidential waiver authority.

With respect to Russian intelligence facilities located at Lourdes, Cuba, the committee of conference notes that a senior Russian government official announced in November 1994 that his government was providing \$200 million in credits to the Castro regime in exchange for the continued use of that facility. The Lourdes facility is one of the world's largest and most sophisticated intelligence stations, which Department of State and Department of Defense documents say is used to intercept and monitor U.S. commercial satellites, U.S. military and merchant shipping communications, NASA activities, and telephone conversations of U.S. citizens. The committee of conference notes that the Department of State has assured the Congress that no part of the *LIBERTAD* Act would violate U.S. treaty obligations, nor does any existing arms control treaty prevent the United States from urging Russia to end its use of Cuba as a base for intelligence operations against U.S. interests.

## TELEVISION BROADCASTING TO CUBA

The House bill (section 107) reaffirms the congressional mandate to convert Television Marti to ultra high frequency (UHF) and requires reports to Congress from the Director of the United States Information Agency (USIA) until the conversion is complete. The section also establishes a "sunset" provision for both Radio and Television Marti upon the President's determination that a democratically elected government is in power in Cuba.

The Senate amendment (section 108) contains an identical provision.

The conference substitute (section 107) adopts the House language.

The committee of conference supports the conversion of Television Marti to UHF in order to expand the reach of the Television Marti signal. The committee of conference notes that Congress mandated the conversion in Public Law 103-317, the FY 95 Commerce, Justice, State Appropriations. The Conference report accompanying the FY 95 Act specifically provided \$1,200,000 to convert Television Marti (see *Congressional Record*, August 16, 1994, p. H8501).

## REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES

The House bill (section 108) seeks to determine which governments and commercial entities are continuing to support the Castro government through trade, assistance, and joint ventures by requiring an annual report to Congress that includes a detailed description of all bilateral assistance provided to Cuba by other foreign countries, commercial ventures under way or under consideration (specifically whether such ventures involve property confiscated from a U.S. national), and any exchange of military supplies or equipment.

The Senate amendment (section 109) has a similar provision that specifies the date on which this report must be submitted.

The conference substitute (section 108) adopts the Senate language.

## AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS

The House bill (section 109) provides explicit authority, notwithstanding other specific provisions of the law (except for notification requirements), for the President to provide immediate support to individuals and independent nongovernmental organizations to advance democracy-building efforts for Cuba, including publications and audio-visual material on democracy, human rights, and market economies; humanitarian assistance to victims of political

repression and their families; and support for democratic and human rights groups; and U.S. financial support for an Organization of American States (OAS) special emergency fund for human rights observers, election support, and election observation in Cuba (notwithstanding section 307 of the Foreign Assistance Act of 1961).

The Senate amendment (section 102) has a similar provision that authorizes U.S. support for groups in Cuba but does not refer to human rights and electoral support by the Organization of American States.

The conference substitute (section 109) adopts the House language with minor modifications, including Senate language to "ensure that no funds or other assistance is provided to the Cuban Government."

The committee of conference recognizes that the execution of some of the activities authorized under this section could require incidental payments or indirect benefits to commercial or regulatory entities of the Cuban Government, e.g. payments for hotels, car rental, travel or transportation to or within the island, purchases of other goods or services in the local economy, customs fees, migration fees, or other comparable government charges. The committee does not consider such incidental payments or indirect benefits as "assistance" "provided to the Cuban Government" that is otherwise prohibited in subsection (c).

#### IMPORTATION SAFEGUARD AGAINST CERTAIN CUBAN PRODUCTS

The Senate amendment (section 110) takes note of existing law prohibiting the entry of, and dealings outside the United States in, merchandise that is of Cuban origin, is or has been located in or transported from or through Cuba, or is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba. The Congress also notes in this section that U.S. accession to the North American Free Trade Agreement does not modify or alter U.S. sanctions against Cuba.

The House bill has no comparable provision.

The conference substitute (section 110) adopts the Senate language.

#### WITHHOLDING OF FOREIGN ASSISTANCE FROM COUNTRIES SUPPORTING JURAGUA NUCLEAR PLANT IN CUBA

The House bill (section 110) is intended to deter countries from providing any form of support for the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba. This section requires the withholding from U.S. assistance to any country an amount equal to the sum of assistance and credits provided on or after the date of enactment by that country in support of

the completion of the Juragua facility. This section exempts from any withholding certain forms of U.S. assistance, such as humanitarian and disaster aid and support for democratic political reform and free market development.

The Senate amendment has no comparable provision.

The conference substitute (section 111) adopts the House language with a modification that adds "assistance provided under the secondary school exchange program administered by the United States Information Agency" to the list of activities to which the requirement of withholding U.S. aid under this section shall not apply.

The committee of conference takes note of expert conclusions that the plant's construction is seriously flawed and that Cuba lacks a nuclear regulatory structure as well as adequate infrastructure and training to support the safe operation of the plant. The committee of conference views with alarm recent reports that several countries, including Russia and Cuba, are considering the completion and operation of that plant. The committee of conference intends that "assistance and credits" be interpreted broadly, not limited merely to grant assistance or concessional transactions but also including any form of financial, technical, or other support that facilitates completion of the plant at Juragua.

#### REINSTITUTION OF FAMILY REMITTANCES AND TRAVEL TO CUBA

The Senate amendment (section 111) states the sense of Congress that the President, before considering the full reinstatement of family remittances and travel to Cuba, should insist on specific economic and political reforms by the Castro regime.

The House bill has no comparable provision.

The conference substitute (section 112) adopts Senate language with minor modifications.

#### EXPULSION OF CRIMINALS FROM CUBA

The House bill (section 112) requires the President to instruct U.S. government officials to raise with Cuban officials the extradition or other means of return to the United States of persons residing in Cuba sought by the Department of Justice for crimes committed in the United States.

The Senate amendment has no comparable provision.

The conference substitute (section 113) adopts the House language.

## NEWS BUREAUS IN CUBA

The Senate amendment (section 112) authorizes the President to establish and implement an exchange of news bureaus between the United States and Cuba, provided that the exchange is fully reciprocal, the Cuban Government allows free, unrestricted, and uninhibited movement in Cuba, the U.S. government is able to ensure that only accredited journalists regularly employed with a news gathering organization avail themselves of the general license to travel to Cuba, and the Cuban Government does not interfere with the transmissions and distribution of materials of news organizations.

The House bill has no comparable provision.

The conference substitute (section 114) adopts modified Senate language that, *inter alia*, ensures that Radio Marti and Television Marti are included among the organizations whose journalists should be allowed to work freely in Cuba without interference by the Cuban government as a condition of any exchange of news bureaus.

## EFFECT OF ACT ON LAWFUL UNITED STATES GOVERNMENT ACTIVITIES

The Senate amendment (section 113) states that nothing in this Act shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency or of an intelligence agency of the United States.

The House bill has no comparable provision.

The conference substitute (section 115) adopts the Senate language.

## CONDEMNATION OF CUBAN ATTACK ON AMERICAN AIRCRAFT

The conference substitute (section 116) sets forth congressional findings and statements of condemnation and condolences relating to the February 24, 1996, attack by Cuban military aircraft on unarmed U.S. civilian aircraft which resulted in the deaths of three United States citizens and one United States permanent resident.

The committee of conference states in the strongest terms its intention that the President seek, in the International Court of Justice, indictment for this act of terrorism by Fidel Castro.

## TITLE II - ASSISTANCE TO A FREE AND INDEPENDENT CUBA

Title II sends a clear message to the Cuban people that the United States is prepared fully to assist in a peaceful, democratic transition, with due respect for their right of self-determination. Title II instructs the President to develop an aid plan now so that the U.S. government is prepared to respond quickly to the inevitable democratic transition in Cuba. Title II lists types of U.S. assistance contemplated to be included in the required aid plan; however, it is not the intent of this legislation to mandate that the President include all of the listed forms of assistance in the plan. Also, any assistance is "*subject to an authorization of appropriations and subject to the availability of appropriations*" (see section 203(c)(1) and (3)).

### POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT

The House bill (section 201) states that it is the policy of the United States to support Cuban self-determination and to plan now to provide emergency and longer-term support for the transition to democracy in Cuba, directly and through multilateral cooperation. This section also states that it is the U.S. policy, *inter alia*, to not provide favorable treatment or influence on behalf of any individual or entity in the selection by the Cuban people of their future government; to be prepared to enter into negotiations with a democratically elected government in Cuba on the future of the U.S. presence at Guantanamo Bay; to terminate the economic embargo of Cuba when the President determines that a democratically elected government is in power in Cuba; and to consider the extension of free trade arrangements to a democratic Cuba.

The Senate amendment (section 201) has a similar provision.

The conference substitute (section 201) adopts the House language.

### ASSISTANCE FOR THE CUBAN PEOPLE

The House bill (section 202) requires the President to develop a plan for providing economic assistance to Cuba, defining what types of assistance can be provided when a transition government is in power and when a democratically elected government is in power. In the case of a transition government, assistance shall be limited to such food, medicine, medical supplies and equipment, assistance to meet emergency energy needs; assistance that the President certifies is essential to the successful completion of the transition to democracy; and assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy. In the case of a democratically elected government, assistance *may* include development assistance and economic support funds under the Foreign Assistance Act of 1961; assistance under the Agricultural Trade Development and Assistance Act of 1954; financing and other forms of assistance provided by the Export-Import Bank, Overseas Private Investment Corporation, and Trade and Development



Agency; Peace Corps programs; and assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy. This section also states that assistance should be provided through U.S. government organizations or through nongovernmental organizations, private and voluntary organizations (whether within or outside the United States), including humanitarian, educational, labor, and private sector organizations. In addition, this section requires the President to seek to obtain the agreement of other countries, international financial institutions, and multilateral organizations to provide similar forms of assistance to a transition government and to a democratically elected government in Cuba.

The Senate amendment (section 202) maintains the notification requirements of section 634A of the Foreign Assistance Act (22 USC 2394) and the limitations on assistance pursuant to section 620(a)(2) of the Foreign Assistance Act (22 USC 2370(a)(2)). The amendment also provides that assistance to a transition government be limited to food, medicine, medical supplies and equipment, and such other assistance as may be necessary to meet the basic human needs of the Cuban people. Support to a democratically elected government in Cuba should consist of assistance to promote free market development, private enterprise, and a mutually beneficial trade relationship between the United States and Cuba.

The conference substitute (section 202) adopts the House language.

#### REPORT ON TRADE AND INVESTMENT RELATIONS

The House bill (section 202(h)) states that once a democratically elected government is in power, the President shall submit a report on trade and investment relations with Cuba and shall consult with Congress on any proposals for improving such economic ties.

The Senate amendment (section 202(d)) has a similar provision that specifies the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (as well as appropriate congressional committees) as those committees to which reports under this subsection shall be submitted.

The conference substitute (section 202(h)) adopts the Senate language.

#### COORDINATION OF ASSISTANCE PROGRAM; IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING

The House bill (section 203) makes explicit that delivery and distribution of assistance to a transition or democratically elected government is "subject to an authorization of appropriations and subject to the availability of appropriations." This section requires the President to designate a coordinating official to implement the assistance plan, ensure the speedy and efficient distribution of assistance, and ensure coordination among the various U.S. agencies involved. It

requires the President to designate a United States-Cuba council to involve the private sector in promoting market-based development in and bilateral trade with Cuba. It requires periodic reports to the Congress on implementation of this assistance plan.

The Senate amendment (section 203) has a similar provision but does not mandate the designation of a "coordinating official" or creation of a "United States-Cuba Council".

The conference substitute (section 203) adopts the House language.

### TERMINATION OF THE ECONOMIC EMBARGO OF CUBA

The House bill (section 204) provides that once a transition government is in power in Cuba, the President, after consulting with the Congress, is authorized to take such steps to suspend the economic embargo of Cuba to the extent that such action contributes to a stable foundation for a democratically elected government. Subsection (e) requires a report to Congress by the President upon making this decision and no less than every six months thereafter and provides that Congress may reject the President's decision by enactment of a joint resolution of the Houses of Congress. Section 204(c) further states that, upon submitting to Congress a determination under section 203(c) that a democratically elected government is in power in Cuba, the President shall take steps to *terminate* the economic embargo of Cuba. This section explicitly repeals several provisions of the law related to the economic embargo once such a determination is made.

The Senate amendment (section 204) has a similar provision that also allows the suspension of the "right of action" created in Title III of the Act when a "transition government" in Cuba is in power, "to the extent that such action contributes to a stable foundation for a democratically elected government."

The conference substitute (section 204) adopts the Senate language with minor modifications.

### REQUIREMENTS AND FACTORS FOR DETERMINING A TRANSITION GOVERNMENT

The House bill (section 205) specifies that for the purposes of this Act, a "transition government" in Cuba is a government which is demonstrably in transition from communist totalitarian dictatorship to representative democracy; has recognized the right to independent political activity and association; has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations; has ceased any interference with Radio or Television Marti broadcasts; does not include Fidel Castro or Raul Castro; has given adequate assurances that it will allow the speedy and efficient distribution of

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assistance to the Cuban people; and permits the deployment throughout Cuba of independent and unfettered international human rights monitors. In addition, a transition government also must have made public commitments to and be making demonstrable progress in establishing an independent judiciary; dissolving the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights; effectively guaranteeing the rights of free speech and freedom of the press; organizing free, fair, and open elections within one year; assuring the right to private property; taking appropriate steps to return to United States nationals property taken by the Government of Cuba; granting permits to privately owned telecommunications and media companies to operate in Cuba; and allowing the establishment of an independent trade unions and allowing independent social, economic, and political associations.

The Senate amendment (section 205) has a similar provision that identifies several similar requirements for a "transition government" as well as a set of factors that "the President shall take into account" in making a determination whether a "transition government" is in power in Cuba. The effect of this language is to allow the President greater flexibility in determining when a "transition government" is in power.

The conference substitute (section 205) adopts modified Senate language that provides the President greater discretion in making a determination. This modified language establishes requirements for a "transition government" as follows: has legalized all political activity; has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations; has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; has made public commitments to organizing free and fair elections for a new government (under specific conditions); has ceased any interference with Radio Marti or Television Marti broadcasts; has made commitments to making demonstrable progress in establishing an independent judiciary, respecting international recognized and basic freedoms, and allowing the establishment of independent trade unions; does not include Fidel Castro or Raul Castro; and has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people.

In addition, the conference substitute takes a series of strict requirements from the House language and includes them instead as factors that "the President shall take into account" in making a determination whether a "transition government" in Cuba is in power, among these the extent to which that government is demonstrably in transition from communist totalitarian dictatorship to representative democracy; has made public commitments to, and is making demonstrable progress in, effectively guaranteeing the rights of free speech and freedom of the press (including the operation of privately owned media and telecommunications), permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba, assuring the right to private property, taking appropriate steps to return to United States citizens and companies property taken by the Cuban Government from such citizens and entities on or after January 1,

1959; has extradited or otherwise rendered to the United States all persons sought by the United States for crimes committed in the United States; and has permitted the deployment of independent and unfettered international human rights monitors.

### REQUIREMENTS FOR DETERMINING A DEMOCRATICALLY ELECTED GOVERNMENT

The House bill (section 206) specifies that for the purposes of this Act, a democratically elected government in Cuba is a government that results from free and fair elections conducted under the supervision of internationally recognized observers; has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections; is showing respect for the basic civil liberties and human rights of the citizens of Cuba; has made demonstrable progress in establishing an independent judiciary; is substantially moving toward a market-oriented economic system; is committed to making constitutional changes that schedule regular free and fair elections; and has made demonstrable progress in returning to U.S. nationals property taken by the Government of Cuba or providing full compensation.

The Senate amendment (section 206) has a similar provision that lists factors that the President "shall taken into account" in determining if a "democratically elected government" is in power in Cuba. The effect of this language is to allow the President greater flexibility in determining when a "democratically elected government" is in power.

The conference substitute (section 206) adopts modified House language that states requirements for a "democratically elected government" with the purpose of ensuring that minimally acceptable reforms are under way before a Cuban Government is eligible to receive a full range of benefits of normal political and economic relations with the United States.

### SETTLEMENT OF OUTSTANDING UNITED STATES CLAIMS TO CONFISCATED PROPERTY IN CUBA

The Senate amendment (section 207) conditions most U.S. support to a "transition government" (including U.S. support for loans or assistance through international financial institutions) on such government publicly committing itself, and taking appropriate steps to establish a procedure under its law or through international arbitration, to provide for the return of, or prompt, adequate, and effective compensation for, property confiscated by the Cuban Government on or after January 1, 1959. This section also conditions such support to a "democratically elected government" on such government having adopted and effectively implementing such procedures. Subsection 207(c) also requires reports to Congress on the number of property claims of U.S. nationals as well as a description of ways to help a Cuban Government resolve such claims, etc. Subsection 207(d) also states the sense of Congress that

the satisfactory resolution of property claims by a Cuban Government remains an essential condition for a full resumption of economic and diplomatic relations between the United States and Cuba.

The House bill has no comparable provision.

The conference substitute (section 207) adopts the Senate language only with respect to the report to Congress and sense of Congress (Senate amendment subsections 207(c) and (d)).

### **TITLE III - PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS**

#### **STATEMENT OF POLICY**

The House bill (sec. 301) contains a series of congressional findings regarding the fundamental right of individuals to hold and enjoy property, the U.S. Government's obligation to protect its citizens against illegal confiscations, and the absence of effective remedies in international law, the result of which is to condone the wrongful confiscation of property and to allow unjust enrichment through the use of confiscated property.

The Senate amendment contains no comparable provision.

Section 301 of the conference substitute amends the House language by noting the economic benefit derived by Castro through his government's exploitation ("trafficking") of wrongfully confiscated American properties and the objective of deterring the use of wrongfully confiscated American properties by denying profits to those who profit from the economic exploitation of Castro's seizures.

#### **LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES NATIONALS**

The House bill (sec. 302) creates civil liability for persons or entities, including an agency or instrumentality of a foreign state in the conduct of a commercial activity (defined in sec. 4), as follows:

#### **CIVIL REMEDY: LIABILITY FOR TRAFFICKING**

Section 302(a)(1) and (2) of the House bill provides that any person who, after the end of the 6-month period beginning on the date of enactment, traffics in property confiscated by the Cuban Government shall be liable to the United States national who owns the claim to such property in an amount equal to the value of the property plus reasonable interest, costs, and fees. When determining the amount of liability for claims certified by the Foreign Claims Settlement

Commission (FCSC) pursuant to the International Claims Settlement Act of 1949, courts shall give a strong presumption to the findings of the FCSC.

The Senate amendment contains no comparable provision.

Sections 302(a)(1) and (2) of the conference substitute are similar to the House provision. They provide that liability for trafficking in property confiscated by the Cuban Government shall attach three months after the effective date of the title. The grace period before liability for trafficking attaches is intended to permit persons who currently are "trafficking" within the meaning of title III to wind down their activities in Cuba in order to avoid liability. Because the conference substitute is effective not on the date of enactment, but rather on August 1, 1996, the grace period provided by the House bill was reduced from six months to three months.

In addition, the substitute specifies that damages may include court costs and "reasonable attorney's fees" in lieu of "reasonable costs and attorney's fees." Inasmuch as governments (as contrasted with their agencies or instrumentalities) are not "persons" for purposes of this section, they cannot be held liable under this section.

The conference substitute retains the language of the House bill creating a strong presumption in favor of findings of the FCSC when determining the amount of liability under this section for claims certified by the FCSC.

The committee of conference believes that this right of action is a unique but proportionate remedy for U.S. nationals who were targeted by the Castro regime when their property was wrongfully confiscated. The purpose of this civil remedy is, in part, to discourage persons and companies from engaging in commercial transactions involving confiscated property, and in so doing to deny the Cuban regime of Fidel Castro the capital generated by such ventures and to deter the exploitation of property confiscated from U.S. nationals. The substitute puts would-be investors on notice that if they traffic in confiscated property of U.S. nationals after this provision becomes law, they may be held liable to the legitimate U.S. owners in U.S. courts.

It is the committee of conference's intent not to supplant or undermine the Foreign Claims Settlement process, but to provide an additional remedy for U.S. nationals through which they may take action to protect their claim to a confiscated property in Cuba. The committee of conference expects that the existence of this remedy will make the recovery process less complicated because it will deter investment in and development of confiscated property in Cuba, thereby facilitating efforts by the rightful owners to reclaim, sell, or develop such property under the laws of a democratic Cuba.

#### INCREASED LIABILITY

Section 302(a)(3) of the House bill provides for treble liability if the person traffics in the property after having received notice both of the claim to ownership and the provisions of this section.

The Senate amendment contains no comparable provision.

Section 302(a)(3) of the conference substitute modifies the House bill by providing increased liability (treble damages) for claims certified by the FCSC pursuant to title V of the International Claims Settlement Act of 1949 for any trafficking after the 3-month grace period established by subsection (a)(1). For U.S. nationals with claims not certified by the FCSC, the conference substitute requires a 30-day advance notice to the defendant (after the 3-month grace period) by non-certified claimants before they can seek treble damages. The conference substitute further provides that a trafficker can avoid treble liability by ceasing to traffic in the property in question by the conclusion of the 30-day period following the provision of notice. A trafficker that ceases trafficking during such 30-day period nevertheless remains liable for damages for trafficking that took place between the conclusion of the 3-month grace period following the effective date and the time that the trafficking ceased. The conference substitute outlines the contents of the required notice and the manner in which it is to be provided. Notice shall be deemed to have been provided on the date posted by certified mail or on the date personally delivered to the defendant.

The committee of conference notes that investors in Cuba have been effectively on notice regarding the 5,911 certified U.S. claims since the Cuban claims program was completed on July 6, 1972. Information regarding whether the claim to a particular property in Cuba is held by a certified U.S. claimant is readily available. The intent of the conference committee in revising the House language is to provide priority to certified claimants by allowing them to seek treble damages without an additional notice or an additional waiting period (beyond the initial 3-month grace period). In the case of non-certified claimants seeking treble damages, the committee of conference believes it reasonable to impose an affirmative duty on the claimant to notify a potential defendant of the claimant's claim to the property. This 30-day period, which is in addition to the 3-month grace period, provides adequate time for an investor in Cuba to research the validity of the claim to the property and take appropriate action.

#### APPLICABILITY

Section 302(a)(4) of the House bill provides that the right of action is applicable to property confiscated before, on, or after enactment of this Act; that in order to bring an action with respect to property confiscated before the date of enactment, the U.S. national had to own the property claim before the date of enactment; and that no United States national may bring an action under this section with respect to property that was confiscated on or after the date of enactment if the claim was acquired by assignment for value after enactment.

The Senate amendment contains no comparable provision.

Section 302(a)(4) of the conference substitute modifies the House provision to specify with respect to property confiscated on or after the date of enactment that an action for damages is precluded only if the claim to the property was acquired by assignment for value after the property was confiscated.

The committee of conference notes that these provisions are intended, in part, to eliminate any incentive that might otherwise exist to transfer claims to confiscated property to U.S. nationals in order to take advantage of the remedy created by this section. It is not the committee's intent that the right of action be available to persons or entities that would relocate to the United States for the purpose of using this remedy. Entities that are incorporated in the United States after the date of enactment cannot use the remedy with respect to property confiscated before the date of enactment, inasmuch as such entities could have not have owned the claim to confiscated property on the date of enactment because they did not then exist.

#### TREATMENT OF CERTAIN ACTIONS

Section 302(a)(5) of the House bill provides the manner in which claims denied by the FCSC and the claims of those U.S. nationals who had the opportunity to avail themselves of the FCSC certification process and failed to do so are to be treated. In the case of any action brought by a U.S. national who was eligible to file the underlying claim with the FCSC but did not do so, the court may hear the case only if the court determines that there was good cause for not filing the claim with the FCSC. In the case of any action brought by a U.S. national who did file a claim with the FCSC but had such claim denied, the court may assess the basis for the denial and may accept the FCSC's findings unless good cause justifies another result.

The Senate amendment contains no comparable provision.

Section 302(a)(5) of the conference substitute modifies the House language to provide that U.S. nationals may not use this remedy if they either (1) were previously denied certification by the FCSC or (2) were eligible to file their claim under the FCSC process but failed to do so. The conference substitute adds new language providing that all non-certified claimants must wait two years after the Act's enactment before using the cause of action, and that non-certified claimants must satisfy the court that the property in question is not the subject of a certified claim.

The intent of the committee of conference in revising this paragraph is to enhance the position of the certified claimants and to give them priority in pursuing actions against traffickers.

#### INAPPLICABILITY OF ACT OF STATE DOCTRINE



Section 302(a)(6) of the House bill directs courts not to dismiss actions brought under this section on the basis of the "act of state" doctrine.

The Senate amendment contains no comparable provision.

Section 302(a)(6) of the conference substitute is identical to the House provision.

#### **LICENSES NOT REQUIRED FOR USE OF THE RIGHT OF ACTION**

Section 302(a)(7) of the conference substitute provides that actions may be brought and settled, and judgments rendered, under this section without first having to obtain a license from the United States Government, except that no judgments may be executed against property currently blocked under the authority of the Trading With the Enemy Act. The conference substitute further provides that for purposes of this title only the transfer of a claim to a U.S. national shall not be deemed an interest in property which required or requires a license.

#### **PUBLICATION IN THE FEDERAL REGISTER**

Section 302(a)(8) of the conference substitute requires the Attorney General to publish in the Federal Register a summary of the provisions of title III not later than 60 days after enactment.

#### **AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE**

Section 302(b) of the House bill contains a definition of "agency or instrumentality of a foreign state."

The Senate amendment contains a comparable provision in the definitions section (section 4).

The definition in the conference substitute is identical to the Senate definition, but moves the definition to section 4(1).

#### **AMOUNT IN CONTROVERSY**

Section 302(b) of the conference substitute establishes an amount in controversy requirement of \$50,000, exclusive of interest, costs, and attorneys' fees, in order for an action to be brought under this section. The provision further provides that the amount in controversy threshold cannot be met by computing treble damages.

## PROCEDURAL REQUIREMENTS

Section 302(c) of the House bill amends title 28 of the United States Code to grant United States district courts exclusive jurisdiction over actions brought under this title, regardless of the amount in controversy.

The Senate amendment contains no comparable provision.

Section 302(c) of the conference substitute provides that an action under this section shall be subject to the same procedural requirements as any other "federal question" action under title 28, United States Code.

## ENFORCEABILITY OF JUDGMENTS AGAINST THE CUBAN GOVERNMENT

Section 302(d) of the conference substitute provides that judgments under this section shall not be enforceable against an agency or instrumentality of either a transition government or democratically elected government in Cuba. This subsection is intended to ensure that a transition or democratically elected government in Cuba is not burdened by judgments entered at any time under this section in connection with activities of the Castro regime.

## CERTAIN PROPERTY IMMUNE FROM EXECUTION

Section 302(d) of the House bill amends section 1611 of title 28, United States Code (a provision of the Foreign Sovereign Immunities Act) to provide that property used for accredited diplomatic purposes is immune from both attachment and execution of a judgment resulting from an action brought under this section.

The Senate amendment contains no comparable provision.

Section 302(e) of the conference substitute is identical to the House language.

## ELECTION OF REMEDIES

Section 302(e)(1) of the House bill requires an election of remedies for U.S. nationals who bring actions under this section, limiting the manner and number of actions that may be brought seeking compensation. Persons who bring an action under this section may not bring a civil action under any other law seeking compensation by reason of the same subject matter, and persons who bring a civil action under any other law seeking compensation arising out of the

same claim may not bring an action under this section. In this context, the term "same subject matter" refers not to the original confiscation of property, but rather to trafficking in the property. This section is intended to prevent persons from bringing separate actions for trafficking against the same defendant or defendants under both section 302 and under a common law tort theory.

Section 302(e)(2) of the House bill contains special rules designed to prevent double compensation of certified claimants. Persons who receive a recovery in an action under this section cannot subsequently collect compensation for the same claim in subsequent settlements, except to the extent that the certified claim was not fully satisfied by the recovery in the action under this section. Certified claims under the FCSC procedure are not adversely affected by an unsuccessful action brought on the basis of the same claim under this section.

The Senate amendment contains no comparable provision.

Section 302(f) of the conference substitute is based on the House provision, but adds language stating that in any situation involving a consolidation of cases by the courts, priority in any settlement will be given to the certified claimants.

#### DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER CLAIMS AGREEMENT

Section 302(f) of the House bill provides that any amounts paid by Cuba to the United States in settlement of certified claims that are in excess of the payments made to the certified claimants shall be deposited into the United States Treasury.

The Senate amendment contains no comparable provision.

Section 302(g) of the conference substitute is identical to the House provision.

#### TERMINATION OF RIGHTS

Section 302(g) of the House bill provides for the termination of the right of action, except for pending suits, upon a determination by the President that a democratic government is in power in Cuba.

The Senate amendment contains no comparable provision.

Section 302(h) of the conference substitute modifies the House provision to include, in addition, specific authority for the President to suspend the right of action once he determines that a transition government is in power pursuant to section 204(a). Pending suits are not suspended in the event of such a determination.

The committee of conference recognizes the burden a future, post-Castro government will confront in resolving property disputes and seeking to attract foreign investment. Further, the committee is confident that such a government will take steps to provide prompt and adequate compensation to property claimants. Accordingly, this section provides that the right to bring an action under this title may be suspended by the President once he determines that a transition government is in power in Cuba, and the right to bring an action will terminate upon a presidential determination that a democratically elected government is in power in Cuba.

### **IMPOSITION OF FILING FEES**

Section 302(i) of the conference substitute requires the establishment of a filing fee for potential plaintiffs, with the amount to be determined by the Judicial Conference of the United States. The fee should be sufficient to cover the incremental costs to the courts of actions under this title.

The committee of conference's objective is to make this right of action system self-sustaining, so that it is paid for by those who use it rather than by tax revenues drawn from the Treasury.

### **PROOF OF OWNERSHIP OF CLAIMS TO CONFISCATED PROPERTY**

Section 303 of the House bill establishes the means courts may use in determining the amount and ownership of claims brought under section 302 as follows:

Subsection (a) requires that courts accept as "conclusive proof of ownership" a claim certified by the FCSC pursuant to title V of the International Claims Settlement Act of 1949. In the case of a claim that has not been certified by the FCSC, the court is given latitude, including the power to appoint a "special master" (including the FCSC), in making determinations of the amount and validity of ownership only for the purposes of an action brought under section 302 of the bill. The House bill precludes the courts from taking as "conclusive evidence of ownership" any findings, orders, or judgments from foreign courts or agencies or international organizations, unless such findings resulted from binding international arbitration to which the U.S. national submitted the claim.

Subsection (b) amends the International Claims Settlement Act of 1949 to add a new section 514, providing that the FCSC may provide amount and ownership determinations to the court for evidentiary purposes only, whether or not the U.S. national qualified as a national (as defined in the International Claims Settlement Act of 1949) at the time of the confiscation.

Subsection (c) sets out a rule of construction that makes explicit that nothing in the Act shall be construed as requiring or authorizing the United States Government to espouse the claims of Cuban nationals who became United States citizens after their property was confiscated.

The Senate amendment contains no comparable provisions.

Section 303 of the conference substitute is the same as the House bill, except that it changes the name of the section to "Proof of Ownership of Claims to Confiscated Property", and in subsection (a)(3) adds language that U.S. courts may not accept as conclusive evidence any findings, orders, or judgments by courts or agencies of foreign countries or international organizations as to either the amount or ownership of a claim, unless such a determination resulted from binding international arbitration to which either the United States or the individual U.S. claimant submitted the claim.

The committee of conference recognizes the importance of a decision by the Foreign Claims Settlement Commission in certifying a claim and, accordingly, believes that no court should dismiss a certification in an action brought under this title. The committee of conference also notes the recognized special expertise of the FCSC in determining the amount and validity of claims to confiscated properties overseas. As such, the "special master" provision allows the court to call upon the FCSC's expertise for evidentiary purposes related to the right of action only. This provision is intended to make clear that such evidentiary determinations by FCSC do not constitute certification of property claims pursuant to title V of the International Claims Settlement Act of 1949 for purposes of United States Government espousal and future negotiation with a friendly government in Cuba. In the view of the committee of conference, only the current 5,911 claims certified by the FCSC should be espoused by the United States Government in any settlement with a future Cuban Government.

The committee of conference is also concerned that persons potentially liable for trafficking in wrongfully acquired property may seek to immunize themselves from liability by acquiring a foreign court or agency judgment invalidating the claim of a U.S. national. U.S. courts are precluded from accepting such determinations as conclusive evidence.

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

Section 304 of the House bill amends the International Claims Settlement Act of 1949 to add a new section 515, providing that persons who were eligible to file claims under that Act but did not do so, persons who were not eligible to file a claim under that Act, and Cuban nationals or instrumentalities shall not have a claim to any compensation paid or allocated to a United States national by virtue of a certified claim. The amendment also denies U.S. courts jurisdiction to adjudicate any such claim.

The Senate amendment contains no comparable provision.

Section 304 of the conference substitute is similar to the House bill.

The committee of conference intends to make explicit that the LIBERTAD bill does not create any additional claims under the International Claims Settlement Act of 1949 and that any settlement between the United States and Cuban Governments is for the benefit of the property claimants with claims certified by the Foreign Claims Settlement Commission pursuant to title V of the International Claims Settlement Act of 1949. The committee of conference notes that, under current law and court precedents (*Judah v. Shanghai Power Co.*, 546 A.2d 981 (Del. 1988)), an inequitable situation could arise for certified claimants following a settlement with the Cuban Government if section 304 is not enacted. Section 304 is intended to avoid the unfair result that all or a portion of the settlement proceeds paid to expropriated U.S. claimants could be attached by (1) Cuban nationals or representatives of current or successor Cuban government agencies, (2) U.S. nationals who were eligible to file claims with the FCSE but did not, or (3) U.S. nationals who were not eligible to file claims with the FCSC, but without modifying any rights that U.S. nationals might have with respect to their shares of stock.

#### LIMITATION OF ACTIONS

Section 305 of the conference substitute provides that actions under section 302 cannot be brought more than two years after the trafficking in confiscated property in Cuba has ceased to occur.

#### EFFECTIVE DATE

Section 306 of the conference substitute establishes an effective date of August 1, 1996 for title III. The section further provides two forms of suspension authority that the President may exercise to delay litigation under section 302.

First, the President may suspend the effective date for a period of not more than six months if he determines and reports in writing to the appropriate committees of Congress that such suspension is "necessary to the national interests of the United States and will expedite a transition to democracy in Cuba." This suspension may be extended for additional periods of not more than six months each upon making the same determination and report to Congress as above.

Second, after title III takes effect, the President may suspend the right to bring an action under section 302 for a period of not more than six months upon making the same determination and report to Congress as above. This second form of suspension can also be extended for additional periods of not more than six months upon making the same determination and report to

Congress as above. Suspension pursuant to this authority will not suspend or otherwise affect pending cases.

The committee of conference provided this suspension authority at the request of the Executive branch in order to afford the President flexibility to respond to unfolding developments in Cuba. The committee specifically rejected a proposal made by the Executive branch that the President be permitted to suspend the right of action upon determining and reporting to the appropriate committees of Congress that such suspension "is important to the national interests of the United States, including expediting a transition to democracy in Cuba."

The committee of conference could not accept the formulation proposed by the Executive branch because it subordinated the question of whether suspension of the right of action would expedite a transition to democracy in Cuba to a larger question of whether suspension is important to the President's overall calculation of the national interest. The committee strongly believes that the question of whether suspension will expedite a transition to democracy in Cuba should be the central element of the President's decision whether to exercise the suspension authority, and not just be one of many factors to be considered by the President.

The formula included in the conference substitute requires the President to determine two separate and distinct matters before suspending the right of action: first that suspension "is necessary to the national interests of the United States," and second that suspension "will expedite a transition to democracy in Cuba."

In the judgment of the committee of conference, under current circumstances the President could not in good faith determine that suspension of the right of action is either "necessary to the national interests of the United States" or "will expedite a transition to democracy in Cuba." In particular, the committee believes that it is demonstrably not the case that suspending the right of action will expedite a transition to democracy in Cuba, inasmuch as suspension would remove a significant deterrent to foreign investment in Cuba, thereby helping prolong Castro's grip on power.

#### TITLE IV -- EXCLUSION OF CERTAIN ALIENS

Section 401 of the House bill provides that the Secretary of State, in consultation with the Attorney General, shall exclude from the United States any alien who the Secretary determines (1) has confiscated or converted, or overseen or directed the confiscation or conversion of, property belonging to a United States national; (2) knowingly and intentionally traffics in confiscated American property after the bill's enactment; (3) is a corporate officer, principal, or controlling shareholder in a company or entity that has been involved in such confiscations or conversions or trafficking; or, (4) is a spouse, minor child, or agent of any person described above. The Secretary of State may waive this prohibition on a case-by-case basis when he determines that it is in the national interest to do so.

The Senate amendment contains no comparable provision.

Section 401 of the conference substitute adopts the approach of the House bill, but limits application of the provision to confiscated property in Cuba. In addition, the substitute limits application of the provision to trafficking that occurs after the date of enactment.

The committee notes that the definition of trafficking for purposes of section 401 is slightly narrower than the definition applicable to title III set forth in section 4(13) of the conference substitute. Two considerations account for the narrower definition. First, the committee did not wish to reach existing acts of trafficking under this section, but rather wished to reach new and different acts of trafficking beginning on or after the date of enactment. Second, the committee did not wish this section to deter investors in Cuba from divesting their holdings. For this reason, the sale or abandonment of confiscated property in Cuba for purposes of disengaging from Cuba is excluded from the definition of trafficking.



# H.R. 927

*Managers on the part of the*  
**SENATE**

*Managers on the part of the*  
**HOUSE**

Mr. Helms

*James Helms*

Mr. Coverdell

*Paul D. Coverdell*

Mr. Thompson

*John Thompson*

Ms. Snowe

*Liz Snowe*

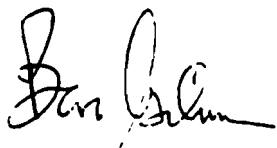
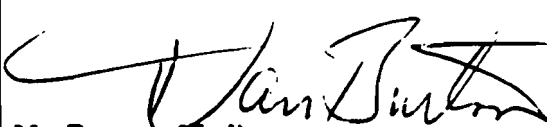
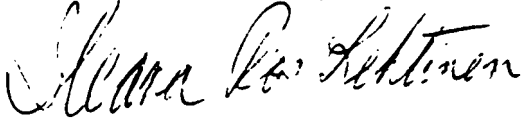
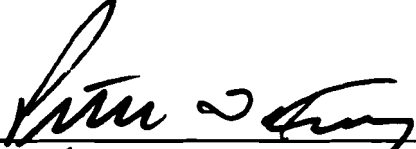



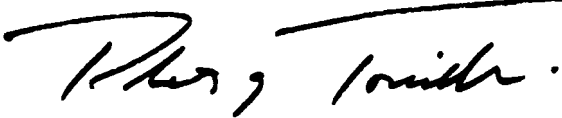
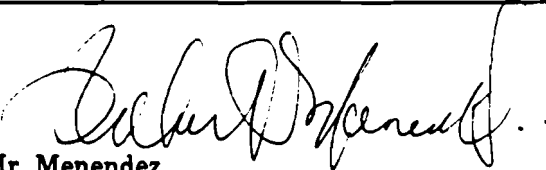




*Charles A. Robb*

Mr. Robb

# H.R. 927—Continued

<i>Managers on the part of the</i> <b>SENATE</b>	<i>Managers on the part of the</i> <b>HOUSE</b>
	 Mr. Gilman
	 Mr. Burton of Indiana
	 Ms. Ros-Lehtinen
	 Mr. King
	 Mr. Diaz-Balart
	
	
	 Mr. Torricelli
	 Mr. Menendez